

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

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OFFICIAL REPORTERS

VOLUME

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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

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10
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Thursday, June 28, 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:

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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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1 SAN BERNARDINO; CALIFORNIA; THURSDAY, JUNE 28, 1984; 9:48 A.M.

2 DEPARTMENT NO. 10 HON. RICHARD C. GARNER, JUDGE

3 APPEARANCES:

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

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

13
14 THE COURT: Good morning. Mr. Negus.

15 MR. NEGUS: Could we call Mr. Longhetti out of
16 order, Your Honor?

17 THE COURT: Certainly. Mr. Longhetti.

18
19 A N T H O N Y L O N G H E T T I, called as a witness by
20 and on behalf of the Defense, was duly sworn and
21 testified as follows:

22 THE CLERK: Raise your right hand, please. You do
23 solemnly swear the testimony you are about to give in the
24 action now pending before this Court shall be the truth,
25 the whole truth, and nothing but the truth, so help you God.

26 THE WITNESS: I do.

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

3 THE WITNESS: Anthony Longhetti, L-o-n-g-h-e-t-t-i.
4

5 DIRECT EXAMINATION

6 BY MR. NEGUS:

7 Q Mr. Longhetti, you're a deputy sheriff with the County
8 of San Bernardino with the rank of Deputy Chief; is that
9 correct?

10 A Yes, sir.

11 Q What are your responsibilities as a deputy chief?

12 A I'm responsible for the scientific investigations bureau,
13 which includes the crime laboratory and the identification
14 division.

15 Q And did you have those responsibilities in June of 1983?

16 A Yes, sir.

17 Q Within that division, are you the person responsible
18 for establishing and approving procedures used by those
19 divisions to collect and preserve physical evidence?

20 A Ultimately, yes.

21 Q What procedures have been established in your division
22 to ensure that all discoverable physical evidence is
23 preserved so that the Defense in a criminal prosecution
24 can do independent testing of it?

25 MR. KOCHIS: I'm going to object. I think that
26 assumes facts and standards that aren't in existence. I don't

1 think there is any policy that requires them to seize all
2 potentially discoverable evidence and preserve it.

3 THE COURT: I will add to his question, "If any."
4 Overruled.

5 THE WITNESS: May I have the question back, please?

6 MR. NEGUS: Could I reask it just to make sure --
7 Mr. Kochis is objecting. I suspect I must have left some-
8 thing out. If I could just reask the question.

9 MR. KOCHIS: I have no objection to the "if any"
10 that the Court's asked.

11 THE COURT: In effect, you say procedures, what
12 procedures to ensure the Defense --

13 MR. NEGUS: Let me try -- could I just try it again?

14 Q (BY MR. NEGUS:) What procedures, if any, have you
15 established to assure that evidence, physical evidence,
16 gathered in the course of a criminal investigation which
17 is discoverable that is material to an investigation is
18 preserved for independent analysis by the Defense in a
19 criminal prosecution?

20 A There are no -- with the exception of some evidence
21 collection outlines or guides, there are no specific
22 written procedures. There are, of course -- there is,
23 of course, on-the-job training and instructions which
24 include the doing of a thorough job for the collection
25 and preservation of all physical evidence at all crime
26 scenes.

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1 Q Can you describe that training?

2 A The training includes on-the-job training specifically,
3 which means that the new criminalist in the laboratory
4 is assigned to go out to crime scenes.

5 If we're talking specifically, as I assume we are
6 at this point, crime scenes, to go out with a criminalist
7 who has been on the job for a longer period of time,
8 has been to several crime scenes, and therefore can
9 assist the newer criminalists in learning some of the
10 proper procedures for collection and preservation of
11 physical evidence.

12 Q Is it correct to say, then, that basically the training
13 consists of more experienced persons passing on the way
14 they do things to less experienced persons?

15 A That, plus, of course, reading in several texts and
16 journals which the laboratory has.

17 Q Are there any particular texts and journals which are
18 read or is it left up to the individual trainee?

19 A To some degree it's left up to the individual trainee.
20 There are probably some that are used more often than
21 others. The laboratory has hundreds of textbooks and
22 thousands of journals.

23 Q Are there any particular textbooks which are used most
24 frequently?

25 A One that's used, for example, would be a booklet put
26 together by Fox and Cunningham, the title of which I don't

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1 recall, but it has to do with crime scene evidence
2 collection. That's only one of many.

3 Q Showing you Exhibit H-199, is that a Xerox of a portion
4 of that booklet by Fox and Cunningham?

5 A It appears to be, yes.

6 Q Do you also use a textbook by Svensson and Wendel re-
7 edited by Barry Fisher about crime scene investigations?

8 A We have that in the library and it's used to some degree,
9 yes.

10 Q Do you also use a textbook originally written by Paul
11 Kirk and reedited by John Thornton entitled Crime
12 Investigation?

13 A To a lesser extent than the others, yes.

14 Q Why is that to a lesser extent?

15 A Because that particular text does not go into as much
16 as, for example, Fox and Cunningham or even Svensson and
17 Wendel reedited by Fisher into crime scene collection
18 procedures as much as it does into the actual examination
19 of physical evidence.

20 Q Do you have any procedures as to which particular journals
21 that young criminalists or inexperienced criminalists
22 should read?

23 A There are some journals that are specifically directed
24 to the field of forensic science, such as the Journal
25 of Forensic Sciences, which they are encouraged, of
26 course, to become familiar with.

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1 There are other journals, such as Analytical
2 Chemistry, which rarely carries articles of direct
3 interest or concern to forensic sciences, but they're
4 also available in the library and indexed.

5 Q Which are the ones that deal with forensic sciences
6 which all the people are encouraged to read?

7 A I don't have a list of them, but one of them, for example,
8 is the Journal of Forensic Sciences. Others are Medicine,
9 Science, and the Law. Another would be Canadian --

10 Q Journal --

11 A Journal of the Canadian Forensic Science Society. Another
12 would be the Journal of the Forensic Science Society,
13 which is an English publication. There are many others.

14 Q All those are received -- you have subscriptions to all
15 of those in the laboratory?

16 A Yes, that's correct, plus many others.

17 Q Is there anything done in the laboratory to attempt to
18 grade the complexity of crime scenes so that more
19 experienced criminalists are assigned on more complex
20 crime scenes and less experienced to less complex?

21 A The complexity of the crime scene is very difficult to
22 assess even -- and particularly before one even gets to
23 a crime scene. And even after getting there the
24 complexity is not necessarily always obvious, and
25 certainly before arriving at a crime scene it's very
26 difficult to assess. What may appear to be a simple

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1 crime scene may turn out to be a very difficult one and
2 vice versa.

3 Q Are there any procedures to try and sort that out once
4 people are at the crime scene?

5 A Not usually.

6 Q Within the two parts of the division of which you're
7 in charge, the I.D. bureau or the I.D. division and the
8 crime lab, what procedures do you have to take care of
9 physical evidence if both divisions want to do analysis
10 of it?

11 A If both divisions need to do an analysis of it, then the
12 determination is made by the two directors or lieutenant
13 in charge of the identification division and the
14 criminalist in charge of the crime laboratory, respectively
15 now Lieutenant Cox and Mr. Baird, as to which of the two
16 divisions should do which examinations first. Or as is
17 often the case, the examinations are done somewhat
18 jointly or at least in the presence of both of the
19 criminalists or I.D. people involved.

20 Q Is that so that each can ensure that the other doesn't
21 do something to hinder the success of his particular
22 investigation?

23 A In part, but also to maintain the chain of custody of
24 the evidence in a better fashion.

25 Q At a crime scene what is the relationship, if any, which
26 is established between the people from the I.D. bureau

1 and the crime lab on the one hand and homicide, the
2 homicide division, on the other hand?

3 A. Well, the relationship is that the homicide division,
4 if it's a sheriff's office case, or the investigators,
5 if it's a city case, are in charge over all of the crime
6 scene and its investigation.

7 The crime laboratory personnel or identification
8 division personnel are there expressly for the purpose
9 of searching and collecting and preserving physical
10 evidence; or in the case of the identification division,
11 photographing the scene and searching for latent finger-
12 prints.

13 Q. Were there any procedures whereby, for example, homicide
14 points out to the different divisions, I.D. and the crime
15 lab, what they want?

16 A. They may, but it's a joint effort, and obviously the
17 laboratory is not only going to collect only what the
18 investigator in charge wants, if the criminalist, he
19 himself or herself, sees other physical evidence that
20 may be significant.

21 Q. If a criminalist wanted more time at a crime scene to
22 do work and the people from homicide didn't want to
23 allow that, what procedures, if any, would the
24 criminalist follow to try and change the decision of
25 homicide?

26 A. I don't think there are going to be very many, if any,

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1 situations where the homicide people are going to say
2 "you can't do any more work at the crime scene" unless
3 there's some emergency situation or danger involved.
4 So the question is kind of rhetorical and academic.

5 Q That doesn't come up in the course of --

6 A Rarely, if at all.

7 Q Are you familiar with the manual of the sheriff's office
8 which was first passed around in January of 1983 and
9 then approved finally on June 27th, 1983?

10 A I don't have it entirely committed to memory, but, yes,
11 I'm familiar with it.

12 Q And showing you Exhibit H-192, does that include portions
13 of the manual which deal with logging and collecting
14 physical evidence?

15 A It appears to, yes.

16 Q Were you the person who was in charge of giving final
17 approval to that particular portion of the manual?

18 A No, I don't believe I gave final approval. I supplied
19 some of the material from which this may have been
20 taken. But final approval was done by a committee under
21 the direction of now Deputy Chief Joseph Carr, who put
22 together the manual.

23 Q Did they ever submit the sections which pertained to
24 your division to you before it was finally approved?

25 A I don't believe so.

26 Q Does your division take a role in the training of all

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1 deputies with respect to the handling of physical
2 evidence?

3 A To some degree, yes.

4 Q What role is that?

5 A The role is one of one giving some instructional material,
6 half a day perhaps, six hours, at the basic academy to
7 which all new deputies and many new police officers
8 throughout the county are assigned. But that's very
9 preliminary, because it's in the very early stages of
10 their careers.

11 Occasionally there are some specific instructional
12 sections given throughout the county or to parts of the
13 division. In addition to that there may be some one-on-
14 one instructional guidance given with specific departments
15 or specific divisions of the sheriff's office from
16 criminalists to an investigator, for example.

17 Q An investigator asks a question?

18 A Yes.

19 (No omissions.)

