

COPY

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:

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IN PROPRIA PERSONA

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C.S.R. NO. 2400  
OFFICIAL REPORTERS

VOLUME

OF

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PAGES

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN BERNARDINO

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

5 Plaintiff, )

6 vs. )

7 KEVIN COOPER, )

8 Defendant. )  
9

NO. OCR-9319

**CR-72787**

VOLUME 34

Pgs. 3374 thru 3501, incl.

10  
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Wednesday, June 13, 1984

15 APPEARANCES:

16 For the Plaintiff:

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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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I N D E X    T O    E X H I B I T S

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1 SAN BERNARDINO, CALIFORNIA, WEDNESDAY, JUNE 13, 1984

2 9:45 O'CLOCK A.M.

3 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

4 APPEARANCES:

5 The Defendant with his Counsel, DAVID

6 NEGUS, Deputy Public Defender of San

7 Bernardino County; DENNIS KOTTMEIER,

8 District Attorney of San Bernardino

9 County, and JOHN P. KOCHIS, Deputy

10 District Attorney of San Bernardino

11 County, representing the People of

12 the State of California,

13 (Leonard D. Gunn, C.S.R., Official Reporter, C-1109,

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

15  
16 (David Charles Baker, having been on the

17 witness stand at the time of the

18 adjournment on Tuesday, June 12, 1984,

19 resumed the stand and testified further

20 as follows:)

21 THE COURT: Good morning.

22 You are Mr. Baker?

23 THE WITNESS: Yes, sir, I am.

24 MR. KOCHIS: Your Honor, the next witness is

25 Mr. Gregonis. No. Mr. Stockwell. We anticipate his

26 testimony lasting all of today and a portion of tomorrow.

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26 MR. KOCHIS: Can I give your bailiff a note so she

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1 can call?

2 THE COURT: Yes.

3 Who has the witness?

4 MR. NEGUS: I do.

5 THE COURT: Go ahead.

6

7 DIRECT EXAMINATION RESUMED

8 BY MR. NEGUS:

9 Q The property tags that are affixed to the objects that  
10 you keep in your loft, they also serve a function of  
11 chain of custody; is that correct?

12 A Yes, sir, they do.

13 Q When you don't have property tags affixed, how do you  
14 maintain chain of custody?

15 A In the years that I worked property, I have never had a  
16 problem. If I had the item and there was no property  
17 tag on it, no one has ever come in to move it or take  
18 it from my possession.

19 Q There was a period of at least 15 days or so when there  
20 was none of the items in the loft that had property tags  
21 on them; is that correct?

22 A That's possible.

23 Q How did you maintain chain of custody on those items  
24 during that 15-day period?

25 A They weren't moved. They stayed in one location  
26 separately from all other evidence.

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1 Q Did you have a list of what you had when they came in?

2 A No, sir.

3 Q At one point in time on the 20th of June, Mr. Hall came  
4 in to put tags on them after they had been there for a  
5 couple of weeks; is that right?

6 A It's possible. I don't remember the date.

7 Q But you remember Mr. Hall coming in and putting tags on  
8 them?

9 A Yes, sir.

10 Q Do you know if after he did that there were any that  
11 turned up without tags on them?

12 A No, sir, I don't.

13 Q Did you ever have a complete inventory of what you had  
14 in that loft?

15 A You mean regarding this particular case?

16 Q Right.

17 A Once it was all property tagged, I take the property  
18 tags, the large half. It's removed, a location is  
19 written on the large half of the tag and the large half  
20 of the tag is filed.

21 After it's entered into a property book, it's filed  
22 numerically. So I would have probably had a complete  
23 inventory at that time.

24 Q Did you check to see whether everything had a tag on it  
25 or did you just trust --

26 A I don't specifically remember if I checked every item,

-5

1 but to the best of my knowledge, every large tag I tore  
2 off, there was a small tag attached to it and there was  
3 on every piece of property.

4 Q Did you affix the tags or someone else?

5 A Someone else affixes the tags.

6 Q So the only record that you would have is the stub end  
7 of the tag that you were given; is that right?

8 A Yes, sir.

9 Q When you went back to Texas, did you keep any records of  
10 where on the various items the lifts were taken from?

11 A No, sir, I did not.

12 Q The photographs that you brought back, they focus on  
13 just the print itself?

14 A Yes, sir.

15 Q There is not very much background to it?

16 A That's true.

17 Q You can't locate the location of the print from the  
18 photograph; is that right?

19 A That's true.

20 Q So there is no way of knowing now where on those various  
21 items the prints came from; is that correct?

22 A That's true.

23 Q Why didn't you make notes of where they were developed?

24 A It has been my understanding that that's irrelevant.

25 Q Who told you that?

26 A I spent nearly six years in Identification and it has

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1-6

1 always been my finding if an item has been removed from  
2 a crime scene, it doesn't matter where that print is on  
3 that item. You know, it doesn't matter as long as the  
4 prints are on that item or are not, that's more important  
5 than where.

6 Q When you were still in the I.D. Bureau, did you  
7 supervise some comparisons of prints?

8 A I did, yes, sir.

9 Q And that including those in the Ryen case?

10 A I don't believe I supervised those. I believe that was  
11 Lieutenant Bellomy. I may have supervised some of them,  
12 yes, sir, but I do not believe I did.

13 Q Mr. Bellomy and you have the same initials, is that right,  
14 "D.B."?

15 A Yes.

16 Q But you write yours, "D.C.B." and he writes his "D.A.B.";  
17 is that right?

18 A I believe so, yes.

19 Q I would like to show you Exhibit 272-A and a page that  
20 is labeled "latent prints from Ryen residence lifted by  
21 Deputy Duffy, found not suitable for comparison".

22 Showing you particularly the one on the right-hand  
23 side of that particular page, there is an "N.S.C."  
24 underlined, then it looks like "D.C.B.". Are those  
25 your initials?

26 A Yes.

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- 1 Q What did those initials and letters signify?
- 2 A "N.S.C."?
- 3 Q Yes.
- 4 A That means "not suitable for comparison".
- 5 Q The fact that you put your initials on there, that means
- 6 that you --
- 7 A Looked at that.
- 8 Q And determined that it was not suitable for comparison?
- 9 A Yes, sir.
- 10 Q Do you make it a practice that of the prints that you
- 11 do look at that you put your initials somewhere on the
- 12 card?
- 13 A I would like to say yes, I do. I make it a practice,
- 14 but there may be times that I did not.
- 15 Q Do you recall whether, having seen your initials on one
- 16 of those cards, do you recall whether or not you did
- 17 then supervise Ms. Punter in her work of comparisons?
- 18 A I would say I assisted her, yes. I don't know if
- 19 "supervised" is a good word. I assisted her.
- 20 Q Does "assist" mean that when she came up with a
- 21 conclusion either that this was not made by a particular
- 22 person or it was or that the print was not suitable for
- 23 comparison, that you did an independent analysis and
- 24 then compared your results?
- 25 A Myself or someone else would, yes.
- 26 Q Do you recall her going through the various prints that

2 | A Yes, sir.

5 Showing you page A, the orange A out of 272-A,  
6 some palm prints that were lifted by Mr. Roper.

11 THE COURT: I think it's persuasive, Mr. Negus.  
12 Sustained.

15 | A I don't believe so, sir.

17

19 BY MR. KOCHIS:

25 A I cleared a spot on the upper level, the mezzanine.  
26 I have a freight elevator. I put it on the freight

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3 Q Did you comingle the items that C.C.D. brought in with  
4 any other property that was in the loft at the time?

6 Q In June of 1983, was there any Sheriff's policy that  
7 mandated that immediately upon storage of an item in the  
8 I.D. loft that it must be property tagged?

10 Q In June of 1983, when you had custody of that building,  
11 was it an acceptable practice to have officers return  
12 later either the next day or a day or so after that to  
13 tag items that had been left at the I.D. loft?

15     0     Was that in fact done in this case?

17 Q Were you present when officers later returned to tag  
18 the property that had been left in the loft by the  
19 C.C.D. unit?

21 Q In June of 1983, was that building a locked building?

23 Q Who, if anyone, had keys to that building?

25 Q For anyone to get inside that building, would they have  
26 to contact either you or Lieutenant Bellomy?

1-10

1 A Yes, sir.

2 Q Did you have in June of 1983 separate storage bins at  
3 the I.D. loft?

4 A In the loft?

5 Q In the I.D. building.

6 A Downstairs is divided into 14 rooms. We kept active  
7 evidence downstairs. The loft itself had no storage bins  
8 for evidence. It was generally for large property,  
9 washers, dryers, lathes, whatever was picked up.

10 (No omissions.)

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- 1 Q Did you have bins downstairs, storage bins?
- 2 A I had rooms and bins, yes, sir.
- 3 Q Were any of the bins downstairs large enough to store
- 4 all the items of property that the CCD unit brought in
- 5 on June 6th?
- 6 A No, sir.
- 7 Q Were any of the doors to the rooms downstairs large
- 8 enough to allow all the items that the CCD unit brought
- 9 in to be put in one particular room?
- 10 A No, sir.
- 11 Q In June of 1983, were you aware of whether or not any
- 12 section of the room to that building had leaked?
- 13 A Yes, sir, it had.
- 14 Q Which sections were you aware of in June?
- 15 A The east, would be southeast section leaks, or leaked.
- 16 Q Did you take that information into consideration when
- 17 you made a decision as to where to store the Ryen
- 18 furniture?
- 19 A That was one of the considerations, yes, sir.
- 20 Q And which portion of the loft did you store it in?
- 21 A Southwest corner -- southwest area.
- 22 Q And was that away from the area which you in June knew
- 23 to leak from time to time?
- 24 A Yes, sir.
- 25 Q The laser process that Mr. Negus asked you about that
- 26 took place in Texas, is that essentially a photographic

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- 1 process?
- 2 A Yes, sir, it is.
- 3 Q Do you apply some type of light to a particular object?
- 4 A Yes, sir, you do; Argon Ion.
- 5 Q And then with the camera, do you take pictures of the
- 6 object when the light is on it?
- 7 A Yes, sir.
- 8 Q Does the light itself do anything to raise the prints
- 9 off an object?
- 10 A The prints aren't lifted off the object, sir. They're
- 11 just photographed on the object itself.
- 12 Q So this laser process is simply taking a series of
- 13 photographs?
- 14 A Yes, sir.
- 15 Q Did you bring all the negatives that were taken in
- 16 Texas of the hatchet back to San Bernardino?
- 17 A Yes, I did.
- 18 Q Did you bring all the negatives that were taken of the
- 19 other objects that you took to Texas that have been
- 20 photographed through laser photography?
- 21 A Yes, sir.
- 22 Q In the Ryen homicide case, if you would have conducted
- 23 an examination, an independent examination of a print,
- 24 would you have placed your initials on the print card?
- 25 A Yes, sir.
- 26 Q Would you have noted in any fashion the results of your

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1 comparison?

2 A Yes, sir, as I did in that one.

3 Q The one example Mr. Negus directed your attention to?

4 A Yes, sir.

5 MR. KOCHIS: If I could have just a moment, Your Honor.

6 Your Honor, if I could have these pieces of paper  
7 marked as one exhibit.

8 Q (BY MR. KOCHIS:) Directing your attention, Sergeant  
9 Baker, to an item which has been marked for identification  
10 as Exhibit H-280, which appears to be several Xerox pages,  
11 could you examine those pages for a moment.

12 Have you had the opportunity to examine the various  
13 pages of Exhibit H-280?

14 A Yes, sir, I have.

15 Q And do they appear to be Xeroxed copies of sheriff's  
16 property tags?

17 A Yes, sir, they do.

18 Q And do they appear to be Xeroxed copies of the property  
19 tags that were placed on items of evidence in the Ryen-  
20 Hughes homicides that were stored in central I.D.?

21 A Yes, sir, they do, most of them.

22 Q Are there items on there that do not appear to be stored  
23 in the sheriff's I.D.?

24 A Yes, sir.

25 Q Of the items -- of the cards that reflect items that  
26 were stored in central property are those the portions



1 of the tag that are placed on the items or in your  
2 file cabinet?

3 A Those were placed in the three-by-five card file.

4 Q So that you can later retrieve an item?

5 A Yes, sir.

6 Q And does each card -- do the cards contain a description  
7 of the various items that were stored?

8 A Yes, sir.

9 Q And do they indicate by date when the tags were placed  
10 on the items?

11 A There's a date on the tag, yes, sir.

12 Q And do they indicate the person who collected the item?

13 A Yes, sir, they do, or -- I would say yes, recovered by.

14 Q Were you yourself present when items that were placed  
15 in the loft by CCD were tagged by members of the  
16 sheriff's department?

17 A I <sup>was</sup> present, yes, sir.

18 Q Is it fair to say that you left the tagging up to them?

19 A Yes, sir.

20 Q And when they were done tagging, they would then give  
21 you the cards, the section of the cards that you would  
22 file in the file cabinet?

23 A My policy is that they leave the tags once they've tagged  
24 it, leave it alone, and then I'll remove the large part  
25 of the tag.

26 Q Is that what happened in this particular case?

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1 A I believe it was.

2 Q So you would then go up to the loft and when they had  
3 left you would go around and tear the cards in half?

4 A Yes, sir.

5 Q And take the portions which are represented by the Xeroxed  
6 document in front of you and place that in the file  
7 cabinet?

8 A Yes, sir. I would write a location on the large portion  
9 of the tag. That way when I removed the large portion  
10 I know where that item is going to be going or where  
11 it is.

12 Q In June of 1983, did you have the facilities in the  
13 identification bureau, specifically the building located  
14 on Sierra Way, to freeze, to store in a freezer, a piece  
15 of carpet that was approximately 16 feet by 14 feet?

16 A No, sir.

17 MR. KOCHIS: I have nothing further.

18

19 REDIRECT EXAMINATION

20 BY MR. NEGUS:

21 Q Looking at the exhibit that Mr. Kochis just gave you,  
22 do the property tags of the stuff that was stored in  
23 the I.D. bureau appear to have an underlining under the  
24 number and the property tags that appear to be stored  
25 elsewhere appear to have a circle around the number?

26 A It doesn't look like that's the case in every case, sir,

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1 but --

2 Q What are the exceptions that you see?

3 A There's an exception on property tag A-57661. It  
4 indicates ER-6, which is a -- my writing for evidence  
5 room No. 6. And it is circled.

6 Q Aside from that exception, is that the case?

7 A Appears to be two other examples on that page.

8 Q And those would be?

9 A The bathroom carpet and a beige carpet from the hallway.

10 Q They're both underlined, though; is that correct?

11 A Yes, they are.

12 Q Would they have been at yours, or they would not have been  
13 at yours, are you saying?

14 A They would be at mine.

15 Q So with the exception of that one that you mentioned,  
16 the underlined are the ones that were at yours; is that  
17 right?

18 A Yes, sir.

19 Q Are those of the property cards, the underlined ones,  
20 of the property for the property that you received at  
21 I.D.?

22 A You mean concerning this case?

23 Q Yes.

24 A I couldn't tell you without looking through my books.

25 Q Do you have any sort of records by DR number or something  
26 like that?

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- 1 A Yes, sir, we do.
- 2 Q Showing you Exhibit H-221, which appears to be a two-
- 3 page police report which includes a list of property,
- 4 did you ever see such a list, either that list or one
- 5 similar?
- 6 A I don't remember seeing it. I may have, but I don't
- 7 remember.
- 8 Q Just looking over that list, do you remember seeing all
- 9 of the items on that list in the property?
- 10 A Some of them I specifically remember, but I can't
- 11 honestly say I remember seeing each and every item.
- 12 Q Do you remember seeing anything that's not on the list?
- 13 A We're talking about the items that were brought in by
- 14 CCD at that particular time period --
- 15 Q Yes.
- 16 A -- or the total number of items that were brought in?
- 17 Q In the items that were brought in by CCD at that
- 18 particular time.
- 19 A I don't remember seeing anything that's not on this list,
- 20 sir.
- 21 Q Do you ever remember seeing a clock radio brought in
- 22 amongst the items?
- 23 A Not specifically, no, sir.
- 24 Q What about a calculator?
- 25 A Not specifically.
- 26 Q Do you have any procedures in your I.D. bureau for taking

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1 items that may be of some value and segregating them  
2 from other items?

