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CASE NO. CRIM 24552

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
)
PLAINTIFF,)
)
-VS-)
KEVIN COOPER,)
)
DEFENDANT.)

SUPERIOR COURT
NO. CR-72787
MOTIONS

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY

HONORABLE RICHARD C. GARNER, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: HON. JOHN D. VAN DE KAMP
ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
110 WEST "A" STREET
SUITE 600
SAN DIEGO, CA 92101

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

REPORTED BY: LEONARD D. GUNN
C.S.R. NO. 1109
AND
JUDITH L. MORRIS
C.S.R. NO. 2400
OFFICIAL REPORTERS

VOLUME ~~2~~ OF 40
PAGES 2883 THROUGH 3012

009451

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

CL-72797

VOLUME 30

Pgs. 2883 thru 3012, incl.

10
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Wednesday, June 6, 1984

15 APPEARANCES:

16 For the People:

DENNIS KOTTMEIER
District Attorney

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

20 For the Defendant:

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

23 Reported by:

LEONARD D. GUNN
Official Reporter
24 C.S.R. No. 1109
and
25 JUDITH L. MORRIS
Official Reporter
26 C.S.R. No. 2400

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MICHAEL JOSEPH MASCETTI

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--oOo--

I N D E X T O E X H I B I T S

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000994557

1-1

1 SAN BERNARDINO, CALIFORNIA, WEDNESDAY, JUNE 6, 1984; 9:30 A.M.

2 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

3 APPEARANCES:

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

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

14
15 THE COURT: Mr. Negus, who is your next witness?

16 MR. NEGUS: Greg Bengé.

17
18 G R E G A L A N B E N G E, called as a witness
19 by and on behalf of the defendant, was duly sworn,
20 examined and testified as follows:

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

25 THE WITNESS: I do.

26 THE CLERK: Please be seated.

0099455

1-2

1 State your name, please, for the record, and spell
2 your last name.

3 THE WITNESS: Greg Alan Bengé, B-en-g-e.
4

5 DIRECT EXAMINATION

6 BY MR. NEGUS:

7 Q Mr. Bengé, what is your occupation?

8 A I'm employed as a deputy for the San Bernardino County
9 Sheriff's Office.

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

11 A Yes, I was.

12 Q What was your assignment at that time?

13 A Assisting in the investigation of the Ryen murders.

14 Q Were you assigned to any particular unit?

15 A Yes, I was.

16 Q What was that?

17 A I was assigned to Sergeant Swanlund's team.

18 Q Is that part of the Career Criminal Division of the
19 Sheriff's Department?

20 A Yes.

21 Q What is the Career Criminal Division?

22 A The Career Criminal Division is the division that's used
23 by the Sheriff's Department to investigate, surveil and
24 arrest what we consider career criminals.

25 Q As part of that, do you receive any special training
26 other than the normal training the deputies get?

0099456

1 A Yes, we do.

2 Q Does that special training include the handling of
3 physical evidence?

4 A No, it does not.

5 Q On June the 9th, 1983, were you at the West End Substation?

6 A Yes, I was.

7 Q Did you receive a call from a Deputy Rick Eckley from
8 the Yucaipa Substation?

9 A I do not recall. If I can refer to my notes, maybe I
10 can possibly find it.

11 Q Sure.

12 A I do not recall.

13 Q Do you recall receiving a phone call from a deputy who
14 had recovered a set of blood-splattered coveralls and
15 wanted to know what to do with them?

16 A I don't recall. Possibly.

17 Q Did you ever make any inquiries of people at the
18 substation or Homicide as to what to do with blood-
19 splattered evidence that had been taken into the
20 subdivision?

21 A The answer that I gave you, I don't recall. I would
22 have to make a speculation of what I would have done.

23 Q Are you aware of any procedures that the Sheriff's Office
24 has to preserve evidence in homicides which is taken into
25 some substation other than the substation where the
26 investigation is going on?

0099457

1-4

- 1 A Yes.
- 2 Q What are those procedures?
- 3 A You would have the officer finding the article involved
4 in the possible homicide or evidence, you would have him
5 do a supplemental report on who found it, where they
6 found it, circumstances surrounding the evidence. You
7 would have them keep custody of that evidence until
8 it could be delivered to the Crime Lab or possibly the
9 investigating officer or sergeant in charge of the case.
- 10 Q In the Ryen homicide, the supplemental report that would
11 be filled out, would that have been directed to any
12 particular person?
- 13 A It could have been directed to a number of people.
14 Basically, it should have been directed to Bill Arthur.
- 15 Q You had that knowledge in June of 1983; is that correct?
- 16 A I had what knowledge?
- 17 Q What you just said.
- 18 A Yes.
- 19 Q So if anybody asked you the procedures, that is what you
20 would have told them?
- 21 A Yes.
- 22 Q On June the 6th, 1983, did you go to the Ryen residence
23 at 2943 English Road in the Chino Hills?
- 24 A If that was the day of the dismantling, yes, I did.
- 25 Q When you say "the day of the dismantling", are you
26 referring to dismantling of the furniture and other

009458

1-5

- 1 stuff in the master bedroom and carting it away in a
2 truck?
- 3 A Yes.
- 4 Q And what was your particular duty with respect to that?
- 5 A I drove the truck and assisted in carrying some items
6 out.
- 7 Q Approximately what time did you arrive at the Ryen
8 residence with the truck that day?
- 9 A Sometime around 5 p.m.
- 10 Q Could it have been 4 p.m?
- 11 A I don't believe so. I can elaborate on that if you
12 would like.
- 13 Q Sure.
- 14 A Around 4:00, I was dropping off possible evidence at the
15 Crime Lab.
- 16 Q What evidence was that?
- 17 A It was a roofer's hammer. The approximate time was
18 1617 hours that I was at the Crime Lab.
- 19 Q Were you there in the truck?
- 20 A I don't believe so. I was en route to pick up the truck
21 while I was down there. I had two assignments. I will
22 let you look at my report if you would like.
- 23 Q I have a copy.
- 24 Did you testify at the preliminary hearing that you
25 arrived around 4:00?
- 26 A I can go over the transcript, if you like, and I can tell

00994507

1-6

1 you for sure. I don't recall.

2 Q Do you have your transcript there?

3 A Yes, I do.

4 Q Volume 18, page 65, line 20, through page 66, line 5.

5 A Are you sure of the page?

6 Q Yes.

7 A What page?

8 MR. KOCHIS: I believe, your Honor, it starts on

9 page 65.

10 MR. NEGUS: I stand corrected.

11 MR. KOCHIS: Line 20, continuing on page 66, lines

12 1 through 5.

13 MR. NEGUS: I notice that I was mistaken in my notes

14 and I withdraw the question.

15 THE COURT: Can you find it, sir?

16 THE WITNESS: Yes, sir.

17 Q (BY MR. NEGUS) It says 4 to 5; is that correct?

18 A That's correct.

19 Q At that point in time, where did you park the truck?

20 MR. KOCHIS: Objection. Vague. Are we talking about

21 the Crime Lab?

22 MR. NEGUS: At the time of the arrival at the Ryen

23 scene.

24 THE WITNESS: At the Ryen scene?

25 Q (BY MR. NEGUS) Yes.

26 A I pulled it in the circular driveway, parked it in the

009460

1-7

1 location approximately southeast of the sliding glass
2 door to the master bedroom.

3 Q Showing you Exhibit H-4, an aerial photo, does that
4 appear to be an aerial photograph of the Chino Hills
5 area?

6 A Yes, it does.

7 Q And is the Ryen house marked with a red "R"?

8 A Yes, it is.

9 Q Is the spot where you parked the truck visible on the
10 photograph?

11 A Yes, it is.

12 Q Where would that be?

13 A There.

14 Q Could you put a "T" with a blue Rolling Writer pen for
15 the spot that you parked the truck?

16 A (Witness complied.)

17 Q You put a circle there. Could you put a "T" in the
18 middle of that?

19 A Yes, sir.

20 Q Okay. When you arrived, had the work of dismantling
21 already begun?

22 A If you mean was there property sitting out on the grass
23 area in between the truck and the house piled with
24 property, no. I don't know what they were doing.

25 When I walked in, the property started coming out.

26 I would imagine -- I do not know.

009461

1-8

- 1 Q Did you go into the bedroom yourself?
- 2 A Yes, I did.
- 3 Q As soon as you got there, the people started loading
- 4 stuff up; is that right?
- 5 A Within about five minutes' time period, yes.
- 6 Q What property was being loaded first, if you recall?
- 7 A I don't recall.
- 8 Q Do you recall if there was still an intact waterbed in
- 9 the room?
- 10 A No, I do not.
- 11 Q Do you recall whether there had been any holes cut in
- 12 the wall?
- 13 A No, I do not.
- 14 Q How long were you in the room?
- 15 A You want a total of time that I was in the room or --
- 16 Q Did you go in more than once?
- 17 A Probably, to my recollection, coming in and out with
- 18 property.
- 19 Q So you were toting property back and forth from the
- 20 bedroom to the truck?
- 21 A Yes.
- 22 Q Were you given any instructions as to how to load the
- 23 property in the truck?
- 24 A We were being directed, I believe, by our supervisor.
- 25 I believe it was Sergeant Swanlund that was there. We
- 26 were directed what to put in and so on.

0009492

1-9

- 1 Q What about how to put it in the truck? Was there any
2 particular instruction about that?
- 3 A Keep the items separated.
- 4 Q Did you have any moving padding or ropes or anything like
5 that to tie the stuff down?
- 6 A No, we did not.
- 7 Q What kind of truck was it?
- 8 A It was a large covered truck like you get from a rental
9 agency. It was used as a laundry truck in Glen Helen.
- 10 Q Do you recall at some point in time loading a carpet?
- 11 A Yes.
- 12 Q How did you do that?
- 13 A To my best recollection, the carpet was either folded or
14 rolled or whatever. It was condensed down or folded in
15 a manner and placed in a place in the truck.
- 16 Q Did you set it out to dry or anything before you put it
17 in the truck?
- 18 A Did I personally?
- 19 Q Yes.
- 20 A No.
- 21 Q Did you see that done?
- 22 A No, I did not.
- 23 Q When you arrived, was the carpet rolled up or was that
24 done after your arrival?
- 25 A I don't recall. I don't believe it was.
- 26 Q What?

00094577

1-10

- 1 A I don't believe it was rolled up when I arrived there.
- 2 Q Approximately how long a period of time was spent moving
- 3 the stuff out from the bedroom into the truck?
- 4 A I would be guessing. Half hour.
- 5 Q Was it dark when you finished?
- 6 A No.
- 7 Q After that half an hour, did you have to wait for any
- 8 additional stuff?
- 9 A You mean orders or something like that?
- 10 Q After you got a bunch of stuff loaded in the truck, did
- 11 you have to wait to get some additional stuff?
- 12 A No. Basically, after the truck was loaded, we left.
- 13 Q Do you recall at some point in time seeing a portion of
- 14 the wall cut out by various people?
- 15 A Yes, I do.
- 16 Q And was that work completed by the time that you left?
- 17 A Well, number one, you just asked me if I remembered seeing
- 18 it. I didn't specify the time. I'm not talking about the
- 19 time when we were dismantling. What I'm talking about,
- 20 I remember a period of time when I did see the wall
- 21 dismantled. I don't recall what day that was on. It
- 22 could have been the day after or the day that we moved
- 23 the property.

(No omissions.)

24
25
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009464

1 Q Well, assuming that that wall was dismantled on the same
2 day that you moved the property, were you only there
3 once on that day?

4 A Yes.

5 Q And you actually observed the process of taking the wall-
6 board off the wall; is that right?

7 A No. I remember basically seeing the holes in the wall.
8 And, like I said, that day I couldn't be specific about.
9 It could have possibly been the following day to my
10 recollection.

11 Q The day that you moved the furniture was the same day
12 that you moved the rug; is that right?

13 A Yes, I believe so.

14 Q Do you recall seeing the wall in the condition as shown
15 in H-66 with the wallboard removed and the carpet still
16 in the room?

17 A No.

18 Q Did you yourself physically load the carpet into the
19 truck?

20 A I believe I assisted other individuals in loading it.

21 Q Did that process take any period of time? Was it done
22 quickly?

23 A Well, it was done within a five-minute period of time,
24 I believe.

25 Q Do you recall whether or not there were any large blood
26 spots on the outside of the carpet when you were moving it?

0099455

- 1 A On the outside, are you meaning about the carpet
2 actually or the backside of the carpet?
- 3 Q The backside.
- 4 A Yes, I do.
- 5 Q And were there?
- 6 A I believe so, yes.
- 7 Q Were some of those still wet?
- 8 A I don't recall. I did not touch any to find out.
- 9 Q While you were removing stuff, how many people were
10 helping you?
- 11 A It would be a guess because of my memory, being so
12 long ago, possibly seven or eight individuals.
- 13 Q Do you remember who they were?
- 14 A I remember a few of them.
- 15 Q Who do you remember?
- 16 A I believe Harvey Walker, and the rest -- I remember
17 Harvey Walker being there. That's about the best I can do.
18 As far as who else was there, I could make a very
19 logical guess, but I know you wouldn't want me to do that.
20 So the rest I couldn't be sure.
- 21 Q How would you make a logical guess?
- 22 A Because of the people in our division that would have
23 been there during that period of time.
- 24 Q Was anybody with you in the truck?
- 25 A I believe so.
- 26 Q And who was that?