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1 Q Are there any materials that are prepared by the
2 laboratory for use in that endeavor?

3 A There have been some, yes.

4 Q Are those periodically reviewed?

5 A Reviewed. Not so much reviewed as added to in the sense
6 of one or two pages of material updating, for example,
7 the collection of evidence in serology-type cases.

8 Q Showing you Exhibit H-195, is that a Xerox copy of the
9 most recent set of instructional materials which the
10 Crime Lab provides to deputies about handling physical
11 evidence?

12 A Not exactly.

13 Q Why is it not exactly?

14 A Because this is prepared by the training division of the
15 Sheriff's Department for their use at the training
16 division. It's based in great part on an evidence
17 collection outline series that I co-authored about
18 30 years ago, but some of it is in words that apparently
19 were added to or somewhat changed around by the personnel
20 at the training division when this was prepared.

21 Q Showing you Exhibit H-279, is that a copy of the
22 Evidence Collection Outline which you authored?

23 A Yes. I did this in conjunction with George Roche,
24 R-o-c-h-e, when I was employed by the State of
25 Minnesota from 1950 to 1957.

26 Q And has that been updated since that time?

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1 A That particular outline has not been updated. There
2 have been sections or there have been specific
3 additions not to the outline but one-page materials
4 that have gone out to various departments.

5 For example, in the serology area. But the outlines
6 themselves remain as they were put together several years
7 ago.

8 Q Other than the written materials which I have shown you,
9 were there any other written procedures about collecting
10 and preserving physical evidence that were in effect in
11 June of 1983?

12 A Only the separate one-page, usually, or sometimes one-
13 or two-paragraph-type additions that were not in the
14 training bulletin or were mailed out occasionally to
15 other departments.

16 Q In terms of collecting and preserving evidence, what
17 role does the storage space that you have in the
18 laboratory play in criminalists, as far as your
19 training, in criminalists determining to seize or not
20 seize evidence?

21 A The storage space rarely plays a significant role in
22 the determination of whether or not to seize evidence.
23 It may be a determining factor to some degree once the
24 evidence is collected and brought into the laboratory,
25 but most of the time the instructions are -- all the
26 time the instructions are that one is not to be guided

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1 by whether or not there is going to be storage space.

2 Items will be collected and storage space, if
3 necessary, will be found. That's only common sense.

4 Q In June of 1983, were you called on approximately
5 June 6th by either Craig Ogino or Dan Gregonis in
6 connection with the Ryen homicides?

7 A I don't recall the specific date. I do have a
8 recollection of being called by Mr. Ogino because he
9 wasn't able to contact Mr. Baird, yes.

10 Q Do you recall what the nature of his particular request
11 was?

12 A No, I don't.

13 Q Were you consulted about the preservation and storage
14 of the evidence collected in the Ryen case?

15 A I may have been indirectly. I would say most of the
16 decisions in that regard, of course, were made by
17 Mr. Baird. He may have consulted me either before or
18 after the fact, but Mr. Baird has been the director of
19 the Crime Laboratory now for a period of approximately
20 a year and a half.

21 Q So as far as decisions about where to put stuff, what
22 stuff to freeze, what stuff to store in other ways,
23 that would have been left up to people under your
24 command rather than yourself?

25 A Mr. Baird, and most specifically in terms of blood
26 stains or other serological evidence, Mr. Gregonis.

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1 Q With regard to the materials prepared by the training
2 academy, would you expect that one of your trained
3 criminalists would follow, at least to a minimum
4 standard, those particular guidelines?

5 A Yes. But they are guidelines and there are times,
6 many times at crime scenes, from my experience and that
7 of others, when the guidelines are just that and the
8 action that needs to be taken or should be taken may
9 not follow directly the outlines.

10 Crime scenes vary considerably in extent and the
11 type of evidence that's available or found.

12 Q When it's necessary to vary the guidelines, one shouldn't
13 however, take less care of the evidence than is
14 suggested in them; is that correct? There just may be
15 situations in which the guidelines haven't foreseen
16 something and you need imaginative responses, but you
17 shouldn't get sloppy or take less care?

18 A Not get sloppy.

19 MR. KOCHIS: It's argumentative, the form of the
20 question. He is trying to impart his argument to the Court.

21 THE COURT: Overruled.

22 You started to answer, Mr. Longhetti.

23 THE WITNESS: Now I need the question again.

24 THE COURT: Should you take less care or get sloppy?

25 THE WITNESS: Not get sloppy or take less care.

26 Some deviation from the guidelines might be appropriate.

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1 Even in the collection of hair, it might not be
2 possible to collect the minimum amount that's required
3 for one reason or another.

4 Q What sort of things would make it -- Strike that.

5 MR. NEGUS: Nothing further.

6

7

CROSS-EXAMINATION

8

BY MR. KOCHIS:

9 Q Mr. Longhetti, returning to the real world, the practical
10 world, are there any practical limitations placed on
11 your division for storage space?

12 A There are practical limitations in the sense that the
13 space that the Crime Laboratory has in its present
14 location is limited. The space that it has that it
15 uses for additional storage which is in the fourth
16 floor of the old courthouse is, to some degree, limited.
17 But not entirely.

18 There is space also in the property area of the
19 Identification Division, but, obviously, if one were to
20 collect 75 automobiles, that would be a problem.

21 Q Is there a limited amount of space in your division to
22 store items of evidence in a frozen condition?

23 A Yes. The limitation on freezing evidence is there. The
24 amount of freezer space is limited.

25 Q You essentially at this time and in June of 1983 have
26 one stand-up freezer, white in color, that exists in

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1 your Crime Laboratory to store evidence from all the
2 cases that come to you in this county which need to be
3 preserved for serological analysis?

4 A I believe that's the principal one. There may be some
5 smaller freezer sections of other refrigerators, but
6 that's the principal storage area.

7 Q When a criminalist goes to a crime scene, is there a
8 reason, for example, in a homicide case, a serious case,
9 he doesn't take every item of property at the scene?

10 A No. The shotgun approach, as I would call it, for
11 collecting physical evidence is certainly not very
12 practical nor feasible nor desirable.

13 The criminalist is there in part to assist in
14 determination of what evidence would be significant in
15 reconstructing for either side, the prosecution or the
16 defense, in its case.

17 Q In response to Mr. Negus' questions, you said that the
18 duty of the Crime Lab at a crime scene would be to
19 search for, collect and preserve items of physical
20 evidence.

21 Taking the last two words of the statement you made,
22 "physical evidence", is there some type of definition
23 you impart to your criminalists as to what things they
24 should take from a scene, what things they should have
25 preserved through photography, what things they should
26 leave behind at the scene?

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1 A The definition depends on the crime scene or the crime
2 itself, to some degree. It depends on the experience,
3 persistence, common sense, intuitiveness of the
4 criminalist or criminalists that are at the scene. It
5 depends on the apparent type or facts as they relate
6 to the scene itself as determined from the investigator
7 and other people at the scene and what may be necessary
8 to show or not show, namely will it be necessary to help
9 establish a corpus delicti, will it be necessary to
10 reconstruct some aspect of the case, will it be necessary,
11 for example, by blood stains, to show that the perpetrator
12 was at the scene or something of that type.

13 Q Is it fair to say, then, that not every item of property
14 at a scene is considered evidence within your definition?

15 A No. Physical evidence itself is a term that really has
16 meaning only when the matter under consideration comes
17 into a courtroom.

18 Potential evidence is what we are talking about, and
19 there has to be some obvious judgment used in what is
20 going to be collected.

21 Q In your experience, can blood provide certain information
22 when it's analyzed serologically?

23 A Yes, it can.

24 Q In spite of that principle, is it the policy of your
25 laboratory for, or you yourself, to seize every drop of
26 blood at a murder scene?

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1 A No. That's certainly not necessary. What is important
2 is to seize a representative sample of blood stains from
3 the crime scene itself and then to keep in mind that at
4 a crime scene where there are victims who have been
5 killed, for example, it's not necessarily true, and this
6 is one of the things I do impart to people, it's not
7 necessarily true that all that blood can be assumed to
8 be from the victim or victims. There may be blood there
9 from the perpetrator.

10 Q Do you have a criminalist in your Crime Laboratory by
11 the name of David Stockwell?

12 A Yes.

13 Q Do you have a criminalist in your laboratory by the name
14 of Patricia Schechter?

15 A Yes, sir.

16 Q Were you involved in training of either one of those
17 criminalists?

18 A Indirectly, yes.

19 Q Which one or both of them?

20 A Both were hired ultimately, upon my recommendation,
21 ultimately by the Sheriff, of course, but upon my
22 recommendation, and I was involved to some degree in
23 their training.

24 Mr. Stockwell required different training than
25 Miss Schechter because he was a graduate of a
26 criminalistics program at Michigan State University;

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1 whereas Miss Schechter is a graduate in chemistry from
2 Cal State San Bernardino.

3 So Mr. Stockwell had some classroom experience and
4 practical experience in terms of physical evidence
5 examinations, collection and preservation.

6 Q Are you Mr. Stockwell's ultimate superior at the Crime
7 Lab?

8 A Within the Crime Lab, Mr. Baird is his ultimate superior
9 now. I'm the next in the chain of command, if you want
10 to call it that, by being Mr. Baird's supervisor.

11 Q In the past, prior to the time you became Deputy Chief,
12 had you had the opportunity to review the type of work
13 Mr. Stockwell was doing?

14 A I did some review in the sense that I reviewed and
15 co-signed all of the laboratory reports up until about
16 six or eight months ago, which included those by
17 Mr. Stockwell. So in so doing, I would review his work
18 and talk to him about anything in his notes or in his
19 report that needed redoing or needed some comment.

20 Q Were you able at all to assess Mr. Stockwell's
21 proficiency in crime scene processing?

22 A Mr. Stockwell is probably the most tenacious and
23 stick-to-it-type person in terms of crime scene
24 examinations that the Crime Laboratory has. He had,
25 I believe, at this particular time, one year's experience,
26 but experience is only one factor in doing a proper job

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1-10

1 at collection and preservation of physical evidence.

2 For example, there is the old cliché that two people

3 can each have 20 years of experience and one may have

4 20 years of real experience from which he or she might

5 profit and the other may have one year's experience

6 repeated 20 times.

7 Number of years experience is no criteria for

8 anything, really.

9 (No omissions.)