3 A Yes, sir, we do.

4 Q Would a calculator and radio be among some items that  
5 had some value?

6 A No, sir.

7 Q In addition to yourself and Mr. Bellomy, other people  
8 have access to that building; is that correct? As long  
9 as you open the door for them?

10 A If I open the door, yes, sir, they have access.

11 Q Are there trustees -- that is, people who are serving  
12 time in jail -- which work for the I.D. bureau?

13 A No, sir.

14 Q Are any trustees ever allowed in the building?

15 A They're allowed in the building. They do little things  
16 like move items in just inside the door and then they  
17 leave.

18 Q Do they clean the building?

19 A No, sir. I cleaned the building.

20 Q When the laser process is being carried out, did Mr.  
21 Menslo treat some of the items with chemicals?

22 A Yes, sir, he did.

23 Q And the purpose of that is to allow the Argon Ion light  
24 to let the natural fluorescers that are deposited when  
25 one touches something to glow in the dark or glow; is  
26 that correct?

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Q (BY MR. NEGUS:) Have you studied Dr. Menslo's procedures?

Q And you say you were in I.D. for six years?

(No omissions.)

3-1

1 Q And Dr. Menzel is, if not the leading, he is one of the  
2 leading practitioners in developing fingerprints in the  
3 United States?

4 A It's my understanding that he is a leader in the nation  
5 as far as argon laser work.

6 Q Is the explanation that I just gave about the use of  
7 chemicals to develop flourescers and photographs can  
8 be taken, was that the information he gave you?

9 A That's the theory, yes, sir.

10 MR. NEGUS: Nothing further.

11 MR. KOCHIS: No recross.

12 THE COURT: You may step down.

13 (Witness excused.)

14 MR. NEGUS: Mr. Stockwell.

15

16 D A V I D C. S T O C K W E L L, called as a  
17 witness by and on behalf of the defendant, was  
18 duly sworn, examined and testified as follows:

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

23 THE WITNESS: I do.

24 THE CLERK: Please be seated.

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

3-2

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

2  
3 DIRECT EXAMINATION

4 BY MR. NEGUS:

5 Q Mr. Stockwell, you are a criminalist employed by the  
6 San Bernardino County Sheriff's Office; is that correct?

7 A Yes.

8 Q And in June of 1983, how long had you held that  
9 position?

10 A A little under one year.

11 Q On June 5th, 1983, were you the assigned on-call  
12 criminalist for that day?

13 A Yes.

14 Q Was there anybody else in the Crime Lab who was assigned  
15 to work with you as a criminalist?

16 A There was nobody assigned to work with me as such. One  
17 other criminalist did work with me that day.

18 Q How did that happen?

19 A I was called at approximately 1300 hours that day by  
20 my supervisor Bill Baird who told me there had been a  
21 quadruple homicide in the West End area and I requested  
22 that I have another criminalist assist me and he okayed  
23 that and I contacted Miss Schechter.

24 Q Miss Schechter at that point in time had had  
25 approximately the same amount of time with the  
26 Sheriff's Office as yourself?

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- 1 A She had additional time as a reserve officer but not  
2 in the duty of being a criminalist.
- 3 Q And her criminalistics experience was approximately the  
4 same as yours?
- 5 A In the laboratory, yes.
- 6 Q Was she functioning at that point in time as essentially  
7 a person who was coming along with other criminalists  
8 to learn?
- 9 A No.
- 10 Q On June 5th, 1983, did you feel that you had enough  
11 background, training and experience to process a  
12 quadruple homicide?
- 13 A Yes, I felt so.
- 14 Q During the period of time that you were working on  
15 June 5th, the only supervisor at the scene was  
16 Mr. Baird; is that correct?
- 17 A Yes, he was there.
- 18 Q However, he was not directly involved in supervising  
19 your work; is that correct?
- 20 A Yes, he was. He was there before I was. He assisted  
21 the situation from the outset. He conferred with me  
22 when I arrived at the scene, told me certain things that  
23 he had already noticed and certain things that should  
24 be done.
- 25 Q After he had that conference with you, he left shortly  
26 thereafter; is that correct?

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3-4

- 1 A He left within several hours after that, yes.
- 2 Q Do you know how long he stayed there?
- 3 A Not exactly, no.
- 4 Q Did you have any more conferences with him after that
- 5 first one?
- 6 A On that particular day, I don't recall any.
- 7 Q At the time that you were assigned to the Ryen
- 8 investigation, were you familiar with the procedures
- 9 and policies of the San Bernardino Sheriff's Office with
- 10 respect to gathering evidence?
- 11 A Yes.
- 12 Q What had you been -- Had you been furnished any written
- 13 documents by the Sheriff's Office in that regard?
- 14 A I was not furnished any written documents as to that, no.
- 15 Q Were you aware of any written policies in the Sheriff's
- 16 Office at that time?
- 17 A I realized that there are some policies which are
- 18 distributed within the department for other personnel.
- 19 Q Were you familiar with those?
- 20 A More or less. They are basically just general provisions
- 21 within criminalistics as to how to handle evidence.
- 22 Q When you arrived at the Sheriff's Department as a
- 23 criminalist and began work for them as a criminalist,
- 24 were you given any on-the-job training?
- 25 A In what regard?
- 26 Q Processing crime scenes, preserving evidence.

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26 Q Is it your understanding that the standards for

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1 collecting and preserving evidence for nontrained  
2 criminalists are in any way higher than that which  
3 would be required of a criminalist?

4 A I would say that any person who has training in  
5 criminalistics should be able to collect evidence as  
6 well as that policy procedure states, if not better, by  
7 his training.

8 Q When you got to the Crime Lab -- There is a fairly  
9 extensive library of criminalistic literature in the  
10 Crime Lab; is that correct?

11 A Yes.

12 Q Were you required to have familiarity with any particular  
13 part of that literature as part of your job?

14 A Was I told to read any particular books?

15 Q Were you required, either told to read or asked if you  
16 had read before you started any particular body of  
17 literature that is part of the training and qualifications  
18 for your job?

19 A No.

20 Q Were there any textbooks in criminalistics which had to  
21 do with the collection and preservation of evidence that  
22 as just part of your education background or other  
23 reading that you were aware of and relying on?

24 A There are several literature sources which I have used  
25 in my educational background in my college years, most  
26 notably Saferstein and his various books on the subject.

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3-7

1 He has two that I'm aware of.

2 Q One called Methods in Forensic Science and the other  
3 is Forensic Science Handbook?

4 A Yes.

5 Q Are those the two books that you most particularly relied  
6 on in collecting and preserving evidence?

7 A I don't really find the connection. That was an  
8 integral part of my education and, therefore, I'm sure  
9 I used principles put forth in that book. But that I  
10 relied mostly on that book, I wouldn't say that, no.

11 Q What else did you rely on?

12 A My own common sense for one. Knowing the type of  
13 evidence that we most commonly work with in the  
14 laboratory and the best way to collect and preserve  
15 that evidence.

16 Q Showing you document H-195, which appears to be titled  
17 "San Bernardino County Sheriff's Office Training  
18 Division Identification, Collection and Preservation  
19 of Evidence". There are some 42 pages of mimeographed  
20 material.

21 Were you familiar with that particular document  
22 at the time?

23 A That that time, June 5th, 1983, I was not aware of this  
24 particular document. Since that time, I have become  
25 aware of it, yes.

26 Q And that was in the spring when you went to the Academy?

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3-8

- 1 A Yes.
- 2 Q Showing you a document which has been labeled H-279,  
3 which consists of another approximately 38 pages,  
4 labeled "Evidence Collection Outline", were you  
5 familiar with that document in June of 1983?
- 6 A No.
- 7 Q What time did you arrive at the Ryen residence?
- 8 A I believe it was around 1400 hours.
- 9 Q Did you make any record of that?
- 10 A I only have the date listed on my initial notes on that  
11 case.
- 12 Q Is it possible that it was 2:45?
- 13 A It could have been.
- 14 Q Did you have any trouble like finding the place?
- 15 A Initially, when Miss Schechter and I arrived at the  
16 scene, the first place that we stopped was an area on  
17 English Road where there were several Sheriff's cars,  
18 and that's usually our indication of where a particular  
19 scene would be.
- 20 We found out soon after, within 15 minutes, that  
21 that was not the actual scene. That the actual scene  
22 was on a hilltop.
- 23 Q Was that a roadblock that you stopped at?
- 24 A At the time, I wouldn't consider it a roadblock, no.
- 25 Q Was that at the corner of Peyton Road and Old English  
26 ///

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3-9

1 Road?

2 A No, it was not at that corner.

3 Q Where was it?

4 A It was on English Road. I would have to consult my  
5 notes to really define where that was.

6 Q Help yourself.

7 MR. KOCHIS: Your Honor, I would object. Not being  
8 relevant.

9 THE COURT: Counsel, we go into some blow-by-blow  
10 testimony that I really don't think is important at all.

11 MR. NEGUS: If I could be heard outside the  
12 presence of the witness, I will be glad to tell you why I  
13 think it is important.

14 THE COURT: Maybe it's all going to dawn someday,  
15 but precisely from this witness where he stopped along the  
16 way in getting there, I can't see how that is.

17 MR. NEGUS: If I can be heard outside the presence  
18 of the witness?

19 THE COURT: No. I will trust, Mr. Negus, you know  
20 what you are doing. That's what I'm having to do.

21 Go ahead.

22 THE WITNESS: It would be very close to 3217 English  
23 Road.

24 Q (BY MR. NEGUS) Did you spend any particular time at  
25 that location?

26 MR. KOCHIS: Objection. Irrelevant.

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3-10

1 THE COURT: Overruled. I don't know if it is or not,  
2 Mr. Kochis, but rather than stop, overruled.

3 THE WITNESS: As I said, I spent possibly 15 minutes  
4 at that point.

5 Q (BY MR. NEGUS) What were you doing?

6 A First we were unloading the unit with a typical crime  
7 scene kit. Then we proceeded to a house where we saw  
8 one of the Deputy Sheriffs and asked him if that was the  
9 scene. He responded, "No".

10 Then we had to get directions from him as to how to  
11 get to the particular scene.

12 Q After you left that scene, did you have any other stops  
13 on the way to the Ryen house?

14 A No.

15 Q Once you got to the Ryen house, did you ever leave it?

16 A Excuse me. What did you say?

17 Q Once you got to the Ryen house, did you ever leave it  
18 on June the 5th?

19 A I may have left the grounds superficially. Our Crime  
20 Lab unit was still there. I was searching the grounds.  
21 I may have left the actual property of the Ryen house,  
22 but I did not go anywhere in the unit or anything like  
23 that.

24 (No omissions.)  
25  
26



1 Q Specifically did you ever go down to a location right  
2 next door to where you'd originally stopped to look at  
3 a hatchet?  
4 A Yes.  
5 Q When was that?  
6 A I don't recall specifically. That was with Mr. Baird  
7 before he had left.  
8 Q And you did leave the house?  
9 A I left, but with Mr. Baird.  
10 Q Whether you went with Mr. Baird, Mrs. Schechter, or who-  
11 ever, you did leave?  
12 A Yes, I did not recall it until you brought that to mind.  
13 Q And approximately what time was that?  
14 A I don't recall.  
15 Q Had you started work on the processing of the Ryen house  
16 at that time?  
17 A That I don't recall.  
18 Q When you went to look at the hatchet with Mr. Baird, did  
19 you make contact with Mr. Roper?  
20 A Detective Roper?  
21 Q Yes.  
22 A Yes.  
23 Q Did he show you the hatchet?  
24 A Yes, he did.  
25 Q Did you have any discussion about what to do with the  
26 hatchet?

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1 A Yes.

2 Q And what was that?

3 A The discussion took the form of the relative importance  
4 of the evidence. We knew that the bodies in the house  
5 had been hacked and/or stabbed numerous times, so the  
6 weapon could very well have been consistent at that  
7 time with being a hatchet. This particular hatchet  
8 appeared to have bloodstains on it, and Detective Roper  
9 wished to process that hatchet for latent fingerprints.

10 Our discussion took the form of which was more  
11 important, the blood work that was possible or the  
12 possible latent fingerprints that could be retrieved from  
13 the hatchet.

14 Q Had you actually seen the crime scene yourself at the  
15 time that you had the conversation with Mr. Roper?

16 A Yes.

17 Q Had you been inside and looked around?

18 A Very briefly.

19 Q When you had this discussion with Mr. Roper, what were  
20 the trade-offs in the blood versus fingerprints discussion?  
21 I mean, were they incompatible?

22 A In seeing how the evidence would be collected from  
23 the item in this case the hatchet, Mr. Roper was talking  
24 to us about some of the methods he wished to use on the  
25 hatchet, one of those methods being the cyano acrylate  
26 process or Super Glue technique. And it was his information

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4 Q Did he say genetic markers of the blood?

8 Q Well, Mr. Baird is not a serologist, right?

9 | A. No.

12 | A. No.

16 | A. Yes.

19 A. Yes.

22 A Yes, I have.

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

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1 believe the testimony was Mr. Roper said something, not Mr. Baird

2 MR. NEGUS: I stand corrected, and I'll rephrase the  
3 question.

4 Q (BY MR. NEGUS:) Did you try and clarify for Mr. Roper  
5 the difference between ABO typing and protein typing?

6 A No, I didn't clarify as to what he meant by blood typing  
7 to him.

8 Q Well, did you ask any questions to try and clarify for  
9 yourself what effect cyano acrylate would have on the  
10 various substances?

11 A In discussing the matter with Mr. Baird and Mr. Roper,  
12 I told them that I was not aware of any particular  
13 studies of what that processing would have on the blood.  
14 I am not a latent fingerprint expert, and I'm not all  
15 that familiar with the method. Mr. Roper apparently  
16 has done some reading on that subject.

17 Q Well, ABO substances are basically what kind of chemicals?

18 A They are carbohydrate chains -- that is, sugars -- which  
19 are attached to proteins of the cellular surfaces.

20 Q The things that will -- the kinds of chemicals that will  
21 have a disintegrating or bad effect on the carbohydrates  
22 are quite different than they'll have bad effects on the  
23 proteins; is that correct?

24 A Yes. In general it's harder to denaturize sugar than  
25 it is a protein.

26 Q In your experience as a criminalist, have you noted that

1 many of your fellow officers who are not criminalists  
2 have a great deal of ignorance that there even exist  
3 protein markers in blood?

4 A I'm sure there are many people out there that don't know  
5 that.

6 Q Do you know what class of chemical cyano acrylate is?

7 A I know what the term refers to.

8 Q Do you know the likely effect of cyano acrylate on proteins?

9 A Not by just being told that you are reacting cyano  
10 acrylate with proteins, no, I don't know what sort of  
11 reaction is going to occur.

12 Q At that point in time were you familiar with a journal  
13 called the Canadian Forensic Science Society Journal?

14 A The Journal of Canadian Forensic Sciences, yes.

15 Q Had you read a 1980 article by a <sup>man</sup> named Shulter who is a  
16 serologist for the Royal Canadian Mountain Police on  
17 the effects of Super Glue on blood?

18 A I don't recall reading any such article, no.

19 Q Did you receive an article from Mr. Kochis about the  
20 effects of Super Glue on blood typing?

21 A Very recently Mr. Gregonis showed me an article. It had  
22 to do with various fingerprinting methods and the  
23 reagents used in those methods and their effects on blood.

24 Q Super Glue or the cyano acrylate was one of the ones that  
25 they considered, right?

26 A Yes.

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2 | A. No, I was not.

6 MR. KOCHIS: Well, I'm going to object. That assumes  
7 a fact that's not in evidence, that was based on an  
8 assumption rather than something Mr. Roper said.

