

1 CASE NO. CRIM 24552

2 SUPREME COURT OF THE STATE OF CALIFORNIA

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

5 PLAINTIFF, )

6 -VS- )

7 KEVIN COOPER, )

8 DEFENDANT. )  
9

SUPERIOR COURT  
NO. CR-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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25 VOLUME ~~22~~ 39

26 PAGES ~~2745~~ THROUGH 2882

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF SAN BERNARDINO  
3

4 THE PEOPLE OF THE STATE )  
OF CALIFORNIA, )

5 Plaintiff, )

6 vs. )

7 KEVIN COOPER, )

8 Defendant. )  
9

No. OCR-9319

**CR-72787**

VOLUME 29

Pgs. 2745 thru 2882, incl.

10  
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Tuesday, June 5, 1984

15 APPEARANCES:

16 For the People:

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HON. RICHARD C. GARNER, JUDGE

The Defendant with his Counsel, DAVID NEGUS, Deputy Public Defender of San Bernardino County; DENNIS KOTTMEIER, District Attorney of San Bernardino County, and JOHN P. KOCHIS, Deputy District Attorney of San Bernardino County, representing the People of the State of California.

Judith L. Morris, C.S.R., Official Reporter,  
C-2400)

THE COURT: Good morning, Counsel. Before we start, in looking at the transcript of yesterday's proceedings, I note, of course, that the testimony of Mr. Hall is there, but it does not reflect his testimony in the index. So you might wish to add his name to the list of witnesses in the index and the fact that his testimony starts on page 2691. Somehow it was omitted.

MR. NEGUS: Also before we begin, your Honor, there are a couple other matters that I'd just like to briefly take up.

First off, if you recall, during the motion to

009313

0-2

1 suppress there were some photographs of a big board in  
2 the squad room at the West End substation. And at that  
3 time I know I informally -- I don't know whether I did  
4 on the record -- requested copies of those photos. The  
5 reason for it is that what the photos depicted is the  
6 assignments of who was doing what during the course of the  
7 investigation and that material is available to me in no  
8 other way.

9 I requested it at various times through laws and  
10 stuff which I've been told don't exist. There is a  
11 photograph, in the photograph is Sergeant Arthur's home  
12 phone number, I believe. I'm willing to have that  
13 deleted by whatever means the prosecution wishes to do.  
14 But I would request copies of those photographs.

15 MR. KOCHIS: Your Honor, we've already given  
16 Mr. Negus one of the photographs that shows a portion of  
17 the board and some of the exhibits that were on the board.  
18 I assume the hatchet; is that correct?

19 MR. NEGUS: That was introduced into evidence. I  
20 never got a copy of that.

21 MR. KOCHIS: Anything that's been introduced into  
22 evidence I don't have a problem with giving Mr. Negus.  
23 However, the other photographs he's talking about are  
24 simply photographs of the squad room of the West End that  
25 shows the assignments that were given to various officers  
26 on a day-to-day basis, contains the home phone numbers I

00993714

Q-3

1 believe of some of the investigators and lawyers in the  
2 case, and I can't imagine how it's relevant to Mr. Cooper's  
3 defense.

4 MR. NEGUS: I believe we determined the only  
5 home phone number was Sergeant Arthur's.

6 THE COURT: May I see the photograph in question?

7 MR. ARTHUR: I don't have it in court this morning.

8 MR. KOCHIS: We can have it available at 1:30.

9 THE COURT: Would you bring it back at that time  
10 and I'll take a look at it.

11 Do you have any stipulations for me this morning?

12 MR. KOCHIS: Stipulate that everybody is present,  
13 Mr. Cooper's here.

14 THE COURT: Nothing is happening in this case  
15 other than in open court and on the record, but you two  
16 can privately sit down and try and save us some time.  
17 Are you not able to do that?

18 MR. NEGUS: I don't believe we are. I don't see  
19 a practical way to accomplish, shorten anything by way of  
20 stipulation.

21 THE COURT: You know, we've now had on this  
22 motion alone at least 31 witnesses testify, and examination,  
23 Mr. Kochis, by you has been meager. Most of their  
24 testimony is undisputed. And if we have 30 more of them  
25 in the future, we should be able to sit down with his  
26 witness list and the desired testimony and offer a

0-4

1 written stipulation or read into the record what each is  
2 expected to testify. I don't know why it's taken so long.

3 MR. NEGUS: I don't think that that would protect  
4 Mr. Cooper's rights, and I don't think Mr. Kochis and I  
5 could agree on the weight to be given the testimony and  
6 which of the various conflicting stories --

7 THE COURT: All right, Counsel. I'm going to  
8 require tomorrow morning an offer of proof as to each and  
9 every witness you have expected to testify and the expected  
10 testimony of each and every one of those witnesses. And I  
11 will in the meantime examine the authorities previously  
12 filed with reference to the Hitch motion and I'm going to  
13 perhaps see if I can shorten it in some way --

14 MR. NEGUS: Could I have the rest of the day --

15 THE COURT: -- consistent with your rights to try  
16 and expedite these proceedings.

17 MR. NEGUS: Could I have the rest of the day to  
18 try and prepare that offer?

19 THE COURT: No, sir. I'm letting you off each  
20 day at 4 o'clock. I'm letting you off Fridays, Saturdays,  
21 and Sundays. And I've really not given you any grief at  
22 all up to this point. But I'm telling you, if you're  
23 simply taking a position now that, Judge, there's nothing  
24 we can do except grind out the sausage in a word-by-word,  
25 item-by-item, every witness what did you see, the manner  
26 that we're going, then I want an offer of proof tomorrow.

009316

Q-5

1           You surely have your witnesses scheduled and you  
2       can tell me generally what you expect their testimony to  
3       be. I insist upon some effort at expedition.

4           MR. NEGUS: I don't know how I could expedite. It  
5       would seem that as far as -- for example, yesterday you  
6       got upset when I asked Detective Hall about some photo-  
7       graphs --

8           THE COURT: Yesterday I what?

9           MR. NEGUS: You got upset.

10          THE COURT: I deny it emphatically. I have not  
11       gotten upset. I am not upset at this time. I may have  
12       interjected and made a suggestion trying to do something,  
13       but I'm not upset and I don't like your use of the word.

14          Proceed. I'll hear from you tomorrow morning.

15          MR. NEGUS: Your Honor, I can't proceed under  
16       these situations. This is a very complicated case. I  
17       am working alone. And I can't -- I cannot be -- I cannot  
18       work where I am placed under the pressure of having to  
19       try and come up with a detailed offer of proof for another  
20       30 witnesses and examine Mr. Hall at the same time. I  
21       don't have a script. It's impossible to prepare the  
22       script given the time limits that we've had, and I can't  
23       work under those particular constraints that you're  
24       putting on me.

25                I don't think that I could render Mr. Cooper  
26       effective counsel if I'm placed under pressure to do this,

009317



Q-6

1 that, and the other thing all within the scope of time  
2 which I don't have to do it. And I --

3 THE COURT: Do the best you can, Mr. Negus. I'll  
4 hear from you tomorrow morning.

5 MR. NEGUS: I would object to proceeding under  
6 these conditions.

7 THE COURT: I order you to proceed at this time  
8 with this witness. Either conclude your questions with  
9 this witness or ask him to step down. Proceed.

10  
11 MICHAEL D. HALL,  
12 called as a witness by the Defense and having been  
13 previously sworn, resumed the stand and testified further  
14 as follows:

15  
16 DIRECT EXAMINATION (RESUMED)

17 BY MR. NEGUS:

18 Q In the master bathroom, was there a four-inch pool  
19 of blood on the floor?

20 A Yes, sir.

21 Q And where was that?

22 A I have to refer to my notes for the exact location.

23 Q Okay.

24 A Located 37 inches from the south wall and 42 inches  
25 from the west wall was an area of pooled blood which  
26 was 4 inches in diameter.

0093718

Q-7

- 1 Q What do you mean by pooled? Does that mean that the  
2 blood was in a liquid form?
- 3 A Very saturated, very saturated. Maybe some blood  
4 spotting in the carpeting and so forth.
- 5 Q Showing you the photographs of the carpet that we  
6 have, H-169, 168, 167, 165, 164, and 163 --
- 7 A The carpet where?
- 8 Q Master bathroom. Do you see that pool in the carpet?
- 9 A I believe it would be right here, sir, where it's  
10 marked 43. There's a little darkish area which appears  
11 to be of clotted blood.
- 12 Q Would you circle that for me?
- 13 A Yes, sir (indicating).
- 14 Q Was there on the bare spot in the carpet approximately  
15 a 40-inch trail of large blood drops leading towards  
16 the foot of the bed?
- 17 A There was blood droplets leading from that bare spot.
- 18 Q Did you measure the length of the trail of blood spots  
19 and was it 40 inches?
- 20 A Approximately, yes, sir.
- 21 Q Again, on H-67, taking the orange pen, could you  
22 trace where those blood drops were?
- 23 A Well, from what I recall offhand, the blood droplets  
24 extended straight, pretty much straight out.
- 25 Q You're talking about the little orange specks now?
- 26 A I'm talking about blood droplets and stains,

009319

Q-8

- 1 combination.
- 2 Q These were large drops, though; is that correct?
- 3 A Basically I would say they were very noticeable that
- 4 I would make mention to it in my report.
- 5 Q In your report you referred to them as large blood
- 6 droplets and large stains, is that correct? Page 7.
- 7 A My pages are not marked, numbered, so --
- 8 Q Up at the top under the report area it says page
- 9 number 7.
- 10 A Okay. Yes, sir, it does.
- 11 Q And those are what you're talking about extending along --
- 12 A Forty inches from the area.
- 13 Q Along approximately the line that you have drawn there
- 14 on photograph H-67?
- 15 A Basically, but they were not, you know, one right after
- 16 the other. I mean, they were somewhat off the line.
- 17 Q The screen door from the living room to the grass
- 18 outside that was ripped or cut, did you seize that
- 19 screen door so that it could be examined and determine
- 20 the cause of the cut?
- 21 A No, sir, I did not.
- 22 Q Why not?
- 23 A I didn't feel it was necessary.
- 24 Q On the bed in the master bedroom, the waterbed, was
- 25 there an impression that appeared to be consistent with
- 26 corduroy pants?

8 (NO OMISSIONS)

(NO OMISSIONS)

1-1

1 Q What you wrote was, again, on page 7, "The pattern  
2 consisted of lines running north and south in direction  
3 indicating that the impressions were from pants, possibly  
4 that of corduroy?  
5 A Correct.  
6 Q What substance were the impressions in?  
7 A There was a brownish or reddish brown substance.  
8 Q Did it appear to be blood?  
9 A Possibly.  
10 Q Was the impression photographed?  
11 A I believe it was, yes. Yes, it was.  
12 Q Showing you photograph H-152, does that appear to be a  
13 photograph of the impression that you described?  
14 A It appears to be, yes.  
15 Q Could you circle in orange that particular impression?  
16 A (Witness complied.)  
17 Q Did you ever see any of the physical evidence that was  
18 taken from 2991 English Road, the vacant house near the  
19 Ryen residence?  
20 A Did I ever see any of the evidence?  
21 Q Right.  
22 A Right offhand, I would have to say no.  
23 Q Were you present when the existence of evidence from the  
24 Ryen house was reported to you at briefings?  
25 A I believe you will have to be a little more detailed  
26 because I'm not sure. It's very vague.

0009327

1-2

1 Q Were you ever told by the people who had processed  
2 2991 that a pair of bloody corduroy pants had been  
3 seized from that house?

4 MR. KOCHIS: Your Honor, I would object. That calls  
5 for hearsay. It can't be used to impeach this witness. It's  
6 not his statement.

7 THE COURT: I don't know of an exception on that,  
8 Mr. Negus.

9 MR. NEGUS: Your Honor, I expect to prove that there  
10 were statements attributed to various officers in the press  
11 that a pair of bloody corduroy pants were seized from the  
12 Lease residence. I expect Mr. Swanlund and other people  
13 who were involved in the processing of the Lease residence  
14 to deny that, and I believe from what I have been led to  
15 know about the state of the physical evidence in this case,  
16 that those bloody corduroy pants no longer exist.

17 Therefore, I'm trying to track knowledge on the part  
18 of various Sheriff's officers. And if at any time they were  
19 acknowledged to exist, that would be evidence.

20 MR. KOCHIS: He is attempting to use a newspaper  
21 article, apparently, to establish the existence of a  
22 particular item through a hearsay statement.

23 THE COURT: I can understand what he is trying to do  
24 and I can sympathize, but I'm trying to figure out the  
25 exception to the hearsay rule.

26 Clearly what you are doing, "Did anybody tell you

3 What is the exception?

5 THE COURT: Of whom?

10 THE COURT: I think I can let it in then strike it  
11 if it receives a negative response and if it's not connected  
12 up later on. But that's what this case is about, really,  
13 is alleged suppression or failure to preserve evidence.

15 I trust that you will remind me later on, Mr. Kochis,  
16 or immediately after this if an appropriate answer is not  
17 received.

19 A I don't recall hearing anything of that nature. I had  
20 really nothing to do with that Lease residence.

24 THE WITNESS: I don't recall anything about corduroy  
25 pants.

26 THE COURT: All right. Mr. Kochis, do you now move

009324

2 MR. KOCHIS: Yes.

5 MR. NEGUS: Well, if he has never heard anything about  
6 it, then I believe there is no basis for striking it. That  
7 was the foundational question. Not getting the response to  
8 the foundational question, I don't see that there is any  
9 basis for striking.

12 MR. NEGUS: This question was just foundational for  
13 something that might have called for hearsay.

16 | Proceed.

22 A I don't recall offhand.

25 | A Yes, sir, I have.

26 MR. KOCHIS: If I could have the volume first, it



2 | MR. NEGUS: 14.

5 | A Basically on the exterior check that I conducted.

8 | A Yes, sir. It was after 9:00.

11 | A No, sir.

16 A What is your question now?

21 A My answer was, "No, sir."

23 | A I don't recall anybody asking me.

24 Q At that point in time, prior to sunset, you had not  
25 finished processing the dining room area, either; had  
26 you?

009326

1-6

1 A Basically, no, sir, but I would have to say that on  
2 several occasions I left the master bedroom and went  
3 through the rooms looking for evidence that would stand  
4 out, such as blood, weapons, things of that nature.  
5 I did not see anything.

6 So later that night, after 9:00, I went back into  
7 the dining room area and the living room area.

8 Q At that point in time, there were people from the rank  
9 of captain and above from the Sheriff's Office in that  
10 area; is that correct?

11 A I don't recall them being in there at the time that I  
12 documented, say, in the dining room the liquor cabinet  
13 on the west wall.

14 Q Do you recall people eating in the dining room?

15 A That was way later that night.

16 Q Approximately 10:00?

17 A Probably after 10. It was late.

18 Q Were the results of spraying the house with luminol ever  
19 made known to you?

20 A I knew that it was done. The exact results I couldn't  
21 expound on that. I don't know.

22 Q After the house was sprayed with luminol, did you ever  
23 go back and attempt to locate, for example, additional  
24 evidence in the living room?