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1 Q Do you have within the laboratory any minimum standard,
2 either written or one that's expressed orally, that
3 applies to each and every crime scene in terms of the
4 collection of physical evidence?

5 A The minimum standards are to do a proper job of searching
6 for and collecting and preserving the physical evidence.
7 The number of items to be collected is difficult to
8 assess or to put a minimum number on.

9 There have been some crime scenes where no physical
10 evidence has been collected because it didn't seem
11 appropriate, there really wasn't anything. Some scenes
12 don't lend themselves to physical evidence.

13 Q Is it fair to say that as you expressed to Mr. Negus
14 earlier because of the wide variety of crime scenes
15 your criminalists confront that there has to be some
16 flexibility in the guidelines they provide when they
17 approach a particular scene?

18 A Yes.

19 Q And does the analysis of the scene while the criminalist
20 is there play a part in what he or she will choose to
21 seize and preserve?

22 A Yes, it does.

23 MR. KOCHIS: I have nothing further.

24 MR. NEGUS: Nothing further.

25 THE COURT: Thank you, Mr. Longhetti.

26 MR. KOCHIS: Bill Baird.

1 THE COURT: That door is locked, sir.

2

3 W I L L I A M B A I R D, having been previously duly sworn,
4 resumed the stand and testified further as follows:

5 THE COURT: I remind you of your prior oath. Just
6 resume the chair and state your name for the record again.

7 State your name again.

8 THE WITNESS: William W. Baird, B-a-i-r-d.

9 THE COURT: You may resume, Counsel.

10

11 CROSS EXAMINATION (Resumed)

12 BY MR. KOCHIS:

13 Q Mr. Baird, in June of 1983, were you one of Mr. Stockwell's
14 supervisors?

15 A Yes, I was.

16 Q And at that time had you had the opportunity to supervise
17 him for approximately a 12-month period?

18 A Yes. Actually it's a little bit longer than that in that
19 he was an unpaid intern in our laboratory for a few
20 months prior to his being hired. So I had a slightly
21 longer than a year's chance to observe his work.

22 Q Somewhere in the neighborhood of one and a half years,
23 then?

24 A About 15 months total.

25 Q And during that time did you have the opportunity to
26 review Mr. Stockwell's proficiency in processing crime

1 scenes?

2 A Yes.

3 Q On June the 5th of 1983 when you arrived and saw him at
4 the crime scene, did you feel that Mr. Stockwell was
5 qualified to process that crime scene?

6 A Yes, sir, I did.

7 Q At the time did you have people in the laboratory who
8 had more years on your staff at the crime lab?

9 A Yes.

10 Q Did some of those people have expertise in areas that
11 Mr. Stockwell did not have expertise in?

12 A Yes.

13 Q For example, questioned documents?

14 A Yes.

15 Q Tool marks?

16 A Yes.

17 Q Firearms?

18 A Firearms.

19 Q Is it fair to say that you had people at the time who
20 had more experience than Mr. Stockwell in certain areas
21 that did not seem related to the processing of the
22 Ryen crime scene?

23 A Yes.

24 Q How long have you been in the crime lab?

25 A It will be 14 years in September.

26 Q Since you've been in the crime lab, to your knowledge how

1 many quadruple homicides had the San Bernardino County
2 Sheriff's Office Crime Lab processed?

3 A. Two.

4 Q Does that include the Ryen homicides?

5 A. Yes.

6 Q Which is the other one?

7 A. The other was -- do you wish me to describe it by
8 location or defendant's name?

9 Q Victim or defendant's name.

10 A. It was a Grand Terrace and there was a defendant by the
11 name of Meyer.

12 Q Was that in fact a case that Mr. Forbush, who is seated
13 in court, was involved in when he was with the sheriff's
14 homicide division?

15 A. Yes.

16 Q Is it fair to say that that scene was processed some
17 time ago?

18 A. Yes.

19 Q How many years?

20 A. I don't have an exact recollection. I believe it was
21 about 1973 or '74.

22 Q Here's what I'm getting at. Were there criminalists
23 that processed that scene?

24 A. Yes.

25 Q And I assume, then, those people, the criminalists who
26 processed that scene, had some experience in a quadruple

1 crime scene in that they had processed one in Grand
2 Terrace --

3 A Well, not --

4 Q Not prior to that time.

5 A Not prior to that time. Mr. Davidson might have,
6 because his experience predates mine. Mr. Bellomy, who
7 was the other criminalist, had no prior experience. That
8 was his first quadruple crime scene.

9 Q Were either one of those people employed in the crime
10 lab on June the 5th of 1983?

11 A No.

12 Q Is it fair to say that when the Ryen homicides were
13 discovered there was no person in the crime lab who had
14 more experience than David Stockwell in processing
15 quadruple homicides that was on your staff?

16 A That's correct.

17 Q At the time of the Ryen homicides, how many criminalists
18 did you have employed at the crime lab?

19 A Thirteen, including myself.

20 Q How many of those 13 persons were non-supervisors?

21 A Ten.

22 Q How many of those ten persons were serologists?

23 A Two full time assigned, plus David Stockwell, who at that
24 time was doing some serology work but was not assigned
25 full time to that function.

26 Q On June the 6th of 1983, was the Ryen-Hughes homicide

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1 case the only case in your laboratory that had items
2 of serological significance?

3 A No.

4 Q Do you recall approximately how many other cases of
5 serological significance were pending in the crime lab
6 as of June the 6th?

7 A My attempts to try to determine that number were
8 frustrated. It's very difficult because of the fact
9 I can from our records determine which cases came in
10 during which months. However, they are worked some time
11 after they come in and it's very difficult to decide
12 from sorting each case by hand and looking at the notes
13 to tell exactly which ones were worked on at that time.

14 However, it is safe to say, given our normal backlog,
15 that there are always about a dozen cases at least pending
16 and perhaps in some stages of completion. Probably more,
17 but realistically we don't expect even if there's more
18 than 12 to be able to get to all of those.

19 Q Were cases of serological significance the only type
20 of cases you had pending in the laboratory in June of
21 1983?

22 A No.

23 Q Is it fair to say that you had hundreds, if not more,
24 of cases other than the Ryen homicide case pending in
25 your laboratory on June the 6th of 1983?

26 A Yes, that is a fair statement.

1 Q The volume of the work you did at the time place some
2 practical limitations on the number of people you could
3 devote full time to the Ryen homicide scene?

4 A Yes, it does.

5 Q You mentioned yesterday in response to Mr. Negus's
6 questions that in determining what to seize at a crime
7 scene you consider your experience, some stick-to-
8 itiveness, and perhaps some luck; do you recall that?

9 A Yes, sir, I do.

10 Q Does the actual visual observations of a criminalist
11 at a crime scene also come into play in any determination
12 as to what should be taken and what should remain at
13 the scene?

14 A Yes.

15 MR. NEGUS: Objection -- I thought the question
16 was vague.

17 THE COURT: Is that an objection? What are you
18 saying?

19 MR. NEGUS: I withdraw it.

20 THE COURT: Did you understand the question?

21 THE WITNESS: Yes, sir, I did.

22 THE COURT: You may answer.

23 MR. NEGUS: He did.

24 THE WITNESS: My answer was yes.

25 THE COURT: Okay.

26 Q (BY MR. KOCHIS:) For example, the Ryen crime scene,

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1 being specific for a moment, you yourself pointed
2 certain items of evidence out at that scene; is that
3 correct?

4 A Yes, I did.

5 Q Is it fair to say you yourself walked through the entire
6 scene?

7 A Yes.

8 Q Did you see items of personal property which you did not
9 place significance to in the sense that they should be
10 seized?

11 A Yes.

12 Q For example, when you walked through the scene, did you
13 think it was a good scientific principle to seize every
14 piece of furniture in the house?

15 A No.

16 Q While you were at the scene, was it even your intention
17 to request that every piece of furniture be seized from
18 the Ryen master bedroom?

19 A No.

20 Q Was it your intention while you were at the scene to
21 request that every item of personal property inside the
22 Ryen master bedroom be seized?

23 A No.

24 Q Did there appear to you to be blood splatter patterns
25 on the walls in the Ryen master bedroom?

26 A Yes.

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1 Q Did the patterns also appear to exist on various pieces
2 of furniture in the room?

3 A Yes.

4 Q Were you able to take a cursory glance at those patterns?

5 A Yes.

6 Q Is it fair to say that you didn't spend hours at the
7 scene analyzing each and every pattern?

8 A Yes.

9 Q On the 5th of June of 1983, while you were at the Ryen
10 crime scene, did you have an opinion whether or not those
11 patterns in the Ryen master bedroom had the potential
12 of providing any information or no information at all?

13 A No. I felt they had potential to provide information.

14 Q Did you have an opinion at that time as to what type of
15 information potentially those patterns might provide?

16 A Yes.

17 Q What type of opinion did you have?

18 A Primarily to help establish the location of the victims
19 when they were bleeding. That, of course, has to be
20 coupled with serology of some stains taken. But it also
21 would be possible to determine some things concerning
22 the type of weapon. For example, firearms oftentimes
23 leave a blood pattern that is easily distinguishable
24 from other types of cast-off blood and so forth.

25 Q So in your opinion you could place some limitations from
26 the splatter pattern analysis on the type of weapon that

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1 was used?

2 A Yes.

3 Q And in your opinion potentially the information was there
4 to localize positions of people in the room when they
5 had been bleeding?

6 A Yes.

7 Q Anything else that you saw at that time that you felt
8 could be gathered from the information of the blood
9 splatter patterns in the Ryen master bedroom?

10 A No, there wasn't.

11 Q Directing your attention for a moment to June the 6th,
12 the following day, did you ever tell Mr. Ogino that he
13 had to leave the Ryen crime scene?

14 A No.

15 Q When you got to the scene in person in the afternoon on
16 that Monday, was Mr. Ogino still there?

17 A Yes.

18 Q At that time did you tell him to leave the scene?

19 A No.

20 Q I believe you testified yesterday that with large objects
21 the procedure in your laboratory is to take samples from
22 the objects and have the samples frozen as opposed to the
23 entire object. Do you recall that?

24 A Yes.

25 Q The bedding that was seized from the Ryen master
26 bedroom, would that constitute within the framework of

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1 your laboratory a large item?

2 A Yes.

3 Q Sometime after those items arrived at the crime lab,
4 was the procedure followed that samples were taken from
5 the bedding and samples themselves were frozen?