10 Q. (BY MR. NEGUS:) In your conversation did you reach  
11 a consensus that the Super Glue technique would not  
12 affect the ability to type the blood on the hatchet?

16 Q What was the point of the consensus?

22 Q So in essence the decision was to sacrifice the blood  
23 in order to get fingerprints?

25 Q Oh. Was that the essence of your decision?

26 A The essence of our decision was to go ahead with the

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1 fingerprinting method first and collect the blood after  
2 that.

3 Q Did you decide to take the risk that fingerprinting  
4 would destroy the blood?

5 MR. KOCHIS: Objection, that assumes a fact that's  
6 not in evidence, that there's a risk involved with Dura-Print.

7 THE COURT: Overruled.

8 Did you?

9 THE WITNESS: Basically that was the essence of what  
10 we were saying. We did not know in particular at that time  
11 that the testing method would or would not destroy any  
12 blood enzymes, proteins, or even the genetic markers such  
13 as ABO system. But we decided that the most important type  
14 of physical evidence that could be derived would be finger-  
15 prints.

16 Q (BY MR. NEGUS:) Was it possible to remove blood from  
17 that hatchet without disturbing any possible fingerprints?

18 MR. KOCHIS: Objection, that calls for speculation  
19 on his part.

20 THE COURT: I don't think he's qualified to give  
21 that, Mr. Negus, if I caught the question. Maybe -- ask it  
22 again, please.

23 Q (BY MR. NEGUS:) Basically one of your areas of training  
24 is collecting blood samples, right?

25 A Yes.

26 Q And part of the problem of collecting blood is to be

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1       able to do it without disturbing fingerprints; correct?

2   A    That is sometimes the case, yes.

3   Q    You've had training and discussions with people about  
4       that particular problem, right?

5   A    Yes.

6   Q    Are you aware of what sort of surfaces fingerprints can  
7       be developed on?

8   A    In general, yes.

9   Q    Was there blood on that hatchet on surfaces where no  
10       fingerprint could be developed?

11       MR. KOCHIS:  Objection, no foundation as to his  
12       knowledge of where prints can be developed, on what type of  
13       surfaces.

14       THE COURT:  Counsel, I assume he's asking about  
15       wood or metal in general terms.  Overruled.

16       THE WITNESS:  There was blood on several areas of  
17       the hatchet, most notably on the metal surfaces of the blade.

18   Q    (BY MR. NEGUS:)  And on that blade there were narrow  
19       surfaces as well as wide surfaces; correct?

20   A    Yes.

21   Q    Both the narrow and the wide had blood on them, right?

22   A    I don't recall right now.

23   Q    The narrow edge of the ax is not going to yield any  
24       fingerprints, correct?

25       MR. KOCHIS:  Objection, no foundation on his part.

26       THE COURT:  I'll overrule the objection.

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1 THE WITNESS: By narrow surface, I assume you're  
2 talking about like the cutting blade or the back end of the  
3 hatchet.

4 Q (BY MR. NEGUS:) Showing you S-26, that's the hatchet,  
5 correct?

6 A Yes.

7 Q On this particular hatchet, there was between the two  
8 cutting edges a very narrow surface that followed the  
9 edge of the blade, is that correct, on both top and  
10 bottom?

11 A Yes. It's kind of hard to describe in words what you're  
12 speaking of. I know what you're saying.

13 (No omissions.)  
14  
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5-1  
1 Q In that particular surface, there was blood on that,  
2 right?

3 A I can't tell from this photograph if there is blood  
4 there or not.

5 Q Assuming that there was, did you have the skill to take  
6 the blood off that surface without disturbing any  
7 fingerprints that might be on the blade, part of the  
8 blade or the handle?

9 A Assuming if there was blood there, it's possible to  
10 collect blood from that portion. However, it would be  
11 a very minute amount of blood.

12 Q Were there hairs sticking on it?

13 A At that time, I wasn't aware of them. Later on, we were  
14 called by Identification and they told us of hair that  
15 had been attached to the hatchet.

16 Q Can you lift hairs with a tweezer off of the surface of  
17 a hatchet without disturbing the surrounding area?

18 A Yes.

19 Q The amount of blood necessary to do one electrophoretic  
20 test for three or four different enzymes, can you have  
21 that amount of blood on one approximately a little over  
22 one inch hair?

23 A That could be possible.

24 Q Did you have any discussion with Mr. Roper and Mr. Baird  
25 about trying to get the blood off there without disturbing  
26 any fingerprints before any decision was made?

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5-2

1 A I don't recall at that time we actually spoke of  
2 possibly removing the blood from the hatchet before  
3 the fingerprint method was used.

4 Q Did you have your little ortho-tolidine kits with you  
5 at the time?

6 A I don't recall having it, no.

7 Q Did you have it back up at the Ryen crime scene?

8 A I don't believe so. Not on that particular day.

9 Q How long did this trip with Mr. Baird down to see  
10 Mr. Roper last?

11 A Anywhere between 15 minutes and a half hour.

12 Q Did Miss Schechter go with you?

13 A No.

14 Q Was she inside the bedroom when you left?

15 A I don't recall.

16 Q When you began to process the master bedroom, how much  
17 time did you spend analyzing the scene before you  
18 actually began to pick objects up?

19 A In certain instances, very little time. For instance,  
20 the very first item collected was a hair from the  
21 sliding screen door. Evidence that could be transient,  
22 a pop of wind would blow it away, it was more important  
23 to collect it rather than going through and analyzing  
24 the entire situation before collecting it. Other  
25 pieces of evidence in the case took longer. Certain  
26 things had to be moved.

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5-J 1 For instance, the bodies would have to be moved to  
2 make way for some of my equipment and easier access to  
3 areas before I could collect them.

4 Q You took the hair right away, then; is that right?

5 A Yes.

6 Q How much time did you spend, then, looking over the  
7 scene and analyzing the scene before you began collecting  
8 evidence actually from inside the master bedroom?

9 A Some items were moved, I would say, within an hour.  
10 For instance, items from the bed.

11 Q But how much time did you spend analyzing the scene  
12 before you began collecting stuff?

13 A In the case of the hair, no time whatsoever. In the  
14 case of the blood samples which I collected after the  
15 bodies were taken, I spent a lot of time, as much as  
16 maybe five or six hours. It depends on the kind of  
17 evidence.

18 THE COURT: Hold on a minute. I will be right back.

19 MR. KOCHIS: Should we take our break?

20 THE COURT: Let's take the morning recess.

21 (Whereupon the morning recess was taken.)

22 THE COURT: Go ahead.

23 Q (BY MR. NEGUS) I think we are still trying to figure  
24 out -- Well, you picked up seven items of evidence in  
25 the first 45 minutes that you were at the crime scene;  
26 is that right? Eight times. Excuse me.

5-4

- 1 A I wouldn't say it was the first 45 minutes.
- 2 Q Well, if you are logged as arriving at 2:45, item 8
- 3 was picked up at 3:27; is that right?
- 4 A That's the time set for it, yes.
- 5 Q And did you pick up items A-1 through A-8 in order?
- 6 A Yes.
- 7 Q So if you arrived at 2:45 and A-8 was picked up at
- 8 3:27, then the first eight items were within 45 minutes,
- 9 right?
- 10 A If I did indeed arrive at 1445 hours.
- 11 Q You have no record yourself of when you arrived?
- 12 A I didn't record that information, no.
- 13 Q And was Mr. Hall there when you arrived, Mike Hall?
- 14 A Mike Hall, yes.
- 15 Q And was he in charge of the crime scene?
- 16 A In charge. He was there. He was working in conjunction
- 17 with Sergeant Arthur.
- 18 Q Sergeant Arthur was not processing and taking measurements?•
- 19 He was supervising the whole scene, right?
- 20 A The whole scene, exactly.
- 21 Q And the whole investigation?
- 22 A That's right. Mike Hall was, for the most part, the
- 23 person taking information inside the house.
- 24 Q When you arrived at the residence, did you also radio
- 25 in to the dispatcher that you were there?
- 26 A I believe I radioed in that I had arrived at the scene

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1 when I first arrived at that first spot on English Road.

2 Q And did you radio again when you actually got to the  
3 Ryen scene?

4 A I don't believe so, no.

5 Q And what code number were you using that particular day?  
6 Do you know?

7 A My code is 42 Adam 7.

8 Q Do you have any present recollection of how long you  
9 thought before you started working on the bed?

10 A Thought about what? I don't know what you mean by your  
11 question there.

12 Q In the criminalistic literature, is there advice given  
13 to the people that the criminalists are trying to teach  
14 that before you start actually taking any evidence of a  
15 crime scene, you should sit down and think, analyze the  
16 evidence that you can see with your naked eyes and try  
17 and figure out what happened so that you can make  
18 intelligent choices about how to proceed to collect  
19 the evidence?

20 A In certain circumstances, that's what I do. In other  
21 circumstances where evidence might be lost if there is  
22 a time delay, no, I don't take time to think about it.  
23 I seize it.

24 Q So if you are on a crowded street and there is traffic  
25 all around, you may not have time to analyze the scene.  
26 But when you have it corded off, the scene is protected

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5-6

1 by roadblocks and many, many Sheriff's officers, then  
2 you can think, correct?

3 A You would be allowed more time to think, yes.

4 Q Did anybody rush you at the Ryen crime scene, tell you  
5 you didn't have enough time to do whatever analysis you  
6 needed?

7 A No.

8 Q Would the advice that I have mentioned to you have  
9 applied to the Ryen crime scene that you should take  
10 time to thoroughly analyze the scene before you start  
11 doing it?

12 A To thoroughly analyze that scene, I would have waited  
13 until the next day depicting all the sundry information,  
14 but that wouldn't help me either because I can't stay  
15 up that long physically. You start at a portion of the  
16 house and you analyze that. That's not analyzing the  
17 entire scene. You begin to collect evidence in that  
18 section.

19 So I started at the door, sliding screen door,  
20 proceeding to the bed, which was very close to the  
21 sliding screen door, and from there throughout the scene.

22 Q To proceed from the sliding door to the bed, you had to  
23 go past a couple of victims, a bunch of bedding on the  
24 floor, an exercise bicycle and many other items; is  
25 that correct?

26 A No. You are wrong.

5-7

1 Q The fourth item that you took from the bed was a  
2 tourniquet; correct?

3 THE COURT: Sorry. Was a what?

4 MR. NEGUS: Tourniquet.

5 THE WITNESS: The fourth item collected is a  
6 tourniquet, yes.

7 Q (BY MR. NEGUS) Showing you Exhibit H-151, is that the  
8 tourniquet?

9 A Yes.

10 Q Showing you Exhibit H-211, can you also see the  
11 tourniquet on a comforter on the bed?

12 A Yes.

13 Q Is that the spot that you picked it up from?

14 A I don't recall offhand if that was the exact position  
15 it was in when I collected it.

16 (No omissions.)

17

18

19

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21

22

23

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1 Q Well, had you disturbed the bedding in any way before  
2 you picked it up?

3 A I don't believe I had, no.

4 Q Do you recall when you arrived there if the bedding was  
5 in the position depicted in that Photograph H-211?

6 A To the best of my memory, that appears to be the way  
7 the bed was situated when I arrived.

8 Q Showing you Photograph H-120, that appears to be a  
9 photograph looking into that master bedroom from the  
10 screen door area; right?

11 A Yes.

12 Q And that shows what you would have seen as you walked  
13 into the room, correct?

14 A Well, with a limited field of view, yes.

15 Q In order to get past -- in order to get from door to  
16 tourniquet, you had to go past an exercise bicycle;  
17 is that correct?

18 A I wouldn't say so.

19 Q You passed between the bed and the exercise bicycle,  
20 right?

21 A This photograph shows a certain portion of the room.  
22 It doesn't show the entire room. You can also walk  
23 straight from the door to the bed and the bicycle would  
24 be off to your right.

25 Q But the portion of the bed that had the tourniquet is not  
26 the portion you could walk to directly from the door,

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1 correct?

2 MR. KOCHIS: Objection. It certainly seems not to  
3 be relevant, or if it is, it's a 352 issue as to where  
4 everything in the room was located that he might have had  
5 to pass to get to a particular object. I can't see how it  
6 is relevant to the issues in this motion.

7 THE COURT: Probably isn't, but I'll overrule the  
8 objection. Proceed.

9 THE WITNESS: You could walk to the southeast corner  
10 of the bed and be in reasonable proximity of that tourniquet.

11 Q (BY MR. NEGUS:) Is that how you did it? Did you reach  
12 over from the southeast corner without going around to  
13 the foot?

14 A No, and I don't recall what I had for lunch that day  
15 either.

16 THE COURT: Let's don't argue with Counsel.

17 THE WITNESS: Yes, sir.

18 No, sir, I don't recall if that was my exact action  
19 that day.

20 Q (BY MR. NEGUS:) But you didn't take any care to plot out  
21 removing items item by item as you entered the room,  
22 correct?

23 A I took reasonable care in doing that, yes.

24 Q How many people were in the room when you started  
25 processing?

26 A The people that I can remember being there are myself,

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1 Patricia Schechter, and Mike Hall.

2 Q Was anybody from I.D. in there?

3 A Yes, there was somebody taking photographs. I don't  
4 recall who it was at the time. It may have been Deputy  
5 Duffy.

6 Q Do you recall any other persons being there whose identity  
7 is unknown to you?

8 A At that time I don't recall anybody else being in there.

9 Q While you were starting to work, there were people arriving  
10 all the time, is that correct, outside?

11 A There were numerous people outside, yes. I don't recall  
12 exactly when they arrived.

13 Q The carpet had a lot of items of clothing on it; is that  
14 correct?

15 A Yes.

16 Q Lot of hair?

17 A Yes.

18 Q Lot of blood?

19 A Yes.

20 Q And people were walking over the carpet continuously as  
21 you worked; is that correct?

22 MR. KOCHIS: Objection, that would call for  
23 speculation on his part.

24 THE COURT: He can describe what he did, what he saw.  
25 Overruled.

26 THE WITNESS: The people that were in that room

1 definitely had to walk on the carpeting, yes.

2 Q (BY MR. NEGUS:) Did you stop to think that it might be a  
3 good idea to try and collect trace evidence off the  
4 carpet before anything else happened to it?

5 A I can't recall my exact thoughts on it. However as I  
6 recollect the scene, there were already indications  
7 that it could have been contaminated, i.e., from  
8 paramedics and that sort of -- those sorts of people.

9 Q Well, did you think the fact that it had already been  
10 somewhat contaminated meant that you should just throw  
11 up your hands and not try and protect it from any further  
12 contamination?

13 A No, but it doesn't have as much relevance as other  
14 evidence that was in the house at the time.

15 Q Did you take the items in order of relevance?

16 A Not necessarily.

17 Q Why then didn't you do the carpet first, if it was most  
18 in danger of being destroyed?

19 A I would --

20 MR. KOCHIS: Objection, that assumes a fact that's  
21 not in evidence, that the carpet was in danger of being  
22 destroyed.

23 THE COURT: Yes, the last portion is correct.  
24 Rephrase, please.

25 Q (BY MR. NEGUS:) Was the carpet the item that was  
26 receiving the most contamination when you arrived?

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1 MR. KOCHIS: Again, I'm going to object in that  
2 it assumes a fact that's not in evidence, that the carpet  
3 was being contaminated when he arrived.

4 THE COURT: Overruled.

5 THE WITNESS: Just looking at it from the aspect  
6 that there were several people in there and because of that  
7 people had to be walking on it, in looking at it that way,  
8 yes, it was being contaminated.

9 Q (BY MR. NEGUS:) And it more than any other object in  
10 the room, correct?

11 A Yes.

12 Q Why didn't you do it first?

13 A Besides the fact that it was as you put it being  
14 contaminated at the time, the evidence that was there,  
15 the very obvious struggle that had taken place between  
16 numerous victims and assailant or assailants or whatever,  
17 it would be very hard to collect evidence that would have  
18 any practical meaning that we could discern something  
19 from that.