25 A No, sir, I didn't. I did my crime scene investigation  
26 strictly on the 5th and 6th.

00937

(No omissions.)

009328



2-2

1 Q At that point in time was there any attempt made to  
2 try and locate people in safe areas with all that  
3 traffic in there?

4 A I think attempts were made as far as investigators  
5 knowing not to step in blood. As far as me going up  
6 to Sergeant Arthur and saying watch out for that  
7 particular bloodstain, no, I did not.

8 Q Let's focus on the transporting of the bodies. Was  
9 there any attempt made to sort of make a path for the  
10 body people to come in when they are removing the  
11 bodies, or were they just getting them -- were they  
12 just allowed in the room essentially with no  
13 direction?

14 A It wasn't -- I was not aware of it. I'm sure possibly  
15 they were escorted in by somebody. I don't know.

16 Q What sort of equipment did the body people have when  
17 they were removing the bodies?

18 A There were body bags, and as far as gurneys or  
19 stretchers, I honestly don't recall, if they had  
20 wheels on them or whatever. I don't know.

21 Q Were the body bags laid down on the rug?

22 A I'm really not sure.

23 Q Do you recall where the gurney was being placed when  
24 the bodies were being removed?

25 MR. KOCHIS: Your Honor, I'm going to object.

26 That assumes a fact not in evidence. He doesn't remember

00093300



2-4

- 1 Q Did you attempt to interpret those patterns?
- 2 A I requested how would you describe this, this pattern,  
3 and so forth. As far as if blood came from one person  
4 or two persons or whatever, no.
- 5 Q Did you attempt to do any interpretive work with them  
6 as to if a pattern meant one thing what sort of  
7 evidence needs to be seized in order to document that?
- 8 A No, I don't believe so.
- 9 Q Whom were you talking with primarily during this  
10 period of time?
- 11 A I believe both criminalists were present.
- 12 Q Mr. Ogino and Mr. Gregonis?
- 13 A Yes.
- 14 Q How long were you working with them there in the master  
15 bedroom?
- 16 A I have no idea.
- 17 Q They arrived at 2 o'clock, right?
- 18 A Yes, sir.
- 19 Q And the search, let's assume the search warrant was  
20 served at 4:15.
- 21 A All right.
- 22 Q Had you finished working with them in the bedroom by  
23 the time the search warrant was served?
- 24 A Yes, I was completed. My crime scene investigation was  
25 done.
- 26 Q At 4:10 in the afternoon was the time that you showed

00977777

3 | A Okay.

7     A    I was in and out.  I couldn't say I was in one specific  
8           location for two hours straight or an hour.  I was  
9           constantly moving throughout the house.

12 | A Yes, sir, they were.

14 A Yes, he was there.

18 MR. KOCHIS: Objection, that would call for  
19 hearsay.

22 MR. NEGUS: Mr. Gregonis hasn't testified yet, but  
23 he will. And I expect it to be a disputed fact in the  
24 case as to what requests were made by the different  
25 criminalists of different people at different times on  
26 the 6th to have more time, so that it's not offered for

009333



2-6

1 the truth of the matter asserted. I'm not even sure that  
2 a request does have the truth of the matter asserted, but  
3 it's a disputed issue what requests and statements were  
4 made.

5 THE COURT: Overruled. Go ahead. You may answer.

6 THE WITNESS: I don't recall him asking. If he  
7 had, I would have gave him more time.

8 Q (BY MR. NEGUS) Do you recall him talking to Sergeant  
9 Swanlund, either Mr. Gregonis or Mr. Ogino, about  
10 additional time?

11 A I don't recall that, no.

12 Q Do you recall them talking to the prosecutors,  
13 Mr. Kottmeier and Mr. Kochis, about additional time?

14 A No, sir.

15 Q On that date were any of the phones inside the house  
16 operating, on June the 6th?

17 A I don't believe so. When I checked the phones on the  
18 5th they were not operable.

19 Q Was there a phone in the barn or stable area that was  
20 operable?

21 A Yes, sir, there was.

22 Q Did you ever see Mr. Gregonis and Mr. Ogino go out to  
23 that stable area to use the phone?

24 A Not that I can recall, no.

25 Q Did you supervise Mr. Swanlund's people as they were  
26 removing the evidence?

2 | Q Were you in the room with them?

4 Q What was done to protect the carpet while the  
5 furniture was being removed?

7 Q At that point in time were you aware of the purpose  
8 for seizing the carpet?

10 Q Had you been told that the carpet was being seized in  
11 order to preserve bloodstains, trace evidence, and to  
12 show it to a jury?

15 MR. NEGUS: It's not offered for the truth of the  
16 matter asserted, but for what systematic procedures the  
17 prosecutors -- Mr. Arthur's already testified that was his  
18 purpose. And so the purpose of asking the question was  
19 to see whether Sergeant Hall undertook any procedures in  
20 order to carry out that purpose or whether he just left it  
21 to chance.

23 MR. NEGUS: I didn't hear --

24 THE COURT: Sustained. I think that's a little  
25 tenuous logic that you used there, sir. You got it from  
26 Sergeant Arthur.

009335

26 Q Was the crime lab taking it away themselves, or was it

2-9

- 1       taken away by somebody else?
- 2       A    It all had to be transported in the truck.
- 3       Q    Were you involved in the process of cutting the wall
- 4       out?
- 5       A    I was right there watching them. As far as prying
- 6       on the wall and removing it, I don't remember that I
- 7       was, no. But I was right there.
- 8       Q    What was done with the carpet while the wall was
- 9       being sawed out?
- 10      A    There was nothing placed over the carpeting, if that's
- 11      what you're referring to.
- 12      Q    Just a little bit was folded back, is that correct,
- 13      and otherwise it was --
- 14      A    I don't recall.
- 15      Q    Showing you photographs H-65 and H-66, do those
- 16      photographs indicate a before and after view of the
- 17      removal of the wall?
- 18      A    Yes, sir, it does.
- 19      Q    And do they depict the condition of the carpet while
- 20      the wall was being removed?
- 21      A    The carpeting is pulled back.
- 22      Q    It would appear that there's a considerable amount
- 23      of dust and debris and pieces of plaster on the floor
- 24      after the wall was removed; is that correct?
- 25           MR. KOCHIS: Well, your Honor, I'm going to
- 26      object. "Considerable debris" is vague. It's compound

1 and the photograph speaks for itself.

2 THE COURT: But you're not offering these photo-  
3 graphs into evidence.

4 MR. KOCHIS: Your Honor, I believe at one time  
5 all those photographs are going to be offered into  
6 evidence. They all have tags on them.

7 THE COURT: I don't know.

8 MR. NEGUS: They are in evidence subject to a  
9 motion to strike.

10 THE COURT: Well, the photographs that I examined  
11 earlier in these proceedings here were not in evidence.  
12 They came in and I was permitted to view them by  
13 stipulation of counsel. But --

14 MR. KOCHIS: They were offered into evidence  
15 subject to a motion to strike as to any photograph for  
16 which a foundation has not been laid, and I believe from  
17 his testimony Detective Hall has laid a foundation for  
18 those photos as other witnesses have. So I'm not going  
19 to be making a motion to strike as to those two pictures.

20 MR. NEGUS: They are marked on the back where it  
21 says evidence, 5-30-4, which I take it means 5-30-84  
22 they were offered into evidence.

23 THE COURT: May I examine these photographs  
24 particularly while the witness steps down from the  
25 stand?

26 MR. NEGUS: I have no objection.

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THE COURT: I've been inhibited from doing so, but it would be very helpful in evaluating the case.

MR. NEGUS: The reason Mr. Kochis and I entered into the stipulation was so that you could do just that, and I have no objection.

THE COURT: If there's anything contrary to that henceforth, would you please let me know. Otherwise, would the bailiff bring me all of the photographs as soon as the witness finishes and leave them here on the desk, the ones that you have mentioned.

All right. As far as the particular objection, however, even with it coming into evidence with that understanding, I assume that's foundational for some other question you intend to ask, so I'll overrule your objection.

Does it not show considerable debris from the removal of the wall?

THE WITNESS: The debris is lying on the concrete slab, not on the carpeting.

(NO OMISSIONS)

MR. NEGUS: The reason Mr. Kochis and I entered into the stipulation was so that you could do just that, and I have no objection.

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Does it not show considerable debris from the removal of the wall?

THE WITNESS: The debris is lying on the concrete slab, not on the carpeting.

(NO OMISSIONS)

3-1

1 Q There are portions of the debris, however, lying on the  
2 carpet in the photograph H-66; correct?

3 A It's turned over. The bottom portion of the carpeting,  
4 not the surface area.

5 Q And there is no photograph taken of the carpet, the rest  
6 of the carpet, at the time that the work on the wall was  
7 completed; is that correct?

8 A I'm not aware of it.

9 Q You haven't seen any?

10 A I haven't seen any. I haven't looked for any, either.  
11 There may well be one. I don't know.

12 Q Can you testify positively that none of the debris that's  
13 shown on the back of the carpet ever got over to the  
14 front surface?

15 A Positively, no, because I never -- No, I can't.

16 Q In H-65, there appears to be a dark blood spot. Do you  
17 recall whether that blood spot was still wet at the time  
18 that the carpet was put in that condition?

19 A No, sir, I don't.

20 Q Do you recall if the carpet was dried before it was  
21 rolled up for removal?

22 A I feel it was, yes.

23 Q How?

24 A By the condition, the way it looked, I believe it was.

25 Q But there was no actual laying it down somewhere to dry  
26 it?

3-2

- 1 A I was not in charge of that process. Some of these  
2 questions I can't answer. And as far as --
- 3 Q I'm just asking you from your observation while you were  
4 there, do you remember its being laid out to dry?
- 5 A Taken outside, laid out to dry?
- 6 Q Anyplace, yes.
- 7 A I never observed it, no, being laid out to dry outside  
8 of the residence.
- 9 Q You took notes, did you not, of what time the removal of  
10 the wall was completed; is that correct?
- 11 A Yes, sir, I did.
- 12 Q That was what time?
- 13 A I would have to --
- 14 Q Do you have your notes numbered by our numbering system?
- 15 A Are you referring to the typewritten?
- 16 Q No.
- 17 A No, I don't have those with me, the ones I gave you last  
18 night.
- 19 Q Showing you discovery page 2839, appears to be a Xerox  
20 copy of your notes. It would indicate that of those you  
21 have noted, the last one was removed at 6:48 in the  
22 evening; is that correct?
- 23 A Basically, yes, sir.
- 24 Q And at that point in time, the carpet was still in the  
25 master bedroom?
- 26 A I can't say for sure. I don't know. I'm not sure at

009341



25 I later contacted Sergeant Arthur and he told me,  
26 "It has already been done."

009342

3-4

- 1 Q So you remembered that Jacuzzi cover being taken away  
2 on Monday?
- 3 A Yes, sir.
- 4 Q And you did document, including precise measurements,  
5 the location of the bloody heel print on the patio slab;  
6 is that correct?
- 7 A Yes, sir, I did.
- 8 Q You did that on the 5th?
- 9 A Yes. At the beginning of the investigation.
- 10 Q Actually, it was in your notes, in the notes that you  
11 took in the evening, that you did that; is that not  
12 correct?
- 13 A I'm not sure.
- 14 Yes, later on in the notes, yes.
- 15 Q Isn't it a fact that you didn't notice that shoe print  
16 at any time that -- Isn't it a fact that you didn't  
17 notice the print on the Jacuzzi cover at the time that  
18 you noted the location of the Vibran heel print?
- 19 A If I understand you correctly, the bloody print on the  
20 slab I saw at the beginning of the investigation.
- 21 Q But you measured it and noted its existence in the  
22 evening after the body people had left when you were  
23 doing your exterior check?
- 24 A Yes. The print on the Jacuzzi was pointed out to me  
25 earlier by Detective O'Campo. That was in daylight  
26 hours.

009343

3-5

1 Q Is there any reason why you didn't attempt to measure  
2 its existence when you were measuring the Vibran heel  
3 print at the time you were taking measurements of the  
4 patio?

5 A I didn't take it then, no.

6 Q Why not?

7 A I don't know.

8 Q On June 11th, did you go to Long Beach?

9 A Yes, sir, I did.

10 Q And at that point in time, did you begin to process a  
11 station wagon belonging to the Ryen family that was found  
12 in a church parking lot?

13 A Yes, sir, I did.

14 Q Were you responsible for seizing any evidence from that  
15 car?

16 A No. The Crime Lab seized evidence.

17 Q The car was taken back to San Bernardino by June 12th;  
18 is that correct?

19 A Yes, sir.

20 Q And you again participated in the processing of the car  
21 on June 12th?

22 A Yes, sir, I did.

23 Q Were you responsible for seizing any evidence on the  
24 12th?

25 A No, sir.

26 Q At the time that you were showing Mr. Ogino and

009344

3-6

1 Mr. Gregonis the blood stains outside the master  
2 bedroom, did you point out to them the blood stain on  
3 the back of the door that led from the hallway out to  
4 the living room?

5 A I don't recall if I did or not.

6 Q At the preliminary hearing, Volume 15, page 21, lines 25  
7 to page 22, line 2, you stated, did you not, that you  
8 didn't point the stain out on the afternoon that you  
9 recalled and you had no reason why you did not?

10 A I don't recall pointing it out to them.

11 Q And you had no reason why you didn't?

12 A Not offhand.

13 Q At the preliminary hearing, you testified there is no  
14 reason why you did not point it out?

15 A Right.

16 Q When you were consulting with Mr. Gregonis and  
17 Mr. Ogino about the blood stains, what did they tell  
18 you as far as interpreting was concerned?

19 MR. KOCHIS: Objection. That calls for hearsay.

20 THE COURT: Mr. Negus?

21 MR. NEGUS: It's not offered for the truth of the  
22 matter asserted. It's offered as to his knowledge at the  
23 time he was in the process of gathering, collecting and  
24 preserving evidence.

25 THE COURT: His state of mind, his knowledge  
26 insofar as it relates to the matter, is that important?

009345

3-7

1 MR. NEGUS: Yes.

2 THE COURT: It just seems to open this wide open.

3 Mr. Kochis, I'm being liberal with counsel, but  
4 that's the type of issues that we have here. Overruled.

5 THE WITNESS: Basically, I would consult them about  
6 the blood pattern, you know, "What does this mean to you?"  
7 They would give me, "Well, it had multiple angles and arches,  
8 such as on the south wall."

9 Q (BY MR. NEGUS) Did they tell you the significance of  
10 that?

11 A No.

12 Q Did you understand the significance of that?

13 A Well, they showed "Here is an arch; there is an angle  
14 that it's going."

15 I asked them, "How can I describe this?"

16 Q So your main purpose in getting the information was not  
17 to interpret but to just describe it in your report?

18 A Yes. I don't have the expertise to interpret blood  
19 patterns.

20 Q As you were doing the crime scene, were you trying to  
21 get that information from the experts that you had with  
22 you so that you could --

23 A I would no way try to testify to blood flight. I was  
24 just trying to get a blood droplet, dripping, droplet  
25 with a downward tail, dripping.