6 A Yes.

7 Q Was that done by Mr. Stockwell?

8 A Yes.

9 Q Do you of your own knowledge know how many individual
10 samples Mr. Stockwell cut out and frozen?

11 A No.

12 Q Should that information be preserved in the laboratory
13 case file?

14 A Yes.

15 Q When the sheets were brought back into the laboratory
16 and arrived at that location, were they packaged
17 individually?

18 A Yes.

19 Q And were the packages themselves stored in boxes?

20 A Yes.

21 Q And were the boxes stored in the laboratory?

22 A Yes.

23 (No omissions.)

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- 1 Q Is the Crime Lab where these boxes were placed in any
2 fashion climate-controlled?
- 3 A Yes.
- 4 Q Is that by some type of air conditioning?
- 5 A Yes.
- 6 Q Is it fair to say that there is a substantial difference
7 in the range of temperatures that existed in the Crime
8 Lab during the summer months of 1983 and the
9 Identification loft on Sierra Way?
- 10 A Yes.
- 11 Q Were the bedding materials, the sheets that were stored
12 in boxes in the Crime Lab during June and July and
13 August of 1983, were they subjected, to your knowledge,
14 to any extremes of temperature?
- 15 A No.
- 16 Q Between Mr. Ogino and Mr. Gregonis, does either one of
17 those persons have more experience in blood splatter
18 pattern analysis?
- 19 A Yes.
- 20 Q Which person is that?
- 21 A Craig Ogino.
- 22 Q Do you recall yesterday, Mr. Baird, Mr. Negus asked
23 you some questions about decisions that you made on the
24 6th of June as to whether adequate sampling had been
25 taken from the Ryen crime scene?
- 26 A Yes.

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1 Q And were those questions in fact asked at the preliminary
2 hearing when you testified on December the 27th as well?

3 A Yes.

4 Q And do you recall yesterday that Mr. Negus refreshed
5 or attempted to refresh your recollection with various
6 portions of the preliminary hearing transcript?

7 A Yes.

8 MR. NEGUS: Where are we at?

9 MR. KOCHIS: Your Honor, if I could direct
10 Mr. Baird's attention to Volume 24 of the preliminary hearing
11 transcript, Volume 24, page 37, lines 3 through 10.

12 Q (BY MR. KOCHIS) If you could review that for a second.

13 MR. NEGUS: Could I ask for what purpose?

14 MR. KOCHIS: Your Honor, yesterday Mr. Negus read
15 selectively various portions of the transcript and one of
16 the portions he read from the transcript was page 36, lines 18
17 through page 37, line 1 and line 2. And it's my intention,
18 as he has made that conversation an issue, and I believe under
19 Evidence Code Section 356, once he makes a portion of a
20 conversation an issue, I'm allowed to clarify the conversation
21 to simply have Mr. Baird recall the next question and answer
22 that was asked at the preliminary hearing to give some
23 meaning and perspective to the selective portions Mr. Negus
24 read into the record yesterday.

25 MR. NEGUS: I have two problems with that. First off,
26 I don't think we have had a foundation as to Mr. Baird not

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1 remembering the subject matter of the next two questions.

2 Secondly, the next two questions are not a conversation,
3 don't concern any conversation, but concern his scientific --
4 his understanding of what a sampling is.

5 There is no conversation between himself and
6 Mr. Gregonis.

7 THE COURT: You don't contend, do you, because he
8 brings out something by a question and answer on a prior
9 occasion you can bring out anything else in that transcript?

10 MR. KOCHIS: No. Of course I don't, your Honor.
11 But one of the problems I have with the procedure he used
12 yesterday is you can take virtually anything out of context
13 and later be able to argue that out-of-context statement
14 one way or the other.

15 And it came close yesterday with the number of
16 selective readings Mr. Negus was doing, to my intending this
17 morning to read virtually everything that was asked and
18 answered at the preliminary.

19 I don't intend to do that, but I do think that I'm
20 entitled to bring out the portions of the preliminary hearing
21 transcript which add meaning to the selected portions.

22 THE COURT: What did Mr. Negus bring out?

23 MR. NEGUS: The procedure that Mr. Kochis is going
24 through, I think, is not the correct procedure. If he wishes
25 to say that parts of the transcript that I read were
26 incomplete, then he should make an offer to read those

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1 additional parts rather than go through this process.

2 THE COURT: You don't have any objection if he
3 reads it?

4 MR. KOCHIS: That would short-circuit it.

5 MR. NEGUS: If I could look at this to see whether
6 I have an objection, your Honor. I might have the objection
7 that it doesn't do what he says it does. If it does do what
8 he says it does, he can just read it.

9 I have no objection to the next question and answer
10 being read.

11 THE COURT: Tell us what you are reading and go
12 ahead and read it, Mr. Kochis.

13 MR. KOCHIS: Yes, your Honor. Volume 24 of the
14 preliminary hearing transcript, page 37, lines 3 through 10.

15 "Q (BY MR. NEGUS) You didn't have
16 any scientific basis, did you, at that
17 point in time, for determining whether
18 or not there had been adequate sampling?

19 "A That question is nearly
20 unanswerable. Adequate sampling for
21 what? I mean, we have talked about that,
22 but I'm not sure what we are sampling
23 for, and that was my state of mind at
24 the time. I felt that this was not a
25 very worthwhile exercise."

26 Q (BY MR. KOCHIS) On the 6th of June of 1983, did

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1 Mr. Ogino, in his conversation with you, ever set any
2 time limits as to the time he wished to remain viewing
3 the blood splatter patterns?

4 A I don't recall any. If he did, I don't recall it.

5 Q Do you recall him asking to spend two additional days?

6 A No.

7 Q Do you recall him asking to spend an additional day?

8 A No.

9 Q Have you been able to estimate up until this date the
10 approximate number of man hours your laboratory has
11 expended working on the Cooper case?

12 A Yes, I have.

13 Q Approximately how many hours has your laboratory spent?

14 A 1,265, approximately.

15 Q Is that more or less than you spend on the majority of
16 other cases in the laboratory?

17 A That greatly exceeds the amount of time we have spent on
18 any other case.

19 MR. KOCHIS: Your Honor, I wonder if we could take
20 the recess at this point.

21 THE COURT: We will take the morning recess.

22 (Whereupon the morning recess was taken.)

23 Q (BY MR. KOCHIS) Mr. Baird, in this particular case,
24 was David Stockwell sent on two days, those days being
25 the 6th of June and the 7th of June, to witness the
26 autopsies that were conducted on the victims in this

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1 particular case?

2 A Yes.

3 Q Is there any policy that exists in the Crime Laboratory
4 that if possible the criminalist that processes the
5 murder scene attends the autopsy?

6 A Yes.

7 Q Is there any reason for that?

8 A Yes.

9 Q What is that?

10 A The criminalist who is at the scene would have a better
11 idea of potential sources of evidence from the victims
12 that might be obtained during the autopsy. He also can
13 provide information to the pathologist about the scene,
14 if necessary.

15 Q Were those some of the reasons that Mr. Stockwell was
16 assigned to take two days of his time and attend the
17 autopsies of the four victims in this case?

18 A Yes.

19 Q You testified yesterday in response to a question
20 Mr. Negus asked you that at some point Dan Gregonis
21 indicated to you that in his opinion additional samples
22 should be taken. Do you recall that exchange between
23 yourself and Mr. Negus yesterday?

24 A Yes.

25 Q Can you at this point recall whether that comment by
26 Mr. Gregonis took place before or after the preliminary

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1 hearing in this case which started in November?

2 A No, I can't.

3 Q On the 30th of June, 1983, when Mr. Ogino and, I believe,
4 Mr. Gregonis were sent back to the Ryen home to look for
5 additional samples of blood, were they instructed in any
6 fashion to avoid collecting samples that may have
7 appeared to have been deposited by a seventh person?

8 A No. Quite the opposite.

9 Q What were the parameters of their instructions, if any?

10 A Once again, they knew what they needed to do, but what
11 was discussed was that they would be looking specially
12 for blood stains that, if anything, had some potential
13 of not being from any of the victims.

14 In other words, they had some uniqueness, either
15 they were separate in some way or whatever they saw
16 that might lead them to believe that these could have
17 come from someone else, that would be the criteria.

18 Q Is it fair to say that from viewing a blood stain in
19 and of itself, you would have to speculate to even
20 draw an inference as to who it was from?

21 A Yes.

22 Q The only way you could do that is to type it serologically?

23 A Yes.

24 Q But was the topic of the discussion prior to their return
25 looking for samples that may have been outside the
26 master bedroom scene itself?

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1 A No. It was anywhere that they would have found them,
2 whether they were in the scene or outside.

3 Q A sample that they could infer may not have come from a
4 victim?

5 A Yes.

6 Q Regardless of whether that sample was deposited from
7 Mr. Cooper or someone other than Mr. Cooper and the
8 five victims?

9 A Yes.

10 MR. KOCHIS: I have nothing further.

11 THE COURT: Mr. Negus.

12

13 REDIRECT EXAMINATION

14 BY MR. NEGUS:

15 Q In your work at the laboratory, were you trained by
16 Mr. Longhetti?

17 A Yes.

18 Q Did Mr. Longhetti tell you that when you are collecting
19 blood at a crime scene, never forget that there may be
20 blood there other than victims'?

21 A I don't recall whether he ever specifically said that to
22 me, but I agree with the statement nonetheless.

23 MR. NEGUS: I would like, your Honor, to read some
24 additional stuff from the conversation that Mr. Kochis read
25 from, or the testimony that Mr. Kochis read from to put
26 what he read into context.

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1 This is at page 37, line 15 through page 39, line 2.

2 MR. KOCHIS: I found that. I have no objection.

3 THE COURT: Go ahead.

4 MR. NEGUS: (Reading):

5 "Q At that point in time you had
6 no idea whether Mr. Stockwell had seized
7 an adequate amount of samples, an
8 inadequate amount, or any; is that correct?

9 "A Well, my position at that time
10 was that I knew Mr. Stockwell had spent
11 a considerable amount of time at the scene
12 and he had collected a large number of
13 items. I did not know how many or the
14 exact nature of each of those items. I
15 feel that scientifically -- and at the
16 time recalling we did not have the luxury
17 of the Monday-morning quarterbacking that
18 we're doing now -- that I felt he'd done
19 an adequate job. In fact, I still do.

20 "Q Well, the Monday-morning
21 quarterbacking was not being done after
22 the fact. It was being done by Mr. Gregonis
23 and Mr. Ogino on Monday morning; is that not
24 correct? At the time they were making the
25 request?