20 Q Well, let's see. In struggles do assailants lose hairs?

21 A Yes.

22 Q Do you have any knowledge that would allow you to  
23 eliminate assailants' hairs from that particular carpet?

24 A The only real way I know of doing that is by comparing it  
25 with a known standard.

26 Q Right. And at that point in time you didn't know whether

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1       you were going to have known standards or not; is that  
2       correct?

3   A    That's correct.

4   Q    Your purpose in collecting this evidence is to try and  
5       perceive all of the different eventualities that may  
6       come up and collect whatever evidence is necessary for  
7       all those different eventualities; is that correct?

8       MR. KOCHIS: Your Honor, I'm going to object. The  
9       form of the question is argumentative in that he's trying  
10      to get this witness to agree with his proposition.

11       THE COURT: Sustained as to form. You can ask him  
12      if that was his approach.

13   Q    (BY MR. NEGUS:) Was that your approach?

14   A    I still don't quite understand that question. Was that  
15       my approach in doing what?

16   Q    In collecting evidence at the Ryen crime scene.

17   A    My approach is to collect evidence that can best be  
18       examined to give some sort of conclusive results later  
19       on.

20   Q    So hair seldom can give conclusive results; is that  
21       correct?

22   A    It can give conclusive results, that's correct.

23   Q    Basically, a hair, you say that somebody can positively  
24       identify somebody else by means of a hair?

25   A    No, you can't positively identify it. You can determine  
26       with a certain amount of accuracy consistencies between

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1 known hair and questioned hair samples.

2 Q And hair is certainly something that you fellows in  
3 the crime lab analyze, right?

4 A At times, yes.

5 Q Nothing wrong with it as evidence, right?

6 A That's right.

7 Q In your training were you ever told it's better to take  
8 more evidence than less?

9 A That is a general rule to operate on, if in doubt more  
10 evidence is better than less evidence.

11 Q Why didn't you want the hair?

12 A I didn't say I didn't want hair. We did collect hair  
13 from the bedroom. But to collect hair from the carpeting  
14 would have required vacuuming. Vacuuming somewhat  
15 requires the removal of objects.

16 In this case if you're asking me why I didn't do  
17 that first, it's very obvious. Things had to be  
18 measured, the bodies, different items that were lying  
19 on the carpeting.

20 Q You didn't start to remove items from the carpet until  
21 approximately the time that the body removers got there;  
22 is that correct?

23 A Yes.

24 Q By that time there had been numerous people from the  
25 bureau of administration, from the coroner's office,  
26 from I.D., from homicide, from the West End, who had been

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1 coming into the areas where there was significant evidence  
2 of struggle, correct?

3 A I don't recall how many of those people you've just  
4 listed actually got into the bedroom. I'm sure some of  
5 them had.

6 Q Was the bedroom the only area in the house that had  
7 significant evidence of struggle?

8 A The bedroom, the adjacent hallway, and the bathroom  
9 were the areas that I could readily note had areas of  
10 struggle.

11 Q And in taking that area, the hallway, master bathroom,  
12 master bedroom, all the different people that I mentioned  
13 were coming through that area at various times before  
14 you started working on the carpet, correct?

15 A As I said, I don't recall if all of them did. Some of  
16 them would have, I'm sure. But I can't recall how many  
17 or who they were.

18 Q In dealing with trace evidence from something like carpet  
19 that people are walking on, the reason that you want to  
20 get that evidence or -- is there a general principle  
21 that you try and get the evidence from the areas that  
22 people are walking quickly so that it doesn't get  
23 contaminated? Is that a general principle?

24 A If you believe there is relevant evidence there and  
25 there's a possibility of contamination and there is --  
26 the evidence is something you're going to be able to

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1 analyze at a particular time, yes.

2 Q Okay. You can analyze soil, right?

3 A To some degree, yes.

4 Q Can you analyze hair?

5 A Yes.

6 Q You can analyze fibers?

7 A Fibers?

8 Q Fibers.

9 A Yes.

10 Q Can you analyze blood?

11 A yes.

12 Q You can analyze footprints?

13 A Yes.

14 Q All of those are pieces of evidence that could be gotten

15 from carpet, correct?

16 A Most of those, yes, if not all.

17 Q The longer you allow the carpet to have sheriff's officers

18 walking on it, the less relevant that evidence becomes;

19 correct?

20 A The way I would phrase that is you may be changing the

21 evidence. If that is contamination, yes.

22 Q They tell you, basic rules in your textbooks is that

23 you try and get the evidence of that sort as quickly

24 as possible because more crime scenes have been ruined

25 by police officers tramping stuff in <sup>an</sup> ~~that~~ any other

26 cause. Is that a good paraphrase of the standard

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1 textbook lore?

2 A Yes, I would say that's fairly accurate.

3 Q Did you think that there was relevant evidence on that  
4 carpet?

5 A I did not rule it out. There was a good possibility there  
6 could be hairs and that type of trace evidence, but the  
7 collection of it was in my opinion rather difficult at  
8 that time, and there was other evidence which was more  
9 pressing or at least more important at the time.

10 Q What was going to happen to the telephone that made you  
11 have to pick that up second?

12 A That was right on my original walk into the bedroom.  
13 That was one of the easiest items to collect, didn't  
14 take any time whatsoever to collect it.

15 (No omissions.)

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1 Q Did you go through a conscious thought process about  
2 whether or not to try and preserve the stuff on the  
3 carpet first, or were you overwhelmed by the crime  
4 scene?

5 A I don't recall exactly what my conscious thoughts were  
6 at that time.

7 Q Do you recall being overwhelmed by the complexity of  
8 the crime scene?

9 A No. I realized it was a very complex crime scene. That  
10 it would take quite a long time to process that scene,  
11 even if it could be done in one day, which we decided  
12 later on that it could not be done in one day and other  
13 criminalists were called back the next day.

14 Q Was there any premium to doing it in one day or could  
15 you have taken five days if that's what it required?

16 A There are some very realistic limitations as to time.  
17 Our time in the laboratory is as important as time  
18 spent at a scene. Lots of things had to be done back  
19 at the laboratory as far as examinations and those  
20 sorts of things.

21 You are playing somewhat of a game in saying you  
22 can spend five days at a scene. We would love to at  
23 any house, but the realities of life say that can't  
24 happen.

25 Q Are you telling me that in this particular crime scene  
26 that you made a conscious decision to try and not take

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1 stuff off the carpet because you didn't have enough  
2 time?

3 A No, that's not what I'm saying. I'm saying that I did  
4 the best work that I could for the time that I had on  
5 that particular day and that other criminalists were  
6 called back the next day because we realized there  
7 was probably more evidence to take from the scene.

8 Q You and Mr. Ogino went down to the I.D. loft on June  
9 the 22nd or somewhere between June 20th and the 23rd  
10 of June and you vacuumed that carpet, right?

11 A Yes, we did.

12 Q And you were trying to get trace evidence?

13 A Yes.

14 Q And by that time, the carpet had been walked over by  
15 C.C.D. people, it had been walked over by more  
16 criminalists, by District Attorneys, by Sheriffs, by  
17 lots of different people; is that correct?

18 A Yes.

19 Q How long did it take you to vacuum the carpet?

20 A I would say anywhere between a half hour and 35 minutes.

21 Q Did you bring out the Crime Lab station wagon that has  
22 all the equipment in it?

23 A Yes.

24 Q There is a special vacuum attachment in that vehicle; is  
25 that correct?

26 A Yes.

1 Q It was there available to you to vacuum the carpet?

2 A Yes.

3 Q That very same day after the body remover people had  
4 done their work, you were picking up some little hairs  
5 from the carpet; is that correct?

6 A There were clumps of hair that apparently were cut from  
7 the victims.

8 Q What relevance did you think the hairs cut from the  
9 victims was with coming up with strong evidence as to  
10 who did the crime?

11 A If there are obvious clumps of hair on the floor, there  
12 is a very good possibility that a suspect, if caught  
13 within a very short amount of time, would also have  
14 hair from the victims on his person.

15 Q But what is the relevance of taking a clump of hair from  
16 the floor right then?

17 MR. KOCHIS: Objection. Asked and answered. He  
18 explained how it's important.

19 THE COURT: I'm not sure. I will permit it again.

20 Q (BY MR. NEGUS) Why do you do that?

21 A For instance, as opposed to just collecting standard  
22 hair from the autopsy, the hair on the floor appeared  
23 at that time to me to have been cut from the individuals  
24 which showed some type of force by an instrument.

25 If a suspect were found and he had hair on him that  
26 is consistent with the victims, and that hair is also

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1 cut, it says a little bit more than uncut hair from a  
2 victim.

3 Q Is this a process of thought that you went through at  
4 the time when you decided to seize that hair why you  
5 thought it was relevant?

6 A Every single step that I'm talking about here, no, I'm  
7 sure it didn't cross my mind at the time.

8 Q Your information was, then, that the crimes had occurred  
9 around midnight the night before, right?

10 A It had happened some hours earlier. I don't believe  
11 anybody told me a specific time such as midnight. It  
12 could have happened anytime the previous night, basically.

13 Q What time did you seize the clumps of hair?

14 A Approaching 9:00 o'clock at night.

15 Q Did you expect to still find little traces of cut hair  
16 on a suspect that hadn't been caught by at least 15  
17 hours after the crime?

18 A That's possible.

19 Q Correct me if I'm wrong. You testified that you tried  
20 to take first the items that you thought were most  
21 relevant?

22 A It's a continual process. Relevant evidence and also  
23 evidence that is along a set path that you decide to  
24 take through a crime scene so that you don't cross  
25 over steps you have already taken and so forth.

26 Q After you took the telephone, did you then go back

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1 outside?

2 A Yes. That was basically where I was keeping the  
3 evidence was just outside the screen door.

4 Q And was your next item an item that you seized from  
5 outside the crime scene?

6 A Yes.

7 Q After that, did you go back inside the house again to  
8 pick up the tourniquet?

9 A Yes.

10 Q Had you been instructed to do the bed first?

11 A No.

12 Q That was your own decision?

13 A Basically, yes.

14 Q Why did you decide to do the bed first?

15 A It was in an area --

16 THE COURT: Excuse me, counsel. Some of these  
17 things surely are judgment calls that are not going to be  
18 that important. You know, there is a difference between  
19 hindsight figuring out a better way of doing things and  
20 working at the time under the pressure that they have at  
21 a scene.

22 MR. NEGUS: The question, your Honor, is, first off,  
23 whether evidence was destroyed. And I think at this point --

24 THE COURT: But why did he go to the bed first as  
25 opposed to something else is subjective reasoning at the  
26 time.

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1 Sustained. Move on to something more relevant.

2 MR. NEGUS: Could I be heard as to why I think that  
3 question is relevant?

4 THE COURT: All right.

5 MR. NEGUS: If evidence is destroyed, there are  
6 sanctions that you are going to apply.

7 THE COURT: I'm aware of that.

8 MR. NEGUS: They are based on negligence. I think  
9 this particular gentleman was grossly unequipped to handle  
10 that crime scene. That's why I'm trying to prove his answers  
11 don't make any sense.

12 I submit most of his answers haven't made much  
13 sense, and I intend to bring that out.

14 THE COURT: But you can bring that out by argument  
15 to me as well.

16 MR. NEGUS: Judge, argument doesn't do me any good.  
17 If you are going to accept my argument as evidence, I will  
18 be glad to do it, but the last time I looked, I have to  
19 have testimony.

20 If you want to assume that he was negligent, I won't  
21 do anything. But we have had these situations before where  
22 you say I can do it in argument, but then I don't have the  
23 evidence.

24 THE COURT: I don't understand that. I feel like  
25 I'm capitulating to let you go on.

26 MR. NEGUS: I'm not asking you to capitulate. All

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1 I'm saying is I'm asking questions which I believe are  
2 relevant. If you want to overrule them, or I mean sustain  
3 objections to them, I would just like to be able to put on  
4 the record why I think they are relevant so that I have a  
5 record.

6 THE COURT: All right. You have got it. Move on to  
7 something else.

8 Q (BY MR. NEGUS) When you began work on the bed, how did  
9 you package the items that you took?

10 A The various blankets, comforter, top bedsheet and later  
11 on the bottom bedsheet, the one pillow that was on the  
12 bed, were all packaged separately in paper sacks.

13 Q In the procedures that are set forth by your Crime Lab,  
14 is it requested that patrol people, when they package  
15 textile-type items, they do it in such a way that one  
16 surface doesn't come in contact with another?

17 A If that's possible.

18 Q Was it possible to package the first thing you took,  
19 the comforter, so that various surfaces didn't come in  
20 contact with each other?

21 A Not with the equipment that I had at the scene.

22 Q What additional equipment would you have needed?

23 A Some sort of a packaging repertoire that would allow  
24 me to either transport the blanket so it was totally  
25 flat so that it would not be folded over on itself, or  
26 absent that, to fold something in between the folds.

1 Q Like paper?

2 A That's a possibility.

3 Q I mean that's something that is used in your laboratory  
4 all the time to prevent contaminating one surface with  
5 another; is that right? Rolls of brown paper?

6 A We use that paper in our laboratory, yes. Not  
7 necessarily for that purpose. In storing evidence, I  
8 haven't seen any of the criminalists put paper between  
9 folds of fabric of, say, like a comforter or a bedsheet.

10 Q And how many bloody bedsheets and comforters have you  
11 seen around?

12 A At least several. It's a fairly common item collected  
13 in crime scenes.

14 Q Did there appear to be various items of hair and debris  
15 on the different items of evidence?

16 A Yes.

17 Q Did you do anything to -- First of all, did you try to  
18 collect that off the bed before you packaged the bedding?

19 A No.

20 Q Did you do anything to try to affix those items to the  
21 bedding so they wouldn't be moved in transportation?

22 A I didn't try to affix them such as taping them down or  
23 anything. What we attempted to do was to fold the  
24 material as carefully as possible so that anything  
25 adhering would remain adhering. We also folded it over  
26 the bed so anything that fell off one blanket was caught

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1 by the next one and then placed each individual item  
2 in a paper sack for transportation.

3 Q If you are going to drop hairs from one item to the  
4 next, what is the point of packaging separately?

5 A The point is the relevancy of the evidence obtained.  
6 All the items are from the same bed.

7 For instance, the comforter would have come off  
8 first. That comforter was in intimate contact with  
9 the blue blanket. There could be mutual adhering  
10 material between the two fall off the comforter. That  
11 material comes off the comforter and stays behind on  
12 the blue blanket.

13 It really doesn't matter as long as it was all from  
14 the same bed. What we are trying most to do is to avoid  
15 cross-contamination with anything else in the room.  
16 Something, say clothing picked up from the floor that  
17 was not originally on the bed.

18 But other than that, I don't know of any means to  
19 prevent cross-contamination of articles of material that  
20 are already on the bed.

21 As far as packaging separately, that's mostly for  
22 itemization purposes. It's easier to itemize one  
23 comforter, one blue blanket, one top sheet, one bottom  
24 sheet, than to itemize bedding from a bed and then  
25 trying to sort that out in court. "Well, what are you  
26 speaking of? The comforter or the blanket?"

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1 Q Is Exhibit -- I think it's H-195, the stuff that you  
2 got when you went to the academy, still there on the  
3 desk?

4 A Yes.

5 Q Could you consult Page 13 of that particular document?

6 A Which one?

7 Q The one that you got when you went to the academy.

8 The materials that you got at the academy with  
9 respect, for example, to the collection, preservation,  
10 marking, and transportation of hair makes a distinction  
11 between objects in which hairs are visible and not  
12 firmly attached and which are visible and appear to be  
13 firmly attached; correct?

14 A Yes.

15 Q Taking first that which is not firmly attached, it  
16 asks you to make a note as to the exact location of hairs.  
17 Did you do that with the comforter?

18 A No.

19 Q Did you do that with any of the items of bedding?

20 A No.

21 Q Why not?

22 A Because there were numerous items which took which I  
23 decided or what I felt was an inordinate amount of time  
24 to document the location of each and every hair. In  
25 taking it back to the crime laboratory and working under  
26 better lighting conditions, that hair could be collected

1 much more reasonably.