26 Q So you were not trying to get their expertise to

009346

3-8

1 interpret for you what had happened during the crime,  
2 but just merely how to describe the blood patterns?

3 A That primarily. I think I asked them a question maybe  
4 in reference to pointing out maybe where I thought there  
5 might have been an artery that was cut which ended up  
6 on the wall, blood splatters on the wall.

7 Q While you were doing that, was there a consideration that  
8 you were trying to --

9 In doing the crime scene investigation, the purpose  
10 of it is to document physical evidence so that you can  
11 determine the evidence that lead to a suspect and evidence  
12 which will determine how many suspects there were, that  
13 sort of thing; is that correct?

14 A As part of it.

15 Q And were you trying to determine how many people were  
16 involved in the assault, if you could?

17 A Not through blood, no.

18 Q Just from your examination of the crime scene, was that  
19 one of the issues that you were trying to resolve?

20 A Yes, if we could determine if there was more than one  
21 person, how many.

22 Q Did you attempt to get any of the Crime Lab people's  
23 expertise while they were interpreting these patterns  
24 for you in order to try and solve that problem?

25 A I don't think they were interpreting the patterns as  
26 what you are referring to as far as if there was more

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3-9

1        than one assailant or so forth. I strictly asked them,  
2        you know, on descriptions for my own knowledge for  
3        future homicide investigations.

4                    (No omissions.)

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4-1

1 Q Were you, for example, able to determine what rate  
2 of distance the various drops of blood on the wall  
3 traveled to reach that where their final end was?

4 A I could not determine that.

5 Q I know you couldn't, but from the criminalists, you  
6 were asking them those kinds of questions?

7 A No, not at all, not that I recall.

8 MR. KOCHIS: Would this be an appropriate time  
9 for the morning recess, your Honor?

10 MR. NEGUS: Fine with me.

11 THE COURT: Before we break, let me make a couple  
12 comments -- you can step down, sir -- about what we talked  
13 about before.

14 Mr. Negus and Mr. Kochis, and particularly you,  
15 Mr. Negus, I don't wish in any way to divert you from the  
16 efforts that you're making in this trial. I certainly  
17 don't wish to add to the workload. I think that you,  
18 both of you opposing counsel, are officers of the court,  
19 and you also have some legal ethics which require you to  
20 conduct the court proceedings in a reasonably expeditious  
21 manner. Certainly I did not intend to ask you to sacrifice  
22 any of your client's rights, one side or the other. And  
23 certainly I recognize that this is an unusual case  
24 requiring considerable work, and you show it, both of you.  
25 You're good attorneys, as I've said before. But all the  
26 more reason why I think you should try and simplify where

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3           There is not a thing wrong in the biggest cases  
4   that I have, civil or criminal, with opposing counsel  
5   trying to simplify issues or avoid issues of uncontested  
6   matters. And that's all I was trying to do.

9 THE COURT: But witnesses, you see, I was simply --  
10 a lot of this, the other examination of these witnesses,  
11 is just not being lengthy. Mr. Kochis is not contesting  
12 much of the testimony that's coming out. They have been  
13 examined before, there are police reports before. I just  
14 wish, Mr. Negus, that in some way we could use the prior  
15 testimony or reports or state a stipulation to try and  
16 save us time. I'm simply dismayed at the duration of the  
17 trial --

25 THE COURT: No, I didn't even envision that. Never  
26 have I asked you to put in simply the --

1 MR. NEGUS: Any other procedure --

3 battle. But you see, even to avoid your loss of witness  
4 impact, that sort of thing, such a stipulation would be  
5 "We would stipulate that the testimony at the preliminary  
6 hearing may be received subject to further examination,"  
7 and then you bring out the salient points.

10 THE COURT: So be it. Don't worry about it anymore.  
11 I'm not asking you for an offer of proof, but bear in mind  
12 that you don't own the Court, that we all have our  
13 obligations. I at least should encourage it. That's all  
14 I'm trying to do.

18 THE COURT: You have.

21 THE COURT: I'm not sure about that. But at least  
22 you do show organization. All right.

24 Q (BY MR. NEGUS) The process of fingerprinting the  
25 master bedroom, do you recall at what point in time  
26 that was done?

009351

4-4

- 1 A I believe it was done after the collection of  
2 evidence, I would say. To be more specific, you'd  
3 have to ask Deputy Duffy.
- 4 Q The dusting wasn't done until, for example, was it  
5 done after or before the collection of blood?
- 6 A Again, you would have to talk to Deputy Duffy.  
7 However, I do know that some items of evidence, some  
8 items were removed from the bedroom and taken to the  
9 patio area and dusted.
- 10 Q There was a wine glass on the dresser top?
- 11 A Yes, sir, there was.
- 12 Q And that was done approximately 5:03?
- 13 A I don't know what time he did that.
- 14 Q But he did that -- you pointed out the fingerprint to  
15 him; is that correct?
- 16 A Yes.
- 17 Q And he went out and lifted a fingerprint from the wine  
18 glass?
- 19 A Yes, sir. He removed it from the bedroom.
- 20 Q But there was not like fingerprint -- was there a  
21 fingerprint powder being used in the bedroom on the  
22 wall and stuff prior to the removal of the bodies?
- 23 A I didn't see it, no.
- 24 Q Showing you H-234, is that the diagram that we  
25 referred to yesterday which has the dimensions of the  
26 room that you did?

2 MR. NEGUS: Thank you. Nothing further.

5 BY MR. KOCHIS:

9 | A No, sir, I was not.

12 | A Yes, sir, it was.

15 A Criminalist Stockwell, Criminalist Ogino.

18 | A Yes, sir.

20 A Deputy Duffy, Deputy or Detective Roper.

24 A Well, they dusted for prints, yes, sir.

26 A Yes, they did.

009353

4-6

- 1 Q Likewise, were members of the crime lab present on  
2 June the 12th of 1983 when the station wagon was  
3 processed in this county?
- 4 A Yes, sir, it was.
- 5 Q Which members of the crime lab?
- 6 A It would be Criminalist Stockwell, Criminalist Ogino.
- 7 Q In your presence did they remove certain items of  
8 evidence from the car on the 12th?
- 9 A Items of evidence was removed. Whether or not they  
10 actually did the seizing, I'm not sure.
- 11 Q When you first arrived at the scene on Sunday, June  
12 the 5th, and entered the master bedroom of the Ryen  
13 home, did the blood on the wall appear to you to be  
14 wet or dry?
- 15 A Appeared to be dry.
- 16 Q Was there blood on the furniture inside the master  
17 bedroom of the Ryen home that also appeared to be dry  
18 on Sunday, June the 5th?
- 19 A Yes, sir.
- 20 Q Did you notice any blood that appeared to you to be  
21 moist or wet inside the master bedroom on the 5th?
- 22 A Yes, sir.
- 23 Q Was that blood located on the bedding on top of the  
24 waterbed?
- 25 A Yes, sir.
- 26 Q And in your presence did the crime lab remove the

0097554



4-8

1 A If there was, it would have been minimal.

2 Q Do you recall seeing any wet blood at that time?

3 A Not right offhand, no.

4 Q Did most of the blood -- well, strike that.

5 The blood that you saw on the carpet when CCD  
6 started to remove the furniture, did that blood appear  
7 to you to be dry?

8 A Furniture, yes, sir.

9 Q The blood on the carpet, from what you saw?

10 A From what I saw it would be dry.

11 MR. KOCHIS: I have nothing further.

12 MR. NEGUS: One area I neglected.

13

14 REDIRECT EXAMINATION

15 BY MR. NEGUS:

16 Q Was there any blood above the sliding glass door in  
17 the master bedroom along the east wall?

18 A Yes, sir, there was.

19 MR. NEGUS: That's all. Nothing further.

20 MR. KOCHIS: No recross.

21 THE COURT: Thank you very much.

22 THE WITNESS: Thank you, sir.

23 MR. NEGUS: Chick Swanlund.

24 THE CLERK: Raise your right hand, please.

25 ///

26 ///

CARL SWANLUND,

called as a witness by the Defense, was sworn and testified  
as follows:

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

THE WITNESS: I do.

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

THE WITNESS: Carl Swanlund, S-w-a-n-l-u-n-d.

DIRECT EXAMINATION

BY MR. NEGUS:

Q Mr. Swanlund, what's your occupation?

A I'm a sergeant with the sheriff's office.

Q Do you have a particular assignment?

A Career Criminal Division.

Q What is the Career Criminal Division?

A It's a division that was formed to work major career  
criminal crimes.

Q Was that particular division assigned to the Ryen  
homicide?

A Yes, sir.

Q At what time?

A At what time?



4-10

- 1 Q Yes. When was it?
- 2 A On Monday, the 6th, I believe it was.
- 3 Q What was your assignment at that time?
- 4 A To assist as needed with the investigation.
- 5 Q There was no particular thing that you were asked to
- 6 do?
- 7 A Me specifically or the division?
- 8 Q Well, were you the person from your division who was
- 9 in charge of assisting on that particular day?
- 10 A I was assigned to go to the Ryen residence to assist
- 11 in the investigation, yes.
- 12 Q What was your assignment?
- 13 A My assignment was to oversee the Career Criminal
- 14 Division officers at that location and to assist the
- 15 investigators if they had questions, that being
- 16 homicide investigators, if they had questions regarding
- 17 anything at the scene.
- 18 Q How long were you at the scene on June the 6th?
- 19 A Several hours. I might have the exact amount of time
- 20 in my report. I don't recall.
- 21 Q Feel free to look at your reports whenever you need
- 22 to.
- 23 A I don't have reports regarding the Ryen residence on
- 24 the first day we went. That was handled by
- 25 homicide.
- 26 Q Were you taking notes while you were out there?

1 A No, sir.

2 Q You weren't taking notes?

3       A    I had no reason to take notes.  It was homicide  
4           division's investigation.  At that particular time I  
5           had no reason to take any notes.

(NO OMISSIONS)

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- 1 Q You took no notes at all on June 6th?
- 2 A No, sir.
- 3 Q As best you can recollect, you were there how long?
- 4 A Until late in the evening.
- 5 Q About what time did you arrive?
- 6 A Early in the morning, 8, 9, something like that.
- 7 Q When you arrived, was Detective Hall already there?
- 8 A I believe so, yes.
- 9 Q When you arrived, at some point in the afternoon, did
- 10 some criminalists arrive?
- 11 A There were criminalists there, yes.
- 12 Q That was Mr. Ogino and Mr. Gregonis?
- 13 A Yes.
- 14 Q When they arrived, did you escort them through the house?
- 15 A The Ryen residence?
- 16 Q Yes.
- 17 A I don't recall specifically escorting them through the
- 18 house, no.
- 19 Q Do you recall having any conversation with them in the
- 20 house about the physical evidence?
- 21 A There was a point in time that Mr. Ogino and I had some
- 22 conversation about some blood splatter.
- 23 Q Do you remember approximately when that was?
- 24 A No.
- 25 Q At some point in time, did Mr. Clifford come with a
- 26 search warrant?

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5-2

- 1 A I don't recall if he had a search warrant or not.
- 2 Q Do you recall Mr. Clifford arriving sometime in the late  
3 afternoon about 4:15?
- 4 A I recall Mr. Clifford being there in the afternoon. I  
5 don't know what time he arrived.
- 6 Q What was the nature of your conversation with Mr. Ogino  
7 about the blood splatter?
- 8 A The possibility of whether the suspect could have been  
9 right or left handed.
- 10 Q And what were you looking at to try to make that  
11 determination?
- 12 A Blood pattern.
- 13 Q Where?
- 14 A On the wall behind the headboard in the master bedroom,  
15 on the dresser next to the bed and possibly some just  
16 to the east of that on the wall again.
- 17 Q How long did that conversation with Mr. Ogino last?
- 18 A Maybe 10 minutes at the outside, probably.
- 19 Q Did you have any conversation with the criminalists  
20 about the evidence?
- 21 A None that I specifically recall.
- 22 Q Was Mr. Kottmeier at the Ryen residence on the afternoon  
23 of June the 6th?
- 24 A Yes. I believe so.
- 25 Q And Mr. Kochis?
- 26 A Yes.

009339-1

2	A	Yes.
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4 A I believe he was there, also, yes.

7 | A Yes, sir.

10 A He may have been present, but I don't recall that he  
11 was standing right with us during the conversation.

15 A Yes.

17 A I believe it was either on the evening of the 6th or  
18 in the early morning of the 7th.

20 A I wasn't at the initial crime scene.

24 | A Right.

26 MR. KOCHIS: Your Honor, I would object. It calls

4 THE COURT: He first started off asking about the  
5 sergeant's awareness of that particular responsibility.

9 THE WITNESS: I'm not sure when the decision was  
10 made. We were sent down that morning.

14 A No. We went to the substation first and we left the  
15 substation and were told to go down there.

18 | A Yes.

20 | A Yes.

23 MR. KOCHIS: Objection. It's not relevant.

24 THE COURT: But it's foundational.

25 THE WITNESS: Probably the biggest majority of the  
26 unit was assigned to go down there.

009363

5-5

1 Q (BY MR. NEGUS) When you say "the unit", does that mean  
2 the people that are under your supervision in the C.C.D.  
3 or everybody in the C.C.D?

4 A The unit is broken down into teams. The unit is the  
5 whole compliment minus the captain, lieutenant and  
6 secretary and whatever sergeants did not respond.

7 Q So it was you as sergeant plus most of the people below  
8 the rank of sergeant?

9 A Yes, sir.

10 Q When you got there, did you immediately begin the work  
11 of removing the stuff from the master bedroom?

12 A No.

13 Q What were you waiting for?

14 A Some decision needed to be made as to how certain items  
15 were going to be taken out and we needed to get the  
16 vehicle there to transport them.

17 Q What decisions needed to be made about how things were  
18 going to be taken out?

19 A We had to do certain things with the bed in order to be  
20 able to dismantle it and get it outside. We had to  
21 decide how to take the carpeting out. There was a lot  
22 of stuff in it that had to be moved. How to try to  
23 handle it so as not to destroy evidence, et cetera.

24 Q Let's focus on that process.

25 Who was involved in making those determinations as  
26 to, for example, how the carpet was going to be removed

009394

1 without destroying evidence?

2 A I think with the carpet we made a decision that we had  
3 to roll it was the only logical way to get the carpet  
4 out of the residence.

5 Q Who is "we"?

6 A I believe I had a conversation with one of the Homicide  
7 investigators. I don't recall who else was there.

8 Q Homicide investigator, was that a Homicide investigator  
9 at the residence or back at the substation?

10 A I think it was at the residence.

11 Q When you were making this decision, were you personally  
12 aware of any procedures established by the Sheriff's  
13 Department with respect to the preservation of large  
14 items of evidence like carpet?