26 "A Well, with respect to that, yes.

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1 Q (BY MR. NEGUS:) In that passage which I just read, you
2 referred repeatedly to a conversation in which they
3 said "conversation with them." Was that then referring
4 to Mr. Ogino and Mr. Gregonis?

5 A I can only recall speaking with Mr. Ogino, but I knew
6 from that conversation that Mr. Gregonis was feeling the
7 same way that Mr. Ogino was; that is, they had requested
8 more time before tearing down the bedroom.

9 Q Why did you say "they said"?

10 A I suppose because I was inaccurate. To be more accurate,
11 it was "Ogino said." But I attributed the remarks to
12 both of them in terms of the way they both felt about it.

13 Q Well, yesterday on direct you were speaking about Mr.
14 Gregonis's feelings, were you not? Do you recall Mr.
15 Kochis at some point in time saying that he objects,
16 that he, quoting Mr. Kochis, "He's read a selected
17 portion of the transcript, the transcript indicates that
18 that prelim, what he testified to was 'I do not recall'
19 or 'I recall not talking to Mr. Gregonis.'"

20 Do you recall Mr. Kochis standing up and saying
21 that?

22 | A. Yes.

23 Q Did that tip you off that you had at least at one point
24 in your testimony at the Preliminary Hearing stated that
25 you had not talked to Mr. Gregonis?

26 | A Yes, it did.

1 Q Did you then attempt to conform your testimony to that
2 tip that you got from Mr. Kochis?

3 A No, other than to refresh my memory that I had not spoken
4 with Mr. Gregonis, and I believe I had stated I didn't --
5 prior to that I stated that I didn't recall talking to
6 Mr. Gregonis.

7 Q Weren't you inconsistent in your statements sometimes
8 saying that you didn't talk to Mr. Gregonis and sometimes
9 saying that you did?

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

11 THE COURT: Yes, sustained.

12 Q (BY MR. NEGUS:) Do you recall at the Preliminary Hearing
13 being inconsistent saying sometimes you talked to Mr.
14 Gregonis and sometimes you didn't?

15 MR. KOCHIS: Same objection.

16 THE COURT: Overruled.

17 THE WITNESS: No. I only recall from reading the
18 transcript a statement that I said I recall specifically
19 not talking to Dan Gregonis.

20 Q (BY MR. NEGUS:) Mr. Kochis asked you whether or not Mr.
21 Gregonis's statement to you about not believing that
22 enough samples were collected was made before or after
23 the Preliminary Hearing, and you couldn't recall; is
24 that right?

25 A Yes.

26 Q Well, you know it had to have been made before, didn't

1 you, because you testified about it at the Preliminary
2 Hearing?

3 A Well, I think we're confusing several different
4 conversations. I have conversations with these people
5 on a daily basis. This particular conversation regarding
6 the taking down of the bedroom I spoke with Mr. Ogino,
7 I --

8 Q Your memory has now gone from not remembering whether
9 you spoke to Mr. Ogino to being positive it wasn't
10 Mr. Ogino?

11 A No. I recall speaking with Mr. Ogino. Yesterday I did
12 not recall until I read the transcript that I had stated
13 at the Preliminary Hearing that I did not talk to Dan
14 Gregonis. I couldn't recall yesterday prior to reviewing
15 that transcript that I couldn't recall whether I'd talk
16 to Dan Gregonis or not.

17 Q Is it now your position that you didn't talk to Dan
18 Gregonis?

19 A Yes, it is.

20 Q And is that based on Mr. Kochis standing up and saying
21 what he said, quoting you from the Preliminary Hearing
22 yesterday?

23 A Yes, showing me the transcript as well.

24 Q Getting back to when you knew about Mr. Gregonis's
25 feelings about the sampling, you testified at the
26 Preliminary Hearing, did you not, that Mr. Gregonis was

23 A I was asked about that. My recollection is not so much
24 on the sampling as to time to view the scene. I'm not
25 as clear on the question of whether or not there was
26 questions about additional samples and what Mr. Gregonis

1 said regarding that.

2 Q Showing you Page 36 and Page 37, which we have on the
3 record innumerable times already, you indicate that the
4 only concrete idea that you had as to what they wanted
5 to do was additional sampling; is that correct?

6 A In these lines that you've pointed out to me, I don't see
7 anything about sampling.

8 Q More sampling?

9 A "But any concrete idea as to what exactly they want to
10 accomplish with this other than more sampling wasn't
11 compelling." Yes, I agree with that. I'm sorry.

12 Q So at least it's your memory at the Preliminary Hearing
13 the idea of more sampling had been communicated to you
14 during that conversation?

15 A Yes.

16 Q And you yourself just didn't think more sampling was
17 necessary; is that right?

18 A That's correct.

19 Q And that was just based on general principles rather than
20 any concrete knowledge about what sampling had or had
21 not been done in this particular case?

22 A Yes.

23 Q Just to clear up some sloppy questioning by me, on Page
24 4438 of yesterday's transcript I was asking you about
25 who had more experience in blood splatter interpretation,
26 and the way that I articulated the question it appears

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1 that you're answering that Mr. Gregonis does. That
2 wasn't what you intended; is that correct?

3 A. That's correct, I did not intend that and that was
4 pointed out to me.

5 Q. And your subsequent answers to that assumed that the
6 answer that you had given was that Mr. Ogino was the
7 person that had the greater expertise in blood splatter
8 patterns between the two, right?

9 A. Yes.

10 Q. You indicated that the request by Mr. Gregonis and Mr.
11 Ogino wasn't compelling enough for you to want to
12 interfere with the investigation. How did you feel
13 that their request was interfering with the investigation?

14 A. There were a number of people who had been assigned
15 apparently by somebody to complete a task; that is, to
16 take down the bedroom. Delaying that is a form of
17 interference. Those items, as I stated previously, I
18 felt were still available. They weren't prohibited from
19 collecting evidence. The evidence was being seized to
20 be collected from the chairs and the rug later, if
21 necessary.

22 Q. So the interference was not having CCD take down the
23 place when they originally had planned to?

24 A. Yes.

25 Q. So it wasn't like their request was going to cause
26 any lack of knowledge or anything of that nature to the

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1 investigation, but merely an administrative problem of
2 getting manpower to do a certain thing at a certain time?

3 A I didn't even consider that at the time. My only
4 recollection is that during the conversation there was
5 nothing said to me that was alarming enough or important
6 enough for me to try and intercede. These were orders
7 given by somebody other than I.

8 Q Well, did you have any knowledge -- was any knowledge
9 communicated to you by Mr. Ogino as to whose orders,
10 at whose orders the stuff was being carted away?

11 A I don't recall specifically. I believe, though, that
12 when I asked him that the original request to have these
13 items saved as evidence at least was told to me that it
14 was Dennis Kottmeier. But who gave the order to take
15 what down and do what, I don't know.

16 Q Did you have any knowledge that a request from you to
17 have more time there would be any resistance by the
18 people who were taking it down?

19 A No. I wasn't worried about that. I didn't necessarily
20 think there would be any.

21 Q If there hadn't been any resistance, then what would have
22 been the harm of doing as they requested?

23 MR. KOCHIS: Objection, calls for speculation as to
24 whether there would have been any resistance.

25 THE COURT: I think it's asking for his state of mind
26 basically.

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1 THE WITNESS: It would have just -- it would have
2 just dragged it out longer. It was going into the late
3 afternoon. Other than that, there was no other reason.

4 Q (BY MR. NEGUS:) Is Mr. Ogino's personality a particularly
5 excitable one?

6 A No.

7 Q He seldom screams, shouts, or gets upset; is that correct?

8 A That's correct.

9 (No omissions.)

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1 Q Have you ever instructed Mr. Stockwell to consider the
2 amount of freezer space you have at any given time in
3 your laboratory in determining how many blood samples
4 he thinks it's necessary to seize?

5 A No.

6 Q Have you ever instructed Mr. Stockwell to consider how
7 much time it would take to analyze the blood in
8 determining how many blood samples he thinks he should
9 seize at a crime scene?

10 A No. He is aware of that. He does the work, so he
11 knows the hard work that's involved in doing the typing.
12 I don't have to tell him.

13 Whether he considers it or not, I can't say. You
14 would have to ask Mr. Stockwell.

15 Q But basically, the policy of your laboratory is that
16 those factors should be considered or should not be
17 considered in deciding how much blood should be seized?

18 A There is no policy regarding that.

19 Q Have you ever made it known to Mr. Stockwell that if a
20 case warrants it, you can rent another freezer to store
21 blood samples in if necessary?

22 A No, I have never told him that.

23 Q If your laboratory is unable to devote enough serologist's
24 time to a particular case, does the State of California,
25 through the Department of Justice, provide laboratory
26 facilities which you can request to use?

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1 A I don't know. Their lab is available. We have not sent
2 our people ever down there to do serological work. I'm
3 just not aware of that.

4 Q You have requested the use of their laboratory from time
5 to time?

6 A Yes, but not for serology.

7 Q Basically the purpose of the State laboratory is to do
8 work for Sheriffs, District Attorneys, police agencies,
9 even Public Defenders in the state of California; is
10 that correct?

11 A In those jurisdictions that don't have access to local
12 laboratories. They will not do work for agencies, at
13 least without prior arrangements, for agencies that
14 have access to, for example, our laboratory in this
15 county.

16 I get calls from Art Young at the Department of
17 Justice Laboratory in Riverside on occasion when
18 requests are made of his laboratory from agencies that
19 reside in San Bernardino County.

20 Q For example, in the past, before you were able to type
21 as many enzymes as you can type now and before you had
22 Mr. Gregonis, was blood work ever sent out to the
23 State for work that the serologist that you had at
24 that point in time was not able to do?

25 A There may have been. I don't recall any.

26 Q There is also in San Bernardino County an independent

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1 laboratory that you have contacted at various times to
2 have work done for you at various times; is that right?