2 Q It tells you as part of your collection procedure that  
3 after you make a note of the exact location that you  
4 carefully remove the hairs with your fingers and package  
5 them. Did you do that?

6 A Not at the scene, no.

7 Q Why not?

8 A The numerous hairs that would be attached to the amount  
9 of bedding material.

10 Let me put it this way: In the laboratory, I spent  
11 several days alone just going over the bedding material,  
12 collecting hair and/or fibers from the bedding. I could  
13 have done that at the scene as well, but it would have  
14 taken several days to do it.

15 Q How long would it have taken to wrap the bedding in such  
16 a way that the various items on the bedding didn't get  
17 transferred around from one spot to the other?

18 MR. KOCHIS: Objection, that assumes a fact that's  
19 not in evidence, that you can by wrapping prevent things  
20 from being transferred. In fact, the opposite usually occurs.

21 THE COURT: Yes, sustained.

22 Q (BY MR. NEGUS:) When did you complete the work of  
23 removing the trace evidence from the various items of  
24 bedding?

25 A I don't believe I made notes as to what particular days  
26 I used to collect the hairs. If there are notes, they

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1 are on the containers that I actually put the hair in,  
2 so I don't have them before me.

3 Q Approximately; I mean, June, July, December?

4 A It was done sometime in the month of June, I believe,  
5 as far as the bedding material is concerned.

6 Q On August 16th, 1983, Mr. Forbush, myself, and the  
7 District Attorney -- I'm not sure, either Mr. Kottmeier  
8 or Mr. Kochis or both -- came out to look at that  
9 bedding at the crime lab; is that correct?

10 A Yes.

11 Q At that point in time when you brought the bedding out  
12 to show it to us, various hairs, blood, clotted blood  
13 and other debris fell out of the bag when you brought  
14 the bedding out; is that correct?

15 A Some of the bedding. For instance, I don't believe  
16 I looked at the pillow as far as hair and fibers were  
17 concerned. So there may have been hair still affixed  
18 to the pillow.

19 As far as the packaging, that's what the packaging  
20 is for, to collect anything that would fall off the  
21 blankets, sheets, or whatever.

22 Q Well, when you were showing us the stuff and the stuff  
23 was falling off, you did have paper out over the table,  
24 correct?

25 A Yes.

26 Q And did you just use a brush to go swish, swish, swish

1 and brush it off when you got through?

2 A For some of those items, yes.

3 Q Including the sheets and the comforter and the blanket?

4 A I don't recall if those were some of the items.

5 THE COURT: Mr. Negus, I'm willing to continue  
6 working, but for your purposes it is after 12:00.

7 MR. KOCHIS: Your Honor, the problem with that is  
8 one of the areas Mr. Stockwell has to testify on at 1:30 is  
9 the results of a chemical test that he started last night  
10 and he's been directed to finish at noon in the laboratory  
11 in San Bernardino.

12 THE COURT: He's got to back to the laboratory and  
13 work before his testimony?

14 MR. KOCHIS: Yes.

15 THE COURT: Why don't we break, Mr. Negus.

16 MR. NEGUS: Fine with me.

17 THE COURT: We'll resume at 2:00 o'clock.

18 (Whereupon the noon recess was taken  
19 at 12:04 p.m.)  
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1 SAN BERNARDINO, CALIFORNIA; WEDNESDAY, JUNE 13, 1984; 2:02 P.M.

2 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

3 (Appearances as heretofore noted.)

4  
5 THE COURT: Did you conclude your work?

6 THE WITNESS: Yes, I did, sir.

7 THE COURT: Go ahead.

8  
9 D A V I D C. S T O C K W E L L, having been previously  
10 duly sworn, resumed the stand and testified as follows:

11  
12 DIRECT EXAMINATION (Resumed)

13 BY MR. NEGUS:

14 Q On the various items of bedding, were there any sort of  
15 trace particles that appeared to sort of stand out that  
16 you could see without spending hours looking for them?

17 A The only thing that I recall seeing that particular day  
18 was a type of impression that was on one of the sheets,  
19 and at the time it looked like some kind of fecal matter  
20 or something akin to it.

21 Q Showing you Photograph A-87 -- well, do you also remember  
22 getting a gold crown off the bed?

23 A Yes.

24 Q And showing you Photograph A-87, does that depict the  
25 area of the bed from which you got the gold crown along  
26 with the gold crown?

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- 1 A Yes.
- 2 Q Was that gold crown found of all the victims in closest  
3 proximity to Douglas Ryen?
- 4 A Yes.
- 5 Q There's a lot of hair that's also shown in that  
6 photograph?
- 7 A Yes.
- 8 Q You didn't notice that on the day that you were  
9 processing the sheets?
- 10 A I don't recall if I noticed it at that time or not.
- 11 Q You certainly didn't collect it, right?
- 12 A Not at that time, no.
- 13 Q You never collected it, did you?
- 14 A It's very possible that it was collected along with  
15 the sheets and everything, and later on when those  
16 sheets were lifted and in our laboratory for certain  
17 things like hairs and fibers.
- 18 Q You had no knowledge whether it was collected or not,  
19 right?
- 20 A No conclusive knowledge of that, no.
- 21 Q And you certainly couldn't identify it now, could you?
- 22 A As to being that particular lock of hair in this picture?
- 23 Q Right.
- 24 A No.
- 25 Q I didn't hear the answer.
- 26 A I said no, not at this time I couldn't conclusively say

1       that the hair is that lock of hair.

2   Q   That hair appears to be a different color in the  
3       photograph than Douglas Ryen's hair was; is that correct?

4   A   I would not be willing to say that these photographs  
5       are of such quality as to depict the color between  
6       Douglas Ryen's hair and this hair.

7   Q   Showing you Photograph H-150, do you recognize that?

8   A   Yes.

9   Q   And does that appear to be the head of Douglas Ryen as  
10      it appeared when you arrived at the crime scene?

11   A   To the best of my recollection, yes.

12   Q   On the back of Douglas Ryen's neck there's a bunch of  
13      locks of hair; is that correct?

14   A   Yes.

15   Q   And those locks of hair was all the same color as the  
16      hair on his head, right?

17   A   Again, I wouldn't be willing to say that just from  
18      this photograph.

19   Q   Do you remember?

20   A   Not off hand, no.

21   Q   Would you agree that in the photographs the hair, the  
22      one that has the laboratory No. A-87 on it, which is  
23      Exhibit H-225, appears to be considerably lighter color  
24      than the hair shown on Douglas Ryen?

25   A   Going just by the colors in these -- represented in these  
26      photographs, it does appear to be.

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1 Q And you didn't do anything other than -- well, there's  
2 no other documentation that we have now other than  
3 those photographs to go by, is there?

4 A We could go back to the physical evidence collected  
5 at the autopsy on Douglas Ryen, including the hair that  
6 was collected on his body and also the body bag that was  
7 transported in to look at the hair that was transported  
8 with him.

9 Q Okay. But you're still going to have to compare it with  
10 the photograph that has the laboratory number of A-87 on  
11 it; is that correct?

12 A That's not the laboratory number. That's I.D. number.  
13 But even at that, I would not compare it by photographic  
14 means. I would go back to the original items themselves.

15 Q But we don't have the original item that's shown in  
16 I.D. Photograph A-87, right?

17 A I'm pretty certain that we do.

18 Q You just can't find it?

19 A I would not be able to say that the particular hair that  
20 we have could be linked to this. However, we have it.

21 Q Generally, in criminalistics, does it do you any good to  
22 have it when you can't identify it?

23 A Depends on what you're trying to point out. I don't see  
24 the relevance of particularly noting where this particular  
25 hair was collected from as opposed to how important it  
26 would be to link it up with a particular individual.

0-10033

1 Q How, given the work that you did on June 5th, are you  
2 going to link up the hair depicted in that photograph  
3 with a given individual?

4 A We have known hair standards from all of the victims  
5 that we could compare it to. Of course, you have to have  
6 something to compare it to. If it were someone outside  
7 of those individuals that we have exemplars of, there  
8 wouldn't be much of an analysis that we could do on it.

9 Q If this lock of hair were compared, for example -- you  
10 had five victims, right?

11 A Yes.

12 Q And when you were collecting evidence you had three  
13 suspects, right?

14 A The information that we had the first day was that there  
15 were possibly three suspects involved.

16 Q If that lock of hair doesn't match any of the five  
17 suspects, do you think that would be significant --  
18 excuse me. Erase.

19 If that lock of hair doesn't match any of the  
20 five victims, would that be significant?

21 A It might be significant.

22 (No omissions.)  
23  
24  
25  
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9-1

- 1 Q Let's go one step further. If that lock of hair  
2 didn't match any of the victims nor did it match  
3 Kevin Cooper, would that be significant?
- 4 A It could be significant.
- 5 Q How could it be significant?
- 6 A You have hair from an unknown individual.
- 7 Q A lock of hair?
- 8 A A lock of hair.
- 9 Q Sitting on top of a bed?
- 10 A Yes.
- 11 Q In very close proximity to a gold crown?
- 12 A Well, in the photograph, yes, it is. Whether that's  
13 relevant or not remains unknown.
- 14 Q You attended the autopsy of Peggy Ryen, did you not?
- 15 A Yes.
- 16 Q And there were a couple of dentists that came to that  
17 autopsy: Dr. Golden and Dr. Johnson, I believe; is  
18 that right?
- 19 A Yes.
- 20 Q And there is a big round abrasion on Peggy Ryen's mouth  
21 which consisted of a blow of some force, a blunt force --  
22 There was on Peggy Ryen's mouth a blow or -- excuse me --  
23 an abrasion consistent with a blunt blow of considerable  
24 force, correct?
- 25 A I don't recall offhand. I would believe that.
- 26 Q You have notes?

2 Q Would you refer to them?

5 MR. NEGUS: I believe he has his own notes of the  
6 autopsy, if I'm not mistaken.

11 Q (BY MR. NEGUS) I didn't ask you that. But she did have  
12 blunt force injuries to the area of her mouth, right?

15 Q The doctors, Golden and Johnson, identified the gold  
16 crown as having come from Peggy Ryen?

18 MR. NEGUS: It's offered for the materiality of his  
19 failing to collect them.

23 Q (BY MR. NEGUS) Well, did you observe Dr. Golden and  
24 Dr. Johnson comparing the dental work of Peggy Ryan?

25 A I don't recall if I actually saw the actual physical  
26 evaluation that they were conducting. I know that that

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9-3

1 was the result of their analysis or their conclusion.

2 Q Was it that that gold crown came from Peggy Ryen?

3 A Yes.

4 MR. KOCHIS: That's the question I had the objection  
5 to and I move to strike the answer.

6 THE COURT: It may be stricken. I will sustain the  
7 objection.

8 MR. NEGUS: It's not offered for the truth of the  
9 matter asserted, but for his state of mind.

10 MR. KOCHIS: Well, your Honor --

11 THE COURT: The ruling will stand, Mr. Kochis.

12 Q (BY MR. NEGUS) Getting back to this gold crown, back  
13 on the 5th of June in the afternoon when you were  
14 collecting that --

15 By the way, you were collecting that in the first  
16 eight objects; is that correct? That was number 5 or 6?

17 A Yes. That was A-6.

18 Q So that would have been the sixth item that you collected?

19 A Yes.

20 Q And the third item from the bed?

21 A Yes.

22 Q Did it appear that there had been some violence in the  
23 proximity to that particular gold crown?

24 A There had been violence in the proximity and in the  
25 entire room.

26 Q Did the gold crown appear -- did it seem a reasonable



9-4

1 possibility when you were collecting evidence that the  
2 gold crown had gotten there because somebody had been  
3 violently attacked in the mouth?

4 A Well, that's the obvious conclusion: that they were  
5 attacked with sufficient force to dislodge it. Whether  
6 it was in that particular area that that actually  
7 occurred, I would not be able to say.

8 Q If you were to assign probabilities to it, though, that  
9 would be the most probable: that it was somewhere near  
10 where it was found, right?

11 MR. KOCHIS: Objection. That calls for speculation,  
12 and if we start assigning probabilities to things, where  
13 are we going to stop?

14 THE COURT: I think that's something that is, again,  
15 for argument and the Court's conclusion. I'll sustain the  
16 objection.

17 MR. NEGUS: The offer of proof is that it is -- I  
18 believe that he would testify that it is his opinion, or I  
19 would hope it would be his opinion that that was the most  
20 probable. And if that's the case, then the issue arises:  
21 why didn't he take the evidence around and try and find out  
22 who had been involved in the violence.

23 THE COURT: I see your issue. Please go on to the  
24 next area. Ask another question.

25 Q (BY MR. NEGUS) How long would it have taken to examine  
26 those sheets, not for minute particles that you did back

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3-5

1 in the laboratory, but for items that stood out like,  
2 for example, the particular lock of hair?

3 MR. KOCHIS: I object. That assumes a fact not in  
4 evidence that that hair stood out to him. It may stand out  
5 to Mr. Negus if he pores over the photographs.

6 THE COURT: I believe it would be implied as it  
7 does in the photograph.

8 Answer the best you can, sir.

9 THE WITNESS: Depending on what type of evidence we  
10 are talking about. You say non-trace evidence. Well, to  
11 me, trace can mean a lot of things.

12 Q (BY MR. NEGUS) Say trace. I said non-minute evidence.

13 Let's back up.

14 When you went through the sheets back at the  
15 laboratory and it took you all those days, you went over  
16 them with a fine-tooth comb, did you not, trying to  
17 remove every little fragment of hair?

18 A Basically, yes.

19 Q And every little particle, any foreign particles to the  
20 sheet you were trying to remove; is that right?

21 A Yes.

22 Q Now, when you were going through the carpet later in  
23 the evening after the body people had finished, for  
24 example, you picked up a lock of hair here and there,  
25 three or four locks of hair out of all the locks on the  
26 floor, right?

9-6

1 A Yes.

2 Q And you picked those up because they were easy to see  
3 and they were right in front of you, right?

4 MR. KOCHIS: Objection. That's argumentative, the  
5 form of the question.

6 THE COURT: Overruled. You may answer.

7 Is that why you picked them up?

8 THE WITNESS: That's not the only reason I picked  
9 them up. They were exemplars. I'm not stating conclusively  
10 any way whatsoever that that was the only lock of hair laying  
11 in the room. There was a lot of hair in that room. But it's  
12 just like with the blood, it would have been a monumental  
13 task finding everything and documenting everything, where  
14 it was collected from.

15 Things that were on the sheets were ultimately going  
16 to end up in the laboratory, anyway.

17 Q (BY MR. NEGUS) How long would it have taken you to  
18 examine the sheets and the bedding for the type of  
19 trace evidence which you were able to discern at the  
20 scene and which is depicted in that photograph?

21 A That which I could see would take hours. Pretty much  
22 the same thing I did back at the laboratory I could do  
23 at the scene.

24 Q How long do you think it would have taken you to go  
25 over the sheets so you wouldn't have missed that lock  
26 of hair shown in I.D. photo 87?

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1 A If I knew exactly what I was looking for, it probably  
2 would not have taken very long. Maybe 15 minutes to  
3 a half hour for all the bedding.

4 Q Out of all the hair -- let's just take the hair to  
5 start with -- that was in the Ryen house, the Ryen  
6 bedroom, did you have any way of trying to determine  
7 that some might be more significant than others?

8 A I think that's kind of hard to say at the time. The  
9 problem basically lies with how distinguishable the  
10 hair is from that of the victims and also any hair  
11 that is there from domestic animals, cats, dogs. They  
12 had horses there. All those would be found in  
13 combination and it's quite a task to sort through  
14 that and look for hair that has none of those  
15 characteristics.

16 Q But how do you distinguish between the hair that you  
17 think it's important to seize and that which you think  
18 it's not?

19 A As I said before, the hair that I did collect was  
20 pretty much exemplars. There was more hair around  
21 that I did not collect.