00099466

- 1 A I believe it was James Hill.
- 2 Q Was he your --
- 3 A Yes, he was. He was my partner.
- 4 Q When the carpet was loaded into the truck, were you
5 given any special instructions about what to do with it
6 when you got it to where you were taking it?
- 7 A I believe so.
- 8 Q What was that?
- 9 A It was to take it to the crime lab and once there we
10 were directed by, I believe, Sergeant Swanlund to keep
11 items separated still and to place it in a location
12 inside the evidence facility, building.
- 13 Q The crime lab, is that the --
- 14 A It wasn't at the crime lab. It was at the sheriff's
15 I.D. bureau. It's an evidence property locker building
16 that we have.
- 17 Q On Sierra?
- 18 A Yes.
- 19 Q You never took the stuff actually to the Sheriff's
20 Regional Forensic Science Laboratory?
- 21 A Not directly.
- 22 Q Were you given any instructions as to what to do with
23 the carpet once you got it to the I.D. loft?
- 24 A Yes.
- 25 Q What was that?
- 26 A Leave it there.

0099467

1 Q Anything about how to treat it?

2 A No.

3 Q You were not told to unroll it and let it dry?

4 A I believe the carpet was unrolled to let it dry, but I'd
5 be guessing. Like I said, the time frame that we're
6 talking about for me to remember, I don't recall exactly
7 what was said and done. I know that the carpet was
8 placed in the building. That's about the best of my
9 recollection.

10 Q You don't recall unrolling it yourself in the building?

11 A I don't recall.

12 Q When you got to the building, the I.D. loft, who was there?

13 A Sergeant Swanlund and probably approximately eight other,
14 nine other individuals, including myself.

15 Q Were they all from CCD or were they from other divisions?

16 A Possibly I recall somebody from the crime lab being there,
17 but like I said, I'm shaky as far as memory goes. I know
18 that most of the people there was from the Career Criminal
19 Division, possibly one from homicide also.

20 Q Do you remember who the person was from homicide?

21 A No, I don't.

22 Q Who was in charge of unloading the stuff and putting it in
23 the I.D. loft?

24 A Sergeant Swanlund. And the reason I say that is because
25 he's my supervisor whenever I'm at a location. He is my
26 direct supervisor. There could have been another

1 supervisor there, but he was in charge of me, directing
2 me.

3 Q Well, do you have a direct memory of Sergeant Swanlund
4 being there --

5 A Yes, I do.

6 Q -- during the unloading process?

7 A Yes.

8 Q Do you recall if there was anybody there from I.D.?

9 A Not specifically.

10 Q Were you the person that, as it were, had physical
11 custody of the stuff during the transportation process?

12 A Considering that I was driving the truck, you could
13 consider that I had physical custody.

14 Q Basically in handling the evidence in the sheriff's
15 department, some care is taken, is it not, to try and
16 document change of custody?

17 A Yes.

18 Q What sort of documentation as far as chain of custody
19 was done with this property that was taken?

20 MR. KOCHIS: Your Honor, I'm going to object. That
21 would call for speculation beyond his own personal knowledge
22 as to what he did. I'm not sure he knows what Hall did
23 or Clifford did.

24 THE COURT: Well, the question's all right if we
25 confine the witness's statements to matters of his own
26 knowledge. So of your own knowledge, what steps were taken?

0009469

- 1 THE WITNESS: Could you repeat the question?
- 2 Q (BY MR. NEGUS:) What did you do to document chain of
- 3 custody?
- 4 A Nothing.
- 5 Q Did anybody else in your presence do anything to document
- 6 chain of custody?
- 7 A I wouldn't be able to tell. If they did, I wasn't paying
- 8 attention to see if anybody was writing down. I can't
- 9 speak for whatever people were doing around me at the time.
- 10 Q When the stuff was unloaded from the truck, did it then
- 11 become part of the -- was it essentially transferred
- 12 from CCD's control to I.D.'s control?
- 13 A Well, number one, it could have possibly still been in
- 14 homicide control even though we transported it. There
- 15 could have been a homicide officer there.
- 16 Q Assuming that there wasn't.
- 17 A Okay, assuming that there wasn't.
- 18 Q None will admit to it. Did you fill out any paper work
- 19 with I.D.? Did they have you sign that you delivered it
- 20 or something like that?
- 21 A Me personally, no.
- 22 Q Whose duty would that have been to handle the chain
- 23 of custody documentation?
- 24 A Who was ever assigned by Sergeant Arthur to take
- 25 custody of the scene and to transport the property.
- 26 Q That was you, right?

00009470

- 1 A No, not specifically. What I said was whoever was
2 assigned by Sergeant Arthur to take custody and to do
3 information reports of the location of property, trans-
4 portation of the property, and physical chain of the
5 property. Whoever that individual was assigned to do
6 that would have done it.
- 7 Q Well, Sergeant Arthur wasn't at the residence on
8 English Road while this dismantling was going on, was he?
- 9 A No, he was not.
- 10 Q When the property was unloaded from the van and put --
11 it was put in a loft area; is that right?
- 12 A Yes, it was.
- 13 Q Was anything done to specially protect it or was it just
14 left?
- 15 A No. An area was cordoned off in the upstairs portion
16 of the building to keep all those articles separate from
17 other articles inside the building. It was, I believe,
18 placed in the southeast or -- I'm sorry, southwest
19 location or wall up against the southwest wall in the
20 corner of that building in a location stored by itself.
- 21 Q On that occasion, was a Jacuzzi lid moved?
- 22 A I don't recall. Possibly.
- 23 Q At the crime scene do you recall there being any
24 criminalists -- to wit, Mr. Ogino and Mr. Gregonis --
25 helping with the dismantling?
- 26 A I don't recall.

000947-1

- 1 Q As part of your assignment, were you given any particular
2 time limits in which the job had to be done?
- 3 A No, I was not.
- 4 Q While you were at the house that day, did you go through-
5 out the house?
- 6 A What day was this, sir?
- 7 Q The day you were doing the dismantling.
- 8 A No, I did not.
- 9 Q On a subsequent day did you do that?
- 10 A Yes, I did.
- 11 Q Do you know what date that was?
- 12 A No, I do not.
- 13 Q Can you locate it in time by reference to other events?
- 14 A Yes, I can.
- 15 Q What other events happened on that day?
- 16 A I believe the day or the evening that the luminol was
17 sprayed I was in that house.
- 18 Q And did you go throughout the house before the luminol
19 was sprayed?
- 20 A No.
- 21 Q Well, did you go throughout the house while it was being
22 sprayed?
- 23 A No -- well, I went through the locations after the
24 luminol was sprayed and after they were conducting their
25 gathering of evidence.
- 26 Q Showing you H-238, is that a drawing in orange of the

0099472

1 places that you went that night?

2 A To my recollection, yes.

3 Q You did that yourself at the Preliminary Hearing; correct?

4 A I believe so.

5 Q Were you present during the spraying of the luminol?

6 A Yes, I was.

7 Q What were you doing?

8 A Assisting in the investigation.

9 Q By doing what?

10 A By standing by the investigating officers that were there
11 at that time in case they needed some assistance to go
12 get something for them, whatever they would need.

13 Q Before the liminol had been sprayed, you had been in
14 various rooms of the house as well; is that correct?

15 A I was in the master bedroom assisting in removing the
16 property that we were talking about earlier.

17 Q How about in the family room, living room, and master
18 bathroom?

19 A To my recollection, I don't recall. Possibly.

20 (No omissions.)

21

22

23

24

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00099473

3-1

1 Q Did you ever go through the house just to look around?

2 A No, I did not.

3 Q Did you ever go to a residence at 2991 English Road in
4 the Chino Hills?

5 A Yes, I did. I believe it's Old English Road, though.

6 Q And what date was that?

7 A May I refer to my report?

8 Q Sure.

9 THE COURT: Feel free to look at your records anytime.

10 THE WITNESS: Thank you.

11 The date was 6/7 of '83.

12 Q (BY MR. NEGUS) And on that date, did you enter the
13 residence?

14 A I don't recall.

15 Q Do you recall ever going into the residence?

16 A Yes, I do.

17 Q How many times?

18 A During the investigation, three, four times.

19 Q What was your purpose in going in those different times?

20 A Assisting in the investigation.

21 Q What were you doing?

22 A I was assisting Sergeant Swanlund at that time. He was
23 preserving the location before and during the Crime Lab,
24 their arrival at the location. They were still collecting
25 evidence. I was assisting them.

26 Q What did you do to assist them?

009474

3-2

1 A Well, a couple of things. I carried some equipment in
2 and out of the house. I was assigned also to locate some
3 blood stains in the driveway area to the house. I believe
4 one time they wanted me to go get coffee for them. I
5 went and got coffee for them. Anything else, if you may
6 refresh my memory, I might recall also doing. But
7 basically assisting them.

8 Q How many people were in the house when you were doing
9 this?

10 A I'd be guessing because of the time element. Remembering,
11 possibly, four or five.

12 Q Were they all C.C.D. people?

13 A No.

14 Q Who else?

15 A Crime Lab people.

16 Q Do you remember what rooms you went into in the house?

17 A Yes, I do.

18 Q Which ones were they?

19 A The outside entryway off the driveway into the dinette
20 area or kitchen area. Also during the entire course of
21 the investigation, probably throughout the whole house.

22 At the end of the investigation, as far as after
23 evidence being collected, we made one final sweep through
24 the house to make sure nothing was left behind or
25 overlooked.

26 Q Did Mr. Kochis send you a copy of your preliminary hearing

00094757

3-3

1 transcript?

2 A Yes, he did.

3 Q Did you refer to that before you came to testify?

4 A Yes, I did.

5 Q Showing you H-246, is that a drawing that you did of
6 the places that you went in the Lease house at the
7 preliminary hearing?

8 A Yes, it is.

9 Q And the orange is where you testified you went on the
10 first time you went in; is that correct?

11 A I believe so.

12 Q And the blue is where you testified where you went in
13 the next time you went in?

14 A Yes.

15 Q Why didn't you put on the other rooms that you went
16 into at the preliminary hearing?

17 A Well, I don't believe you asked me throughout the entire
18 investigation all the rooms I had gone into or I would
19 not purposefully not put it down there.

20 If you can refer to the question that we are talking
21 about, I'll tell you. I believe you kept it down to
22 mentioning days, first day, the second day, the third
23 day.

24 Q If you would look at pages 58, lines 20 through page 60,
25 line 13, it indicates --

26 A What is the question?

009476

3-4

- 1 Q It indicates, does it not, in your testimony that you
2 were asked to trace in orange your path on the first
3 day that you went in there?
- 4 A Yes, it does.
- 5 Q And you indicated, did you not -- and then you were
6 asked to indicate in blue your path the second day?
- 7 A Yes.
- 8 Q You were only in there on two days; is that correct?
- 9 A No, it isn't correct.
- 10 Q When were you there on another time?
- 11 A I can't be specific about it. I know within, let's say,
12 a week's period of time throughout the investigation
13 during the days that we were at that location reference
14 to the physical evidence being located there, I was
15 there two, three days, possibly four days.
- 16 Q You were there the day that the place was discovered as
17 the second crime scene; is that correct?
- 18 A I don't believe so. I believe I got there the day after
19 that. Only certain people were allowed at the residence
20 at that time.
- 21 Q The first date you didn't get in, as it were?
- 22 A To my recollection, correct.
- 23 Q Then the second day was the day that you discovered --
24 not discovered, but you documented some blood drops; is
25 that right?
- 26 A The first day I was there.

009477

3-6

1 you did your own documentation of some blood further
2 down the driveway?

3 A To my recollection, we did it in the evening period of
4 time, at night when the criminalist was out, at first
5 being aware or being told the blood stains being located
6 in the driveway, that I was responsible for them. It
7 was dark.

8 Q Do you have in your notes, your own notes, the date and
9 time that you documented blood drops in the driveway?

10 A Yes, I do.

11 Q When was that?

12 A Just a second and I'll tell you.

13 On 6/7 of '83. The time was approximately 2110 hours.

14 Q Now, that was the date that the house was first discovered
15 and you didn't go in; is that correct?

16 A Yes.

17 Q The next morning, is that the date that Mr. Hill was
18 documenting his blood in the driveway?

19 A I believe so.

20 Q And that was also the first day that you actually went
21 inside of the house?

22 A Yes.

23 Q On that date, was that the day that you saw some people
24 out there with cameras who appeared to be in civilian
25 dress?

26 A I believe so.

0099479

3-7

1 Q And did they even have some television cameras there
2 with people in civilian dress handling them?

3 A Yes.

4 Q Showing you Exhibit TT, again. Do you recognize that
5 photograph?

6 A Yes, I do.

7 THE CLERK: The Superior Court exhibit number is
8 marked on the back.

9 Q (BY MR. NEGUS) H-250 for this hearing, same thing as
10 TT, correct?

11 A I'm sorry. Are you talking to me?

12 Q Yes. H-250 is the picture that you recognize; is that
13 correct?

14 A Yes.

15 Q When was that taken?

16 A I have no idea.

17 Q When were you and Mr. Hill measuring --

18 Does that show you and Mr. Hill in it?

19 A Yes, it does.

20 Q When were you two measuring blood in that location?

21 A I believe the 8th.

22 Q And you didn't return and pose for pictures at some
23 other time; is that correct?

24 A Sir?

25 Q You didn't return and pose for pictures at some other
26 time; is that correct?

0099480

3-8

1 A No, we did not.

2 MR. NEGUS: I have nothing further.

3 MR. KOCHIS: I have no questions.

4 THE COURT: Thank you, Mr. Bengé.

5 (Witness excused.)