3 A Serology work or other work?

4 Q Both.

5 A Other work, yes, but not serology.

6 Q You have never used Bio-Laboratories to do serological
7 analysis?

8 A Not that we have ever requested. I know that.

9 Q That facility is available if you need it; is that right?

10 A Not for serology it's not.

11 Q They don't do serology?

12 A They are not competent to do bloodstain typing, as far
13 as I know.

14 Q Are there other independent laboratories in California
15 that would do that for you?

16 A Yes.

17 Q And your laboratory has even used some of those on
18 occasion for certain work; is that correct?

19 A Yes.

20 Q Forensic Science Associates in Emeryville?

21 A Yes.

22 Q And you are using an independent laboratory to do some
23 work in this particular case, are you not?

24 A Yes.

25 Q That would be the Serological Research Institute,
26 likewise in Emeryville?

011140

5-4

1 A Yes.

2 THE COURT: Where are they?

3 MR. NEGUS: Emeryville.

4 Q (BY MR. NEGUS) That would be in this particular case
5 Brian Wraxall?

6 A Yes.

7 Q And in the past, you have used Dr. Ed Blake?

8 A Yes.

9 Q Do you know whether the State laboratory, if you made
10 the request because of the particular nature of this
11 particular case, would have done serological work for
12 you or not?

13 A I believe they would have.

14 MR. KOCHIS: Your Honor, I'm going to move to strike
15 that. That certainly calls for speculation absent foundation.
16 He can't speculate what another agency would do.

17 THE COURT: Didn't he say "I assume"?

18 MR. KOCHIS: Then I move to strike it as speculation.

19 MR. NEGUS: He said, "I believe they would have", and
20 I think that that -- and first of all, he indicated that he
21 has --

22 THE COURT: I'm going to permit the answer to remain,
23 for what it's worth.

24 Q (BY MR. NEGUS) You indicated yesterday that you believe
25 that the footprint that was found on the top sheet,
26 laboratory number A-8, had greater potentiality as

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1 identification than the blood in the room. That
2 particular footprint was not discovered until some
3 period of time after June the 5th; is that correct?

4 A Yes, that's correct.

5 Q When Mr. Gregonis and Mr. Ogino were going out to the
6 Ryen residence on June the 6th, the stuff that
7 Miss Schechter and Mr. Stockwell had seized the night
8 before had not yet been tagged, catalogued, marked or
9 anything like that; is that correct?

10 A Correct.

11 Q So a criminalist in your laboratory would not start
12 going through evidence that hadn't even been tagged
13 yet until such time as the tagging was done; is that
14 correct?

15 A Yes.

16 Q When you were discussing what to do with the hatchet
17 on the 5th, did you intend that once the Identification
18 Bureau had finished their fingerprint work on it, that
19 it would come back to the Crime Lab for the purpose of
20 blood typing?

21 MR. KOCHIS: Objection. That's beyond the scope of
22 the cross. I asked no questions about the hatchet.

23 MR. NEGUS: I believe yesterday afternoon I
24 specifically asked for time to look at the transcript
25 overnight. I didn't say I was finished.

26 Then Mr. Kochis began with his redirect (sic).

5-6

1 MR. KOCHIS: He is correct.

2 THE COURT: That's correct. But what do you have in
3 mind, absolutely unlimited discretion?

4 Try to conclude. Go ahead.

5 MR. NEGUS: I'm trying. I'm looking at the lunch
6 hour, assuming Mr. Kochis may have a few more questions.

7 THE COURT: All right.

8 Q (BY MR. NEGUS) When you were discussing what to do with
9 the hatchet on June the 5th, did you intend that after
10 they finished fingerprint work, it would be typed for
11 blood?

12 A I can't say what I intended at the time.

13 Q At some point in time, did you form that intent?

14 A No. I didn't think much about it.

15 Q During that first few days, did you talk to various
16 people from the press who requested information from
17 you?

18 A Yes.

19 Q Did you tell a reporter from the Daily Report sometime
20 prior to the afternoon of June the 7th that once the
21 hatchet had been processed for fingerprints, it would
22 be brought back to the lab to be tested for blood?

23 A Yes.

24 MR. KOCHIS: Your Honor, I have some questions. If
25 we could follow the same procedure we followed yesterday and
26 I can ask them while he is searching.

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THE COURT: I would rather not.

MR. NEGUS: I'm just looking for my notes.

(No omissions.)

1 MR. NEGUS: Nothing further.

2

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RECROSS EXAMINATION

4

BY MR. KOCHIS:

5

Q Mr. Baird, when you testified at the Preliminary Hearing
6 in this case, was that approximately two days after
7 Christmas, on the 27th of December?

8

A Yes.

9

Q And to your knowledge based on the people we had testify
10 from your laboratory, was this a Preliminary Hearing
11 that lasted several months?

12

A Yes.

13

Q And did in fact Mr. Gregonis, as well as other criminalists,
14 testify prior to the time you testified several days
15 after Christmas at the prelim?

16

A Yes.

17

Q On the 6th of June, did the Criminal Career Division
18 leave the ceiling intact at the Ryen house?

19

A Yes.

20

Q And other than the south wall, did they leave every other
21 wall at the house?

22

A Yes.

23

Q Did you do anything on the 6th of June or the other
24 date to prevent either Mr. Gregonis or Mr. Stockwell
25 from taking -- Mr. Gregonis or Mr. Ogino from taking
26 any additional sample from the house that remained if

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1 they chose to do so?

2 A No.

3 Q Was there any scientific principle involved on June the
4 6th that mandated samples, if any were to be collected
5 from the furniture, be taken on that day at that location
6 as opposed to the 7th at the I.D. loft?

7 A Only in the sense that if something is going to be
8 collected, it's better sooner than later. I have no
9 quarrel with that. But beyond that, no.

10 Q In your opinion would the passage of a 24-hour period of
11 time cause any further problems?

12 A No.

13 Q Why doesn't the crime lab analyze each and every drop
14 of blood at a crime scene if there are no actual
15 considerations involving time and manpower?

16 A Well, it's just not possible. The real world limits.
17 We have so many hours, we have a lot of other cases
18 that are deserving of our attention. I at that time
19 only had two serologists. There are just practical
20 limitations that prohibit us from analyzing all of the
21 evidence that we receive, let alone all of the evidence
22 that's even possible to collect.

23 Q How many of these other laboratories in California that
24 Mr. Negus spoke about that do serology will do work
25 for your laboratory at no cost?

26 A None.

- 1 Q Do those laboratories when they're retained by your
2 laboratory bill the sheriff's office?
- 3 A Yes.
- 4 Q Is there any difference in the fee they charge per hour
5 as to -- is there any difference between what they charge
6 you per hour and in terms of cost what it costs your
7 laboratory to do that same work per hour?
- 8 A In terms of out-of-pocket expenses, there definitely are.
9 Whether or not if a complete analysis were done,
10 considering our overhead and everything, I couldn't
11 say. But in terms of the out-of-pocket expenses, yes.
- 12 Q Does Mr. Gregonis get \$125 an hour for doing serological
13 work?
- 14 A No, he does not.
- 15 Q Does he get that type of money for testifying in court?
- 16 A No.
- 17 Q Does he get that type of money for advising the lawyers
18 on how to question other experts?
- 19 A No.
- 20 Q Are you aware of the nature and extent of the work Mr.
21 Wraxall is going to do in the future on this case?
- 22 A No, I'm not.
- 23 Q Are you aware of the extent, if any, of the work Mr.
24 Morton is going to do in this particular case?
- 25 A I'm aware of at least a portion of that.
- 26 Q Does it involve some hair analysis?

1 A Yes.

2 Q And did you participate in the decision to have his
3 lab do some work?

4 A Yes.

5 Q And was one of the considerations that you brought to
6 light the fact that the work your laboratory is spending
7 on this case is making it difficult, if not impossible,
8 to do the work that's required on the other cases in
9 the laboratory?

10 A Yes.

11 Q Do you have within your budget the resources to take all
12 the hair we've collected in this case, send it to Mr.
13 Morton, and have him bill you at \$125 an hour?

14 A No.

15 MR. KOCHIS: I don't have anything else, Your Honor.

16

17 REDIRECT EXAMINATION

18 BY MR. NEGUS:

19 Q Is Mr. Wraxall charging you \$125 an hour?

20 A I don't know.

21 Q Did Dr. Blake charge you \$125 an hour?

22 A I don't know what Dr. Blake's hourly rate is.

23 Q In fact, your laboratory has resisted giving a lot of
24 evidence in this case to the Defense who would be glad
25 to analyze it for you at no cost to yourself; isn't
26 that correct?

1 A I'm not aware of that. If you're assuming we both get
2 to have the results of the testing. I resist giving
3 up evidence where I'm not going to hear what the results
4 of the evidence examinations were.

5 Q How much time would it have taken to collect all the
6 blood at the Ryen crime scene?

7 A I don't know.

8 Q Considerably less than to analyze it?

9 A Yes.

10 Q And even to preserve it would have taken considerably
11 less time than to analyze it, correct?

12 A Yes.

13 Q In addition to the scientific principles about it's
14 better to collect stuff sooner than later, when items
15 such as furniture are being transported in a truck
16 there's other things that can happen to them other than
17 just the passage of time; isn't that correct?

18 A Yes.

19 Q Dry blood chips off furniture?

20 A Possibly.

21 Q Different surfaces coming in contact with one another
22 contaminating one --

23 THE COURT: Counsel, this isn't necessary.

24 MR. NEGUS: I just don't want the record to remain
25 with it doesn't make any difference whether they collected
26 it on the 6th or the 7th. If we're going to strike that,

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1 then I won't spend a lot of time at it.

2 THE COURT: Counsel, we've gone through all the
3 things that can happen to samples of blood. Please don't
4 continue and do it all over again. Let's conclude, please.

5 Q (BY MR. NEGUS:) With respect to Mr. Gregonis and Mr.
6 Ogino, did they have unlimited access to the crime scene
7 at 2943 English Road in the Chino Hills in the month
8 of June?

9 A No.

10 Q They couldn't have just -- if they wanted to go back
11 there the next day, they couldn't have just sort of
12 gotten into their car and driven up there?

13 A No.

14 Q They would have first of all had to have gotten permission
15 from homicide?

16 A Yes.

17 Q And they would have had to been freed from their other
18 assignments, right?

19 A At that time that was their assignment. They were
20 involved with this case, the day after until things
21 settled down and get back to the other things that are
22 pending. But on the 7th, other than possible court
23 commitments, I'm sure they were concerned with the
24 tagging, logging, all the other types of things that
25 we have to do with the evidence in the laboratory.

26 Q Well, there was an attempt made, for example, as far

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1 as Mr. Gregonis is concerned, to have him get started
2 analyzing the blood that you had taken; isn't that
3 correct?

4 A I don't know exactly when he started. It was soon. I
5 just don't recall.

6 Q And then Mr. Ogino was being assigned to process the
7 Lease residence for the 7th, the 8th, and the 9th; isn't
8 that correct?