15 A You mean just how to preserve carpet?

16 Q How to preserve a large object like a carpet or any  
17 procedures that would pertain to carpet.

18 A Just to preserve a carpet, you would possibly just store  
19 it.

20 Q What about a carpet that had blood on it?

21 A We don't generally -- In a homicide, we didn't  
22 necessarily -- we don't collect that evidence. The  
23 Crime Lab collects that evidence and I generally have  
24 no contact with them once they remove an item to find  
25 out how they are storing it.

26 Q On this particular occasion, not having had any



1        experience in doing the work, did you try and find out  
2        from them how they did it?

4 Q Were you aware of any sort of written materials that the  
5 Sheriff's Office had prepared telling you what their  
6 policy and procedure was about how to do it?

8 Q You indicated when you were in Homicide --

12	Q	For how long?
----	---	---------------

19 Q When you were in the Homicide Department, did somebody  
20 ever tell you that the Sheriff's Department has a policy  
21 or procedure that's the best way to preserve physical  
22 evidence from a crime scene?

24 THE COURT: That's not the question.

009366

1 I don't.

5-8

2 Q (BY MR. NEGUS) Showing you Exhibit H-194, which purports  
3 to be parts of rules and regulations, Sheriff's  
4 Department, County of San Bernardino, and has to do  
5 with crime scenes.

6 In your capacity in the Sheriff's Office, have you  
7 ever been given a copy of that or in any way informed of  
8 its content?

9 A Yes, I do recall seeing it.

10 Q When was that?

11 A Very early in my career.

12 Q When you were in the Detective Division in the Homicide  
13 Division, showing you Exhibit H-193, did you ever see  
14 those documents?

15 A I may have. I'm not sure.

16 Q And showing you Exhibit H-195, a document apparently  
17 coming from the Sheriff's Training Division. It deals  
18 with preservation and collection of physical evidence.

19 Have you ever seen that document?

20 A I have no independent recollection of that one at all.

21 (No omissions.)

22

23

24

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6-1

- 1 Q Finally, H-192, copy of a manual that's Sheriff's  
2 Department, County of San Bernardino, have you ever  
3 seen that document?
- 4 A We're in the process of going through this manual now,  
5 and I do not believe that I've covered this area yet  
6 in this manual.
- 7 Q Did you ever obtain from the sheriff's crime lab a  
8 document which they make available to deputies  
9 entitled Physical Evidence Outlines?
- 10 A Not that I recall.
- 11 Q When you were making the decisions about how to handle  
12 the carpet, had you read any literature about the  
13 preservation of physical evidence?
- 14 A I'm sure that I have through my career, yes.
- 15 Q What?
- 16 A I haven't got a list of any of them.
- 17 Q When you were asked to take the carpet, were you  
18 informed that the purpose for taking it was so that  
19 blood typing could be done on it, trace evidence could  
20 be collected from it, and that it could be shown to  
21 a jury?
- 22 A Yes to one of them, no to the other two.
- 23 Q Which is -- which were you told?
- 24 A My understanding for the purpose of recovering all  
25 of the property, including the carpet, was it could  
26 be reconstructed for the jury if it needed to be.

009380

6-2

1 Q Nobody told you anything about preserving blood for  
2 typing?

3 A As I recall, I was told that blood had already been  
4 collected.

5 Q Who told you that?

6 A I believe it was Sergeant Arthur.

7 Q What about collecting trace evidence, like hair,  
8 fibers, soil, that sort of thing?

9 A I don't specifically recall anything about trace  
10 evidence.

11 Q To your knowledge had the carpet been, for example,  
12 vacuumed for trace evidence?

13 A I don't have any knowledge as to whether it was or  
14 not.

15 Q When you looked at the carpet, did it appear to have  
16 a lot of trace evidence adhering to it, like hair,  
17 fibers, and so forth?

18 A I didn't notice any hair or fibers.

19 Q Did it appear to be clean?

20 A Obviously not.

21 Q Aside from the blood on it, did it appear to be clean?

22 A I don't know whether it was cleaned or not. I  
23 couldn't tell if it had been vacuumed or not. I wasn't  
24 looking for that.

25 Q In seizing the carpet, did you do anything to try and  
26 preserve any fibers that might be adhering to it or

2 A I don't specifically recall addressing that particular  
3 problem.

6 A We dealt with how we were going to try and carry the  
7 dresser out so that we didn't damage the blood  
8 splatter that was on the dresser. Those are the  
9 things I specifically recall.

12 | A Yes.

14 A I had conversation with, I believe, Mr. Ogino, and I'm  
15 not sure if we talked with someone that was there from  
16 the identification bureau or whether that was  
17 addressed to a telephone call to someone else as  
18 far as space was concerned.

21 A The conversation I had with Mr. Ogino had to do with  
22 the fact that they did not have room to store the  
23 contents of that room at their lab and that we had  
24 to find someplace else to put it.

009370



1 contents in the lab.

6-5

2 Q I understand. Those contents as a whole or any of  
3 them.

4 A We didn't get into specifics. He just said that that  
5 property wouldn't fit in the lab and that we had to  
6 locate another area for it.

7 Q Did you tell Mr. Ogino where it was going to be put?

8 A When we determined where it had to go, he was aware  
9 of where we were going to store it.

10 Q Who determined where it had to go?

11 A I'm not sure who made the final decision as to where  
12 it was going to go.

13 Q Who communicated it to you?

14 A Again, I believe it was Sergeant Arthur, but I could  
15 be mistaken.

16 Q The place it was going to go was the loft in the  
17 I.D. building on Sierra Boulevard or Avenue, whatever  
18 it is over there; correct?

19 A True.

20 Q Were you aware of that building? Had you been in there  
21 before the decision was made?

22 A I've been in the building prior, yes.

23 Q Are you aware of how hot it gets in the summer?

24 A No.

25 Q When Mr. Ogino and Mr. Gregonis were in the master  
26 bedroom, were they working by themselves for a period

6-6

- 1 of time making measurements and observing the  
2 different patterns?
- 3 A As opposed to being with one of the investigators?
- 4 Q Yes.
- 5 A They were by themselves, yes.
- 6 Q At some point in time that they were busying  
7 themselves in the master bedroom, did your men begin  
8 the process of dismantling the bedroom?
- 9 A While they were still in the process of looking at  
10 what they were looking at?
- 11 Q Yes.
- 12 A No.
- 13 Q What point in time did your men begin to dismantle  
14 the bedroom?
- 15 A We began to remove property and take things apart  
16 after they had satisfied themselves with whatever it  
17 was they were doing with the blood patterns.
- 18 Q How do you know that?
- 19 A Because I recall I asked them is there anything else  
20 they wanted to look at.
- 21 Q Who did you ask?
- 22 A They were both in an area, and I directed it to them.  
23 I don't know. I didn't specifically ask Ogino, I  
24 didn't specifically ask Gregonis.
- 25 Q Do you recall what their response was?
- 26 A Not specifically.

00093773



6-7

1 Q At that point in time, was Mr. Kottmeier still on the  
2 premises?

3 A I don't recall.

4 Q Did either Mr. Ogino or Mr. Gregonis ever tell you  
5 that before you moved anything out they would like  
6 additional time to measure, document, photograph, and  
7 analyze the different blood patterns in the master  
8 bedroom?

9 A No.

10 Q Did you ever have any conversations with Mr. Kottmeier  
11 about timing of the moving of the furniture and things  
12 from the master bedroom?

13 A Not that I specifically recall.

14 Q Were those items that were removed by your men  
15 removed pursuant to a search warrant?

16 A I specifically don't recall.

17 Q You had arranged for a couple of your deputies to get  
18 a truck and bring it over there that particular  
19 afternoon; is that correct?

20 A Yes, sir.

21 Q And that was Deputies Bengie and Hill?

22 A I don't recall which deputies brought it over. Two  
23 of the deputies from our division did.

24 Q Did you have to have all the stuff taken out of that  
25 bedroom that evening because you had the truck there  
26 that day?

00099775

6-8

- 1 A I think we just tried to get it all out in the one  
2 day.
- 3 Q And did you?
- 4 A Yes.
- 5 Q What was the first thing that you took out?
- 6 A I have no idea.
- 7 Q Was there any sort of plan of attack devised to try  
8 and take things out in a way so that they would be  
9 least likely to have the evidence disturbed in  
10 transit?
- 11 A No.
- 12 Q At some point in time did you become aware of a  
13 decision made to remove portions of the south wall  
14 from the master bedroom?
- 15 A Yes, sir.

16 (NO OMISSIONS)  
17  
18  
19  
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21  
22  
23  
24  
25  
26

7-1

1 Q When was that?

2 A Later the same day, I believe.

3 Q Later than what?

4 A After we had everything removed from the room.

5 Q You think everything else was removed from the room

6 before you became aware of the decision to remove the

7 wall?

8 A Before I was aware of it?

9 Q Yes.

10 A I'm not sure when I became aware of it.

11 Q Who communicated it to you?

12 A Mr. Kottmeier.

13 Q What did Mr. Kottmeier tell you?

14 A That he wanted that section of the wall.

15 Q Did he tell you what he wanted it for?

16 A He wanted to preserve the blood patterns.

17 Q Was there any discussion about how to take it out

18 between you and Mr. Kottmeier?

19 A There may have been. I don't recall whether we had a

20 discussion on it or not.

21 Q Did you decide the actual technology of how to do it

22 yourself?

23 A There were some other C.C.D. officers there and we had

24 originally planned to try to take it off one way. It

25 subsequently didn't work, so we had to do it another

26 way. It was kind of a trial and error until we finally

0000000000

7-2

- 1       figured out how to get it off the wall.
- 2   Q   Who were the C.C.D. officers that were involved in that?
- 3   A   Scott Field was assisting me. I'm not sure who the
- 4       others were.
- 5   Q   Were the criminalists helping him?
- 6   A   I believe Ogino was there.
- 7   Q   What was the first way you tried to get it off the wall?
- 8   A   Tried to take it out in one piece.
- 9   Q   But that wouldn't work?
- 10  A   No.
- 11  Q   Then you cut it into sections?
- 12  A   Yes.
- 13  Q   Was the rug removed from the room at that point in time?
- 14  A   Yes.
- 15  Q   Showing you photograph H-66, would you like to change
- 16       your answer?
- 17  A   No.
- 18  Q   And H-65?
- 19  A   This photograph appears that the carpeting was pulled
- 20       back away from the wall.
- 21  Q   But was still in the room; is that correct?
- 22  A   It appears so, yes.
- 23  Q   Did you get plaster from the wall on the rug in the
- 24       process of removing it?
- 25  A   I don't know.
- 26  Q   Did you take any precautions to try to prevent that?

7-3

- 1 A In the photograph, it appears it's pulled back far enough  
2 away so it would not get on the carpet.
- 3 Q In the H-66 photograph, there appears to be pieces of it  
4 at least on the back side of the carpet; is that correct?
- 5 A There appears to be something, either plaster or wood,  
6 yes.
- 7 Q There was also still furniture in the room at the time  
8 you were taking the wallboard out; is that correct?
- 9 A I have no idea.
- 10 Q In the photograph, there appears to be a little nightstand  
11 there that you can still see just pulled back from the  
12 wall.
- 13 A You are correct.
- 14 Q Who were the C.C.D. officers that were involved in the  
15 actual process of taking stuff out of the master  
16 bedroom?
- 17 A Probably most of the detectives and deputies in the  
18 division were probably there.
- 19 Q By "there", there were people doing searches of fields  
20 all over the place on that particular day; is that  
21 correct?
- 22 A Yes.
- 23 Q Were all those people then focused into the process of  
24 moving this stuff out?
- 25 A The biggest majority of those people were probably  
26 inside that master bedroom removing property.

009378

2 | A No, sir.

5 | A No, sir.

7 | A No, sir.

10 A There is a total of 24 minus a secretary, captain,  
11 lieutenant. There were probably a total of about 18,  
12 I think.

15 | A I don't know.

17 THE COURT: Okay. 1:30.

19 | ---o0o---

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26

1 SAN BERNARDINO, CALIFORNIA, TUESDAY, JUNE 5, 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 THE COURT: Please continue.

8  
9 DIRECT EXAMINATION RESUMED

10 BY MR. NEGUS:

11 Q Were you present when Ogino and Gregonis went into the  
12 kitchen and analyzed the blood stain on the side of the  
13 refrigerator?

14 MR. KOCHIS: Objection. Vague as to which residence.  
15 I'm not sure the sergeant is oriented as to which house he  
16 is talking about.

17 Q (BY MR. NEGUS) At the Ryen residence.

18 A Yes.

19 Q Did that occur at approximately 4:10 in the afternoon?

20 A I have no record of the time.

21 Q After that occurred, did you ever see Gregonis and Ogino  
22 go back into the master bedroom?

23 A I don't know.

24 Q After, shortly after that occurred, was that the time  
25 that your people started moving stuff out?

26 A I'm not sure as to the time we started moving property

7-6

- 1 out of the house.
- 2 Q It was still light out?
- 3 A Yes.
- 4 Q And you started moving it out prior to you sawing up the  
5 south wall?
- 6 A Yes.
- 7 Q Did you start moving it out as soon as the truck got  
8 there?
- 9 A Probably shortly after the truck arrived.
- 10 Q At the time, then, that you started moving it out, did  
11 Mr. Ogino and Mr. Gregonis come back into the room?
- 12 A They were back in the room, but I don't know when they  
13 returned to the room.
- 14 Q When they got back in the room, did they ever ask you  
15 to be able to use the phone?
- 16 A Possibly.
- 17 Q Was there a phone set up in the stables for the Sheriff's  
18 people to use?
- 19 A No. There was an extension in the stables already there.
- 20 Q But was that established as the phone that you all were  
21 using at the Ryen residence?
- 22 A Yes.
- 23 Q At that point in time, was Mr. Kottmeier still there?
- 24 A Did you say "at what time was he still there"?
- 25 Q At the point in time when you guys started moving the  
26 stuff out of the house, was Mr. Kottmeier still there?

000997001



7-7

1 A I believe he was still in the area.

2 Q Do you recall Mr., I think it was McCarty finding some  
3 what appeared to be blood spots on the driveway of the  
4 residence that afternoon?

5 A No.

6 Q Do you recall any of your deputies finding a piece of  
7 gauze outside the residence on Monday afternoon?

8 A I believe there was possibly some gauze located, but I'm  
9 not sure whether it was one of my people or someone else.

10 Q Was one of your people assigned to collect it?

11 A I don't recall that.

12 Q Showing you photograph H-50, do you recognize the people  
13 that are depicted in that photograph?

14 A I believe all but one.

15 Q Can you point out who the people are you recognize?

16 A McCarty. I believe that's Stroup. Gregonis. Ogino.  
17 And this is possibly Bobby Phillips. I'm not sure.

18 Q Can you put "G.S." next to Mr. Stroup?

19 A Yes.

20 Q And "D.M." next to Mr. McCarty?

21 A (Witness complied.)

22 (No omissions.)