6 MR. NEGUS: Mr. Hill.

7

8 J A M E S H I L L, called as a witness by and on
9 behalf of the defendant, was duly sworn, examined
10 and testified as follows:

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

15 THE WITNESS: I do.

16 THE CLERK: Please be seated.

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

19 THE WITNESS: James Hill, H-i-l-l.

20

21 DIRECT EXAMINATION

22 BY MR. NEGUS:

23 Q What is your occupation?

24 A Deputy Sheriff for the County of San Bernardino.

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

26 A Yes.

0009481

3-9

1 Q What was your assignment at that point in time?

2 A Which day in June?

3 Q What division were you assigned to?

4 A Career Criminal Division.

5 Q What is the Career Criminal Division?

6 A It's a multi-task force that surveils different subjects
7 for in-progress crimes. It also has a special detail
8 at times for investigating or helping other departments
9 in the Sheriff's Department to investigate.

10 Q Were you assigned as part of that unit to help with the
11 Ryen homicide investigation?

12 A Yes.

13 Q Have you had any training in handling and preserving
14 physical evidence?

15 A Yes.

16 Q What is that?

17 A The Academy at the San Bernardino Training Center,
18 classes during the Academy, and after that point, I
19 was assigned to Victorville and during the patrol in
20 Victorville, I gathered numerous quantities of evidence.

21 (No omissions.)

22

23

24

25

26

00094002

- 1 Q When you were at the academy were you given a document
2 which described how to handle various items of physical
3 evidence?
- 4 A I'm not clear about what document you mean.
- 5 Q Showing you Exhibit H-195, do you recall receiving that
6 document?
- 7 A I couldn't say whether I received this document during
8 the training academy or not. I'd have to go through my
9 volumes of reports taken during the academy to see if
10 that's one of the handouts they gave me.
- 11 Q Do you recall receiving instruction in how to handle
12 textile materials that have bloodstains on them?
- 13 A Yes.
- 14 Q Do you recall being told that they have to be thoroughly
15 dried before they're stored?
- 16 A Yes.
- 17 Q Do you recall being told that any dry blood must be
18 frozen in order to be preserved?
- 19 A No.
- 20 Q On June 6th, 1983, did you go to the Ryen residence at
21 2943 English Road?
- 22 A Yes.
- 23 Q And approximately what time did you get there?
- 24 A It was in the morning hours around 9:00 o'clock.
- 25 Q How long did you stay?
- 26 A Approximately 10 to 15 minutes.

00094007

1 Q And did you ever go in the house at that point in time?

2 A Yes.

3 Q And what was your purpose in going in the house?

4 A I was helping homicide investigators locate a metal box
5 which they had stated they needed to locate and open,
6 see if there was something pertinent to the case there.

7 Q Did you locate the metal box?

8 A One of the investigators did.

9 Q Where was that?

10 A I wasn't there when he located it.

11 Q After your 10 or 15 minutes of helping to look for the
12 box, what did you do then as far as did you leave the
13 scene?

14 A Yes.

15 Q Did you return to the scene that day?

16 A Yes.

17 Q Approximately what time?

18 A It was in the afternoon.

19 Q Was it like 2:00, 5:00, 8:00, you know, approximately
20 what time?

21 A Probably around 6:00 in the afternoon.

22 Q What did you do when you arrived?

23 A I helped load some parts of the master bedroom into a
24 moving van.

25 Q How long did that process take?

26 A Approximately an hour.

- 1 Q What was moved into the moving van?
- 2 A There was a rolled-up rug, there was parts of a wall,
3 and just other miscellaneous items.
- 4 Q Were you with the truck? Did you arrive with the truck?
- 5 A Yes.
- 6 Q Did you leave with the truck?
- 7 A Yes.
- 8 Q And you were with your partner at that time, Greg Benge?
- 9 A Yes.
- 10 Q Were you two responsible for getting the stuff into the
11 truck and hauling it away?
- 12 A One of several deputies, yes.
- 13 Q Who else was responsible?
- 14 A There was other deputies at the scene that had removed
15 the items from the master bedroom. They also helped
16 load it. I was not in charge of the loading. I was just
17 there for manual labor.
- 18 Q What instructions were you given about how to load the
19 truck?
- 20 A There was no special instructions, just to load the
21 truck.
- 22 Q There were no special instructions about how to treat
23 any of the items that were being loaded?
- 24 A I believe that parts of the wall that had bloodstains
25 on them were put in to protect the stains so that they
26 weren't rubbed off. The rug was rolled up and in a manner

009405

1 which the parts of the bloodstains were on the inside
2 of the carpet.

3 Q The pieces of the wall that were placed in there, how
4 were they put so that they wouldn't rub? I mean, how was
5 that accomplished?

6 A I believe there was no other pieces of items placed
7 against them.

8 Q Were they laying on the floor?

9 A They were leaned up on the side.

10 Q What was done to prevent them from sliding around?

11 A There was other things in the truck, but they did not
12 cover the portions where the blood was.

13 Q The bloodstains on the carpet, did you ever feel them?

14 A I believe that part of the carpet was saturated with
15 blood, and it was on the end that I picked up.

16 Q Was that damp?

17 A I don't remember.

18 Q When the carpet was loaded in, were you given any
19 instructions as to what to do with it when you got it to
20 where it was going?

21 A No.

22 Q Who was it that was giving you instructions as to what
23 to do, if anybody?

24 A Sergeant Swanlund.

25 Q Was he saying what to take and what not to take?

26 A The stuff that was loaded into the van was already decided

0099486

- 1 before I got there what to take.
- 2 Q So the people that were already there just told you this,
3 this, and this and this?
- 4 A Yes.
- 5 Q When you arrived, was it like stacked up or ready to go?
- 6 A Some parts of it was.
- 7 Q What parts, if you can recall?
- 8 A The carpet and furniture.
- 9 Q Was it like moved over towards near the doorway, or how
10 did you know it was ready to go?
- 11 A It was on the outside of the master bedroom in the back
12 yard area.
- 13 Q Do you recall loading a wall unit with a bunch of
14 drawers in it?
- 15 A No.
- 16 Q Did you ever while you were loading this stuff actually
17 go into the master bedroom to pick stuff up?
- 18 A No.
- 19 Q Did you have to wait around before you started loading
20 this stuff?
- 21 A No.
- 22 Q Who all can you recall that participated in the work of
23 loading?
- 24 A Myself, Deputy Benge, Detective Stroup, Deputy McCarty.
25 That's it.
- 26 Q Where did you take the stuff?

0099487

1 A To the evidence storage area.

2 Q On Sierra?

3 A Yes.

4 Q When you got to that storage area, what did you do with
5 the stuff?

6 A Carried it to the upstairs portion of the storage area.

7 Q How many people were involved in that process?

8 A I don't know.

9 Q How many people did you see, approximately?

10 A Five to ten.

11 Q Were they all CCD people?

12 A I don't know.

13 Q Did you see anybody you didn't recognize?

14 A No.

15 Q Was there anybody there from the crime lab during that
16 process?

17 A I don't know.

18 Q Did you see any?

19 A No.

20 Q Did you see anybody there from I.D.?

21 A No.

22 Q Other than yourself and Mr. Bengé, did anybody else
23 drive with you in the truck back to the loft?

24 A No.

25 Q Was there somebody there in charge of the unloading
26 operation?

009488

- 1 A Yes.
- 2 Q Who was that?
- 3 A There was the person that was working the evidence
4 locker directing us to where to put the stuff.
- 5 Q Do you know who that was?
- 6 A No.
- 7 Q Do you know Lieutenant Bellomy?
- 8 A No.
- 9 Q Were you given any instructions as to what to do with
10 the carpet?
- 11 A No.
- 12 Q Was it just left in a rolled-up condition?
- 13 A I don't remember.
- 14 Q Was Sergeant Swanlund there at the loft?
- 15 A I don't know.
- 16 Q Did you see him?
- 17 A I don't recall seeing him.
- 18 Q Did he give you any instructions about drying the
19 carpet once it got to the loft?
- 20 A No.
- 21 Q Did you unload the portions of the wall at the I.D. loft?
- 22 A I don't know.
- 23 Q You don't recall?
- 24 A I don't recall.
- 25 Q Do you recall making a trip to the crime lab after you
26 unloaded some of the stuff and took some additional

0099489

1 stuff to the crime lab?

2 A No.

3 Q Did you ever return to the Ryen residence after you had
4 assisted in moving the stuff out?

5 A Yes.

6 Q How many times?

7 A Approximately five times.

8 Q How many times did you enter the house?

9 A Two or three times.

10 Q The first time that you went in the house, what was your
11 purpose for going in?

12 A To help homicide investigators locate a metal box.

13 Q That was before, though, right?

14 A Correct.

15 Q How many times after you moved the stuff to the loft did
16 you go into the house?

17 A Three, approximately three times.

18 Q The first time you went in after, what was your purpose
19 going in?

20 A To help the investigators locate and search different
21 parts of the residence for any weapons that may have been
22 used in the crime.

23 Q What was the second time?

24 A There was a luminol process conducted at the residence
25 to locate bloodstains.

26 (No omissions.)

00094900

5-1

- 1 Q And you went in essentially as a learning experience;
2 is that correct?
- 3 A No.
- 4 Q Was that part of your reason for going in?
- 5 A That was part of the reason.
- 6 Q What was the other part?
- 7 A To assist the people in the Crime Lab in the process.
- 8 Q Did you actually do anything to assist them?
- 9 A I helped them. They directed me to turn off different
10 lights, the outside lights to the corral.
- 11 Q So you went outside the house to turn off the lights in
12 the corral?
- 13 A Yes.
- 14 Q And what was your purpose in going in the third time?
- 15 A I guess there was only two times, then.
- 16 Q Showing you Exhibit H-239, is that a diagram that you
17 marked on at the preliminary hearing?
- 18 A Yes.
- 19 Q Do the areas in green indicate the areas where you were
20 inside the Ryen residence?
- 21 A During what time?
- 22 Q During all the times you were there.
- 23 A No. The green is not limited to that.
- 24 Q What does the green show?
- 25 A The green shows that I was in the master bedroom, in the
26 bath and in the hallway. But I was also in the kitchen

0009497

5-2

- 1 area here. There is no green on that portion of it.
- 2 Q Do the little "X"'s in the kitchen indicate the areas
- 3 where you searched for weapons?
- 4 A Yes.
- 5 Q Do the blue circles on the diagram indicate the areas
- 6 that you saw sprayed with luminol?
- 7 A Yes.
- 8 Q Did you also go to 2991 English Road in the Chino Hills?
- 9 A The Lease residence?
- 10 Q Yes.
- 11 A Yes.
- 12 Q And what was your purpose in going there?
- 13 A To assist Sergeant Swanlund in his investigation.
- 14 Q How many times did you go in there?
- 15 A Approximately three.
- 16 Q What did you do the first time to assist Sergeant Swanlund?
- 17 A A search of the different areas of the residence for
- 18 weapons, to include the outside.
- 19 Q What did you do the second time to assist him?
- 20 A I was also to search.
- 21 Q What did you do the third time?
- 22 A I went into the attic area.
- 23 Q Showing you photograph H-250, do you recognize that
- 24 photograph?
- 25 A Yes.
- 26 Q And who do you recognize in the photograph?

3 Q Captain Schuyler from Public Affairs?

5 Q Do you know when that photograph was taken?

7 Q Was that photograph taken while you -- Does that
8 photograph depict you measuring some blood spots on
9 the driveway?

11 Q When did you measure the blood spots on the driveway?

12 A I would have to refer to my report.

13 | Q Go right ahead.

14 A It was on the 8th.

15 | 0 Of June?

16 | A Yes.

17 MR. NEGUS: Nothing further.

20 BY MR. KOCHIS:

21 Q Mr. Hill, the third time you went to the Lease residence
22 to search the attic, was that sometime in November of
23 1983?

24 | A Yes.

25 Q Directing your attention to the day in which you assisted
26 moving the furniture into the truck at the Ryen scene,

009493

5-4

1 the truck that you arrived with at the scene in the
2 later afternoon, the closed truck, was that the first
3 truck that was brought to the Ryen house to move
4 furniture that day?

5 A No.

6 Q Earlier in the day, was a flatbed, open truck brought
7 to the scene?

8 A Yes.

9 Q Was that by you and Mr. Bengé or other people?

10 A By Bengé and myself.

11 Q About what time did you arrive with that truck?

12 A Approximately 4:00.

13 Q Were you told by anyone that that truck was not suitable
14 to transport the property in?

15 A Yes.

16 Q Was that by Sergeant Swanlund?

17 A Yes.

18 Q Was that due to the open nature of the truck, the fact
19 that it was simply a flatbed truck, or do you recall?

20 A They just told me that they needed another truck.

21 MR. KOCHIS: I have nothing further.

22

23 REDIRECT EXAMINATION

24 BY MR. NEGUS:

25 Q Were you with Mr. Bengé that whole day?

26 A Most of it.

0009944

5-5

- 1 Q Do you recall going to the Crime Lab that day?
- 2 A No.
- 3 Q Do you recall getting from the Garden Grove Police
- 4 Department a roofer's hammer?
- 5 A No.
- 6 Q When you came with the flatbed truck, was Bengé with
- 7 you at that time?
- 8 A Yes.
- 9 Q After you got the flatbed truck, did you go back to
- 10 San Bernardino to get another truck?
- 11 A Yes.
- 12 Q And where did you go in San Bernardino?
- 13 A Is the question to get the other truck?
- 14 Q Yes.
- 15 A It was Glen Helen.
- 16 Q Did you go directly to Glen Helen and then directly back?
- 17 A I don't remember.
- 18 Q While you were going to Glen Helen, did Mr. Bengé leave
- 19 you for a while to go do some other errands?
- 20 A I don't remember.
- 21 Q When you brought the flatbed truck to the Ryen residence,
- 22 do you recall if Mr. Kottmeier was there?
- 23 A No.
- 24 Q Did you see anybody there besides Mr. Swanlund?
- 25 A Yes.
- 26 Q Who?