9 A Yes.

10 Q So at least that first week after they had left on the
11 6th, Mr. Ogino and Mr. Gregonis didn't really have an
12 opportunity to go back to the crime scene even if
13 permission could have been obtained from yourself and
14 homicide due to their other duties, right?

15 A No. They would have had the opportunity when they were
16 at the Lease residence. It was obviously close by.
17 I mean, had they secured homicide's permission and my
18 permission, I know of nothing else that would have been
19 prohibited them from going up there.

20 Q Ogino was working from a little after 3:00 o'clock in
21 the afternoon until a little after 3:00 o'clock the
22 next morning at the Lease residence, wasn't he?

23 A No. I understand that. But what's to prohibit him
24 from going up there for 30 minutes or 20 minutes or a
25 half hour to do whatever he might have wanted to do?
26 There was nothing. In fact -- well, there was nothing

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1 that I know of, given those two conditions you mentioned,
2 approval from me and homicide, that would have prohibited
3 him from doing it.

4 Q So the additional samples they wanted to take would
5 have delayed the investigation on the 6th in your opinion
6 approximately 20 or 30 minutes?

7 A No. I don't know how long it would have delayed it.
8 I'm speaking in general if they wanted to go up there,
9 they could have done it. For a long time, if they wanted
10 to go up there and spend a half a day up there, yes, they
11 would have definitely been inhibited from doing that.

12 MR. NEGUS: Nothing further.

13 MR. KOCHIS: Nothing further.

14 THE COURT: Thank you, Mr. Baird.

15 1:30?

16 MR. NEGUS: Could we just briefly discuss something
17 with you about 1:30? I have three witnesses scheduled for
18 this afternoon. It wouldn't surprise me greatly if we were
19 finished within sometime between 2:30 and 3:00. I don't have
20 any others on tap right off the bat. I suppose I could
21 try and get ready, but you usually have things you can on
22 Thursday afternoons with your calendars. So would you have
23 any objection if we broke around 2:30 or 3:00 today?

24 THE COURT: What's the consideration for my saying
25 no?

26 MR. NEGUS: You won't have to see us for over 10 days.

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1 That should be enough.

2 THE COURT: I like that. At least do this for me.
3 In an effort to properly plan, I believe I've indicated
4 before that I expect to see the San Diego Judge some day
5 next week. And I'd like to give him at least as close as I
6 can of an estimate, because they have to plan as well.

7 So when we do adjourn at 2:30 or 3:00 or whatever
8 it may be, then I'll informally, with the reporter perhaps,
9 chat with you about our best estimate of what remains.

10 MR. NEGUS: Okay.

11 THE COURT: All right. Let's resume at 1:30.

12 (Whereupon the noon recess was taken at
13 11:57 a.m.)
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1 SAN BERNARDINO, CALIFORNIA, THURSDAY, JUNE 28, 1984

2 1:45 O'CLOCK P.M.

3 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

4
5 (Appearances as heretofore noted.)

6
7 THE COURT: Who is next?

8 MR. NEGUS: James Coronado.

9
10 J A M E S C O R O N A D O, called as a witness by
11 and on behalf of the defendant, was duly sworn,
12 examined and testified as follows:

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

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

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

21 THE WITNESS: James Coronado, C-o-r-o-n-a-d-o.

22
23 DIRECT EXAMINATION

24 BY MR. NEGUS:

25 Q Mr. Coronado, you are a deputy Sheriff for the County
26 of San Bernardino and you were in June of 1983 assigned

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- 1 to the Career Criminal Division; is that correct?
- 2 A Yes.
- 3 Q On June 6, 1983, did you go to the Ryen residence at
- 4 2943 English Road in the Chino Hills?
- 5 A Yes, sir.
- 6 Q What time did you arrive at that residence?
- 7 A I don't recall.
- 8 Q Was it in the afternoon?
- 9 A It was late morning, I believe.
- 10 Q Did you participate in doing work inside the Ryen house?
- 11 A Not on that date, sir.
- 12 Q Do you recall a date in which some furniture was moved
- 13 out of the Ryen master bedroom?
- 14 A I don't recall the date it was. I believe it was two
- 15 days after the 6th.
- 16 Q Whatever day the furniture was being moved out, were
- 17 you there that day?
- 18 A Yes, sir.
- 19 Q While the furniture was being moved out, did you help
- 20 do that work?
- 21 A Yes, sir.
- 22 Q What work, what particular items were you working on?
- 23 A I helped with the bed and desk and a wall shelf on the
- 24 west wall of the bedroom.
- 25 Q And did you dismantle those items or just move them or
- 26 what?

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- 1 A I assisted in dismantling the wall shelf.
- 2 Q Did you have anything to do with moving a carpet that
3 was on the floor?
- 4 A Yes, sir, I helped with that, also.
- 5 Q When you moved it, did you notice whether the carpet was
6 damp?
- 7 A No, sir.
- 8 Q After the property was moved, did you go to the
9 Identification loft on Sierra Boulevard to help unload
10 the truck?
- 11 A Yes, sir, I did.
- 12 Q When you got there, what precautions, if any, were being
13 taken to make sure that the property with blood on it was
14 not contaminated with other property with blood on it?
- 15 A None that I saw.
- 16 Q On the date that you were moving the furniture, did you
17 also go to other parts of the Ryen house?
- 18 A Yes, sir.
- 19 Q Showing you Exhibit H-321, is that -- First of all, is
20 that an outline, a floor plan of the Ryen house?
- 21 A Yes, sir.
- 22 Q And does the orange -- the orange drawings, were those
23 marks placed on that diagram by yourself at the
24 preliminary hearing indicating where you went in the
25 Ryen house on that particular day that you were moving
26 furniture?

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1 A No, sir. This is the first day, the 6th.

2 Q That shows where you went the first time that you were
3 in the house?

4 A Yes, sir.

5 Q And the furniture and rugs and carpets were all in the
6 house at that point in time?

7 A Yes, sir.

8 Q What was your purpose in going through the rest of the
9 house other than the master bedroom?

10 A Just to look around.

11 MR. NEGUS: Thank you.

12 I have nothing further.

13

14 CROSS-EXAMINATION

15 BY MR. KOCHIS:

16 Q When you moved the furniture out of the Ryen master
17 bedroom, was there a period of time that you had to
18 wait for a truck to come from San Bernardino to take
19 the stuff back?

20 A Yes, sir.

21 Q Were the items stacked outside on the grass for a
22 period of time?

23 A Yes, sir.

24 Q Did that include the carpet?

25 A I think so. I'm not sure.

26 Q Do you remember whether the carpet was ever unrolled on

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1 the grass at the Ryen house?

2 A I think it was.

3 Q When the items were taken back to San Bernardino, did
4 you actually help take the items out of the truck into
5 the loft?

6 A Yes, sir.

7 Q Were the items that were taken from the Ryen house all
8 placed in one particular area in the loft?

9 A Yes, sir.

10 Q Was that area separated at least spacially from other
11 items that were stored there?

12 A Yes, sir, it was.

13 Q Do you remember whether the carpet was unrolled a second
14 time in San Bernardino at the loft?

15 A I don't remember.

16 MR. KOCHIS: I don't have anything else, your Honor.

17 MR. NEGUS: Nothing further.

18 THE COURT: Thank you, Mr. Coronado.

19 (Witness excused.)

20 MR. NEGUS: I would like permission to recall
21 Mr. Roper. There were a few items, one that I didn't know
22 about.

23 THE COURT: Very well.

24

25 R I C K R O P E R, recalled as a witness by and on
26 behalf of the defendant, having been previously duly

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1 sworn, was further examined and testified as follows:

2 THE COURT: Sergeant Roper, you have been sworn
3 previously. The same oath still applies.

4 State your name again.

5 THE WITNESS: Rick Roper.

6

7 DIRECT EXAMINATION

8 BY MR. NEGUS:

9 Q When last you were here, I showed you H-273-A, which
10 consists of Xerox copies of five different fingerprint
11 lifts, and at that point in time, you indicated that
12 those were the five lifts made by yourself from the
13 Ryen residence; is that correct?

14 A Yes, that's correct.

15 Q Let me show you Exhibit H-272-A, which is listed as
16 "Duffy lifts from Ryen residence", and show you the
17 last page of that which is marked as A, which has two
18 additional lifts on it; is that correct?

19 A Yes, it does.

20 Q Were those two additional lifts made by yourself?

21 A Yes, they were.

22 Q So is the total number of lifts that you made from the
23 Ryen residence in fact seven?

24 A Yes, it is.

25 Q When you and I and Mrs. Punter were down in the Homicide
26 Bureau on the morning before you last testified, we

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1 came up with five lifts as opposed to seven when we
2 counted yours; is that correct?

3 A I think so, yes.

4 Q You then explained to me, did you not, that you and
5 Mrs. Punter counted lifts differently so that your five
6 was not really necessarily -- Strike that.

7 Do you remember saying something about you and
8 Mrs. Punter counted what a lift is differently?

9 A Yes.

10 Q And so you then explained that in fact because there
11 were multiple prints on these sheets that are listed in
12 273-A, that her counting of five lifts on that document
13 and your counting of seven was not necessarily a
14 discrepancy; is that correct?

15 A No. I wouldn't count this as five, also.

16 Q Did you say that down in the Homicide Bureau with
17 Mr. Kochis, myself, Sergeant Arthur and Mrs. Punter,
18 that in fact you would have counted that as seven?

19 A We had a discussion about what we would count, but I
20 don't know if it referred to my lifts or not.

21 Q The problem we had in the Homicide Division was that
22 when you had testified the first day you testified at
23 the preliminary hearing, you said that you made seven
24 lifts from the house, right?

25 A Yes.

26 Q And then when we came back with the Xeroxes, by

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1 Mrs. Punter's count, there were only five; is that
2 correct?

3 A Yes. It appears that she just put these two which are
4 clearly marked as mine in with Deputy Duffy's.

5 Q Right. But when you testified last, you testified that
6 these in Exhibit H-273-A were all the lifts that you
7 took; is that correct?

8 A Yes.

9 Q But you were mistaken?

10 A Yes.

11 Q Were you likewise mistaken in trying to explain that
12 there were no discrepancies between yours and
13 Mrs. Punter's counting of the lifts?