23

24

25

26

0009702

Q When that piece of gauze was found, did the criminalists then go out to observe it and take it

009383

8-2

1           into physical custody?

2       A    I believe so.

3       Q    When they got through with that work, did they come

4           back to the house?

5       A    I don't recall.

6       Q    Do you ever recall seeing them in the house again that

7           evening?

8       A    They were in and out of the area. I'm just not sure

9           of the times.

10      Q    How long before you took the wall out had you started

11         work removing the furniture from the place?

12      A    I couldn't give you a good estimate. It was some time.

13      Q    Hours, minutes?

14      A    Not really.

15      Q    While this work was going on, were you in any sort of

16         radio communication with the West End substation?

17      A    We had radios at that location.

18      Q    Were you broadcasting to them like Code 97 from the

19         truck at the scene or things of that nature?

20      A    I don't recall if we did that or not.

21      Q    Did you ever observe Mr. Gregonis and Mr. Ogino to be

22         examining blood splatter patterns after you were

23         taking, moving stuff out of the bedroom?

24      A    Not that I recall.

25      Q    Were you yourself engaged in the actual dismantling

26         of furniture and carrying it out?

0097384



8-4

1 A Yes, sir.

2 Q Had some of them soaked through to the back?

3 A Yes.

4 Q Did you feel those to see whether or not they seemed  
5 to be damp?

6 A No.

7 Q Did you assign anybody else to do that?

8 A No.

9 Q Did you do anything to attempt to dry out the rug  
10 before it was rolled up?

11 A No.

12 Q Were you aware in June that if a blood-soaked textile  
13 object is not properly dried that it will mildew?

14 A No.

15 Q When you were consulting with Mr. Ogino about the  
16 splatter patterns on the wall, one of the walls that  
17 you used to make your interpretation was the east wall  
18 between the south wall and the sliding glass door; is  
19 that correct?

20 A Yes, we discussed those patterns.

21 Q Could the same techniques that were used to remove  
22 the south wall have been used to remove that portion  
23 of the east wall?

24 A Yes.

25 Q Did you discuss doing that?

26 A No.

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8-5

1 Q Did you ever discuss it with Mr. Ogino, whether or  
2 not he wanted those particular patterns removed?

3 A I don't believe so.

4 Q When Mr. Kottmeier communicated to you that he wanted  
5 the south wall taken, did you then call Sergeant Arthur  
6 on the phone?

7 A Yes, I did.

8 Q And did you at that point in time tell Sergeant Arthur  
9 that you might have to spend several days at the crime  
10 scene in order to do all the work that you needed to  
11 do?

12 MR. KOCHIS: Your Honor, I would object as calling  
13 for hearsay and not being relevant, that particular  
14 conversation.

15 THE COURT: I'll overrule the objection.

16 THE WITNESS: I don't recall that portion of the  
17 conversation.

18 Q (BY MR. NEGUS) On December 10th, 1983, did you read  
19 an article in the Daily Report concerning the  
20 testimony of Dan Gregonis at the preliminary hearing?

21 A No.

22 Q Did you ever read such an article?

23 A I don't believe I ever read the article, no.

24 Q Did you hear about the article?

25 A Yes.

26 Q Was what you heard about the article that Dan Gregonis

009387

8-6

1 had testified that he wanted more time to examine  
2 the crime scene and that he said you wouldn't let  
3 him?

4 MR. KOCHIS: Objection, calls for hearsay, and  
5 how is that relevant to what he hears after December the  
6 10th?

7 THE COURT: Yes, sustained.

8 MR. NEGUS: I think it goes to bias, your Honor.

9 THE COURT: This happened so long afterwards,  
10 Counsel, I fail to see how it goes to bias.

11 MR. NEGUS: It goes to his bias in testifying.

12 THE COURT: His bias today?

13 MR. NEGUS: Yes, and also --

14 Q (BY MR. NEGUS) Well, after reading the <sup>article</sup> ~~article~~,  
15 whatever, hearing about the article, whatever it  
16 was, did you get ahold of Sergeant Arthur?

17 MR. KOCHIS: I'm going to object. It's compound,  
18 it assumes a fact not in evidence. He's testified that he  
19 never read the article.

20 MR. NEGUS: I changed the question to hearing  
21 about the article.

22 THE COURT: Perhaps on credibility it may be  
23 relevant. To that extent, I'll permit the last question.

24 Q (BY MR. NEGUS) After you heard about the article,  
25 did you get in touch with Sergeant Arthur?

26 A Yes.

009388

2 | MR. KOCHIS: Same objection.

4 THE WITNESS: I told him I was upset about it.

8 MR. KOCHIS: Well, your Honor, I'm going to  
9 object. That assumes a fact that's not in evidence,  
10 because we're dealing with a newspaper article, not a  
11 report. And there's no foundation as to the contents of  
12 that article or what he's heard or whether or not it's  
13 accurate.

17 MR. NEGUS: If Mr. Kochis wants, I think I have  
18 a copy of the news article.

21 Q (BY MR. NEGUS) I think the question was, was that  
22 which made you upset and what you heard about the  
23 article, the allegation that Mr. Gregonis had  
24 purportedly said that you didn't give him enough  
25 time to analyze this thing?

26 | A Yes.

009389



12 | A Yes.

(NO OMISSIONS)

13  
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009390

1 Q In that conversation, do you remember telling  
2 Sergeant Arthur that you had called him on the 6th to  
3 let Sergeant Arthur know there was possibility of the  
4 need for being at the residence for several days in  
5 regard to removing the items?

6 A I still don't recall talking to him about that.

7 Q During that conversation that you had with Sergeant Arthur  
8 on June 6th when you called to tell him about what  
9 Mr. Kottmeier wanted, do you recall him saying anything  
10 with respect to how quickly the work needed to be done?

11 A No.

12 Q Do you recall Mr. Kottmeier, when you talked to him  
13 when he made his request, saying anything about how  
14 quickly the work needed to be done?

15 A No.

16 Q Was your memory when you were talking to Sergeant Arthur  
17 on December 10 sketchy as to the different events that  
18 occurred on June the 6th?

19 A Possibly at the specific conversation. Is that what  
20 you are referring to?

21 Q As to specific conversations, order of events, the time  
22 things happened, who was there?

23 A Yes.

24 Q Similar to what it is today?

25 A Possibly.

26 Q Do you remember telling Sergeant Arthur on December 10

3 | A Not specifically.

5 | A I believe he was.

7 | A No, sir.

10 A It's possible. I don't recall.

14 A I would think that it would have been noon or after,  
15 possibly.

17 A Noon or after, possibly.

21 | A Yes.

24 | A No.

25 Q And Sergeant Arthur told you to take the wall; is that  
26 correct?

009392

9-3

- 1 A That's correct.
- 2 Q Did you ever have any conversations with Bill Baird  
3 about removing any of the evidence on the 6th?
- 4 A I don't recall.
- 5 Q What precautions were taken in removing the different  
6 items of furniture and putting them on the truck so as  
7 not to disturb the dried blood that was on it?
- 8 A Basically, the way they were handled, carried.
- 9 Q In other words, they were not put in any protective  
10 covers or anything of that nature?
- 11 A They weren't wrapped or anything, no.
- 12 Q Were they tied down in the truck?
- 13 A No. It was a closed truck.
- 14 Q They just put them on the floor of the truck not tied  
15 down?
- 16 A Yes.
- 17 Q Were they put up against one another?
- 18 A I don't specifically recall anything shoved up against  
19 one another. However, I did not get into the truck.
- 20 Q Do you know who was in the truck?
- 21 A Several of the deputies were carrying the property out.
- 22 Q Who?
- 23 A I didn't see the bodies. Several of the deputies were  
24 carrying the property out and putting it in the back of  
25 the truck as they carried it out.
- 26 Q Do you know the identity of the other 17 deputies that

9-4

1       were there that day?

2           MR. KOCHIS: Objection. That assumes a fact not in  
3 evidence. He testified that a majority of the people were  
4 there, not all of them.

5           MR. NEGUS: There were 24 total and I think we got  
6 it down to 18 that were there.

7           THE COURT: I'm going to sustain the objection. We  
8 shouldn't have to go back and recalculate mathematically.  
9 Put it in a general sense.

10 Q   (BY MR. NEGUS) Do you recall the names of the deputies  
11 that were there that day?

12           THE COURT: Does he have to do it once again? We  
13 have gone through it. We can search the record again.

14           MR. NEGUS: There is no record. That's the problem,  
15 your Honor. The reason I'm having him do it this way is  
16 there is no record.

17           THE COURT: He testified to it before.

18           MR. KOCHIS: Not this witness. He mentioned three  
19 people.

20           THE COURT: All right. Go ahead.

21           MR. NEGUS: If I had the records, I wouldn't do it  
22 this way, I assure you.

23 Q   (BY MR. NEGUS) Who was there?

24 A   I recall Gary Stroup, Scott Fields, I believe Harvey  
25 Walker was there. I believe Coronado was there. I  
26 believe Tesselaar was there. McCarty. Phillips.

0097794

9-5

1 If I didn't say Stroup, Stroup was there.

2 I believe Smith was there. I believe Hill was there.

3 And I'm sure I've missed some.

4 Q Was Bengé there?

5 A I believe so.

6 Q Acevedo?

7 A I believe Acevedo was there, also.

8 Q Moran?

9 A He may have been. I don't specifically recall.

10 Q Robert Hall?

11 A Again, he may have been. I don't specifically recall.

12 Q Mascetti?

13 A I believe Mascetti was there.

14 Q Hagen?

15 A Yes, I think he was there.

16 Q Can you recall anybody from the unit that wasn't there?

17 A The lieutenant, the captain. I don't believe Mauldin

18 nor English nor Zinner were there. The secretary wasn't

19 there.

20 Q Was the rug rolled up inside the house and then taken

21 directly into the truck?

22 A No.

23 Q Where was it rolled up?

24 A The rug was rolled up inside the house. It was rolled

25 up, removed from the residence and set on the grass for

26 a short period of time.

009395

9-6

- 1 Q Was the grass damp?
- 2 A Not that I recall.
- 3 Q Was the rug from the bathroom removed before the rug
- 4 from the bedroom?
- 5 A If I recall correctly, it was all removed in one piece,
- 6 I believe.
- 7 Q The items like there was also removed besides the
- 8 furniture an exercise bicycle, exercise board, ironing
- 9 board, various clothing items; is that correct?
- 10 A I believe there were some of those removed, yes.
- 11 Q Everything that remained in the bedroom was removed; is
- 12 that correct?
- 13 A There were closets that weren't emptied.
- 14 Q Anything else besides the closets?
- 15 A I don't believe so.
- 16 Q When the exercise bike and those type items were removed,
- 17 was there anything special done to wrap them or protect
- 18 them?
- 19 A I don't believe anything was wrapped.
- 20 Q Was anything special done to protect them?
- 21 A No, sir.
- 22 Q At some later time after June the 6th, was there a
- 23 supplemental request made that you remove various doors
- 24 and things?
- 25 A Yes.
- 26 Q Was that request made to you?

0097076

9-7

1 A Yes.

2 Q By whom?

3 A I don't recall if it was directly from Mr. Kottmeier or

4 from Mr. Kottmeier through Sergeant Arthur.

5 Q What was it that was requested be removed?

6 A Some doors and some jamb frames.

7 Q Were there specific doors that were named or was it

8 placed in terms of any door that had blood on it?

9 A Specific doors.

10 Q Did you ever get a request from either Sergeant Arthur

11 or Mr. Kottmeier to remove any doors or frames that had

12 blood on them?

13 A Yes.

14 Q Any door?

15 A No. I misunderstood you. No. I was requested to take

16 specific doors that had blood stains on them.

17 Q But you also left doors in the place that had blood

18 stains on them; is that correct?

19 A Yes.

20 Q And that was because you weren't requested to take those

21 doors?

22 A That's right.

23 Q Showing you two photographs, H-174 and H-175, there

24 appears to be a doorway from the hallway into the

25 living room. That door with some finger stains on it,

26 was that one of the doors that you did not take?

0009757



1 A Yes.

9-8

2 Q Likewise, the doors on the closet which is depicted in  
3 photograph H-110, the closet with the women's clothes  
4 in it, you didn't take those doors, either; is that  
5 correct?

6 A No.

7 (No omissions.)

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2830-110

10-1

1 Q And you likewise did not take the sliding glass  
2 doors that are shown slightly to the right of  
3 Mr. Kochis in photograph H-49; is that correct?

4 A That's correct.

5 Q And the sliding glass doors had blood on them, did  
6 they not?

7 A Yes.

8 Q And the closet doors in H-110, those to the left had  
9 blood on them; is that correct?

10 A I don't specifically recall whether those doors did  
11 or not.

12 Q Showing you photograph H-109, would that refresh your  
13 recollection that they did in fact have blood on them?

14 A Yes, it appears that it does.

15 Q When you were taking the doors, were you just  
16 following orders or were you exercising independent  
17 judgment?

18 A I was following orders.

19 Q When you were told to take some of the doors that had  
20 blood on them, did you inform whoever it was that was  
21 telling you that that there were other doors that had  
22 blood on them?

23 A Not that I recall.

24 Q Were you asked?

25 A Not that I recall.

26 Q On the night of June the 8th, was the Ryen house

0009767

10-2

- 1 sprayed with luminol?
- 2 A Yes.
- 3 Q At whose direction was that done?
- 4 A I was at the location with them, but I don't recall
- 5 who specifically said have it done.
- 6 Q Did you participate in the decision to do it? Were
- 7 you there when it was being made?
- 8 A Not that I recall.
- 9 Q Did you ever have any discussion as to whether or not
- 10 spraying the place with luminol would have the effect
- 11 of destroying evidence?
- 12 A Not that I recall.
- 13 Q Who made the decision as to what parts of the house to
- 14 spray with luminol?
- 15 A I don't know.
- 16 Q Were some of the areas of the house that were sprayed
- 17 with luminol areas that had already visible blood on
- 18 them?
- 19 A Again, I don't recall whether they had blood on them
- 20 or not.
- 21 Q Do you recall seeing some blood on the north sink in
- 22 the master bathroom?
- 23 A I believe there was some traces that could have been
- 24 diffused blood.
- 25 Q Do you remember if those traces were sprayed with
- 26 luminol?

00009400

10-3

- 1 A They were.
- 2 Q Does H-166 depict some of those traces?
- 3 A Yes.
- 4 Q Who was actually doing the processing of the bathroom  
5 with luminol?
- 6 A I believe it was Ogino.
- 7 Q Were there any discussions that you heard that spraying  
8 that bathroom would make that blood that was visible  
9 untypeable?
- 10 A No, I don't think so.
- 11 Q Did you see any attempt to collect that blood prior to  
12 it being sprayed with luminol?
- 13 A No.
- 14 Q While the luminol processing was going on, was there  
15 anybody there from the crime lab that specializes in  
16 serology?
- 17 A To be honest, I'm not sure what any of their  
18 specialties are.
- 19 Q Do you know which division or part of the sheriff's  
20 department made the decision to spray with luminol?  
21 I mean, I.D., homicide, CCD, crime lab?
- 22 A It wasn't CCD, but no, I don't.
- 23 Q From June 6th to June 9th, were you basically -- or  
24 June 6th to June 10th, were you basically in charge  
25 of the house, had the keys to it, and were responsible  
26 for its security?