22 It's not that it had any different significance, but  
23 it was not obvious right then and there that it was hair  
24 different than any of the victims. I mean, there was  
25 no distinguishing color difference, no texture difference  
26 or anything like that that I could discern among all

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1           that hair.

2   Q    You took one hair from outside the bedroom, right?

3   A    From the screen door, yes.

4   Q    And you took six samples of hair from inside the master  
5        bedroom, correct?

6   A    Yes.

7   Q    The six samples that you took from inside the master  
8        bedroom, what were they exemplars of?

9   A    They were examples of the fact that hair had been cut  
10       forcibly so that at a later time, if it became important  
11       to look through a suspect's clothing for hair, that any  
12       examiner would know that they were also looking for  
13       cut hair as well as pulled hair or commonly shed hair  
14       or anything else that could happen.

15   Q    How long would it have taken you to collect all the  
16        locks of cut hair in the master bedroom?

17           MR. KOCHIS: Objection. That would call for  
18        speculation.

19           THE COURT: Well, he may have some appreciation of  
20        it. It certainly is an opinion, but I will permit it. He  
21        is an expert.

22           MR. KOCHIS: But my objection is I don't think there  
23        has been a foundation that he was aware of how much cut hair,  
24        if any, there was in the master bedroom.

25           THE COURT: As far as you know from what you were  
26        later able to see and what you saw at the scene.

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9-9

1           THE WITNESS: It would depend on the amount of hair  
2 there. I'm not saying that I saw all of the cut hair. I  
3 collected what I did see readily next to the bodies and  
4 things like that. That in itself took 15 minutes.

5           To make an extensive search for every lock of hair,  
6 I couldn't say how long that would take.

7                               (No omissions.)

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1 Q Well, how much longer would the carpet -- how much  
2 longer would it have taken to search the carpet for  
3 locks of hair than that time that you've already estimated  
4 for the bed?

5 A Not much longer.

6 Q In those things from the crime lab or the academy that  
7 we were mentioning before lunch, it mentions it's  
8 important to locate precise positions of the hairs and  
9 trace evidence you seize. Why is that? Why is it  
10 important to locate the precise location?

11 A I think you're misstating it somewhat. At times it is  
12 important. It's not always imperative.

13 Q Do you still have H-195 up there?

14 A Yes.

15 Q Looking at 2-B on Page 13, it indicates "make a note  
16 as to the exact -- " exact in capitals -- "location of  
17 hairs." Correct?

18 A Correct, with --

19 Q Nothing about at times?

20 A Well, it says "B, objects on which hairs are visible and  
21 not firmly attached."

22 Q So that's what we've been talking about, right? Locks  
23 of hair which are visible but not firmly attached, right?

24 A I guess it boils down to what firmly attached means.  
25 Locks of hair are probably a little bit less firmly  
26 attached than normal hair would be on an item such as a

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1 blanket.

2 Q Mr. Stockwell, look up on A there. It gives you an  
3 example, does it not, as to what they mean by firmly  
4 attached, as with the dried blood or something; is that  
5 correct?

6 A That's one example.

7 Q The importance of the distinction that they're making  
8 between hairs which are firmly attached and hairs which  
9 aren't has to do with the instruction in 2-A of that  
10 particular document, so that when they talk to you  
11 about label objects and package in such a manner that  
12 the hair cannot possibly, in caps, become dislodged in  
13 transit. Is that the reason for the importance of the  
14 distinction?

15 A Possibly so. I don't know what was in the mind of the  
16 person that wrote up this procedure.

17 Q When you learned it at the academy, did they tell you  
18 why they were having you do these things?

19 A I don't believe they went over this line by line with  
20 us at the academy.

21 Q As a criminalist, is that the reason for doing it that  
22 way?

23 A That is a possible reason for doing it.

24 Q What is the source of your particular opinion that at  
25 times it's important to locate the exact location of  
26 objects and at other times it isn't?

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1 A The source comes through mainly experience.

2 Q Ten months?

3 A Plus a college background. For instance, I'll give you  
4 an example. In a sex offense case, it would be important  
5 to note that a pubic hair sample was found in the under-  
6 shorts of the victim. That's important, rather than just  
7 being found on the floor. That's something that should  
8 be specified.

9 In a case such as this where there are massive  
10 amounts of hair and the mere fact of documenting every  
11 hair that you find, that's not warranted.

12 Q We're not talking about every hair that you find. The  
13 instructions tell you to do visible hair which is not  
14 firmly attached.

15 A All of the hair that I collected back at the laboratory  
16 was visible but I didn't document every location that  
17 I picked it up from.

18 THE COURT: I think I'm going to have to stop you,  
19 Mr. Stockwell. I have a feeling that you're trying to  
20 debate with him, trying to argue with him, or to be apologetic  
21 as to your position in some way.

22 Listen to the question, answer that question only.  
23 Don't volunteer unless you need to expound in order to  
24 explain an answer that requires an explanation. We'll get  
25 along much faster if you'll simply answer the question.

26 Go ahead.

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1 Q (BY MR. NEGUS:) How do you distinguish between those  
2 which you make a note as to the exact location and those  
3 which you don't?

4 A In my experience it's only with the type of case that  
5 you're working with.

6 Q Basically, then, in this particular case, because there  
7 was so much evidence, that was the reason you did that?

8 A For the most part.

9 Q Why didn't you ask for some more help?

10 A I didn't feel that it was warranted.

11 Q So then there really wasn't a time problem; is that  
12 correct?

13 MR. KOCHIS: Your Honor, objection. He's starting  
14 to argue. The witness has answered a number of times why  
15 he didn't take every hair sample in the room. We could go  
16 over this area ad nauseam for the rest of the year.

17 THE COURT: Was there a time problem. I prefer  
18 that way of asking.

19 MR. NEGUS: Excuse me. I keep forgetting.

20 Q (BY MR. NEGUS:) Was there a time problem?

21 A No.

22 Q Was the amount of evidence in that room so great that  
23 you were unable to formulate a plan for systematic  
24 collection of the evidence?

25 A No.

26 Q What was your plan?

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- 1 A My plan was to collect any readily visible apparent  
2 physical evidence that could be used in analyses at  
3 our laboratory and that I knew we were capable of and  
4 that would not take inordinately large amounts of time.
- 5 Q Define inordinately large amounts of time.
- 6 A Most case work in our laboratory per item, for instance  
7 a hair case, can be completed reasonably within several  
8 days. If it's going to take several weeks, that's  
9 becoming inordinate for the amount of work that our  
10 laboratory must process.
- 11 Q So did this particular case seem to you like maybe it  
12 might be different than your ordinary hair case?
- 13 A Not greatly so, no.
- 14 Q The total number of pieces of evidence that you yourself  
15 seized on June the 5th was 42, correct?
- 16 A That I myself, you mean personally?
- 17 Q Yes.
- 18 A I really can't recall. I know between Ms. Schechter  
19 and myself it was 45. How many of that I actually  
20 personally picked up and put into a package myself,  
21 I don't know.
- 22 Q Ms. Schechter picked up A-43 through A-45, which were  
23 some blood samples from the hall, right -- I mean master  
24 bathroom, right?
- 25 A I believe so, yes.
- 26 Q And all the rest were collected by you, right?

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1 A With the help of Ms. Schechter, yes.

2 Q For the most part Ms. Schechter was taking notes while  
3 you picked up and packaged; is that correct?

4 A She was also lending opinion as to relevance of evidence  
5 and other such things.

6 Q She gave opinion but the actual physical work that she  
7 was doing for the most part was taking notes while you  
8 picked up and packaged, correct?

9 A If I had to categorize it, yes.

10 Q Did you have in your mind that 42 items was a lot of  
11 evidence and therefore once you got to 42 to 45 items  
12 it was time to stop?

13 A No. I didn't say or I did not think just because I had  
14 that many items that was a convenient stopping place.

15 Q The six particular clumps of hair that you picked up,  
16 they were all off the carpet; is that correct?

17 A As I recall, yes.

18 Q And they were all somehow associated with some victim;  
19 is that correct?

20 A Most of them were near a victim. There were several near  
21 the foot of the bed that weren't close to any of the  
22 victims that were present at the scene while I was there.

23 Q Did you pick those up because you believed they were  
24 Josh's?

25 A I did not know. I picked them up having that in mind  
26 that it may have been Josh's or any of the victims.

1 Q In the work that criminalists do at a crime scene, is  
2 locating within a room the site of various criminal acts  
3 part of your task?

4 A Sometimes.

5 Q Did you think that that was part of your task on June  
6 the 5th?

7 A I did not think that was an important task of mine at  
8 that scene for the number of victims and the amount of  
9 struggle that had gone. I don't know of anyone, myself  
10 especially, that would really be qualified to say where  
11 particular struggles occurred other than by generalized  
12 areas.

13 Q Getting back to the clump of hairs that's in A-87, do you  
14 know whether that hair was cut, appeared to be cut or  
15 not?

16 A In this photograph it appears to be.

17 Q Is it a scientifically reasonable inference that that  
18 lock of hair was cut in relatively close promimity to  
19 the spot where it ended up?

20 MR. KOCHIS: Objection, no foundation. That calls  
21 for speculation.

22 THE COURT: As to where locks of hair are going to  
23 fall or otherwise wind up after being cut, I don't --

24 MR. NEGUS: It seems like there's certain scientific  
25 principles which you could apply to that. For example, the  
26 way that hair travels through the air and that sort of thing.

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1 I think that's not a --

2 THE COURT: The motions and forces are indeed  
3 speculative. Sustained.

4 (No omissions.)

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11-1

1 Q Can hair be propelled at long distances in the air as  
2 a lock?

3 MR. KOCHIS: I'm going to object on two grounds:  
4 lack of foundation as to his knowledge and vague as to what  
5 "long" means. Is he talking about six inches, two miles,  
6 a yard?

7 THE COURT: On the ground of vagueness, that's a  
8 good objection. As far as his foundation, I don't have a  
9 problem with that.

10 Q (BY MR. NEGUS) Can hair be propelled, for example,  
11 across this room as a lock?

12 A Just the hair alone, I don't believe that's possible.  
13 It doesn't have the sufficient mass versus air  
14 resistance to travel that far. It can't travel that  
15 far very easily. That's just the principle of transfer.

16 Q Okay. But, now, just taking this lock of hair that  
17 appears right here in I.D. photograph A-87, without  
18 some external force acting on it, the hair could not  
19 have traveled in a vertical -- you know, along a  
20 horizontal plane more than two or three feet; is that  
21 correct?

22 THE COURT: Without some external force, I don't  
23 think it would travel at all.

24 Q (BY MR. NEGUS) Without some external force other than  
25 the blow to the head that severed it, it wouldn't be  
26 able to travel more than two or three feet, correct?

11-1-87

11-2

1 A Given all those factors, I would not expect it to  
2 travel any further than that, no.

3 Q Doesn't criminalistics basically involve making  
4 inferences such as if you have a cut lock of hair laying  
5 on a bed, that probably, not for sure, but probably the  
6 person that received that blow was attacked within two  
7 or three feet of the spot you find the hair?

8 MR. KOCHIS: Again, that's going to call for  
9 speculation.

10 MR. NEGUS: He knows what the field is. I'm trying  
11 to establish the field.

12 THE COURT: This is the type of thing that I think  
13 perhaps Sergeant Arthur should answer or you should argue or  
14 you and I should draw conclusions from, but a criminalist  
15 traditionally reports on what he sees without drawing the  
16 conclusions that the trier of fact draws.

17 MR. NEGUS: That's a factual issue about what the  
18 field of criminalistics is. I have talked to criminalists  
19 who have told me different. I'm just asking him now is  
20 that the sort of thing that criminalists do.

21 THE COURT: Then it's irrelevant at this point, sir.  
22 On all these rulings on evidence that we are getting to,  
23 I'm considering Evidence Code Section 352 and the very  
24 slight probative value to carry out the continued questions  
25 along this line.

26 I'll sustain the objection.

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A A At times.

6 | A In regard to the hair?

7 | Q Yes.

8 | A No.

9 | Q Why not?

10 A Because there are too many variables that I can't account  
11 for. Hair can be transferred appreciable distances on  
12 people, and I can't say that this lock of hair didn't  
13 occur from way across the other side of the room.

14           No, I wouldn't use those sort of inferences in  
15   collecting these hair samples.

16 Q Did you examine the bodies of all four of the victims  
17 in this case as they were lying in the bedroom?

18 A All of the deceased victims, yes.

19 Q Did any of them appear to have hair adhering to them  
20 which appeared to come from some person other than  
21 themselves?

22 A At the scene, I didn't come to that sort of realization  
23 or draw that opinion from anything. At the autopsy, we  
24 did notice some stray hair on Peggy Ryen.

25 Q Did you notice that stray hair on her when you  
26 examined her at the crime scene?

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- 1 A I don't recall seeing that or making any note of it, no.
- 2 Q At the autopsy, did you note the locations on her body
- 3 from which you took it?
- 4 A I made a general indication that it was recovered from
- 5 her torso and legs.
- 6 Q Did you distinguish between that which -- I mean, did you
- 7 package separately that which came from the torso and
- 8 that which came from the legs?
- 9 A No.
- 10 Q Was it of the same length?
- 11 A I didn't measure it.
- 12 Q Did it appear to be the same length?
- 13 A It all appeared to be consistent with the same type of
- 14 hair.
- 15 Q Do you recall whether when you took the hair at the
- 16 autopsy it was stuck in dry blood on the body of Peggy
- 17 Ryen or whether it was loose?
- 18 A I don't recall offhand.
- 19 Q Did you make any attempt to locate trace evidence on
- 20 Peggy Ryen's body before it was moved?
- 21 A Yes. I went over her body looking for certain trace
- 22 evidence, fibers, fingernail scrapings, those sorts of
- 23 things.
- 24 Q Did you take the fingernail scrapings at the crime scene
- 25 or at the autopsy?
- 26 A Autopsy.

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11-5

- 1 Q At the crime scene, did you go over her body looking  
2 for trace evidence?
- 3 A I looked at her body for obvious evidence. Usually we  
4 wait for the autopsy to collect most trace evidence.
- 5 Q You mean that's something that's a universal practice  
6 in your laboratory?
- 7 A The criminalists that I have gone to scenes with normally  
8 do that sort of thing unless it appears to be evidence  
9 that could easily be lost even in transit, if it appears  
10 to be very significant evidence.
- 11 Q Had you gone to a crime scene with Mr. Ogino before?
- 12 A Yes.
- 13 Q Had you gone before June the 5th?
- 14 A Yes.
- 15 Q Was that his practice?
- 16 A I had seen him collect items from a body that he thought  
17 were significant evidence. I have also seen him go to  
18 autopsies and collect the evidence from the bodies  
19 there.
- 20 Q Did Mr. Ogino, when he was instructing you, tell you  
21 that he thought it was important to remove whatever  
22 trace evidence you could at the crime scene so that  
23 it didn't either get lost in transit or transferred to  
24 some different location in transfer?
- 25 A I don't recall having that specific discussion with him.
- 26 Q From the carpet, did you collect any blood samples?

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11-6

1 A Any what samples?

2 Q Blood samples.

3 A I collected blood from beneath the bodies as known bloods  
4 from those individuals.

5 Q What was the relevancy of that?

6 A Certain times we go to an autopsy and, for whatever  
7 reason, it may be difficult to obtain a blood sample  
8 from the body. We still want to have a known exemplar  
9 of the blood, so this is just a precaution to take that  
10 blood from the scene.

11 Q How long did that take?

12 A Several minutes per body.

13 Q Was there any other blood on the carpet?

14 A Yes.

15 Q Did you take any of that other blood that was not  
16 directly from beneath the body?

17 A No.

18 Q Why not?

19 A I didn't see that it had as much relevance as other  
20 blood around and I thought I was collecting enough  
21 blood as it was for the purposes that we wanted to  
22 collect the blood for.

23 Q Who is "we"?

24 A The laboratory in general.

25 Q What purpose did the laboratory want the blood for?

26 A Generally, we collect blood to screen for possible

11-7

1 blood from victims in various areas. That gives us a  
2 very general idea of where struggles might have occurred.