0099495

2 Q When you brought the flatbed truck, did you get out and
3 go into the house?

5 Q Was there any stuff stacked outside the bedroom at that
6 point in time?

8 Q When you got the truck from Glen Helen, did you have to
9 sign out for it?

11 Q Did you have to get any gas?

13 MR. NEGUS: Nothing further.

15 THE COURT: Thank you, Deputy.

17 THE COURT: We will take the morning recess.

19 (No omissions.)

20

21

22

23

24

25

26

1 THE COURT: Mr. Negus.

2 MR. NEGUS: Mr. Stroup.

3

4 G A R Y S T R O U P, called as a witness by and on behalf
5 of the Defense, was sworn and testified as follows:

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

10 THE WITNESS: Yes, I do.

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

13 THE WITNESS: Gary Stroup, S-t-r-o-u-p.

14

15 DIRECT EXAMINATION

16 BY MR. NEGUS:

17 Q What's your occupation?

18 A Deputy Sheriff.

19 Q And what was your assignment as a deputy sheriff in
20 June of 1983?

21 A It was to assist the homicide division in a homicide
22 occurring in the Chino area.

23 Q Did you go to the Ryen residence at 2943 English Road
24 in the Chino Hills on the 6th of June?

25 A Yes.

26 Q What were you doing at that residence on that day?

0009497

- 1 A I'd done several things throughout that morning and
2 afternoon.
- 3 Q Did you ever enter the house?
- 4 A On the 6th, no, not that I recall anyway.
- 5 Q Were you assisting in dismantling the master bedroom?
- 6 A On the 6th, no, I wasn't.
- 7 Q What were you doing on the 6th in the afternoon?
- 8 A I believe on the 6th in the afternoon I participated in
9 a scene search of the surrounding fields. I was called
10 out to, I believe, do some interviews. And that was
11 about the extent of it on the 6th.
- 12 Q Did you participate in locating some blood on a driveway
13 on the 6th?
- 14 A No.
- 15 Q Showing you Photographs H-49 and H-50, do you appear
16 in those photographs?
- 17 A Yes, I do.
- 18 Q And were they taken on June 6th?
- 19 A They appear to.
- 20 Q What were you doing? Do you remember approximately when
21 they were taken in the afternoon?
- 22 A No.
- 23 Q Do you remember what you were doing at that particular
24 point in time?
- 25 A I was sitting there.
- 26 Q Do you know what you were doing before you were sitting?

00099400

- 1 A No, I don't.
- 2 Q Were you present at the scene when a truck arrived to
3 take some stuff away?
- 4 A I would have to know what scene and what date.
- 5 Q 2943 on June 6th?
- 6 A Yes.
- 7 Q Do you know what you were doing when that truck was there
8 being loaded?
- 9 A I believe I was sitting in about the same area as I am in
10 this one photograph.
- 11 Q Just watching?
- 12 A Yes.
- 13 Q After the truck was loaded, did you follow it anywhere?
- 14 A On the 6th of June?
- 15 Q Yes.
- 16 A No.
- 17 Q When was the first time that you did enter the Ryen
18 residence?
- 19 A On the Ryen residence, I believe it was the 7th of June.
- 20 Q And approximately what time was that?
- 21 A It would have been sometime in the morning hours, I
22 believe.
- 23 Q And what was your purpose for entering?
- 24 A I had gone back up to assist, I believe it was Sergeant
25 Swanlund, and some of the crime lab personnel.
- 26 Q Doing what?

00994999

- 1 A Whatever they asked of me.
- 2 Q Well, what did you do?
- 3 A Carry bags, go out to the car and get something for them,
4 go contact somebody else.
- 5 Q At that point in time, was any evidence being seized?
- 6 A Out of the Ryen residence we're still talking about?
- 7 Q Yes, still talking about the Ryen residence.
- 8 A I remember the criminalists being there, but I cannot
9 tell you that they were actually taking anything as
10 evidence out at that time.
- 11 Q While you were in the house, were you throughout the house?
- 12 A I would have to know what date.
- 13 Q We're still talking about the date that you were there
14 assisting, carrying bags, that kind of stuff.
- 15 A On the 7th or 8th I believe I was throughout the house.
- 16 Q When you were assisting with the sacks, who else was in
17 the house?
- 18 A Sergeant Swanlund and Criminalist Ogino, I believe his
19 name is.
- 20 Q Were you in the house on any occasion other than that
21 day?
- 22 A The Ryen residence, yes.
- 23 Q When was that?
- 24 A For the next two or three days, I was in and out of that
25 residence.
- 26 Q What were you doing going in and out?

0009500

- 1 A I returned on one other occasion with Sergeant Swanlund
2 and removed some more doors out of the master bedroom
3 of the Ryen residence, and I had also gone back in it
4 with Sergeant Swanlund and Criminalist Ogino to remove
5 some evidence out of the traps from the sinks in the
6 bathroom.
- 7 Q How did you determine what doors to take out of the
8 master bedroom? Did Sergeant Swanlund point to them or
9 were they described to you?
- 10 A No, Sergeant Swanlund advised me which ones he wanted.
- 11 Q Which ones did he say he wanted?
- 12 A The ones from the closet, I believe, that were closest
13 to the bed.
- 14 Q Any others?
- 15 A There was a doorway, I think, that led to the bathroom
16 and also from the bedroom out to the hallway.
- 17 Q Did he say he wanted any door with blood on it taken or
18 just specific doors?
- 19 A He just advised us those doors.
- 20 Q Did he also ask you to take the closet doors nearest
21 to the sliding glass doors?
- 22 A Yes, I believe we took those also.
- 23 Q When you took them, what did you do with them?
- 24 A They were loaded into the back of one of the sheriff's
25 department's pickup trucks and transported to the
26 evidence locker over on Sierra Way.

009501

- 1 Q Were they covered or anything when they were in the
2 back of the pickup?
- 3 A No.
- 4 Q Was anything else taken besides the doors at that point
5 in time?
- 6 A Yes. I believe some doorway molding and also the spa
7 cover was removed that day.
- 8 Q Did the spa cover still have foot impressions on it when
9 you removed it?
- 10 A Yes.
- 11 Q Was there anything done to try and preserve those foot-
12 prints?
- 13 A They were loaded last so that nothing would rub on them.
- 14 Q There was no covering put on them or anything like that?
- 15 A No.
- 16 Q Were the impressions in dust?
- 17 A I don't know what they were on. They were just visible.
- 18 Q Were they visible when you got them to the place you
19 were taking them to?
- 20 A Yes.
- 21 Q That was to the I.D. lot on Sierra that you were taking
22 the stuff?
- 23 A Yes.
- 24 Q When you got there, who was involved in the process of
25 unloading the stuff?
- 26 A It was myself, Al, and Dave. I don't recall their last

00995022

1 names.

2 Q Okay. What division are they with?

3 A They work for the sheriff's automotive.

4 Q And was anybody there to tell you where to put the stuff?

5 A I remember Sergeant Baker had the evidence locker at

6 that time and had opened it up for us.

7 Q Did he have any paper work for you to fill out as far

8 as chain of custody was concerned?

9 A I had filled out the evidence tags already which are

10 left with the property, and then after the property is

11 taken in he takes the large portion of it and files it

12 as to location.

13 Q Is that a standard sheriff's office procedure as far

14 as transporting physical evidence is concerned?

15 A Yes.

16 Q I mean, you're required, for property that is in fact

17 evidence, you're required to fill out one of the

18 property tags at all times?

19 A Yes, sir.

20 Q And those property tags would include your name, the

21 case number, and the time that the matter was -- things

22 were turned over to the I.D. people?

23 A On pieces of physical evidence like that, there would

24 not necessarily be a time, just a description of it,

25 what the crime was, who had taken it, and the case number

26 on it.

1 Q And what do you do with the tags that you keep after you
2 get through with that?

3 A We don't keep a tag. You make a note of the property
4 tag number and what piece of evidence that tag was
5 attached to. One portion stays with the piece of
6 evidence and the other is kept by the evidence officer
7 on file.

8 Q Showing you Exhibit H-240, is that a diagram that you
9 did at the Preliminary Hearing?

10 A It appears to be.

11 Q And does the green on that indicate doors that were
12 taken by you on the 9th of June?

13 A Yes, that shows the closet doors.

14 Q And does the orange X indicate the sink from which you
15 removed the trap?

16 A Yes.

17 Q And do the red marks indicate your path through the
18 house?

19 A Yes.

20 (No omissions.)

21

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0009504

4 | A I believe so.

6 A To try to put the spa cover and doors in an area that
7 would keep them away from other evidence that might be
8 laid on top of it.

11 | A Yes.

14 A If I understand "preserved", you mean so that the blood
15 would not degenerate or putrefy any more?

17 A No, I did not.

20 A I would have to say yes.

22 A As an individual, I couldn't tell you. They were just
23 notified that we had gone back and picked the doors up
24 and they were now in the evidence locker.

26 | A Not personally.

009505

1 Q Were you present when it was done?

2 A I believe I was standing there when Sergeant Swanlund
3 was talking to Aguayo or one of the Crime Lab personnel.

4 Q Was that at the scene?

5 A Yes. I believe Aguayo had shown up before we had left
6 with those items.

7 Q Did Mr. Ogino give you any instruction himself as to
8 how to preserve the blood that was on those doors?

9 A Again, would that be as far as preventing any further
10 breakdown of it?

11 Q Yes.

12 A No, he did not.

13 Q Did you ever go to 2991 English Road, Old English Road,
14 the residence, the vacant residence that was approximately
15 a hundred and some-odd yards to the east of the Ryen
16 residence?

17 A Yes.

18 Q When was that?

19 A I believe that was Wednesday. I believe that would have
20 been the 8th.

21 Q Was that the day after that had first been discovered
22 as the second crime scene?

23 A No. It was that afternoon.

24 Q On one afternoon, Deputy Bobby Phillips reported to you
25 and Mr. Swanlund that an ax sheath had been found
26 inside that residence; is that right?

0099506

7-3

- 1 A No, that's not correct.
- 2 Q Did you learn that Bobby Smith had seen an ax sheath
3 inside that residence on the first day that you went
4 in there?
- 5 A Yes.
- 6 Q And on that first day, what time did you first enter the
7 place?
- 8 A The first time that I was actually inside the Lease
9 residence that day would have been close to dusk, which
10 probably would have been around 7:30 in the evening.
- 11 Q And what was your purpose in going in at that point?
- 12 A To assist Sergeant Swanlund in finishing the investigation
13 of the scene.
- 14 Q Was he taking notes of the crime scene and looking at
15 the various items of evidence?
- 16 A Yes, he was.
- 17 Q Were you with Sergeant Swanlund when he was looking at
18 the kitchen area of the house?
- 19 A I would have to know which time.
- 20 Q When he was doing his crime scene report.
- 21 A Not at that time. I was still outside.
- 22 Q Did you yourself ever look at the washer-dryer in the
23 kitchen area?
- 24 A Yes.
- 25 Q Did you see anything in it?
- 26 A Inside the kitchen area?

0009507

7-4

- 1 Q Inside the washer-dryer.
- 2 A No, I do not recall seeing anything inside either one.
- 3 Q Did you ever see any bloody corduroy pants inside the
- 4 Lease residence?
- 5 A No.
- 6 Q Did you ever see an undershirt or tee shirt with blood
- 7 on it inside the 2991 residence?
- 8 A Not that I recall right now, but I would have to refer
- 9 to my reports.
- 10 Q Do you have reports of what you saw inside the house?
- 11 A No. That would be on, I believe, the evidence report
- 12 of what was taken out of that house.
- 13 Q Did you prepare that report?
- 14 A I believe I did, yes.
- 15 Q Would anything that you saw have been in that report?
- 16 A If it was taken out of the house as evidence, it would be.
- 17 Q What if it was just observed and not taken out? Would
- 18 that not be on the report?
- 19 A Not on mine.
- 20 Q While you were in the house with Sergeant Swanlund on
- 21 the -- While you were helping him do his crime scene
- 22 report, did you see any blood on any of the walls?
- 23 A Not that I recall. By the time I had entered the house,
- 24 the Crime Lab and I.D. had already gone through. I
- 25 recall seeing fingerprint powder all over everything.
- 26 If there was blood there, I could not distinguish it.

00000000

7-5

- 1 Q Do you recall a counter in the living room?
- 2 A Yes.
- 3 Q At the end of that counter towards the wall that was
- 4 closest to the large bedroom with the green carpet --
- 5 A Yes.
- 6 Q -- do you recall a light switch?
- 7 A Yes.
- 8 Q Was there any fingerprint powder on that particular area?
- 9 A Yes.
- 10 Q You were present at least during part of the time the
- 11 next night when the house was sprayed with luminol; is
- 12 that correct?
- 13 A Yes.
- 14 Q Did you observe luminol being sprayed around that area
- 15 of the counter?
- 16 A No.
- 17 Q Showing you Exhibit H-247, is that a diagram of the
- 18 2991 residence?
- 19 A Yes.
- 20 Q And at the preliminary hearing, did you mark on that
- 21 diagram?
- 22 A Yes, I did.
- 23 Q In orange, does that indicate the sink trap from which
- 24 Mr. Swanlund and Mr. Ogino removed some hair?
- 25 A Yes.
- 26 Q In blue, does that indicate the areas where you saw

009509

7-6

- 1 luminol reaction?
- 2 A Yes.
- 3 Q And in purple does that indicate the path taken by
- 4 Sheriff Tidwell and Captain Schuyler on the late night
- 5 or early morning hours of the first day that you were
- 6 there?
- 7 A Yes.
- 8 Q Did you ever see in the kitchen area of the house a can
- 9 of partially eaten food?
- 10 A I recall seeing some open cans of some sort, but whether
- 11 they were partially eaten food, I could not tell you.
- 12 Q Where did you see the open cans?
- 13 A I just recall they were in the kitchen. I don't recall
- 14 if they were on the counter or on the table that was in
- 15 there.
- 16 Q Were those cans seized as evidence?
- 17 A I don't know.
- 18 Q Would your report indicate if they were or not?
- 19 A No. My report would indicate only those items removed
- 20 from the bedroom where the hatchet sheath was located.
- 21 Q Do you know whose report would indicate items removed
- 22 from other areas of the house?
- 23 A No, I don't.
- 24 Q Did you ever talk to any members of the press about what
- 25 you had seen inside the Lease residence?
- 26 A No.