10-4

1 A Yes.

2 Q During that period of time, were sheriff's personnel  
3 at the scene using bathrooms inside the Ryen  
4 residence?

5 A I don't know.

6 Q Were sheriff's personnel eating inside the Ryen  
7 residence?

8 A I don't know that either.

9 Q On June the 6th, were any photographers from the  
10 press brought to the Ryen residence?

11 A I believe there were photographers there, yes.

12 Q Were you as the person in charge of the residence  
13 consulted about them coming before they arrived?

14 A I don't believe so.

15 Q On June the 8th, were there likewise again photo-  
16 graphers at the Ryen residence?

17 A I don't know about the 8th. I'm not --

18 Q Do you recall a day in which the photographers came  
19 and actually went inside the master bedroom?

20 A I believe we discussed that before, and I think that  
21 was -- yes, I think that was a day when they were  
22 inside the residence.

23 Q That day that they were inside the residence, did you  
24 appear on television that night with a shot of you  
25 sliding the screen door closed in front of  
26 photographers?

000994002



10-6

1 to open it back up to allow it to dry. I don't think that  
2 assumes a fact one way or the other, just talked about  
3 what he planned.

4 THE COURT: It talks about a state of mind after  
5 moving the carpet.

6 MR. KOCHIS: He had to assume to allow it to dry.  
7 If it's dried, there's nothing to unroll to dry at the  
8 I.D. bureau.

9 THE COURT: We can go into it in more detail in  
10 further questioning. Overruled.

11 Had you made any such plans?

12 THE WITNESS: We planned on after transporting it  
13 taking it to its location, opening it back up, laying it  
14 back out.

15 Q (BY MR. NEGUS) To allow it to dry?

16 A I don't specifically recall planning to allow it to  
17 dry. I specifically recall having some conversation,  
18 I believe it was with Ogino, that we wanted to lay it  
19 back out fully open.

20 Q Do you recall testifying in Volume 15, page 58,  
21 line 9, that --

22 MR. KOCHIS: If I could just have a minute, your  
23 Honor.

24 I have it.

25 Q (BY MR. NEGUS) -- you planned to after transporting  
26 it back up to open it up and allow it to dry?

0099404

2 Q And do you recall being asked if that was because  
3 the reason for that was there was still blood on the  
4 carpet and answering yes?

(NO OMISSIONS)

009405



11-1

- 1 Q And that you weren't sure why but that you knew that you  
2 needed to dry it?
- 3 A I also said that, yes.
- 4 Q What did you do once it got transported to the place  
5 where it was going to be stored to open up the carpet  
6 and allow it to dry?
- 7 A What did I do?
- 8 Q Yes. Did you do that?
- 9 A I didn't go with the carpet to do anything.
- 10 Q Your men did, right?
- 11 A Yes.
- 12 Q And your men were essentially doing what you told them  
13 to do; is that correct?
- 14 A Yes.
- 15 Q Did you tell your men to do anything to open up the  
16 carpet to allow it to dry?
- 17 A I don't believe that I told them when they got it there  
18 to open it up and allow it to dry.
- 19 Q Did you ever send them back later to do that?
- 20 A No.
- 21 Q Did you ever check up on the carpet to make sure that  
22 that step had been taken?
- 23 A No.
- 24 Q Why not?
- 25 A That particular evidence was the Crime Lab's  
26 responsibility. We simply transported it for them.

009406

11-2

- 1 Q Why was it the Crime Lab's responsibility?
- 2 A The Crime Lab is the one that picks up physical evidence  
3 at a homicide scene.
- 4 Q In this particular case, there wasn't any Crime Lab  
5 folks at the spot you delivered the evidence to, right?
- 6 A That's correct.
- 7 Q And the Crime Lab people didn't make the decision to  
8 seize the evidence; is that correct?
- 9 A I don't know who made the decision.
- 10 Q You weren't told by any Crime Lab people what to take,  
11 right?
- 12 A No.
- 13 Q The Crime Lab people at the scene were working under  
14 your direction helping you to dismantle some of the  
15 stuff, right?
- 16 A No.
- 17 Q Didn't Ogino and Gregonis help your people dismantle  
18 the bed?
- 19 A They may have.
- 20 Q And that was essentially you guys were in charge of  
21 doing that, right?
- 22 A Yes, but I didn't direct them to do anything.
- 23 Q They just pitched in?
- 24 A I would assume so.
- 25 Q But the dismantling of the bed was being done under  
26 your direction? You were responsible for getting that

009407

11-3

- 1 work done and making sure it was done right?
- 2 A I didn't supervise the dismantling of the bed. It was  
3 being done by us with the Homicide unit.
- 4 Q Weren't you responsible for all the C.C.D. people that  
5 were at the scene there?
- 6 A Basically.
- 7 Q So you were responsible for whatever your people did  
8 whether you stood over their shoulder and watched them  
9 or not, right?
- 10 A I suppose so.
- 11 Q And that would include responsibility for them taking  
12 apart the bed in a responsible, correct and nondestructive  
13 manner; is that right?
- 14 A I suppose so.
- 15 Q The same as far as getting the carpet to some place of  
16 safety where it could be preserved properly; is that  
17 correct?
- 18 A Yes, sir.
- 19 Q Did you ever communicate to Bill Baird or anybody in  
20 the Crime Lab what you had done with the carpet once  
21 you moved it?
- 22 A I don't believe so.
- 23 Q Did you ever tell anybody that, "Hey, we took it there  
24 but we didn't unroll it to allow it to dry out"?
- 25 A Not that I recall.
- 26 Q And you never submitted in your reports what you did

00094008

11-4

1 with it so people could read and see what you had done,  
2 right?

3 A No.

4 Q Why didn't you do that?

5 A I wasn't responsible for those reports. The reports  
6 were being prepared by the Homicide Division. We were  
7 simply doing what they told us to do.

8 Q Your position is you were not responsible for any  
9 report -- Did you report to the Homicide people as to  
10 what you had done? Did you tell Mike Hall that you  
11 hadn't unrolled the carpet to allow it to dry?

12 A I don't recall telling anyone I did not unroll the  
13 carpet.

14 Q So why didn't you tell them?

15 A I don't recall anyone telling me that they did not unroll  
16 the carpet.

17 Q Let's assume -- Did you tell --

18 There were two people with the truck, right?

19 A Yes.

20 Q And they were partners one of another?

21 A From the same division, yes.

22 Q So your people divide up into partners?

23 A Generally.

24 Q Were these two people partners?

25 A Who were they, again? I don't recall them.

26 Q Let's assume they were Bengé and Hill.

0099409

11-5

1 A If it was Bengé and Hill at that time, they were  
2 partners, yes.

3 Q Did you tell them that your plan was that once you got  
4 it to the place that it was going to be stored at, that  
5 it would be unrolled and allowed to dry?

6 A I don't remember.

7 Q When you rolled up the carpet, did you put any paper on  
8 it to prevent transfer of trace evidence from one surface  
9 to another?

10 A No.

11 Q Why not?

12 A Two reasons. One, I didn't have any paper. And  
13 secondly, I didn't think of it.

14 Q Paper was available to you if you had wanted it; correct?

15 A I would suppose within reason.

16 Q The Jacuzzi cover which you can see at least portions of  
17 in photograph H-27, did you remove that Jacuzzi cover?

18 A Yes.

19 Q When did you remove that?

20 A I believe it was on the 9th.

21 Q Who asked you to remove that?

22 A I believe Sergeant Arthur did.

23 Q Was that transported to the same spot as the furniture?

24 A I can only assume that it was.

25 Q You told somebody to take it there?

26 A Yes.

11-6

1 Q Do you remember whom?

2 A The detective that went with them was Detective Stroup  
3 and there was a civilian employee of the Sheriff's  
4 Office that drove the vehicle.

5 Q On June the 7th, did you go to a vacant residence at  
6 2991 English Road which was some hundred and some-odd  
7 yards to the east of the Ryen residence?

8 A Yes.

9 Q And were you in charge of processing that particular  
10 house for evidence?

11 A I was in charge of doing the crime scene investigation  
12 of that residence, yes.

13 Q What does that entail?

14 A Diagramming the residence, recovering -- I shouldn't  
15 say recovering. The Crime Lab recovers evidence --  
16 preparing reports, describing the residence, physical  
17 evidence, what I observed at the scene.

18 Q Did you have the same general responsibilities that a  
19 Homicide detective in charge of the scene would have?

20 A Yes.

21 Q Did that include making sure that all physical evidence  
22 that might have some evidentiary value was removed from  
23 the house?

24 A Yes.

25 Q In that house, were there found any brown corduroy  
26 pants with blood on them?

009412

11-8

1       inside the residence?

2   A    I don't recall that I did.

3   Q    Did you ever tell Captain Schuyler, Mr. Rosales and  
4       Sheriff Tidwell that you had found such a can?

5   A    No, not that I recall.

6   Q    Did you find any partially washed clothing -- Was there  
7       a washer-dryer in the kitchen area of the house?

8   A    Yes.

9   Q    Did you find any partially washed clothing in that  
10      washer-dryer?

11   A    No, sir.

12   Q    Did you ever tell Mr. Clifford from Homicide at the  
13      time that you had found such partially washed clothing  
14      inside 2991?

15   A    No.

16   Q    Did you ever tell Sheriff Tidwell, Mr. Rosales,  
17      Mr. Schuyler, that you found such clothes?

18   A    No.

19   Q    Near a light switch on the --

20       Back up.

21       Was there a counter area in the living room of the  
22      residence at 2991?

23   A    Yes.

24   Q    And at the end of that counter area, was there a light  
25      switch?

26   A    Yes.

0099413





11-10

- 1 Q Showing you Exhibit S-32, does that appear to be a  
2 diagram of the residence at 2991?
- 3 A Yes.
- 4 Q And was the blood that you saw on the wall somewhere  
5 near the area which has been circled in red there?
- 6 A Yes.
- 7 Q Did you put that circle there at the motion to suppress?
- 8 A I believe I did.
- 9 Q Were Mr. Ogino and Mr. Stockwell from the Crime Lab  
10 the persons that were taking evidence or packaging the  
11 evidence that was found inside 2991?
- 12 A Yes.
- 13 Q Did you point out those blood smears to either  
14 Mr. Ogino or Mr. Stockwell?
- 15 A As I recall, I did, yes.
- 16 Q To which one, if you recall?
- 17 A I believe it was Ogino.
- 18 Q Did he ever do, in your presence, any presumptive tests  
19 on that to determine whether or not it was blood?
- 20 A I believe so.

21 (No omissions.  
22  
23  
24  
25  
26

000994-157

12-1

- 1 Q And that's a presumptive color test where he takes  
2 a little bit and puts it on a piece of filter paper  
3 and sees if it changes color?
- 4 A Yes.
- 5 Q Was the result of that test positive for a presumptive  
6 test for blood?
- 7 A As I recall it was.
- 8 Q Did you ever see Mr. Ogino take that blood, put it in  
9 a little container of some sort?
- 10 A At this point, I don't recall if he took it or not or  
11 if I saw him take it.
- 12 Q Can you describe generally the size of the blood spot?
- 13 A As I recall, it wasn't very large. Could be guessing,  
14 something quarter size or something like that. It  
15 wasn't very big or very much of it.
- 16 Q The size of a 25-cent quarter, you mean?
- 17 A Not covering that entire area, but it was within that  
18 area.
- 19 Q Do you recall what its shape was?
- 20 A No, sir.
- 21 Q Did it appear to be like -- could you tell whether it  
22 was like a finger impression or a drop or a splatter  
23 or --
- 24 A As I recall, it was a smear type, but I don't know  
25 what caused it.
- 26 Q I mean, did it have any significant features like

0099416

12-2

- 1 ridge patterns or anything of that nature?
- 2 A No.
- 3 Q In the residence at 2991, did you discover any foot
- 4 impressions?
- 5 A Yes.
- 6 Q Shoe impressions?
- 7 A Yes.
- 8 Q How many?
- 9 A There were two that I recall.
- 10 Q Where, if you could indicate on the diagram with a
- 11 green grease pencil with a little X, were they?
- 12 A There was one in the area between the game room and
- 13 the family room somewhere in this area, and there was
- 14 a second on the tile in the entryway. And I do not
- 15 recall exactly where that was. I think it was
- 16 somewhere in this area.
- 17 Q Somewhere near what was referred to as the front door
- 18 at the south of the residence?
- 19 A Yes.
- 20 MR. NEGUS: Could we take a break now? There's
- 21 a few exhibits I have to fish out.
- 22 THE COURT: All right. Let's do that.
- 23 (Recess.)
- 24 THE COURT: Go ahead.
- 25 Q (BY MR. NEGUS) The footprint that you got in the
- 26 game room, was that footprint photographed?

12-3

- 1 A Yes.
- 2 Q And is Exhibit S-13 a photograph of that shoe print?
- 3 A Appears to be.
- 4 Q Was the footprint that's in the living room photo-
- 5 graphed?
- 6 A Yes.
- 7 Q Is H-236 a photograph of that footprint?
- 8 A Appears to be.
- 9 Q Did you have a CCD person named Marti Smith to do some
- 10 drawings of some other footprints in the house?
- 11 A Of some other footprints in the house?
- 12 Q Yes, 2991.
- 13 A I don't believe so.
- 14 Q I'm asking you to look at MMM, and we've got six
- 15 pages to that of Xerox drawings.
- 16 THE CLERK: Your Honor, there's a Superior Court
- 17 exhibit number on the back.
- 18 MR. NEGUS: Oops, excuse me.
- 19 Q (BY MR. NEGUS) Exhibit H-237, which is a Xerox copy
- 20 of a bunch of shoe impressions. And there seems to
- 21 be six different ones; is that correct?
- 22 A Appears to be, yes.
- 23 Q And two of those were from the spa that we've
- 24 previously talked about at the Ryen house; is that
- 25 correct?
- 26 MR. KOCHIS: Your Honor, I'm going to object.

12-4

1 There's no foundation on his part unless he's prepared  
2 those.

3 THE COURT: If you can, you can answer it. If  
4 you know of your own knowledge. Otherwise, I'll sustain  
5 the objection.

6 THE WITNESS: I can't answer.

7 THE COURT: You don't know?

8 THE WITNESS: I don't know.

9 Q (BY MR. NEGUS) Did you assign Miss Smith to do  
10 drawings of footprints in the English Road residence?

11 A Yes.

12 Q I'm asking you to look at Exhibit MM -- excuse me,  
13 H-237, a page that's been numbered as B in the upper  
14 right-hand corner and page 775 in the bottom right-  
15 hand corner. Did you see a footprint such as  
16 depicted on that drawing in the 2991 residence?