3 We also screen the blood for possible suspect bloods  
4 if the suspect is injured in assailing the people.

5 Q Did you think that the blood on the carpet would have  
6 been any aid in that?

7 A I thought that the blood on the carpeting was somewhat  
8 tenuous in aiding to that primarily because of the  
9 very fact that it was the carpet that was most likely  
10 to be contaminated, that there was most likely a large  
11 amount of struggling in the bedroom and the blood on  
12 the carpeting could probably be mixed samples which  
13 doesn't give as much information as a single blood  
14 sample.

15 Q Did you see some large blood drops on a bare spot on the  
16 carpet near Douglas Ryen?

17 A Yes.

18 Q Did you see a trail of blood approximately 40 inches in  
19 length leading from that bare spot out toward the foot  
20 of the bed?

21 MR. KOCHIS: Objection. That calls for speculation  
22 as to what direction it may have been.

23 THE COURT: Sustained.

24 Q (BY MR. NEGUS) Did you see some drops of blood on the  
25 bare spot on the carpet starting from the bare spot of  
26 the carpet and extending toward the foot of the bed

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1 parallel to the bed and the wall?

2 A I have no independent memory of that at this time.

3 Q Showing you Exhibit 212, do you see a bare spot on  
4 the carpet?

5 A Yes.

6 Q Do you see several large drops of what appear to be  
7 blood?

8 A Yes.

9 Q And do you recall from that spot going out approximately  
10 in the direction of the foot of the bed on the carpet on  
11 the carpet like a trail of blood?

12 A I see two spots. I would not venture to say that's a  
13 trail by any means.

14 Q I'm asking now do you recall having been shown this  
15 photograph, there being a trail of blood in that area?

16 A I don't recall making that finding myself and I don't  
17 recall anybody pointing that out to me.

18 Q Did you discuss the crime scene and the blood with  
19 Mr. Hall?

20 A I don't recall if we talked specifically about the blood  
21 in the scene or not other than to say there were various  
22 patterns around the room and I don't recall if that had  
23 anything to do with what was on the carpeting.

24 (No omissions.)

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1 Q Do drops of blood -- how do you tell comingled blood  
2 from noncomingled blood by looking at it?

3 A You don't tell by looking at it. You have to run  
4 serological testing on it.

5 Q I mean, then how did you know not to take blood on the  
6 carpet because it was comingled?

7 A I said the possibility was very great.

8 Q So you were using possibilities, then, essentially,  
9 at least your notion of probabilities, in deciding which  
10 blood to take and which blood not to take?

11 A In some sense, yes.

12 Q Sticking with your notion of probability, did you think  
13 it probable that the blood on that bare spot in the  
14 carpet was comingled?

15 MR. KOCHIS: Well, Your Honor, I'm going to object.  
16 That calls for speculation. And he's testified that he had  
17 an opinion as to what some of the blood may have been, but  
18 as to any specific spot testifying as to whether it was  
19 comingled or not is going to call for speculation.

20 THE COURT: No. Let's permit him to answer.

21 THE WITNESS: I don't recall having thought that  
22 about that particular blood spot and whether that particular  
23 blood spot was mixed blood.

24 Q (BY MR. NEGUS:) That particular blood spot was within  
25 three feet of the crown; is that correct?

26 A I didn't measure it. I don't know what the measurement

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1 was. It seems possible.

2 Q You remember the layout of the room, correct?

3 A Yes.

4 Q And you remember where the crown was found, correct?

5 A Yes.

6 Q And that was within three feet, correct?

7 A As I recall, yes.

8 Q Did you participate in the decision to seize blood off  
9 the carpet out of the bathroom?

10 A Yes.

11 THE COURT: Counsel, if you're going into a new  
12 area, perhaps we should take just about a ten-minute recess.

13 MR. NEGUS: Okay.

14 THE COURT: Let's take just ten minutes.

15 (Recess.)

16 THE COURT: Go ahead.

17 Q (BY MR. NEGUS:) What principles of selection did you  
18 use to pick the different items off the carpet in the  
19 master bathroom, the different blood items off the  
20 carpet in the master bathroom?

21 A The areas that appeared to be bloodstained on the  
22 carpeting of the bathroom were sampled.

23 Q And why did you sample in the bathroom rather than in  
24 the bedroom?

25 A The area in the bathroom did not appear to have been  
26 an area of struggle, at least as much as in the bedroom.



1       There was quite a bit more blood in the bedroom that  
2       appeared to have possibly been tracked around, possibly  
3       mixing blood samples. Whereas that in the bathroom  
4       didn't appear to be as such.

5   Q   Did you think the stuff in the bathroom might have been  
6       tracked there by the paramedics?

7   A   We didn't know at the time what to think of it. At least  
8       I didn't have reliable information as to where Joshua  
9       was found, and we thought that it might possibly have  
10      been him in the bathroom.

11   Q   Did you ever tell that to anybody in the newspapers, that  
12      you thought Josh was found in the bathroom?

13   A   No, because as I said, it was unreliable.

14   Q   Showing you a series of photographs which are H-164,  
15      H-163, and H-223, are those different photographs of  
16      the bathroom rug?

17   A   Yes.

18   Q   And those little numbers there, did you set those up?

19   A   Myself with the help of someone from identification  
20      bureau.

21   Q   That would have been Mr. Duffy?

22   A   I believe so.

23   Q   You were the one rather than Mr. Duffy that selected  
24      the place that you were going to put those; is that  
25      right?

26   A   Myself and or Ms. Schechter. I don't recall exactly who

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1 chose the exact spots.

2 Q The 43, 44, 45 corresponds with A-43, A-44, and A-45;

3 is that correct?

4 A That's correct.

5 Q Which bloodstain in H-163 was A-43 taken?

6 A I don't know. I believe Ms. Schechter collected that

7 sample.

8 Q Well, didn't you decide where it was going to be from?

9 A I don't believe so, no.

10 Q You don't know, then, for 44 and 45 either?

11 A No.

12 Q Showing you H-140, a photograph of the carpet in the

13 master bedroom, do you remember those bloodstains that

14 are shown on the carpet in that picture?

15 A More or less, yes. I recall there were bloodstains

16 there.

17 Q Do you remember those bloodstains that were removed from --

18 that is, they weren't near any particular victim; is that

19 correct?

20 A That's correct.

21 Q Did they appear to you that they were comingled?

22 A It could be. I really wouldn't be able to say just by

23 looking at it.

24 Q You took some locks of hair from that area, did you not?

25 A Yes, I did.

26 Q Any reason why you didn't take samples of that blood?

1 A. For the very same reason that I told you that I did not  
2 take any blood from the carpeting in the bedroom, that  
3 being that there's a good possibility of mixed blood  
4 samples, with as much tracking as appeared to have taken  
5 place in there.

6 Q You just decided -- there's nothing you can look at in  
7 those particular samples and decide that they look to  
8 be comingled, right?

9 | A That's correct.

10 Q When you looked at them, do they appear to be tracks?  
11 I mean like coming off the bottom of somebody's foot?

12 A That could be. Then again it might not be. I can't  
13 tell by the photograph.

14 Q Using the proposition it's better to take more than  
15 less, wouldn't it have been better to be safe than  
16 sorry?

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

18 THE COURT: Yes. Sustained.

19 Q (BY MR. NEGUS:) Showing you Exhibit H-126, photograph  
20 again of the rug in the bedroom, appears to be a trail  
21 like in reddish brown substance consistent with blood  
22 on that photograph; is that correct?

23 A. There is a streak. Whether it is trailed or not is  
24 somewhat subjective.

25 Q Okay, streak. Did that streak appear to you to be  
26 comingled?

1 A I didn't make that decision.

2 Q Why didn't you try and take a sample of the streak?

3 A It was part of the carpeting of the bedroom.

4 Q In the academy, again asking you to look at Page 5, the  
5 things from the academy are designed primarily again  
6 for patrol officers rather than training criminalists;  
7 is that correct?

8 A Yes.

9 Q In that they recommend that all bloodstained articles  
10 be submitted to the crime lab immediately; is that  
11 correct?

12 A I guess there's kind of a separation there. All blood-  
13 stained items is pretty much up to the investigation of  
14 the people at the particular scene. It depends on what  
15 they want done with those items, if they want to know  
16 where that blood --

17 THE COURT: Excuse me. Are you reading all of that  
18 from the document? I believe he just asked you what was  
19 recommended from the document. Do they recommend that all  
20 bloodstained articles be sent to the crime lab?

21 THE WITNESS: If I could be allowed to read it,  
22 I'll answer that question.

23 THE COURT: Sure.

24 THE WITNESS: That's what it says. Immediately is  
25 in capitals.

26 Q (BY MR. NEGUS:) And why didn't you do that?

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1 A My reason is that I only want to take blood that I want  
2 to know from what source that blood is from, not every  
3 item that has blood on it is critical to know where that  
4 blood is from.

5 Q Is your duty as a criminalist, when you go to a crime  
6 scene, is that to take stuff that you wanted to analyze  
7 or for some other purpose? What is your duty as far  
8 as collecting and preserving stuff at the crime scene?

9 A As I see it, my duty at the crime scene is to collect  
10 evidence that will help in solving a question, and the  
11 question being what happened.

12 Q Then you certainly -- well, did you take all the evidence  
13 from that crime scene that would help solve that problem?

14 A No, I did not take all of the evidence from that scene.

15 Q And why not?

16 A Because that is simply impossible as far as time is  
17 concerned. We don't have the time to collect all of the  
18 evidence at that scene.

19 Q Earlier you told me that time was not a factor; is that  
20 correct?

21 A With regards to whether I was pressed for time by  
22 investigators, at least that's how I interpreted that  
23 question.

24 THE COURT: Counsel, we're becoming argumentative.

25 I can conceive of literally of millions of samples that haven't  
26 been taken from this particular crime scene.

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1 MR. NEGUS: They were taken but they just weren't  
2 preserved.

3 Q (BY MR. NEGUS:) Other than just exemplars, did you  
4 have any other standard that you used in trying to  
5 decide what sort of blood samples that you were going  
6 to take?

7 A I don't think I understand the question.

8 Q Excuse me. If I understood you correctly, you said  
9 that you wanted to take exemplars of the evidence at  
10 the scene; is that right?

11 Withdraw that question. How did you decide -- leaving  
12 aside the carpet, how did you decide in general what it  
13 was that you wanted to take?

14 A Basically throughout the room, you look at the walls and  
15 all the articles that were against the walls, and areas  
16 like that; also the bed. There were areas very distinctly  
17 where some type of action had occurred. There was blood  
18 spattering on the walls or the objects. Those sorts of  
19 things I took samples from from throughout the house --  
20 or not the house, but the bedroom.

21 (No omissions.)  
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13-1

1 Q As far as blood was concerned, in the bedroom you took  
2 ten samples, right?

3 A Just for the purposes of serology. I mean, we are not  
4 counting the bedding material. They were blood-soaked.  
5 But I was not collecting them necessarily for serological  
6 purposes.

7 I counted 13 including the samples of blood from  
8 beneath the bodies.

9 Q Okay. So that's ten samples that you didn't note what  
10 the answer was?

11 A Yes.

12 Q Ten samples you didn't know who it came from, right?

13 A Yes.

14 Q When you took those samples, did you note the size of  
15 the blood stains that you were taking?

16 A The individual drops?

17 Q The size of the blood stains.

18 A No.

19 Q Did you note the shape of the blood stains?

20 A No.

21 Q Did you note the location of them?

22 A A general location, yes.

23 Q What do you mean by "general location"?

24 A Where there was a distinctive pattern on the wall. I  
25 mean generalized location.

26 For instance, the wall right next to the sliding

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13-2

1 glass door, there were blood splatters there. I  
2 considered that a pattern and I took samples from that  
3 spot.  
4 Q Did you also order Mr. Duffy to take some pictures?  
5 A Yes.  
6 Q Did you set up the pictures before Mr. Duffy took them?  
7 I mean the numbers in the pictures.  
8 A Most, if not all of them.  
9 Q Showing you photograph H-112, is that a photograph of  
10 the east wall as it exists there between the south wall  
11 and the sliding glass doors?  
12 A Yes.  
13 Q And the number 31 you put there, right?  
14 A Yes.  
15 Q Taking an orange grease pencil, could you circle for  
16 me the drop or drops that you collected?  
17 A No, I can't.  
18 Q Do you have any idea?  
19 A No.  
20 Q Are the drop or drops depicted in that particular  
21 photograph that you collected?  
22 A I believe some of them are.  
23 Q How many did you take?  
24 A I didn't count them.  
25 Q Do you know if you mentioned them or not?  
26 A I mentioned several of the drops, yes. If you are saying



13-3

- 1       that each drop is discriminate from another --
- 2   Q   Aren't they?
- 3   A   They might be. Again, they might not be. They are all
- 4       in the same area of the wall.
- 5   Q   Just because they are in the same area of the wall, do
- 6       you want to mix them all up?
- 7   A   Any one drop of that size wouldn't reveal as much
- 8       information serologically as several of the drops mixed
- 9       together unless those drops of blood are from separate
- 10      sources. That's sort of a trade-off.
- 11  Q   You don't know when you are picking them up whether they
- 12      are from separate sources or not, right?
- 13  A   You can formulate an opinion as far as the pattern there.
- 14  Q   How do you do that?
- 15  A   It's a study of the blood splattering impressions which
- 16      boils down to whether you can detect whether the blood
- 17      was deposited by the same action, which would normally
- 18      mean the same blood sample.
- 19  Q   So if you can tell the same action deposit of the blood,
- 20      then you are not going to have a risk of comingling?
- 21  A   Not necessarily. If the blood that that action created
- 22      was of mixed origin already, it will be mixed regardless.
- 23  Q   If you pick blood that's all from one action, then you
- 24      are not going to run the risk when you mix the drops of
- 25      comingling it yourself?
- 26  A   If that blood was not previously mixed, that's correct.

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13-4

1 Q What I'm saying is you wouldn't be the cause of the  
2 comingling, right?

3 A Yes.

4 Q Whereas if you take blood from two different actions,  
5 there is a probability that you will be the cause of  
6 comingling, right?

7 A Not a probability. I would call it a possibility.

8 Q How many different actions are on that wall?

9 A I really couldn't say.

10 Q More than one?

11 A It's possible.

12 Q How did you tell when you took it and mixed it whether  
13 there was one or more than one?

14 A More than one what? Action?

15 Q Yes.

16 A Basically, I went on a premise that this blood was  
17 separated from other areas of blood in the room and  
18 that the actions, whether there was one, two, or how  
19 many actions, would have been conducted from the same  
20 individuals, therefore the possibility of mixed blood  
21 would be reduced because of that.

22 Q Just going into your sense of probabilities, would you  
23 say that the probability of that blood being all from  
24 the same person was greater than the probability of  
25 the blood that is depicted as a streak in H-126 having  
26 been comingled?

2 THE COURT: He is looking at a specific photograph.

4 THE WITNESS: I base this only on the principle  
5 involved and that being that on the floor there is a much  
6 higher probability of tracking than with blood splattering  
7 on the walls. There is a higher probability that blood on  
8 this floor would be mixed than blood on this wall.

10 | A Yes.

13           The drop of blood A was traveling down when it hit  
14   the wall, correct?

18 Q And let's just look at B. That was traveling up when  
19 it hit the wall, correct?

22 Q Granted. And then if you look at C, it was likewise  
23 traveling down when it hit the wall; is that correct?

25 Q The difference between the C and the A is that the C  
26 as it's traveling hitting the wall, it's coming down

13-6

1 at an angle much more closer parallel to the wall than  
2 A, correct?

3 A C is striking with a more pronounced projectory than  
4 A is.

5 Q It's traveling more along the surface of the wall,  
6 whereas A is coming more or less straight in and going  
7 just a little bit down, correct?