000955-10

7-7

1 Q How many footprints did you observe on the Jacuzzi lid?

2 A I can only --

3 MR. KOCHIS: Objection, your Honor. Vague as to
4 time.

5 THE COURT: At any time?

6 MR. NEGUS: Yes.

7 THE WITNESS: I can only recall three.

8 Q (BY MR. NEGUS) Were they all consistent with being
9 made from dust?

10 A As opposed to being paint or anything else, yes.

11 Q As opposed to being paint, blood, something other than
12 some sort of soil impression.

13 A Correct.

14 MR. KOCHIS: I object and move to strike. I don't
15 believe there is any foundation as to his expertise to say
16 they are dust as opposed to moisture or dew or grass.

17 THE COURT: Well, dust and mud and blood and paint
18 are all common things that somebody can give an opinion on
19 such matters.

20 Overruled.

21 MR. NEGUS: I think he has already answered.

22 THE COURT: I don't recall.

23 Did you say they looked more like they were made
24 with dust?

25 THE WITNESS: Yes, they appeared as though somebody
26 had stepped on top of the cover and left the impression on

000995-1

7-8

1 a layer of dust or dirt that was already on top of it.

2 MR. NEGUS: Nothing further.

3 MR. KOCHIS: I have no questions.

4 THE COURT: Thank you very much.

5 (Witness excused.)

6 MR. NEGUS: Mr. McCarty.

7
8 D A N I E L J A C K M c C A R T Y, called as a
9 witness by and on behalf of the defendant, was duly
10 sworn, examined and testified as follows:

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

15 THE WITNESS: I do.

16 THE CLERK: Please be seated.

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

19 THE WITNESS: Daniel Jack McCarty, M-c-C-a-r-t-y.

20
21 DIRECT EXAMINATION

22 BY MR. NEGUS:

23 Q Mr. McCarty, in June of 1983, were you assigned to
24 assist as a Deputy Sheriff in the investigation of the
25 Ryen homicides in the Chino Hills?

26 A Yes, sir.

000995-12

7-9

- 1 Q And on June 6, did you go to the Ryen residence?
- 2 A Yes, sir.
- 3 Q And at that point in time, did you take part in a search
- 4 of the grounds surrounding the Ryen residence for physical
- 5 evidence?
- 6 A Yes, sir.
- 7 Q At some point in time, did you locate some physical
- 8 evidence?
- 9 A Yes, sir.
- 10 Q And what was that that you located?
- 11 A Appeared to be a blood spot.
- 12 Q And where did you locate it?
- 13 A It was in the center of the dirt driveway. The location,
- 14 I believe, would be on the east side of the residence.
- 15 (No omissions.)
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009955-13

1 Q Showing you Photograph H-250 -- excuse me, H-50, is that
2 a photograph that depicts the approximate spot --
3 A Yes, sir.
4 Q -- where you're pointing that the blood was?
5 A Yes, sir.
6 Q Did you make a note as to what time that blood was
7 discovered?
8 A No, sir.
9 Q When it was discovered, what did you do?
10 A I notified one of the detectives at the scene, homicide
11 detectives.
12 Q Was that Mr. Hall?
13 A I believe so, yes.
14 Q And then what happened?
15 A I was relieved from the position that I was standing.
16 Q Did you see somebody else come out and deal with that
17 evidence?
18 A I believe, but not positive, it was Mr. Duffy.
19 Q He came out and took a photograph -- somebody came out
20 and took a photograph?
21 A Yes.
22 Q And including that photograph H-50?
23 A Yes, sir.
24 Q And did you also see a criminalist come out and take a
25 scraping of it?
26 A No, sir, I did not.

0009514

1 Q Where did you go after you pointed it out to Mr. Duffy?
2 A I don't recall where I exactly went at that point, sir.
3 Possibly it could have been moving the furniture.
4 Q Did you participate in the moving of the furniture from
5 the Ryen residence?
6 A Yes, sir.
7 Q What particular items -- were you participating in the
8 dismantling of the bedroom; that is, taking it apart?
9 A No, sir.
10 Q What particular items did you help to move?
11 A I don't recall the exact items. It was furniture coming
12 from the master bedroom. We were moving it from the
13 master bedroom to a truck.
14 Q How long did that process take?
15 A I don't recall.
16 Q Approximately; do you have an estimate?
17 A Guessing, two, three hours.
18 Q Do you recall the approximate time that the truck that
19 you were loading the stuff into arrived?
20 A All I could tell you is later in the afternoon.
21 Q From the time that the Photograph H-50 was taken, 15
22 minutes, half an hour, hour, three hours?
23 A I couldn't tell you if that was before or after I was
24 moving furniture.
25 Q When the stuff was loaded into the truck, did you go with
26 the truck to San Bernardino?

000055-15

1 A No, sir.

2 Q Did you participate or did you help carry a large rolled-

3 up carpet?

4 A I believe so.

5 Q Was the carpet already rolled when you took it, or did

6 you help roll it up?

7 A I don't specifically remember if I helped roll it up and

8 move it out of the house, but I do remember being in the

9 room when it was pulled up.

10 Q Did you feel any parts of the carpet that had bloodstains

11 on them?

12 A I didn't purposely touch any of the blood. Could you

13 rephrase that? I don't understand it.

14 Q Were there bloodstains on the carpet?

15 A Yes.

16 Q Do you know if any of those bloodstains were still damp?

17 A Not on the carpet itself.

18 Q What about on the backing to the carpet?

19 A The padding appeared to be moist.

20 Q Was there anything done to dry that carpet before it was

21 seized?

22 A I have no idea, sir.

23 Q Did you see anything done?

24 A No, sir.

25 Q How many people were involved in the work with the

26 carpet?

0009516

- 1 A There were several people. I don't know the exact
2 number that was used.
- 3 Q Was that one of the last items to be removed?
- 4 A I believe so.
- 5 Q Do you recall seeing a portion of a wall cut out?
- 6 A Yes.
- 7 Q Did you participate in that work?
- 8 A No.
- 9 Q Was the carpet removed after the wall had been removed?
- 10 A I don't remember, sir.
- 11 Q Did you ever enter the Ryen residence after the time
12 that you participated in the moving?
- 13 A I don't believe so.
- 14 Q While you were participating in the moving, did you go
15 to any of the rooms other than the master bedroom?
- 16 A Yes, sir.
- 17 Q Which ones were those?
- 18 A It would be the hallway, the living room, what would be
19 possibly called the trophy room, and the kitchen.
- 20 Q How many times did you go outside the master bedroom?
- 21 A Into these rooms that you --
- 22 Q Yes.
- 23 A I really couldn't say.
- 24 Q Showing you Exhibit H-251, does that appear to be a
25 diagram of the residence?
- 26 A Yes, sir.

00995517

1 Q And could you indicate in green grease pencil the areas
2 of the Ryen residence that you went into outside the
3 master bedroom?

4 A All right (indicating).

5 Q What was your purpose in going into the living room?

6 A The purpose of me going into the house itself was I
7 wanted to see the driveway where the station wagon
8 supposedly was parked, the Ryen station wagon. When I
9 walked through the house, I walked up the hallway through
10 the bedrooms and discovered I couldn't go through that
11 way of the house. So I came back around, and when I
12 went through, came out into the living room area, I
13 stepped down the steps and looked at the room, came back
14 out, and walked through the trophy room to the kitchen
15 and out the back door.

16 Q So essentially you were just using the house to get from
17 one side of the building to the other?

18 A Yes.

19 Q And that was on the same Monday that you were moving
20 the furniture?

21 A Yes, sir.

22 THE COURT: Where's the trophy room?

23 Q (BY MR. NEGUS:) The trophy room, would that be the room
24 that's on this particular map called family room?

25 A Family room, yes.

26 Q What kind of shoes were you wearing?

- 1 A I believe tennis shoes. I'm not sure.
- 2 Q Do you remember what pattern of tennis shoes you have?
- 3 A No, sir.
- 4 Q Were they ever photographed?
- 5 A Yes, sir, they were.
- 6 Q When?
- 7 A I'm not sure of the date that they were photographed.
- 8 Q When your shoes were photographed, were you at that point
- 9 in time certain as to what you'd been wearing on June
- 10 the 6th?
- 11 A Yes.
- 12 Q Did you ever step on the Jacuzzi top that was in the
- 13 backyard?
- 14 A No, sir.
- 15 Q Did you ever enter a residence at 2991 English Road,
- 16 the vacant house approximately a hundred and some odd
- 17 yards to the east of the Ryen residence?
- 18 A Yes, sir.
- 19 Q When was that?
- 20 A I believe it was in November.
- 21 Q That was to look at an attic?
- 22 A Yes, sir.
- 23 Q Did you ever enter it in June?
- 24 A No, sir.
- 25 MR. NEGUS: Nothing further.
- 26 MR. KOCHIS: I have no questions.

0009519

1 THE COURT: Thank you, Mr. --

2 THE WITNESS: Excuse me. Mr. Negus, do you want me
3 to sign this or put an initial or anything on it?

4 MR. NEGUS: It's marked.

5 THE COURT: It's marked already? Okay.

6 MR. NEGUS: Mr. Acevedo?

7 THE BAILIFF: He's not present outside, sir.

8 MR. NEGUS: He may be in the CCD office.

9 THE COURT: Want to telephone him, please, sergeant?
10 (Short break in the proceedings.)

11 MR. ARTHUR: Your Honor, he's out on the street.
12 They've been trying to locate him.

13 THE COURT: Want to break it at this point?

14 MR. NEGUS: Sure.

15 THE COURT: We'll resume at 1:30.

16 (Whereupon the noon recess was taken at
17 11:46 a.m.)

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DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

(Appearances as heretofore noted.)

THE COURT: Who is next, counsel?

MR. NEGUS: Deputy Smith.

M A R T H A M A Y S M I T H, called as a witness

by and on behalf of the defendant, was duly sworn,

examined and testified as follows:

THE CLERK: You do solemnly swear that 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: Martha May Smith, S-m-i-t-h.

DIRECT EXAMINATION

BY MR. NEGUS:

Q On June 21, 1983, did you contact Norton Air Force Base to find out what time sunset was on June 4th, 1983?

A Yes, I did.

009521

9-2

1 Q Was that at 7:59 p.m?

2 A I haven't looked at the notes on the time.

3 MR. KOCHIS: I would be prepared to stipulate that
4 that's the time she put in her report.

5 MR. NEGUS: So stipulated.

6 THE COURT: Accepted.

7 Q (BY MR. NEGUS) You are a Deputy Sheriff assigned to
8 the Career Criminal Division; is that correct?

9 A Yes, sir.

10 Q And you were so employed on June 6th, 1983?

11 A Yes, sir.

12 Q On that date, did you go to 2943 English Road?

13 A Yes, I did.

14 Q Did you assist in removing some items from the master
15 bedroom?

16 A Yes, sir.

17 Q What work did you do?

18 A I helped dismantle the bed.

19 Q Do you recall approximately what time it was that you
20 began that work?

21 A After the lunch hour.

22 Q Was there anybody working on the bed with you?

23 A Yes, there was.

24 Q Who was that?

25 A Other members of the Career Criminal Division and I.D.

26 Q Do you remember their identity?

1 A It was Deputy Hagen, Deputy Phillips. There were just
2 members. I don't remember exactly who was in the room.

3 Q Showing you photograph H-144, appears to be a photograph
4 of the bed in a partially dismantled state; is that
5 correct?

6 A Yes.

7 Q And there is a person to the right there. Do you
8 recognize who that is?

9 | A Yes.

10 Q Who is that?

11 | A Deputy Tesselaar.

12 Q So he was working on the bed as well?

13 | A Yes.

14 Q Do you know how long it took you to dismantle the bed?

15 | A Just the bed itself?

16	0	Yes.
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17 A Approximately 20 minutes.

18 Q As it was being dismantled, what was done with it?

19 A It was taken outside and laid on the lawn.

20 Q And just left it sit there for a while?

21 | A Yes.

22 Q After it was dismantled and set on the lawn, did you
23 do any other work in the master bedroom?

24 | A Yes.

25 Q What was that?

26 A Removed the carpet out of the bedroom.

009523

1 A It doesn't show it. I mean, I can indicate where they
2 were.

3 Q Could you draw a little arrow in green grease pencil
4 on that photograph to the spot where the carpets were?

5 A I believe they were right in this area here. Maybe one
6 carpet was right in there.

7 MR. KOCHIS: Your Honor, can I make a suggestion?
8 She is making green marks on green grass. I don't think
9 anyone is going to be able to see it.

THE WITNESS: It's not going to show.

11 MR. NEGUS: Could we use red, perhaps?

12 MR. KOCHIS: Or orange.

13 Q (BY MR. NEGUS) How about red?

14 A The bedroom carpet was large enough that it was put into
15 this area.

Q Could you put a little circle there where the area is
in reddish-orange color?

18 | A There.

19 | Q All right.

20 A Do you want where the bathroom carpet was?

21 | Q Yes.

22 | A Okay.