17 THE COURT: Mr. Kochis, it occurs to me,  
18 however, that as opposed to objecting if you could  
19 stipulate based upon your knowledge of what further  
20 witnesses might testify to as to the source of the  
21 footprint, it would save us perhaps from calling further  
22 witnesses.

23 MR. NEGUS: I doubt it.

24 MR. KOCHIS: Your Honor, he's going to call  
25 Marti Smith regardless of what I do with this witness.

26 THE COURT: Okay.

0099419

12-5

1 MR. NEGUS: And this is foundational to some  
2 other questions and that's why I'm doing it.

3 MR. KOCHIS: Well, your Honor, I could stipulate  
4 that this exhibit was used at the preliminary hearing and  
5 Martha Smith testified at the preliminary hearing that  
6 these were shoe print impressions she recorded either on  
7 top of the Jacuzzi cover or inside the 2991 Lease  
8 residence.

9 MR. NEGUS: It's my understanding it takes longer  
10 stipulating to it than doing it, because I have to ask the  
11 questions anyway.

12 THE COURT: You may proceed, Mr. Negus.

13 Q (BY MR. NEGUS) Did you see such a footprint as  
14 shown in Exhibit H-237, page 775, in the 2991  
15 residence?

16 A I don't recall seeing it.

17 Q Did you see a footprint such as shown on page 776  
18 of the same exhibit in the Ryen residence?

19 A I don't recall seeing that either.

20 Q Did you see a footprint such as shown on page 777  
21 of the same exhibit in the 2991 residence?

22 A No.

23 Q I think I said Ryen residence as to page 776. But  
24 did you see that footprint in the 2991 residence?

25 A Not that I recall.

26 Q Other than the two photographs which you've already

00094200

12-6

1 identified, did you cause any other footprints in  
2 the 2991 to be photographed?

3 A Not that I recall.

4 Q Did you see any footprints on the spa at 2943 English  
5 Road, the Ryen residence?

6 MR. KOCHIS: Objection, vague as to time.

7 THE COURT: All right. Sustained.

8 Q (BY MR. NEGUS) At any time.

9 A Yes.

10 Q When was the first time that you noticed footprints on  
11 that spa?

12 A Either the 7th or the 8th.

13 Q When you noticed them --

14 A Let me clarify that. It was either the 6th or the  
15 7th, I believe.

16 Q Do you recall testifying at the preliminary hearing  
17 that you first saw the footprint on June 7th?

18 MR. KOCHIS: If I could have a volume and page  
19 number, your Honor.

20 MR. NEGUS: I didn't figure it out. I was just  
21 asking the question. I think it's Volume 15, starting  
22 from page 78, line 18, all the way over to 79, line 3.

23 Q (BY MR. NEGUS) Do you recall first stating at the  
24 preliminary hearing that it was the 7th or the 8th  
25 and then coming to the conclusion it was probably  
26 the 7th?

009421



12-7

1 A I don't specifically recall it, no, but if you say I  
2 said it, I did.

3 Q Was the date that you became aware of the footprints  
4 on the spa the same day as the vacant residence at  
5 2991 English Road was discovered?

6 A It's possible.

7 Q After you became aware of the footprints on the spa --  
8 how many footprints were you aware of on the spa?

9 A There were several, but I don't -- maybe three.

10 Q Did you assign Marti Smith to draw pictures of them  
11 on the morning of the 8th?

12 A Yes.

13 Q And did you have those footprints photographed?

14 A I think they were photographed, yes.

15 Q Did you request somebody from I.D. to do it?

16 A I don't recall if I requested somebody to go up there  
17 or not.

18 Q If you'd look at the pages that have Number 1 and 2  
19 in the upper right-hand corner on that Exhibit H-237,  
20 do those appear to be the footprints that you saw,  
21 two of the footprints that you saw on the spa?

22 A It's possible, yes.

23 Q And does the one that has the number up at the upper  
24 right-hand corner that has the address 2991 on it  
25 appear to be consistent with another one of the  
26 footprints that you saw on the spa?

2 Q There's one that has a --

5 Q Excuse me. The one with the A on top in the 2991.

8 | A Yes.

(NO OMISSIONS)

10  
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009423

13-1

- 1 Q Was there any attempt made to lift those footprints  
2 off the spa, physically remove the impressions?
- 3 A Not that I'm aware of.
- 4 Q When you removed the spa cover, did you do it in such a  
5 way that those impressions were preserved?
- 6 A Yes.
- 7 Q What steps did you take to make sure that they remained  
8 on the spa cover?
- 9 A That they remained on the spa cover?
- 10 Q Yes.
- 11 A Made sure we didn't stack anything against them while  
12 they were transported. I don't know what happened to  
13 them once they got to San Bernardino.
- 14 Q You told Mr. Stroup to take them to the I.D. office?
- 15 A Yes.
- 16 Q While you had control of the residence at 2991 English  
17 Road, did you have anybody posted at the doors to keep  
18 them out?
- 19 A No.
- 20 Q Did you take lists, keep lists of who went in and out?
- 21 A No.
- 22 Q Did you have anybody else do that?
- 23 A No.
- 24 Q Do you have any knowledge of how many people went into  
25 that room?
- 26 A No.

00009575

13-2

1 Q Did you assign anybody else the responsibility of  
2 determining that information?

3 A No.

4 MR. NEGUS: Nothing further.

5 THE COURT: Mr. Kochis.

6

7 CROSS-EXAMINATION

8 BY MR. KOCHIS:

9 Q Sergeant Swanlund, directing your attention to the  
10 2991 English Road residence, the Lease residence, while  
11 you were inside that residence, did you ever see any  
12 member of the press inside the Lease residence?

13 A No.

14 Q Did you ever see any civilians inside the residence?

15 A No.

16 Q On how many days were you involved in the processing of  
17 that particular residence?

18 A Three.

19 Q Did you have a key to the residence after you arrived on  
20 the first day?

21 A Yes.

22 Q For example, when you left the residence the first time,  
23 was that in the early morning hours on June the 8th,  
24 1983?

25 A Yes.

26 Q And is one of the reasons the residence was left at that

00094255

13-3

1 time was the fatigue of the various people processing  
2 the residence?

3 A Yes.

4 Q Did you secure the residence in any fashion when you left  
5 in the early morning hours on June the 8th?

6 A I locked the doors.

7 Q When you returned that day later in the day to continue  
8 processing, was anyone else inside the home?

9 A No.

10 Q Did you have to let yourself in with the key?

11 A Yes.

12 Q Is that the procedure you used during the three days  
13 during which you assisted in the processing of that  
14 residence was to lock it when it wasn't being processed?

15 A Yes.

16 Q Is it fair to say that while you were there on those  
17 three days, the only persons inside the home were  
18 members of the various divisions of the Sheriff's Office  
19 in San Bernardino?

20 A Yes.

21 Q Was anyone called from the Identification Bureau to  
22 assist you in processing that residence, the Lease  
23 residence?

24 A Yes.

25 Q Do you recall which members of the Identification Bureau  
26 responded to that request to take photographs and to

00064210

009427

13-5

- 1 Q Were you the only person from C.C.D. who assisted in  
2 the processing of the Lease home?
- 3 A I had other investigators assisting me through parts of  
4 it.
- 5 Q What were their names?
- 6 A Marty Smith was in the house. Detectives Stroup and  
7 Fields were in the residence. They are the ones that  
8 were with me most of the time.
- 9 Q Did you then take notes as you would have taken were  
10 you still back in the Homicide Division of the  
11 measurements, for example, of the various rooms in  
12 that particular house?
- 13 A Yes.
- 14 Q And the measurements of certain items of evidence which  
15 were later removed from the residence by the Crime Lab?
- 16 A Yes.
- 17 Q Sometime after you took your notes, did you use your  
18 handwritten notes to dictate a report which was later  
19 typed by a secretary in the Sheriff's Office?
- 20 A Yes.
- 21 Q After the report was typed, did you read the report?
- 22 A Yes.
- 23 Q And did you compare your typewritten report with your  
24 handwritten notes to see if you had incorporated the  
25 substance of your handwritten notes in your typewritten  
26 report?

0099428

13-6

- 1 A Yes.
- 2 Q Directing your attention to a document which has been  
3 marked for identification as Exhibit H-235, do you  
4 recognize that report?
- 5 A Yes.
- 6 Q Does that appear to be a copy of a portion of a  
7 typewritten report that you did in your investigation  
8 of the Lease residence?
- 9 A Yes.
- 10 Q After you compared the typewritten report with the  
11 handwritten notes, did you, at some time after that  
12 point in time, discard your handwritten notes?
- 13 A Yes.
- 14 Q Was there a washer and dryer in the Ryen residence, the  
15 residence located at 2943 Old English Road?
- 16 A Yes.
- 17 Q Did you have occasion to examine that washer and dryer  
18 inside the Ryen residence while you were at the residence?
- 19 A Yes.
- 20 Q Did you ever find any clothes that appeared to be damp  
21 inside either the washer or the dryer inside the Ryen  
22 residence?
- 23 A Yes.
- 24 Q Did you communicate that to other members of Homicide  
25 during the briefing?
- 26 A I communicated it to other members of Homicide, but I'm

00065425



13-7

1 not sure that we did it at a briefing.

2 Q Was Mr. Ogino present at the Ryen home on the day the  
3 carpet was removed?

4 A Yes.

5 Q And did he at one point on that day tell you that the  
6 Crime Lab did not have the facility to store all the  
7 items that were going to be removed from the Ryen  
8 master bedroom?

9 A Yes.

10 Q Did you make him aware that those items, including the  
11 carpet, were going to be stored at the Identification  
12 Bureau on Sierra Way?

13 A Yes.

14 Q Was that prior to the time the carpet left the Ryen  
15 residence?

16 A Yes.

17 Q While you were at the Ryen house, did you ever see a  
18 photographer other than a member of the Sheriff's Office  
19 inside the Ryen master bedroom?

20 A Not that I recall.

21 Q Did you ever see any member of the press inside the  
22 Ryen master bedroom while you were at the Ryen residence?

23 A Not that I recall.

24 Q Did you ever see any member of the Sheriff's Office use  
25 the rest room facilities, use the toilet, in either  
26 bathroom inside the Ryen home while you were there?

0009470

13-8

- 1 A No.
- 2 Q Did you ever see any Sheriff's deputy use a sink that  
3 was in either bedroom of the Ryen home while you were  
4 there?
- 5 A No.
- 6 Q Did you ever see any member of the Sheriff's Department  
7 eat any meal inside the Ryen home while you were there?
- 8 A No.
- 9 Q Over the recess, do you recall my directing your attention  
10 to a report of an interview which took place between  
11 yourself and Sergeant Arthur on the 10th of December of  
12 1983?
- 13 A Yes.
- 14 Q In fact, do you recall Mr. Negus, I believe this morning,  
15 asking you a number of questions about your statements to  
16 Sergeant Arthur during that interview?
- 17 A Yes.
- 18 Q And do you recall during this recess that your attention  
19 was directed to two paragraphs in the report about a  
20 conversation you had with Mr. Ogino about the southeast  
21 bedroom wall?
- 22 A Yes.
- 23 Q Do you recall having a conversation with Mr. Ogino as  
24 to whether or not he desired that southeast wall to be  
25 taken?
- 26 A Yes.

0099431

13-9

- 1 Q Did he tell you whether or not he wanted the wall?
- 2 A Yes, he told me.
- 3 Q What did he tell you?
- 4 A He said no.
- 5 Q And did he tell you why it was not necessary in his  
6 opinion that that wall be taken?
- 7 A Yes.
- 8 Q What did he tell you?
- 9 A Because of the patterns, the blood patterns that were on  
10 the dresser would be sufficient for him to make a  
11 determination.
- 12 Q Is that a portion of the conversation you remember taking  
13 place between yourself and Mr. Ogino back at the Ryen  
14 home back in June of 1983 on approximately June the 6th?
- 15 A Yes.
- 16 Q When you were told to seize the carpet from the Ryen  
17 home, did you take certain steps in your mind to preserve  
18 the carpet?
- 19 A Yes.
- 20 Q For example, was one of those steps to remove the carpet  
21 from the Ryen home itself?
- 22 A Yes.
- 23 Q Did you wrap any furniture or any other object inside  
24 the carpet as movers do when you took it out of the home?
- 25 A No.
- 26 Q Did you then cause the carpet to be placed in an area

13-10

1       that the public does not have access to?

2   A   Yes.

3   Q   And would that be in the storage building that the  
4       Identification Bureau uses on Sierra Way?

5   A   Yes.

6   Q   To your knowledge, is that a building that's locked and  
7       only people associated with law enforcement or the  
8       Sheriff's Office have access to?

9   A   Yes.

10  Q   When the carpet was removed -- Strike that.

11       When you were inside the home, the Ryen home, on  
12       the 6th of June, you had a chance to look at the carpet,  
13       I assume?

14  A   Yes.

15  Q   Did the carpet appear to be dry when you were inside the  
16       home on the 6th?

17  A   Yes.

18  Q   Did you see any wet puddles of blood on the carpet in  
19       the master bedroom when you were inside the master  
20       bedroom on June 6th?

21  A   No.

22                   (No omissions.)

23

24

25

26

0099433

14-1

1 Q When you first arrived at the Chino Hills area on  
2 June the 6th, prior to the time you entered the  
3 Ryen home, did you and your division initially  
4 participate in the search of a portion of the roadway  
5 and the grounds to the residence?

6 A Yes.

7 Q Do you recall about how long your division, CCD  
8 division, was involved in the search of the grounds  
9 and the roadway of the Chino Hills area before you  
10 yourself entered the master bedroom?

11 A Probably close to noon.

12 Q Directing your attention back a year and a half or  
13 two years ago to when you were a member of the  
14 homicide division, were there certain procedures you  
15 would employ when you arrived at a crime scene that  
16 you would include contacting other divisions within  
17 the sheriff's office?

18 A Yes.

19 Q For example, would you contact the identification  
20 bureau?

21 A Yes.

22 Q Would you have them arrive to photograph and to dust  
23 for fingerprints a particular crime scene?

24 A Yes.

25 Q Would you likewise cause the crime lab to be present  
26 at a crime scene?

0099434

14-2

- 1 A Yes.
- 2 Q Was that so they could pick up items that may have  
3 evidentiary significance?
- 4 A Yes.
- 5 Q Did you cause those steps to be taken when you  
6 processed the Lease residence at 2991 Old English  
7 Road?
- 8 A Yes.
- 9 Q And when you were there assisting in the removal of  
10 items from the Ryen house, did members of those  
11 divisions appear to be present at the scene?
- 12 A Yes.
- 13 Q Had you been made aware through briefings or other  
14 conversations with members of the sheriff's department  
15 that processing of the Ryen home had started the day  
16 that the homicide was discovered?
- 17 A Yes.
- 18 Q And were you aware that the crime lab had been  
19 present, for example, on June the 5th at the crime  
20 scene processing the scene?
- 21 A Yes.
- 22 Q Were you likewise aware that the identification bureau  
23 had been there the day before you had been and started  
24 processing?
- 25 A Yes.
- 26 Q And that homicide had done the same?