8 A Yes.

9 Q And your training and understanding is that the same  
10 action produced those same three drops?

11 A It's possible for the same action to produce all three  
12 spots.

13 Q How?

14 A Depending on where the blood originated from. The  
15 action may have caused one blood drop to go straight,  
16 another one to fly off and hit the wall as it was flying  
17 up, another one to fly higher, it didn't reach the wall  
18 and hit the wall as it was falling.

19 It's possible for those three to have been produced  
20 by the same action.

21 Q Probable?

22 A I would not assign a probability to it.

23 Q I will add another one here.

24 MR. KOCHIS: Your Honor, I would object to the  
25 relevancy of us going blood drop by blood drop through the  
26 crime scene certainly under 352.

13-7

1 THE COURT: Counsel, I feel I must give him at  
2 least reasonable latitude.

3 Go ahead.

4 Q (BY MR. NEGUS) Circling the blood drop D, that's  
5 sitting on the wall moving away from the dresser,  
6 correct? Traveling more or less parallel to the  
7 horizon?

8 MR. KOCHIS: Your Honor, I'm going to object. There  
9 is no foundation. It calls for speculation absent some  
10 foundation on his part as to how he can arrive at an opinion  
11 as to movements of blood drops.

12 THE COURT: He hasn't been bothered by lack of  
13 foundation so far.

14 MR. KOCHIS: I am now.

15 THE COURT: Not you. The witness.

16 MR. KOCHIS: But it's my objection, not his.

17 THE COURT: Based upon the facts and the testimony,  
18 I will overrule the objection. He seems to be doing very  
19 well in that regard.

20 THE WITNESS: The drop that you have listed as D is  
21 moving slightly away from the dresser.

22 Q (BY MR. NEGUS) The same action produced that as  
23 produced A, B and C?

24 A I could not rule out that possibility.

25 THE COURT: At least you would concede that  
26 different actions could as well have produced different

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13-8

1 drops; is that correct?

2 THE WITNESS: Yes, that's true, different actions  
3 could.

4 Q (BY MR. NEGUS) When you take these little drops of  
5 blood, you put them in pill boxes, right?

6 A Yes.

7 Q Did you have any shortage of pill boxes at the scene?

8 A I had a limited supply. I had approximately 40 or 50  
9 with me.

10 Q Any problem if you are only going to take ten for the  
11 master bedroom in putting each drop in a separate pill  
12 box?

13 A Only in time and material. It's completely conceivable.

14 Q How much do the pill boxes cost?

15 A I don't know.

16 MR. KOCHIS: Objection.

17 THE COURT: Yes. That's too remote. Sustained.

18 Q (BY MR. NEGUS) How much additional time would it have  
19 taken to scrape each individual drop and put it in a  
20 different box?

21 A The actual collection would not have taken much time,  
22 but I assume if I'm going to be doing that, it's for  
23 a purpose, and that is to document where each particular  
24 blood drop was from. And that part would take quite  
25 some time.

26 Q Of course, you didn't document where those blood drops

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13-9

- 1        were from to begin with, right?
- 2    A    Certainly I did. I documented the general location  
3        and I gave that to you. I just did not document each  
4        exact blood drop that I collected.
- 5    Q    So it would have taken you too much time to document the  
6        blood drops, right?
- 7    A    Too much time. More time than I was willing to take for  
8        that purpose.
- 9    Q    Miss Schechter was sitting there writing all the stuff  
10       that you were telling her down, right?
- 11   A    Most of it, yes.
- 12   Q    So she was doing the note taking and she was doing the  
13       documenting of what you were telling her; is that  
14       correct?
- 15   A    She was doing the documentation, yes.
- 16   Q    So with the two of you working, most of the time she was  
17       sitting watching, right?
- 18   A    Well, documenting, yes.
- 19   Q    Basically, her documentation for number 31 consisted of  
20       a blood sample from E wall, 2305, correct?
- 21   A    Yes.

22                    (No omissions.)  
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1 Q Showing you Photographs H-64 and H-63, does that appear  
2 to be some of the blood that was on the south wall above  
3 the bed?

4 A Yes.

5 Q How many actions produced that particular pattern?

6 A At least several. I haven't gone through and done any  
7 study of that. I don't think I'm fully capable of doing  
8 all of the work that would be entailed there.

9 Q Certainly more than one?

10 A More than one, yes.

11 Q And how many samples did you take?

12 A One sample.

13 Q From where?

14 A On that wall. I can't say which blood drops I collected.

15 Q Why did you only take one?

16 A Most of the blood there is what looks like arterial  
17 bleeding, spurting blood, and again its all located in  
18 the same area. And the possibility of mixed blood in  
19 my mind is lower for a sample such as that.

20 Q Come again?

21 A A sample of mixed blood coming from that is not as likely  
22 as for instance the sample on the carpeting.

23 Q What about on the east wall?

24 A The east wall, the same thing.

25 Q In additon to arterial blood there, there's also cast off  
26 blood?



- 1 A Yes.
- 2 Q And there's also a medium-high velocity blood, right?
- 3 A Either that or aspirated blood.
- 4 Q The little small specks, there's small specks all over  
5 that wall; is that correct?
- 6 A In that area, yes.
- 7 Q Moving on for a moment to H-71, does that depict an  
8 area from which you took a sample which you labeled A-34?
- 9 A Yes.
- 10 Q Where did you take that from?
- 11 A Collected that sample from the top of that dresser or  
12 night stand or whatever that is.
- 13 Q Do you recall which drop of blood that you collected?
- 14 A No.
- 15 Q Can you limit the area from which you collected it?
- 16 A I really wouldn't be able to say.
- 17 Q Just somewhere from the night stand?
- 18 A Yes.
- 19 Q Do you recall there being some blood down the front of  
20 the night stand as well?
- 21 A I don't recall that off hand, no.
- 22 Q Showing you H-70, a photograph of the front of that  
23 little night stand, do you now see there's some blood  
24 there?
- 25 A Yes, there appears to be blood on that.
- 26 Q Do you recall whether you took the blood from the top

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1 surface or the front of it now?

2 A I believe the blood was taken from the top.

3 Q But you're not sure?

4 A I'm fairly sure of that, yes.

5 Q Did you take any blood from the lampshade?

6 A Not as I recall.

7 Q Why not?

8 A I felt that the blood was in conjunction with what I  
9 collected in A-34 from the night stand.

10 Q What do you mean conjunction?

11 A It was all in the same area, appeared to be consistent  
12 to the same blood.

13 Q Because a drop of blood is all in the same area, does  
14 that mean it came from the same action?

15 A Not necessarily, no.

16 Q Showing you Exhibit H-283, there's some drops of blood  
17 on that which had previously been numbered as 1, 2, and  
18 3. Is it possible that those drops came from the same  
19 action?

20 A That's not very likely.

21 Q They're crisscrossing, right?

22 A Yes. 1 and 3 appear to be possibly from the same  
23 action. 2 appears to be from a separate action.

24 Q But do you recall that particular area of the south  
25 wall?

26 A Not really. It appears to be an area of the south wall.

1 I don't recall it, no.

2 Q Showing you two photographs that have been marked as  
3 H-285 and H-284, do they appear to be successively  
4 closer views of the south wall as it now exists in its  
5 resting place at the crime lab?

6 A Yes.

7 Q And using those as a point of reference, can you locate  
8 the Photograph H-283 on the Photograph H-284?

9 A Yes.

10 Q Now, you'll note on this photograph H-284, and also  
11 that there's all these very, very small drops of blood  
12 sprayed throughout the pattern. Is that kind of -- that  
13 size of blood, can you tell me anything about the  
14 velocity?

15 A With proper training, yes. I'm not as explicitly trained  
16 in that. I wouldn't be able to tell you what velocity  
17 created that.

18 Q Can you tell between the velocity of gravity and the  
19 velocity of a speed greater than gravity?

20 A That would appear to be a speed greater than gravity.

21 Q Because of its size and its pattern, right?

22 A Yes.

23 Q Would that be the kind of blood that you would expect  
24 to come from an impact of some object on blood?

25 A It may be. It may be aspirated blood.

26 Q What do you mean by aspirated blood?

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- 1 A Aspirated blood is blood that is in the airway and a  
2 person coughs or something like that, which is actually  
3 very vital. It's like when you sneeze and the blood comes  
4 forth at a very high velocity, very small spray-type  
5 particles.
- 6 Q There also appears on the south wall circled by a number  
7 one a different kind of pattern; is that right?
- 8 A Yes.
- 9 Q That's neither arterial or aspirated?
- 10 A It doesn't appear to be so.
- 11 Q It appears to be cast off?
- 12 A It could be cast off, yes.
- 13 Q Did you take any from that?
- 14 A No. Except for a small portion of that, most of that  
15 was behind the bed head stand.
- 16 Q In Exhibit 32, does Exhibit 32 appear to be the way  
17 the bed looked when you were setting up the numbers?
- 18 A Yes.
- 19 Q And you can clearly see the top of the cast off pattern  
20 in that photograph; is that correct?
- 21 A I can see a portion of that. I by no means can see all  
22 of it.
- 23 Q It appears to be separated by some distance from the other  
24 pattern, right?
- 25 A Some distance.
- 26 Q In that particular crime scene, there was a double bed,

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1 right?

2 A Yes.

3 Q Two nude adults in the room of opposite sexes, correct?

4 A Yes.

5 Q In deciding the probabilities that you were going to  
6 use in obtaining blood, did you take as at least an  
7 operating hypothesis that the two adults had been on  
8 different sides of the bed when the attack began?

9 A Yes.

10 Q Did you know which of the two adults' blood that was  
11 when you took the samples?

12 A No.

13 Q Did you know whether or not the blood on the -- the  
14 cast off pattern that I have circled and numbered one on  
15 the diagram H-285 was on the right side of the bed,  
16 correct?

17 Showing you H-212, the cast off pattern there is  
18 right above the pillow and it's the right side of the bed;  
19 is that correct?

20 A Well, anywhere from the center midsection of the bed  
21 to the right side, yes.

22 Q And it appears to be pointing down generally toward the  
23 pillow, right?

24 MR. KOCHIS: Objection, the form of that question  
25 is argumentative.

26 THE COURT: In effect does it appear to be pointed

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2 THE WITNESS: I don't know what he means by pointed  
3 down. What is the direction of travel?

4 Q (BY MR. NEGUS:) Yes.

5 A It's down and to the right towards that pillow, yes.

6 Q In interpreting blood patterns, the reasonable interpre-  
7 tation of that would be that a bloody object was moving  
8 down toward the general area of that pillow, correct?

9 A I'm not willing to make that statement. Perhaps someone  
10 with more knowledge in blood spatter patterns could  
11 make that. But I'm not willing to say that it was an  
12 object that made that.

13 Q Did you attempt to do something so that one could  
14 determine from the blood samples that you collected  
15 which of the two adults the different patterns of blood  
16 on the south wall came from?

17 A I'm not really sure -- things that I did or things that  
18 were done back in the laboratory, serological testing?

19 Q Did you attempt to collect samples to ask that question?

20 A I collected blood samples from the bed itself, from the  
21 wall above the left side of the bed, and from the night  
22 stand off to the right side of the bed. The determination  
23 from that serologically might place the individuals.  
24 I didn't take any more samples than that.

25 Q The blood that you took from the south wall could have  
26 been any of the different blood shown in Exhibit H-284;

4 Q (BY MR. NEGUS:) Yes.

5 A It's down and to the right towards that pillow, yes.

6 Q In interpreting blood patterns, the reasonable interpretation of that would be that a bloody object was moving

7 down toward the general area of that pillow, correct?

8 A I'm not willing to make that statement. Perhaps someone

9 with more knowledge in blood spatter patterns could

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12

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21 wall above the left side of the bed, and from the night  
22 stand off to the right side of the bed. The determination  
23 from that serologically might place the individuals.

24 I didn't take any more samples than that.

25 Q The blood that you took from the south wall could have  
26 been any of the different blood shown in Exhibit H-284;

- 1 is that correct? And you have no way of knowing which  
2 it was?
- 3 A That's correct.
- 4 Q Did you make any modification in your principle of  
5 selection, whatever it was, for situations where the  
6 physical evidence at the crime scene suggested there had  
7 been two victims in close proximity during the attack  
8 and areas where that was not suggested?
- 9 A I don't believe I made any determination of any time where  
10 two victims would have been in close proximity as in  
11 regards to the way I collected blood and evidence.
- 12 Q As you were collecting this evidence, were you trying to  
13 figure out what had happened?
- 14 A In a sense, yes, trying to determine what led to these  
15 bodies lying on the floor chopped up. But getting down  
16 to every action that took place in that bedroom that  
17 night, no, I was not trying to determine that.
- 18 Q Were you trying to take samples so that somebody who  
19 was back at the laboratory would have that opportunity?
- 20 A No, I was not.
- 21 Q Why not?
- 22 A As I understand the capabilities of our laboratory, that  
23 would not be possible.
- 24 Q You're telling me that your laboratory doesn't analyze  
25 blood samples?
- 26 A We certainly analyze blood samples and tell you to some

1 degree of specificity where that blood came from to a  
2 probability. But as determining what actions led up to  
3 that blood being deposited in a particular area, in a  
4 small scene where there's just one suspect, one victim,  
5 you might be able to say something about that. Where you  
6 have this massive amount of action, that becomes  
7 increasingly more difficult. And this case I really  
8 don't think that anyone in the crime laboratory would be  
9 capable of that.

10 Q If the laboratory can't solve problems like that, you  
11 do go out and seek outsiders; correct?

12 A Not generally. It might be possible. Let me put it  
13 this way. I've never witnessed our laboratory doing a  
14 total reconstruction of the scene before down to  
15 absolute actions of individuals concerned.

16 Q Leaving aside the word total in that, do you take more  
17 samples from simple crime scenes that you do from  
18 complex ones?

19 A Not necessarily.

20 Q In Photograph H-79, did you have somebody hold those  
21 numbers 35 at that particular spot?

22 A That's me holding those numbers.

23 Q Where did you take the blood from in that particular  
24 photograph?

25 A I took the blood from the door that the number appears  
26 in front of, but as to which particular blood spots were



1 collected, I wouldn't be able to say.

2 (No omissions.)

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15-1

1 Q Showing you H-80, is that the same area that's depicted  
2 in H-79?

3 A Yes.

4 Q And does the photograph in H-80 appear to be taken after  
5 the photograph in H-79?

6 A I really can't tell which was taken first or second.

7 Q Did I leave my magnifying glass here?

8 I put two circles on H-80 and I'm asking you to  
9 take the magnifying glass and look at those two circles.

10 Does it appear that the two circles of blood were  
11 taken from the drops that are in them?

12 A It appears so, yes.

13 Q Is that where you took the blood from, those two  
14 different circles?

15 A Very possibly.

16 Q You only took -- Whatever blood you took off that  
17 closet door, it was all put in one little pill box,  
18 right?

19 A Yes.

20 Q Let's see. Do the drops of blood in the top little  
21 circle appear to be caused by the same action as the  
22 drops of blood in the bottom circle?

23 A No.

24 THE COURT: The two drops that appear to have had  
25 portions taken for analysis, do they appear to have been  
26 caused by the same action?

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15-2

1 THE WITNESS: That's what he is asking me.

2 THE COURT: There is the top and bottom.

3 Q (BY MR. NEGUS) For the record, there is a top group of  
4 three blood drops and a bottom group of about five or  
5 six from which it appears the blood has been taken,  
6 right?

7 A Yes.

8 Q And the top group appears to have caused by -- at least  
9 consistent with having been caused by one action, correct?

10 A Yes. It's blood that looks like it had been projected to  
11 the left in the photograph.

12 Q In the bottom photograph, there are about five drops  
13 that appear to have been caused by a separate and  
14 distinct action from the top; is that correct?

15 A Yes.

16 Q And then did you take and mix those two?

17 A If those are indeed the blood samples I took, I did put  
18 them in the same container.

19 THE COURT: We will break until tomorrow morning at  
20 9:30.

21 (Whereupon the proceedings taken and had  
22 on this date were adjourned.)

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