23 Q The circle in the reddish-orange color to the right was
24 the carpet from the bedroom and the one to the left was
25 from the bathroom?

26 A That's my recollection, yes.

009525

1 Q When the carpet was put out there, it had large
2 concentrations of blood on it; is that correct?

3 | A Yes, sir.

4 Q Were any of those still damp?

5 | A Yes, sir.

6 Q Were they still damp when the carpet was rolled up?

7 | A Possibly. Good possibility.

8 Q Was the grass damp there?

9	A	No.
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10 Q Was the purpose for placing the carpet out like that to
11 dry it or just to keep it out of the way?

12 A When we took it out, I believe the purpose for removing
13 everything to begin with was so the room could be set
14 up at a later date. We just left it open in case to
15 help it dry out.

16 Q Was any other furniture placed out on the lawn?

17 A Other furniture was removed. Parts of the waterbed
18 were put on the lawn. I believe there was a dresser
19 that was removed. The waterbed mattress itself.

20 Q Was that allowed to dry on the lawn as well?

21 A I don't recall where that was.

22 Q What about the part of the wall that was removed? Was
23 that taken out there, too?

24 | A Yes, sir.

25 Q Showing you photographs H-124, H-125, H-117, H-144 and
26 H-89, do all of those photographs depict the process of

009526

Q A No, sir.

7 MR. KOCHIS: Your Honor, I'm going to object. It's
8 calling for speculation as to photographs that may depict
9 activity that took place while she was not in the room.

10 MR. NEGUS: I said "if you can".

14 Q (BY MR. NEGUS) You are about to explain your ability
15 to do that?

18 Q That picture is H-117; is that correct?

19 | A Yes.

23 A That was is first.

24 Q That one being H-144?

25 | A Yes.

26 | Q Okay.

009527

1 A This would be second.

2 Q That's H-124.

3 A And I believe that's third and this is fourth.

4 Q The third one would be H-89; is that correct?

5 | A Yes.

6 Q And the fourth one would be H-123?

7 A These two could be opposite.

8 Q 89 and 123 could be reversed in order; is that correct?

9 A Yes, sir.

10 Q Do you recall how much time lapsed between the first
11 photograph and the last photograph?

12 A No, I don't recall.

13 Q Let me ask you about one other photograph, or two
14 others.

15 H-65 and H-66, could you place those in sequence?

16 A This would have to be the first one and this the second
17 one.

18 Q The H-65 came before H-66?

19 | A Yes, sir.

20 Q Would the H-65 photograph have been roughly taken at the
21 same time as the H-124?

22 MR. KOCHIS: Objection. No foundation as to personal
23 knowledge as to when those pictures were taken.

24 THE COURT: Sustained.

25 Q (BY MR. NEGUS) Given the state of dismantling of the
26 room, would H-65, the events depicted in H-65, did they

26 room, would H-65, the events depicted in H-65, did they

9-9

1 occur at approximately the same time as the events in
2 H-64?

3 A Yes, sir.

4 Q And did the events depicted in H-66 occur prior to the
5 events depicted in H-123?

6 A I have no idea. I really don't remember.

7 Q The yellow stuff along the bottom of H-66, did that
8 appear to be the backing of the carpet folded back?

9 A It appears to be, yes.

10 Q And does the H-123 show the master bedroom after all
11 the carpets had been removed?

12 A It shows the area with the carpet removed, yes.

13 Q When the carpet was removed, was it just all taken out
14 at the same time?

15 A Yes, it was.

16 Q Did you participate in loading the various items that
17 were taken out into a truck?

18 A Yes, sir.

19 Q Do you know what time that work was finished?

20 A It was just before dark.

21 Q After the things were loaded in the truck, did you follow
22 the truck back to San Bernardino?

23 A Yes, sir.

24 Q Did you participate in unloading the truck in
25 San Bernardino?

26 A Yes, sir.

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9-10

1 Q Who was in charge of the unloading of the truck in
2 San Bernardino?

3 A There was quite a few of us there. It's hard to
4 remember that. There was Deputy Hill and Bengé, myself
5 and whoever was with I.D. at that time. I believe it
6 was Dave Baker.

7 Q Were there eventually four people doing the work, then,
8 of unloading?

9 A And Mascetti.

10 Q You and Mike Mascetti went back in a patrol car together?

11 A I don't recall how I got back there. I know Mascetti
12 and I were both there.

13 Q Of those four people, was Sergeant Baker the higher
14 ranking?

15 A Sergeant Swanlund might have been there. It's hard to
16 say whether he was.

17 Yes, he was. If it was just Baker, he was.

18 (No omissions.)

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00005700

- 1 Q Why do you say that? I mean, on what do you base that?
- 2 A Well, the four of us are deputies. If Swanlund wasn't
- 3 there, then it was Baker and Baker is a sergeant.
- 4 Q So if Swanlund wasn't there, you're saying Baker was the
- 5 highest rank?
- 6 A Right.
- 7 Q You're not sure whether Swanlund was there or not?
- 8 A I don't recall.
- 9 Q Was there any paper work that you saw filled out about
- 10 the transfer of the items in the truck from CCD to I.D.?
- 11 A I don't know.
- 12 Q Was Sergeant Baker telling everybody where to put the
- 13 stuff when it got into the I.D. bureau?
- 14 A Everything was taken up to the upper level.
- 15 Q In the loft area?
- 16 A In the loft area.
- 17 Q And was it just placed wherever there was room for it or
- 18 did somebody direct that it go to a certain place?
- 19 A I don't know how they set it up. All I did was help
- 20 unload the truck. I wasn't there to see how it was
- 21 done.
- 22 Q Did somebody direct you to where to put the stuff that
- 23 you were carrying or did you just put it?
- 24 A Sergeant Baker.
- 25 Q When the carpet was unloaded, was the carpet unrolled
- 26 for drying at that point in time?

- 1 A Yes, I believe it was.
- 2 Q On the floor of the loft?
- 3 A Yes.
- 4 Q And who directed that?
- 5 A I don't recall.
- 6 Q Do you remember if it was rolled up before you left?
- 7 A Before I left I.D.?
- 8 Q Yes.
- 9 A No. It was unrolled prior to my leaving.
- 10 Q And just left unrolled?
- 11 A Yes, it was left laying flat.
- 12 Q Was it still damp?
- 13 A I have no idea.
- 14 Q Did you participate in the unrolling of it?
- 15 A No.
- 16 Q At the time that you last saw it lying there on the
- 17 floor of the loft, did it have any mildew on it?
- 18 A No -- I have no idea whether it had mildew on it or not,
- 19 really, to make that statement clear.
- 20 Q Did you see anything that appeared to be mildew on it?
- 21 A No, sir.
- 22 Q And by mildew, anything that appeared to be a large area
- 23 of a whitish-green smelly substance?
- 24 A No.
- 25 Q When on the 6th various items were being removed, was
- 26 the top to a Jacuzzi in the backyard that you can see

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1 Q And that was on June the 8th?

2 A That was on June the 8th.

3 Q At the time that you made those two sketches, had you
4 been instructed by Sergeant Swanlund to go over to the
5 Ryen residence and make sketches of any shoe prints
6 that you saw on the cover?

7 A Yes, sir.

8 Q After you made the sketches, did you ever see anybody
9 take photographs of those shoe print impressions?

10 A No, sir.

11 Q After you made the sketches, at a later time was a third
12 shoe print impression pointed out to you?

13 A Yes, sir.

14 Q Did you make a sketch of that?

15 A No, sir.

16 Q Other than going in and out of the master bedroom,
17 loading and unloading things, did you at any other time
18 go to the Ryen residence?

19 A Yes, I did.

20 Q How many other times?

21 A Twice.

22 Q What was the first time after June the 6th?

23 A I believe it was -- well, after June the 6th I went back
24 on the 8th for the diagram of the footprints, and around
25 the 10th I believe it was to secure the residence, and
26 again on the 15th.

1 the Preliminary Hearing?

2 A Yes, I did.

3 Q Showing you Exhibit S-13, does that appear to be a
4 photograph of the impression that you have in your
5 diagram as No. A?

6 A Yes, sir.

7 Q Did you ever see anyone take photographs of any of the
8 other shoe impressions that you did diagrams of in the
9 Ryen residence?

10 A I never seen them take this photograph.

11 Q But I'm asking you about did you --

12 A Or any other ones, no.

13 Q Showing you Exhibit H-236, did you see a foot impression
14 like that inside the vacant 2991 residence?

15 A It's kind of hard to tell. I'd say this is the same
16 one.

17 Q Same one as what?

18 A I'm not sure. With the powder on it and stuff, it's
19 hard for me to tell whether that was one of the
20 footprints that I drew or not.

21 Q So the answer is you're not sure whether or not you --

22 A That's right.

23 Q Did you ever see any footprints in the approximate
24 location on the tile area near where you've drawn S on
25 that diagram H-248?

26 A I didn't look in that area.

1 Q Were you essentially in the house doing those sketches
2 until all the investigators left in the wee small hours
3 of the 8th?

4 A Yes, sir, I was.

5 Q After you left in the wee small hours of the 8th, when
6 was the next time you went into that house?

7 A I believe on the 8th.

8 Q What were you doing at that point in time?

9 A I believe we were there to secure the residence.

10 Q And what about the next time?

11 A We were there on different occasions just looking around
12 for evidence on the outside of the residence.

13 (No omissions.)

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11-3

1 were you assigned to examine the Jacuzzi top and look
2 for shoes?

3 A No, sir.

4 Q Did you step on that Jacuzzi top on that date?

5 A No, sir.

6 Q Other than taking precautions not to step on the Jacuzzi
7 cover on the 6th of June, did you pay any particular
8 attention to the top of that Jacuzzi?

9 A No, sir.

10 Q Did you ever get down on your knees, for example, and
11 examine it closely?

12 A No, sir.

13 Q On June the 8th, when you diagrammed the two impressions
14 that you saw, approximately how much time did you spend
15 at the Ryen home outside the master bedroom diagramming
16 those two impressions?

17 A Approximately a half hour.

18 Q Directing your attention to the exhibit which has been
19 marked for identification as H-237, did you also place
20 on that exhibit the locations of various footwear
21 impressions that you saw on top of the Jacuzzi itself?

22 A Yes, sir.

23 Q How much time passed between the time that you conducted
24 that examination and the time someone told you about a
25 third footwear impression on the Jacuzzi cover?

26 A Probably when I went back down to the Lease residence

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11-5

1 Q And is it possible for you to, with the grease pen that
2 has a red cover and orange tip, could you circle the
3 area in which that footwear impression appears?

4 A (Witness complied.)

5 MR. KOCHIS: Your Honor, at this point, I have
6 nothing else.

7 THE COURT: Mr. Negus, anything else?
8

9 REDIRECT EXAMINATION

10 BY MR. NEGUS:

11 Q When you did your diagrams of the footwear impressions,
12 what time of day was that?

13 A I don't recall. It was, I believe, early in the day.

14 Q And at the time that the footprint that's shown in that
15 photograph there, H-253, was pointed out to you, that
16 was later in the afternoon; is that correct?

17 A Yes. I believe it was around the afternoon when I went
18 over and did the diagrams, and it wasn't too long after
19 that that I was advised that I had missed one.

20 MR. NEGUS: Nothing further.

21 MR. KOCHIS: I have no further questions.

22 THE COURT: You may step down.

23 (Witness excused.)

24 MR. NEGUS: I call Mr. Acevedo.

25 ///

26 ///

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11-6

1 R O B E R T A . A C E V E D O, called as a witness
2 by and on behalf of the defendant, was duly sworn,
3 examined and testified as follows:

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

8 THE WITNESS: I do.

9 THE CLERK: Please be seated.

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

12 THE WITNESS: Robert A. Acevedo, A-c-e-v-e-d-o.

13

14 DIRECT EXAMINATION

15 BY MR. NEGUS:

16 Q Mr. Acevedo, what is your occupation?

17 A I'm a Sheriff's detective.

18 Q And in June of 1983, were you given a particular
19 assignment?

20 A In June?

21 Q On June 6, 1983.

22 A Yes, I was.

23 Q What was that?

24 A I was assigned to assist in the investigation in the
25 Kevin Cooper trial.

26 Q At that point in time, it wasn't the Kevin Cooper trial,

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11-9

1 A We rolled up the carpet and picked it up and carried
2 it out.

3 Q Where did you put it when you carried it out?

4 A We put it in a truck.

5 Q Did you unroll it before you put it in the truck?

6 A I don't remember.

7 Q Was the carpet damp when you were carrying it out?

8 A I don't remember that, either.

9 (No omissions.)

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1 Q Were you given any particular instructions about the
2 care and preservation of the materials that you were
3 removing from the house?

4 A We were told just to roll it up and carry it out to
5 the truck.

6 Q At any point in time during the dismantling operation,
7 where there any people there from the crime lab?

8 A I didn't see any.

9 Q Showing you Photograph H-124, does that appear to be a
10 photograph of the master bedroom during the process of
11 dismantling?

12 A Yes.

13 Q Do you recognize any of the people in that photograph?

14 A I recognize Deputy Coronado. I don't recognize the
15 other person.

16 Q Deputy Coronado is the person in the blue and white
17 checked shirt with the blue jeans?

18 A Yes. Oh, I recognize this other guy. He works at the
19 crime lab.

20 Q Is that Mr. Ogino?

21 A I don't know what his name is. I just recognize his
22 face.

23 Q Does that photograph help refresh your recollection as
24 to whether any crime lab people were there during the
25 dismantling?