2 Q When you were assisting in the execution of the  
3 search warrant on June the 6th at the Ryen house,  
4 was Detective Clifford there?

6 Q Was Detective Hall there for a period of time?

8 Q And did they tell you which items were to be removed  
9 from the master bedroom or had that been done earlier?

11 MR. KOCHIS: I have nothing further at this time,  
12 your Honor.

14

16 BY MR. NEGUS:

22 | A No.

26 A We speculated. That was a possibility.

009436

14-4

1 Q Did the clothing in the washing machine at the Ryen  
2 residence appear consistent with coming from the  
3 Ryen family?

4 MR. KOCHIS: I would object. That would call for  
5 some speculation absent some foundation that he was aware  
6 of what type of clothes the Ryens may have had.

7 THE COURT: For what it's worth, let's hear his  
8 conclusion. Overruled.

9 THE WITNESS: Would you repeat the question,  
10 please?

11 Q (BY MR. NEGUS) Did the clothing in the washer-dryer  
12 in the Ryen's laundry room appear to be consistent  
13 with coming from the Ryen family?

14 A I don't know. I didn't remove the clothing from the  
15 washer or the dryer and examine them.

16 Q When you were in the 2991 residence, did any deputies  
17 from CCD other than those people that were assisting  
18 you come through to have a look?

19 A Not that I specifically recall.

20 Q Do you recall any of them coming in to use the phone?

21 A No.

22 Q Do you recall Mr. Phillips being in there?

23 A Phillips was in there prior to the time I was.

24 Q Was that when he first showed you into the house?

25 A Yes.

26 Q That was approximately 3 o'clock in the afternoon on

0099437



1 the 7th?

14-5

2 A Approximately.

3 Q Do you recall him being there after that?

4 A Not specifically.

5 Q At the Ryen residence on the 6th, what bathroom  
6 facilities were being used?

7 A I have no idea.

8 Q When you were made aware at the briefings about the  
9 processing that had gone on the day before at the  
10 Ryen residence, were you told what had been taken?

11 A Not every item, no.

12 Q Were you told in general, I mean?

13 A Generalities, yes.

14 Q What were you told?

15 A I was told that there were blood samples taken from  
16 the bedroom, numerous blood samples, from the carpet  
17 specifically, and that's all that I recall.

18 Q When you say numerous, were you told that there were  
19 numerous samples taken from the carpet in the master  
20 bedroom?

21 A Yes.

22 Q Would you consider three to be numerous?

23 A It would depend on the amount of specimens they had  
24 to deal with.

25 Q As you saw that carpet, would you consider the  
26 number three to have been numerous samples from that

00099478

14-6

1 carpet?

2 MR. KOCHIS: Well, your Honor, I would object as  
3 not being relevant what numerous means to him. He's heard  
4 the statement.

5 THE COURT: It's argumentative as well, Counsel.  
6 Sustained.

7 Q (BY MR. NEGUS) Was your understanding when you heard  
8 there were numerous blood samples taken and you saw  
9 the particular carpet in the master bedroom that  
10 numerous was only three?

11 MR. KOCHIS: Again, I would object as not being  
12 relevant.

13 MR. NEGUS: His state of mind as to what  
14 precautions he took as far as the carpet is concerned.

15 THE COURT: There's got to be a limit to it  
16 somewhere. Sustained.

17 Q (BY MR. NEGUS) When you had this conversation with  
18 Mr. Ogino about the blood splatters, you now can  
19 remember talking about seizing or not seizing some  
20 patterns from the east wall?

21 A I recall that he and I had a conversation. After  
22 looking at that report, I recall the fact that we  
23 talked about the dresser.

24 Q So what changed your mind from your answer, when I  
25 asked you the question you said you don't recall it,  
26 to Mr. Kochis asking you the question with him

0000994775

14-7

1 showing you Mr. Arthur's report?

2 A I had not reviewed that report.

3 Q But that's what changed your mind about your ability  
4 to remember; is that correct?

5 A It refreshed my memory.

6 Q In testifying in court, have you had any discussions  
7 with members of your unit about how to answer  
8 questions by defense lawyers?

9 A Other than truthfully, no.

10 Q Have you ever discussed with people in your unit  
11 saying the answer "I don't recall" to questions by  
12 defense lawyers?

13 MR. KOCHIS: I would object. It's irrelevant,  
14 unless we're talking about this case.

15 THE COURT: Overruled.

16 THE WITNESS: No.

17 Q (BY MR. NEGUS) I notice that you used "I don't  
18 recall" many times in answer to my questions and I  
19 don't believe any times in response to Mr. Kochis's  
20 questions.

21 MR. KOCHIS: Objection, that's argumentative.

22 THE COURT: Sustained.

23 Q (BY MR. NEGUS) Do you have a practice in your  
24 testifying to use "I don't recall" many more times  
25 in response to defense lawyers' questions than to  
26 prosecutors?

009440

14-8

1 A No.

2 Q In connection with this case have you ever discussed  
3 with any people in your unit answering "I don't  
4 recall" to defense lawyers' questions?

5 MR. KOCHIS: Objection, that's been asked and  
6 answered.

7 THE COURT: Wasn't it?

8 MR. NEGUS: It may be late in the afternoon. I  
9 forgot that I did it, if it was.

10 THE COURT: I'll permit it again.

11 THE WITNESS: No.

12 THE COURT: That's no twice.

13 MR. NEGUS: Nothing further.

14 THE COURT: Anything further?

15 MR. KOCHIS: No.

16 THE COURT: Thank you very much, sir.

17 MR. KOCHIS: Your Honor, we've had the photographs  
18 that we discussed earlier this morning brought into the  
19 courtroom, and perhaps for the record -- I'm not sure how  
20 to make the record complete.

21 If the Court's going to view them and make a  
22 decision as to whether or not Mr. Negus gets copies of  
23 them, I'm not sure that they shouldn't be marked so that  
24 the Court can make a decision.

25 THE COURT: Well, they should be. They probably  
26 should be marked in any event for identification,

009944-1

2 MR. KOCHIS: And then if they're marked, my  
3 objection about their confidential nature seems somewhat  
4 moot. That's the problem I have.

9 MR. NEGUS: 591-1821, extension 590. It's the  
0 investigator's office.

13 THE COURT: Can we excise the sergeant's number?

17 THE COURT: That's why he wants them.

25 THE COURT: Do you contend that the assignments  
26 reflected on the board in any way conflict with testimony

009442

1 of the officers here?

14-10

2 MR. NEGUS: I have not had a chance to study it.  
3 I had heard numerous assignments referred to which we  
4 haven't had any reports of. I have heard and my  
5 investigator has discovered numerous leads which weren't  
6 followed up for one reason or another, many of which are  
7 the subject of this particular motion.

8 I asked early on for a list of which investigators  
9 went where doing what and was told that none such existed.  
10 At least that was my remembrance of it, that nobody kept  
11 any logs of where exactly the investigators would go.

12 MR. KOCHIS: I don't recall that specific  
13 request.

14 THE COURT: Mr. Kochis, that is relevant, which  
15 is either material and relevant or discoverable, the  
16 material in itself or which may lead to such material,  
17 relevant material. And considering the nature of the  
18 motion here it would probably be helpful to counsel to  
19 pursue. I see no problem.

20 MR. KOCHIS: Your Honor, just to put it in  
21 perspective, every photograph we give him probably adds a  
22 day to a motion somewhere along the line.

23 MR. NEGUS: That's not true. Some of them have  
24 been shortened.

25 THE COURT: How many photographs are there?

26 MR. KOCHIS: Three.

0099443

14-11

1 MR. NEGUS: One of which is already in evidence.

2 MR. KOCHIS: I have obviously no objection to the  
3 photograph which is in evidence. By that I mean I have  
4 no objection to the identification bureau being requested  
5 to make a copy for Mr. Negus, if he's not satisfied with  
6 the one that's in evidence, if he needs one in addition.

7 THE COURT: I'm confident that Mr. Negus is not  
8 going to misuse the photographs in any way. If it's not  
9 material to him, it's no big expense to produce it as well.

10 I'll order those reproduced. Do you want to  
11 quibble about whose budget it comes out of?

12 MR. KOCHIS: No. We'll give them to him tomorrow  
13 or whenever it's convenient.

14 Your Honor, can we have a stipulation that we can  
15 remove from any photograph that's going to be given to  
16 Mr. Negus the phone number, home phone number of any law  
17 enforcement officer in the photograph?

18 MR. NEGUS: No problem.

19 MR. KOCHIS: Including Mr. Arthur's?

20 THE COURT: That's acceptable.

21 MR. KOCHIS: I will show these to Mr. Negus and  
22 we will have a copy made for him at the earliest  
23 opportunity.

24 MR. NEGUS: That's fine.

25 THE COURT: On another point, I received last  
26 week sometime a call from the Judicial Council person in

0099444

14-12

1 charge of assignments who told me that Judge Lowe in  
2 San Diego would like more definition as to expectation.  
3 And to help him perhaps get the media off his back, I'm  
4 not sure, I have now received the assignment to San Diego  
5 subject to the conclusion of pretrial motions.

6 I feel I should communicate to Judge Lowe our  
7 latest estimates. Can we refine it any? Mr. Negus, I  
8 don't think that a request for a break between here and  
9 there is unreasonable at all. Could we shorten that to  
10 about one week as opposed to two? I'd like to keep it  
11 moving as much as possible, considering the fact that I'm  
12 going to be on vacation a week and I don't know when you  
13 take your vacation.

14 MR. NEGUS: I don't take my vacation until the  
15 end of the case, Judge, at which time I'll take a lot of  
16 vacation, I suspect.

17 I wish I could be more precise. One of the  
18 problems is that we keep getting more information as we  
19 go along. My investigator has not finished his  
20 investigation. I still haven't received all the reports  
21 from my expert witnesses. We have lots of other things  
22 that we're still doing.

23 THE COURT: Is your investigator working full  
24 time on this?

25 MR. NEGUS: Nigh on to.

26 MR. KOCHIS: And the problem that creates is when

00099445



14-13

1 his investigator interviews someone, they call from the  
2 sheriff's office, the sheriff's office takes a report,  
3 we give it to Mr. Negus, and Mr. Negus considers that  
4 new discovery.

(NO OMISSIONS)

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15-1

1 MR. NEGUS: I wasn't even considering that stuff,  
2 but there is other stuff that keeps coming in and I don't  
3 know, I cannot state to you that when we get through with  
4 these motions that I'm going to feel that I'm ready to go  
5 to trial within a week or two.

6 THE COURT: I know you can't predict accurately in  
7 the future, but let's give them the best estimate we can.

8 MR. KOCHIS: It's not a good idea for Mr. Negus to  
9 give the Court his estimate at this time in the afternoon.

10 THE COURT: How do you know that? Are you inside  
11 his head in some way?

12 MR. KOCHIS: We talk from time to time.

13 THE COURT: He is in more control than either you  
14 or I as far as an estimate.

15 MR. NEGUS: If I told you what I think would be  
16 something that I could live by, I think it would probably  
17 upset your afternoon. I mean if you had to pin me down  
18 to something I could say I feel competent to be ready to  
19 start jury selection and once we started jury selection,  
20 without any gaps, I'm sure it would upset your afternoon.

21 THE COURT: Don't worry about upsetting my afternoon.  
22 Why should today be different? Disregard to challenge to  
23 the panel and further motions for change of venue,  
24 disregarding those two that I can make my own prediction  
25 on in that regard, they would probably have to be made in  
26 the other jurisdiction, would you prefer to think about it

009447

15-2

1 and let me know later? It doesn't have to be done this  
2 afternoon.

3 MR. NEGUS: Let me ask you what do they need to  
4 know? I mean is it for their real planning purposes or  
5 what?

6 THE COURT: I really don't know. I honestly don't  
7 know. I can tell you this much.

8 MR. KOCHIS: Your Honor, I can shorten it. It would  
9 not surprise me if at some day this week Mr. Negus told the  
10 Court that if he had to pick a date at which time he could  
11 absolutely, with some certainty, say he would be ready to  
12 step into the courtroom for jury selection, it would be  
13 very close to Labor Day.

14 THE COURT: That's September 3rd.

15 MR. KOCHIS: First week in September.

16 THE COURT: If I might finish my thought of a  
17 minute ago, I try to keep you people candidly advised.  
18 At one of the later discussions with Sacramento or the  
19 Judicial Council person from Sacramento, she told me that  
20 Sacramento was no longer available without further checkback  
21 to them because of their workload, and I think that that  
22 perhaps is the problem in San Diego. Maybe the delay might  
23 work to your advantage.

24 But it's possible that they might have. I'm going  
25 to send a copy of this to Judicial Council. It's possible  
26 we may not have a courtroom in San Diego.

0009448

15-3

1 "As far as estimating, then, in our latest estimate  
2 concerning remaining pretrial motions, illness, planned  
3 vacations, is mid-August or beyond fairly close?"

4 MR. NEGUS: Yes.

5 THE COURT: I'm not upset.

6 MR. NEGUS: I will tell you frankly one of the  
7 things that has also been preying on my mind is if we are  
8 going to San Diego, one of the things that is going to  
9 bother me about San Diego is ending up with a jury of only  
10 people who are retired military officers, and I think we  
11 have a greater problem of trying to get a jury if we are  
12 trying to pick a jury in the middle of August.

13 MR. KOCHIS: Your Honor, along that line, any juror  
14 that is going to be able to sit for six to seven months is  
15 going to be either retired or unemployed.

16 MR. NEGUS: I don't think that's true.

17 THE COURT: Or a housewife.

18 MR. KOCHIS: Or works for a government agency that  
19 will pick the tab up or private industry like General  
20 Telephone.

21 So that problem is going to exist in any county  
22 that we are in.

23 THE COURT: Those are considerations that I haven't  
24 been as concerned about as you have been, if at all. But I  
25 know nothing of the venue laws. Once I decide that a fair  
26 trial can be had in a jurisdiction, I don't think I have

000099449

15-4

1 to consider all these others.

2 MR. NEGUS: My experience has been that you pick a  
3 jury in August and it takes you twice as long to do it as  
4 if you do it after the summer because everybody has filled  
5 up their vacation time.

6 MR. KOCHIS: The Court is aware that when we do  
7 death penalty qualifications, we usually have a procedure  
8 in the first three or four weeks where we only use potential  
9 jurors for a day.

10 THE COURT: I believe I left those copies on the  
11 desk of the procedure used by a Los Angeles judge in jury  
12 selection in death penalty qualifying. They are similar  
13 to what we did in the Gray case to some extent. I had  
14 copies made for each of you.

15 MR. NEGUS: I'm not familiar with the Gray case.  
16 I know what it was.

17 THE COURT: I will look at these photographs. See  
18 you tomorrow at 9:30.

19 (Whereupon the proceedings were adjourned.)

20 --o0o--  
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