26 A No.

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- 1 Q While you were involved in the dismantling of the
2 bedroom, was the District Attorney there, Mr. Kottmeier?
- 3 A I don't remember seeing him in the bedroom when we were
4 taking the furniture out.
- 5 Q Was Sergeant Swanlund in charge of that work?
- 6 A Yes.
- 7 Q Did you go anyplace outside of the master bedroom while
8 you were in there on the 6th?
- 9 A I was in the hallway and part of the living room.
- 10 Q What part of the living room were you in? Showing you
11 a diagram H-252, does that appear to be a floor plan
12 of the Ryen house?
- 13 A Yes.
- 14 Q And taking the green grease pencil, could you indicate
15 on there where you were in the house outside of the
16 master bedroom?
- 17 A Outside here.
- 18 Q Could you put an X or whatever indication in green
19 where you were?
- 20 A (The witness complies.)
- 21 Q Then whereabouts in the living room?
- 22 A (The witness complies.)
- 23 Q The room where you have drawn an X, was that a room that
24 had an oil painting of the family and numerous
25 trophies in it?
- 26 A Yes.

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1 Q What were you doing in there?

2 A I was talking with somebody in the investigation. I don't
3 remember who.

4 Q Other than those two areas, did you go to any other
5 areas of the house?

6 A No.

7 Q Did you ever go inside a residence a hundred some odd
8 yards to the east of the Ryen residence at 2991 English
9 Road?

10 A No.

11 Q After June the 6th, did you ever return to the outside
12 of the Ryen residence?

13 A No.

14 Q While you were there, what sort of shoes were you wearing?

15 A I was wearing some brown loafers.

16 Q Did you ever step on a Jacuzzi cover outside of the Ryen
17 residence?

18 A No.

19 Q Did the loafer's soles have any tread pattern to them?

20 A Yes.

21 Q What type tread pattern?

22 A Just a straight line.

23 Q On June the 6th at about 2:00 o'clock in the afternoon,
24 did you talk to a man named Richard Sibbitt?

25 A Yes, I did.

26 Q Did Richard Sibbitt describe to you three male Mexicans

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1 that he had seen in the area of the Ryen-Lease residence
2 in general up in the Chino Hills on Friday, June 3rd?

3 A Yes, he did.

4 MR. NEGUS: Nothing further.

5

6 CROSS EXAMINATION

7 BY MR. KOCHIS:

8 Q Mr. Acevedo, the shoes you wore when you were inside the
9 Lease residence, were those ever turned over to the
10 identification bureau to be photographed?

11 A I don't think they were.

12 Q Did you ever turn them over to anyone from homicide?

13 A No.

14 Q The descriptions you received from Mr. Sibbitt, did you
15 place those in a report which was later typed?

16 A Yes, I did.

17 MR. KOCHIS: I have nothing else.

18 MR. NEGUS: Nothing further.

19 THE COURT: Thank you.

20 MR. NEGUS: Mr. Tesselaar.

21

22 G E R R I T T K R I S T E N T E S S E L A A R, called
23 as a witness by and on behalf of the Defense, was
24 sworn and testified as follows:

25 // // //

26 // // //

000955-1

- 1 Q Was that removed before the carpet?
- 2 A I don't recall if it was taken out first.
- 3 Q Did you participate in removing those portions of the
4 wall?
- 5 A No.
- 6 Q Was Sergeant Swanlund the person who was in charge of
7 giving you instructions as to what work to do?
- 8 A Yes, sir.
- 9 Q And did he ask you to take any particular precautions
10 as far as removing any of the items in the residence?
- 11 A We were just instructed to try not to contaminate it,
12 so the bloodstains and what not, try not to mix them up
13 by stepping in them, mixing them with any other things,
14 you know, dirt outside, grass, leaves.
- 15 Q How many different people were involved in that
16 particular work?
- 17 A The operation of taking everything out of the bedroom?
- 18 Q Right.
- 19 A A major portion or probably all of the career criminal
20 division.
- 21 Q That would be approximately 18 people?
- 22 A Eighteen or twenty, I believe, yes.
- 23 Q Were there times when all of them were in the room at
24 the same time?
- 25 A That would have been rather -- that would have been
26 impossible for everybody to be in the room at the same time.

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1 Q Showing you Photograph H-144, do you recognize anybody
2 in that photograph?

3 A Yes, that's me.

4 Q What were you doing?

5 A I was marking the -- as the water bed was being dis-
6 assembled, in order to put it back the way it was when
7 we disassembled it, I was marking which side of these
8 individual sheets of plywood were laying on top of the
9 frame itself.

10 Q Was that same thing done with the drawers and shelves
11 that were taken out?

12 A I believe so, yes, as to where they were in the room.

13 Q What about within there -- well, for example, in the
14 shelves, was the whole shelf assembly disassembled?

15 A I believe it had to be, it was the type that had
16 adjustable shelves. I think it had metal brackets that
17 were actually bolted or secured to the wall, and they
18 had to be taken out.

19 Q Showing you H-82, is that the shelf assembly we're
20 talking about?

21 A Yes, sir.

22 Q Now, were the different shelves marked top, middle,
23 bottom, that sort of thing, and the different drawers
24 marked the same way so that they could be reassembled?

25 A That I don't know, sir.

26 Q After the stuff was put in the truck, did you accompany

1 it back to San Bernardino?

2 A Not in the truck itself.

3 Q Did you go back in some other vehicle with it?

4 A Yes, I did, yes.

5 Q Did you participate in the unloading of the truck when

6 it got to San Bernardino?

7 A Yes, sir.

8 Q What was done with the stuff when it was unloaded?

9 A It was placed on the second floor of the evidence locker

10 at Third and Sierra Way.

11 Q Was anything done with the carpet when it was taken out?

12 A I don't recall except for the fact that it was placed

13 upstairs. It might have been unrolled, but I don't

14 recall.

15 Q Did you participate in actually moving that carpet?

16 A I don't remember if I was part of the three, four guys

17 that lifted that section of carpet up there or not.

18 Things were being handed out of the truck, people were

19 more or less like a chain, grab something and put it

20 upstairs.

21 Q Do you remember how many different CCD people were

22 involved?

23 A About the same amount that were at the house to

24 disassemble it.

25 Q So most of the people that were at the house came back

26 with the truck to San Bernardino?

13-1

1 Q Do you recall ever receiving any directions as to how
2 to do things from anybody in the Crime Lab?

3 A No, I don't.

4 Q Showing you Exhibit H-242, is that a diagram that you
5 did the blue line on during the preliminary hearing?

6 A Yes, sir, it is.

7 Q And does that blue line depict the path that you took
8 through the house on that same day that you were removing
9 stuff from the master bedroom?

10 A It indicates where I went in. It's an indication of
11 where I went from the sliding door of the master bedroom
12 to the one time I went to the stairs to the living room,
13 yes, it does.

14 Q When you were doing that, you went there to see what
15 the remainder of the hallway and the living room looked
16 like?

17 A Yes.

18 MR. NEGUS: Nothing further.

19 MR. KOCHIS: I have no questions.

20 THE COURT: You may step down.

21 (Witness excused.)

22 THE COURT: Let's take the afternoon recess.

23 (Whereupon the afternoon recess was taken.)

24 THE COURT: Who is next?

25 MR. NEGUS: Harvey Walker.

26 ///

13-3

- 1 A I would have to refer to my report.
- 2 Q Do you have a report?
- 3 A Yes, I do.
- 4 Q Okay.
- 5 A Okay. I didn't indicate in the report what time I
- 6 arrived on that date.
- 7 Q Do you remember whether it was in the morning or the
- 8 afternoon or what?
- 9 A It was in the morning.
- 10 Q When you arrived there, did you ever enter the residence
- 11 there?
- 12 A Yes, I did.
- 13 Q At what point in time was that?
- 14 A I don't know what time it was, but I remember the point
- 15 I entered the house.
- 16 Q What was your purpose for going in there?
- 17 A To familiarize myself with the crime scene investigation.
- 18 I was assigned to assist in it.
- 19 Q And did you go in just to look around?
- 20 A Not necessarily to look around. I didn't have an
- 21 assignment, but if I was called to conduct an
- 22 assignment, I was there.
- 23 Q I see. Why did you go inside? I mean, just so you
- 24 would be able to know what the house looked like?
- 25 A Yes.
- 26 Q But that wasn't in response to any particular assignment

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13-4

1 that you were given?

2 A I didn't have an assignment at the time I was assigned
3 to go there.

4 Q Was there anybody outside trying to direct who went
5 inside and who didn't?

6 A Not that I recall.

7 Q Did you ever, later on that day, participate in removing
8 some items from the master bedroom?

9 A The first time I was assigned to that location was on a
10 Monday. That Monday, we didn't take anything out that I
11 know of.

12 Q Were you ever there when you took some stuff out?

13 A Yes, I was.

14 Q When was that?

15 A That was the next day. That would be on a Tuesday.

16 Q What were you taking out?

17 A I can recall taking out some rugs, a rug, some bookshelves,
18 parts of the wall, stuff of that sort.

19 Q When you were taking that stuff out, did you participate
20 in any particular parts of that or all of it?

21 A Only parts of it.

22 Q Did you prepare any reports of that particular work?

23 A No, I didn't.

24 Q Why not?

25 A I didn't feel the need to prepare a report.

26 Q You thought you could remember what happened pretty well

13-5

- 1 without it?
- 2 A For what I was doing, yes.
- 3 Q Did you participate in dismantling the bed?
- 4 A No, I didn't.
- 5 Q You did participate in taking out the rug?
- 6 A I could have.
- 7 Q You don't remember?
- 8 A Well, I took a chair out. I could have assisted in
- 9 taking the rug out. I could have assisted in taking it
- 10 out.
- 11 Q Do you recall whether that rug was damp at all?
- 12 A Not that I recall.
- 13 Q How was the rug taken out?
- 14 A I can remember it was pulled from the edges, pulled up,
- 15 rolled and carried out.
- 16 Q Was there still furniture in the room when it was rolled
- 17 up?
- 18 A No, there wasn't.
- 19 Q That was one of the last things to be taken?
- 20 A I can't recall whether it was the last thing to be
- 21 taken or not. We had to get everything out of the way
- 22 to take the rug up.
- 23 Q While the work of dismantling was going on, was there
- 24 any paper or anything like that put over the rug to
- 25 protect it?
- 26 A Not that I recall.

0009562

13-7

- 1 District Attorney, there?
- 2 A I didn't see him there.
- 3 Q How about Mr. Kochis? Did you see him out there?
- 4 A Not that I recall.
- 5 Q After the things were removed, did you go with the truck
- 6 that carried the stuff way back to San Bernardino?
- 7 A No, I did not.
- 8 Q Did you participate in unloading of the stuff when it
- 9 got back to San Bernardino?
- 10 A No.
- 11 Q When you went into the house to look around, was one of
- 12 your purposes in going in there just curiosity?
- 13 A You mean in the room that the items were removed from?
- 14 Q No. When you went in the first time, when you went in
- 15 to look around.
- 16 A No. It was curiosity, too, and I was assigned to go in
- 17 there to assist.
- 18 Q You weren't assigned to go in the house when you went in
- 19 to look around?
- 20 A No.
- 21 Q So your purpose then was curiosity?
- 22 A Curiosity and to familiarize myself with the crime
- 23 scene, what it looked like.
- 24 Q Were you ever given that assignment whether that was
- 25 necessary or not?
- 26 A Not that day.

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13-8

1 Q Any other day?

2 A No, except for removing the property from the house.

3 MR. NEGUS: Nothing further.

4 MR. KOCHIS: I have no questions, your Honor.

5 THE COURT: Thank you very much.

6 (Witness excused.

7 MR. NEGUS: Shelby Gault.

8

9 S H E L B Y G A U L, called as a witness by and
10 on behalf of the defendant, was duly sworn, examined
11 and testified as follows:

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

16 THE WITNESS: I do.

17 THE CLERK: Please be seated.

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

20 THE WITNESS: Shelby Gaul, G-a-u-l.

21

22 DIRECT EXAMINATION

23 BY MR. NEGUS:

24 Q Mr. Gaul, on June 5th, 1985, were you a Deputy Sheriff
25 working out of the West End Substation?

26 A That's correct, Mr. Negus.

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13-10

- 1 Q Showing you diagram H-249, does that appear to be a
2 diagram of the residence at 2991 English Road that you
3 went to?
- 4 A Yes, it does.
- 5 Q And there is a bunch of numbers on that. Did you put
6 those numbers on there?
- 7 A Yes, I did.
- 8 Q And is number "1" the spot where you looked in the door?
- 9 A That's the front door.
- 10 Q That you tried to open; is that correct?
- 11 A That's correct.
- 12 Q And then the other numbers are different spots that you
13 checked as you went around the house?
- 14 A That's correct.
- 15 Q At some point in time, did a civilian arrive at that
16 particular area?
- 17 A Yes, sir.
- 18 Q Was his name Larry Lease?
- 19 A Yes, it was.
- 20 Q And did Mr. Lease indicate anything to you about his
21 relationship to that house?
- 22 A He said he was part owner of the house.
- 23 Q Did he indicate to you that the house was vacant?
- 24 A Yes, he did.
- 25 Q Did he indicate to you that he would like to have the
26 house checked to see whether or not there was anybody

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1 Q In that June 6th report, you did indicate that in the
2 second paragraph of that report prepared on June the 6th
3 that Mr. Lease said that he also owned the house at
4 2991 English Road and you checked that and it was found
5 to be secured; is that correct?

6 A That's correct.

7 Q Why did you prepare a different report on June 7th?

8 A Because the importance of that house wasn't realized
9 until June 7th.

10 Q So the report that you prepared on June 7th was prepared
11 after some evidence was discovered in it; is that correct?

12 A That's correct. That's when I went into detail as far
13 as the exterior search of the residence.

14 Q Did you make any notes at the time that you were doing
15 that exterior search?

16 A I must have some somewhere, sir. I believe so.

17 Q Do you still have them?

18 A Over at the West End, yes, sir.

19 Q After the contact with Mr. Lease and looking around his
20 vacant house, did you report to anyone that that house
21 was vacant?

22 A Later on we all met back up at the command post and all
23 we said was that we hadn't, you know, discovered anything
24 additional.

25 Q Who is we all?

26 A Every investigator that went out.

0000000000

- 1 Q Who was that?
- 2 A Sir, I have no list of all the personnel that was there.
- 3 Q Do you have any memory?
- 4 A Detective Danna went to the north and I went to the
- 5 south and east.
- 6 Q So was it you and Detective Danna that met?
- 7 A Yes, we did.
- 8 Q And who else? Who were you reporting to?
- 9 A We reported to Sergeant Arthur.
- 10 Q And when you say command post, what are you talking about?
- 11 A Where the people in charge of the crime scene were
- 12 located.
- 13 Q And where was that?
- 14 A That was in the stable behind the residence.
- 15 Q Approximately what point in time was that that you met
- 16 in the stable with these people?
- 17 A It was after dark.
- 18 Q Was there anybody else in the stable besides Sergeant
- 19 Arthur?
- 20 A Yes, sir. There were numerous people in there.
- 21 Q Like whom?
- 22 A Captain Myers was there, Detective Danna was there, lot
- 23 of people there, sir.
- 24 Q Are you sure it was in the stable?
- 25 A Yes, sir. They were using the telephone in the stable
- 26 because I believe the phones in the house weren't working.

0009570

1 Q Did you also see a bunch of people in the living room
2 of the house?

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

4 THE COURT: Be more specific, please.

5 Q (BY MR. NEGUS:) On the evening of June the 5th, did you
6 see a bunch of people there in the living room of the
7 house as well?

8 A I saw several people in the living room, yes, sir.

9 Q Did that include Captain Myers?

10 A I believe he was one of them, yes, sir.

11 Q And several other members of high rank in the sheriff's
12 office?

13 A Yes, sir.

14 Q Did you yourself enter the house that particular night?

15 A Yes, sir.

16 Q And what part of the house did you enter?

17 A I went from the back porch area through the master
18 bedroom into the hallway to the front room, back out the
19 same way I had entered.

20 Q And showing you H-245, does this appear to be a drawing
21 of the route that you took --

22 A Yes, it is.

23 Q -- on the night of June the 5th?

24 A Yes, it is.

25 Q When you went into the house, was it after dark?

26 A Yes, it was after dark.

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1 Q Were the bodies of the victims still in there?
2 A No, sir, they were not.
3 Q How many people were working in the master bedroom?
4 A There was nobody working in the master bedroom. They
5 were working in the bathroom adjacent to the master
6 bedroom.
7 Q How many people were in that bathroom?
8 A There were a couple of people, sir.
9 Q Were they both criminalists?
10 A Yes, sir.
11 Q Did you see anybody from homicide when you were walking
12 through there?
13 A I don't recall. I don't believe so, sir.
14 Q Did you happen to notice Mr. Hall anywhere around?
15 A Mike Hall was next to the bathroom door, yes, sir.
16 Q How about Mr. O'Campo?
17 A I don't remember seeing O'Campo. I don't know where he
18 was at.
19 Q How about Mr. Clifford?
20 A I saw John Clifford several times. I have no idea where
21 it was.
22 Q How about Mr. Wilson? Was he there?
23 A I don't recall seeing Tim Wilson, no, sir.
24 Q Was your purpose in entering at that point in time just
25 to check out the crime scene?
26 A Yes, sir, it was.

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CROSS EXAMINATION

BY MR. KOCHIS:

Q Mr. Gaul, when you're assigned to assist in a homicide investigation, is there a reason you personally look at the crime scene?

A. Yes, sir. I like to know the layout of the crime scene that I'm called to.

Q For what purpose?

A. My own information, for later on if I have to refer to something I'll know the layout.

Q For example, in interviewing potential witnesses?

A. Correct.

Q Directing your attention to Exhibit H-249, the diagram of the Lease vacant home, specifically directing your attention to the number five that appears in blue on that location, do you recall stopping at approximately that location on June the 5th when you conducted your exterior examination of that home?

A. Yes, I do.

Q And at that location were there two sliding glass doors that composed the wall of that portion of the house?

A. Yes, there were.

Q And when you got to that location, were the drapes to that sliding glass door in fact closed?

- 1 A Yes, they were.
- 2 Q So when you got to the location depicted as number five,
3 is it fair to say you were unable to look into that
4 particular room at all?
- 5 A That's correct, couldn't see anything in there.
- 6 Q Were there other areas in the house in which the blinds
7 or drapes prevented you from looking into a particular
8 room?
- 9 A A couple of the bedrooms in there, they were lace
10 curtains where if you looked real hard you could possibly
11 make out items inside, but --
- 12 Q Do you recall on the diagram which areas other than the
13 area depicted in the number five you were not able to
14 look into due to the window covering?
- 15 A Number three, which is another bedroom on the west side.
- 16 Q And which were you able to see into?
- 17 A I looked in number two. The blinds were kind of tilted
18 where I could make out what was inside there.
- 19 Q Did Mr. Lease have a key with him on the 5th of June?
- 20 A He got some keys out and thought he had one to the house.
- 21 Q Was he able to gain entry through any door to that house
22 with a key?
- 23 A No, he wasn't.
- 24 Q Did you force entry into the house on that day?
- 25 A No.
- 26 Q Did he?

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1 A No.

2 Q Is it fair to say that you entered no part of the house
3 on June 5th?

4 A That's correct, I did not.

5 MR. KOCHIS: I have nothing else.

6 THE COURT: Anything else?

7

8 REDIRECT EXAMINATION

9 BY MR. NEGUS:

10 Q Did you yourself interview any witnesses where your
11 knowledge of the layout of the house assisted you?

12 A No, sir.

13 Q At that point in time your assignment was to the
14 detective bureau at the West End; is that correct?

15 A That's correct.

16 Q And the actual duty detective from the West End that
17 was assigned to assist in the homicide at 2943 English
18 Road for that particular day was Detective Danna; is
19 that correct?

20 A He was originally called out and he had me called out,
21 too.

22 Q So the reason that you were asked to assist was as backup
23 because of the particular seriousness and complexity of
24 this crime?

25 A That's correct.

26 Q And the investigation of this crime after your initial

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1 few days at the scene was not one of your primary
2 assignments; is that correct?

3 A That's correct.

4 MR. NEGUS: Nothing further.

5

6 RECROSS EXAMINATION

7 BY MR. KOCHIS:

8 Q Detective Gaul, when you viewed the crime scene on June
9 the 5th of 1983, had you been given a list as to what
10 your assignments would be, if any, in regard to that
11 homicide over the following week?

12 A No.

13 MR. KOCHIS: I have nothing else.

14 MR. NEGUS: Nothing else.

15 THE COURT: Thank you very much, sir.

16 MR. NEGUS: Mike Mascetti.

17 MR. KOCHIS: Your Honor, could I inquire of Mr.
18 Negus if he wishes us to have Mr. Robert Hall outside the
19 courtroom this afternoon in the event we finish with this
20 witness before 4:00?

21 MR. NEGUS: I would probably be requesting, if we
22 could, we quit about 15 or 20 minutes early when we finish
23 with Mr. Mascetti.

24 THE COURT: I take it Negus is. Is there any
25 particular reason for it today, that we leave early instead
26 of going to 4:00 o'clock?

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1 MR. NEGUS: Yes, that I'm reaching a level of
2 exhaustion and that Mr. Hall is a more difficult witness
3 than these last ones.

4 THE COURT: Okay. You can excuse him, then, until
5 tomorrow until 9:30.

6 MR. NEGUS: That would be fine. He'll probably be
7 called around 10:00.

8
9 M I C H A E L J O S E P H M A S C E T T I, called as a
10 witness by and on behalf of the Defense, was sworn and
11 testified as follows:

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

16 THE WITNESS: I do.

17 THE CLERK: Thank you. Please be seated and please
18 state your full name and spell your last name for the
19 record.

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

21
22 DIRECT EXAMINATION

23 BY MR. NEGUS:

24 Q Mr. Mascetti, what's your occupation?

25 A I am a deputy sheriff assigned to the career criminal
26 division.

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

2 A Yes, I was.

3 Q On that occasion did you go to 2943 English Road to

4 assist in the investigation of the Ryen homicides?

5 A Yes.

6 Q What time did you arrive?

7 A I don't know.

8 Q What did you do once you got there?

9 A I was outside of the residence and I advised a supervisor

10 that I was there and I waited for any instructions.

11 Q The supervisor was Mr. Swanlund?

12 A Yes.

13 Q Were you finally given some instructions?

14 A Yes.

15 Q What was that?

16 A To hold some shoes to be photographed at a carport or

17 something like that.

18 Q Are we talking about the Ryen residence, the crime

19 scene, 2943 English Road?

20 A No. I was talking about a different occasion at the

21 second crime scene.

22 Q Okay. I'm just asking you now about on June 6th, did you

23 go to the Ryen residence, the place where the people

24 were killed, at 2943 English Road?

25 A On June 6th? I don't know. I don't have a report

26 reflecting that day.

26

15-1

1 Q (BY MR. NEGUS) Having retrieved your notes, does that
2 help you to remember whether or not you went to the
3 Ryen residence on June the 6th?

4 A Yes.

5 Q And what did you do there?

6 A At the Ryen residence?

7 Q Yes.

8 A I don't believe I went to the Ryen residence on the 6th.

9 Q Did you go to the Ryen residence on any other day?

10 A Yes, I did.

11 Q What day was that?

12 A I believe it was the 8th.

13 Q What did you do on the 8th?

14 A May I look at my other notes?

15 Q Sure.

16 A May I explain something?

17 Q Sure.

18 A My notes indicate that on 6/13/83, I went to the Ryen
19 residence with some shoes that I had picked up from
20 C.I.M. However, during previous court sessions, it
21 was brought up to me that on the 8th was the date that
22 I brought the shoes to the residence.

23 Q Let's get the nomenclature here. Do you recall there
24 being a house where some people were killed?

25 A Yes.

26 Q And you recall there being another house where additional

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1 evidence was found?

2 A Yes.

3 Q Did you bring the shoes to the house where the people
4 were killed or the house where the additional evidence
5 was found?

6 A The house where the additional evidence was found.

7 Q And showing you Exhibit H-250, does that appear to be
8 a picture of the outside area and driveway where you
9 brought the shoes?

10 A Yes, it does.

11 Q That was on June the 8th, right?

12 A Yes.

13 Q Now I show you picture H-49. Does that appear to be
14 the house where the people were killed?

15 A Yes, it does.

16 Q Did you ever go to that house?

17 A Yes, I did.

18 Q Do you remember when?

19 A No, I do not.

20 Q Did you ever go inside that house?

21 A Yes, I did.

22 Q And did you go in the master bedroom?

23 A Yes, I did.

24 Q And showing you photograph H-243, is that a diagram of
25 the Ryen house with a little orange mark showing where
26 you went in the master bedroom?

15-3

- 1 A Yes.
- 2 Q What was your purpose in going into the master bedroom?
- 3 Just to have a look at a wall that people were talking
- 4 about?
- 5 A Yes.
- 6 Q And showing you diagram H-144, does that show the wall
- 7 that you looked at?
- 8 A Yes.
- 9 Q Was that wall still like attached to the house?
- 10 A Yes, it was.
- 11 Q It had not yet reached the state that it's shown in
- 12 H-66 where there is a big hole in the wall; is that
- 13 correct?
- 14 A You are right, yes.
- 15 Q It was not like H-66?
- 16 A When I got there, it was like this. However, I believe
- 17 it was the same day that they cut the wall out and took
- 18 the wall out.
- 19 Q So when you got there, it was attached but that was the
- 20 day that they were actually doing the work of removing
- 21 it, right?
- 22 A I believe so, yes.
- 23 Q Did you help them with that work?
- 24 A Are you talking about in particular the wall or with
- 25 any of the work?
- 26 Q Any of the work.

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15-4

- 1 A Yes, I did.
- 2 Q What did you help with?
- 3 A I helped remove certain articles from the residence.
- 4 However, I don't recall or remember which articles in
- 5 particular I helped remove.
- 6 Q Do you know what you did with them once you got them
- 7 removed from the residence?
- 8 A I didn't do anything with them once they were removed.
- 9 I was just helping with the heavy stuff, if I remember
- 10 correctly.
- 11 Q Did you put it on the grass or in a truck or --
- 12 A Let me think about this. I don't remember where I put
- 13 the stuff.
- 14 Q And the stuff was -- Do you remember a truck being
- 15 there?
- 16 A Yes, I do.
- 17 Q You remember the stuff eventually being put in the truck?
- 18 A Yes, I do.
- 19 Q After the stuff was put in the truck, did you go with
- 20 the truck back to San Bernardino?
- 21 A Yes, I did.
- 22 Q Did you help unload it?
- 23 A Yes, I did.
- 24 Q Do you remember there being a large rolled-up carpet
- 25 that you helped unload?
- 26 A Yes.

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15-5

1 Q Did you help carry that up?

2 A I don't remember.

3 Q Do you remember whether or not the carpet remained
4 rolled up when you left?

5 A I don't remember.

6 MR. NEGUS: Nothing further.

7 MR. KOCHIS: No questions.

8 THE COURT: Thank you, sir.

9 (Witness excused.)

10 THE COURT: Do you desire to break now until
11 tomorrow morning?

12 MR. NEGUS: That would be my request.

13 THE COURT: All right. See you at 9:30 tomorrow.

14 (Whereupon the proceedings taken and had
15 on this date were adjourned.)

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