14 A No.

15 Q The ax that you seized on June the 5th, was that --
16 how much of that ax was covered with blood?

17 A It appeared to be there -- Well, there was a great
18 deal of blood on the head, the metal portion of the ax,
19 and I remember blood on the handle, also.

20 And can I refer back to that conversation in the
21 Homicide office?

22 That's correct. I did say that the difference
23 between seven and five was probably the way Ann Punter
24 and I counted the lifts.

25 Q So you would have been incorrect in that?

26 A Yes, that's right.

01161

7-9

1 Q Back to the ax again for just a second, was there blood
2 over the entire hatchet?

3 A No, not the entire hatchet, no.

4 MR. NEGUS: If I could read, your Honor, from
5 Volume 18, page 112, lines 12 through 15.

6 MR. KOCHIS: May I have a moment to look?
7 I neglected to bring 18.

8 THE COURT: Yes.

9 MR. KOCHIS: I found it.

10 THE COURT: Go ahead.

11 MR. NEGUS: (Reading):

12 "Q On that hatchet, did you see
13 any traces of blood on the handle?

14 "A I believe, if I recall right,
15 that there was blood over the entire
16 hatchet."

17 Q (BY MR. NEGUS) After the hatchet was treated with
18 Dura-Print, there were no fingerprints -- Strike that.

19 After the hatchet was treated with Dura-Print, were
20 there any fingerprints that were developed by the
21 Dura-Print?

22 MR. KOCHIS: Objection. No foundation as to
23 personal knowledge on his part unless he was there.

24 MR. NEGUS: I think he previously testified that he
25 did it.

26 THE COURT: I thought so. Overruled.

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7-10

1 You can answer if you know.

2 THE WITNESS: There were no fingerprints that I
3 found that were worth photographing or lifting in any
4 manner, no.

5 Q (BY MR. NEGUS) On the night that the luminol was
6 being sprayed in the house on English Road, 2991, did
7 you see a pattern develop in front of the closets in
8 that room?

9 A Of the Lease residence, yes.

10 Q And what did that pattern appear to you to look like?

11 A It appeared that it could have been three fingers and
12 maybe a thumb.

13 Q Showing you Exhibit H-303, is that a sketch that you
14 did at the preliminary hearing showing, not to scale,
15 but showing approximately what that pattern looked like?

16 A Yes, I believe it is, yes.

17 Q At one of your previous appearances, you indicated that
18 you received from the -- that you looked in your files
19 at the I.D. Bureau for some articles on Dura-Print and
20 you found some sales literature which you then brought
21 to the preliminary hearing and gave to Mr. Kochis and
22 myself.

23 Do you recall that?

24 A Yes.

25 Q Showing you H-318, is that a Xerox copy of one of the
26 articles you brought?

7-11

- 1 A I don't recall if it is or not. It looks like it,
2 though, I think, yes.
- 3 Q That does appear to be a piece of sales literature put
4 out by the Dura-Print Corporation?
- 5 A Yes.
- 6 Q Had you read that before you brought it to court?
- 7 A I don't believe so, no.
- 8 Q What was the name of the Dura-Print person that told
9 you that Dura-Print didn't affect blood typing?
- 10 A Is this prior to the fuming?
- 11 Q You said that a Dura-Print salesperson told you that
12 Dura-Print didn't affect blood typing.
- 13 A I don't recall his name. I think it's still written
14 down over there somewhere in the files. He is in
15 San Francisco in their headquarters in San Francisco.
16 And I believe he is a sales manager or the head of
17 the office there.
- 18 Q At some time did you find two -- did you find any beer
19 cans that appeared to be the same brand as those which
20 are depicted in photograph H-184?
- 21 A Yes, I did.

22 (No omissions.)
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1 Q How many did you find?

2 A One can.

3 Q Was that empty?

4 A There was still a very small amount in the bottom of
5 the can, but I'd say maybe quarter, quarter filled,
6 maybe a little less.

7 Q Did that can appear to have something consistent with
8 blood stains on it?

9 A No, not that I recall.

10 Q Did you put that can in the Dura-Print for fuming?

11 A I don't know if that can was put in Dura-Print or not.
12 I can't remember. It was taken back to Texas, but I don't
13 know if -- I believe I did. I believe that can was
14 processed prior to going back to Texas.

15 Q Did you also receive at the I.D. bureau a full can of
16 beer, same brand?

17 A I think we did, yes.

18 Q Did you recall processing that with Dura-Print?

19 A No, I don't recall processing it.

20 Q Did that have anything on it that appeared to be blood-
21 stains?

22 A I can't even recall if we received any full cans. But
23 had we and there would have been bloodstains, I'm sure
24 I would have remembered that. But I'd say no.

25 Q Did you keep any record at the I.D. bureau of which beer
26 cans, if any, were taken there for processing?

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1 A I believe they would have been logged in on an examination
2 request sheet.

3 Q Do you recall on June 8th Mr. Ogino coming to the
4 laboratory to take blood samples off of the ax?

5 A I wasn't there that day that he came, whatever date that
6 was.

7 Q Did you make a report about the discovery of the empty
8 beer can?

9 A Yes, there would have been something written about
10 collecting it.

11 Q Do you recall having done that?

12 A Not offhand. I wouldn't know what I wrote it down on,
13 no.

14 Q Would you have written a regular report on regular
15 San Bernardino County --

16 A No, on the photographic itemized report that we do, it
17 would have listed there one Oly's beer can, whatever
18 the number was, and that it was found approximately
19 where it was found.

20 MR. NEGUS: Nothing further at this time.

21

22 CROSS EXAMINATION

23 BY MR. KOCHIS:

24 Q Mr. Roper, directing your attention to an exhibit which
25 has been marked for identification as S-26, does that
26 appear to be a photograph of the hatchet that you seized

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1 in this case when you observed it on the ground?

2 A Yes, it is.

3 Q And is that a picture that was taken of the hatchet prior
4 to the time you reached down and picked the hatchet up?

5 A Yes, it is.

6 Q And does the picture depict the stains that in your opinion
7 were consistent with blood when you first saw the hatchet
8 on the 5th of June?

9 A Yes, it does.

10 MR. KOCHIS: I have nothing else.

11 THE COURT: Anything else, Mr. Negus?

12

13 REDIRECT EXAMINATION

14 BY MR. NEGUS:

15 Q That particular photograph doesn't -- from that particular
16 photograph one cannot tell all the stains that are on
17 the hatchet; is that correct?

18 A Well, no. One side's laying on the ground.

19 Q And a good portion of the handle is obscured?

20 A Yes.

21 Q And it's hard to tell on the handle whether or not there's
22 blood on the handle or not because of the color of the
23 handle?

24 A Yes.

25 MR. NEGUS: Thank you. Nothing further.

26 MR. KOCHIS: Nothing else.

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1 THE COURT: Thank you again, sir.

2 Next.

3 MR. NEGUS: Mr. Woods.

4
5 G A R Y R. W O O D S, called as a witness by and on behalf
6 of the Defense, was sworn and testified as follows:

7 THE COURT: Would you raise your right hand.

8 You do solemnly swear that the testimony you are
9 about to give shall be the truth, the whole truth, and
10 nothing but the truth, so help you God.

11 THE WITNESS: I do.

12 THE COURT: Will you take the stand, please. State
13 your name and spell your last name.

14 THE WITNESS: Gary R. Woods, W-o-o-d-s.

15

16 DIRECT EXAMINATION

17 BY MR. NEGUS:

18 Q Mr. Woods, you're a deputy sheriff, County of San
19 Bernardino, and currently and in June, 1983, assigned
20 to the homicide division; correct?

21 A Yes.

22 Q In the month of August of this year, were you assigned
23 by Sergeant Arthur to check concerning the position of
24 the moon, temperature range, and various other weather
25 factors in the Chino area in the first five days of
26 June, 1983?

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1 A I was.

2 THE COURT: Your assignment was August of last year?

3 MR. NEGUS: August 10th, 1983. I think --

4 Q (BY MR. NEGUS:) Is that what you meant as well, August,
5 1983?

6 A That's what I construed from you.

7 Q And showing you Exhibit H-320, is that a written report
8 of the investigation that you did?

9 A Yes.

10 Q And is that an accurate rendition of the information
11 you did get from the various governmental agencies about
12 the weather in the Chino area?

13 A I received it from one agent.

14 Q From Mrs. Rowe?

15 A Yes.

16 Q And that accurately reflects the information that she
17 provided to you?

18 A Yes.

19 Q In response to a discovery request by the Defense made
20 in the Municipal Court, did you attempt to prepare a
21 list of everybody who had been in the Ryen house at
22 2943 English Road in the month of June after the killings?

23 A I attempted, yes.

24 Q When you say attempted, what do you mean by that?

25 A I'm still in the process of getting that information.

26 MR. KOCHIS: Your Honor, perhaps Mr. Woods has a copy

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1 of the list Mr. Negus is looking for on the witness stand.

2 MR. NEGUS: I expect he did, but I think I might
3 have a question or two written on the list.

4 Q (BY MR. NEGUS:) The list that you compiled in response
5 to that discovery request totaled 60 people; is that
6 correct?

7 A I believe the number has grown to almost 90 now.

8 Q But the original list was 60?

9 A I believe that was the number, yes.

10 Q Now, what persons have you added to the list since then?

11 A I believe those names were given to me by yourself during
12 the Preliminary Hearing.

13 Q I gave you 12 names during the Preliminary Hearing; is
14 that correct?

15 A I don't remember the exact number, but you did give me a
16 number of names.

17 Q Do you have a list of the additions there with you?

18 A They're included in this particular list here, yes.

19 Q May I peek? The list that you're referring to there is
20 the list of 60 people that was originally named; is that
21 correct? This is your original list that you had?
22 There were 60 people:

23 A That's correct. This is the original list. I'm sorry.
24 I don't have the other list with me.

25 MR. KOCHIS: Your Honor, could we have the clerk or
26 the bailiff make two copies of this? It might facilitate

1 things.

2 THE COURT: Sure.

3 Q (BY MR. NEGUS:) In the month of May, did you have a
4 phone -- strike that.

5 On January 4th, 1984, did you interview a witness
6 named Calvin Fisher?

7 A I believe so.

8 Q Did you tape record that interview?

9 A I did.

10 Q Did you also prepare a written report of the interview?

11 A Yes, I did.

12 Q The written report is just a synopsis of the interview
13 and doesn't purport to be a complete rendition of
14 everything that's said; is that correct?

15 A That's correct.

16 Q But the tape recording had the whole conversation on
17 it and the exact words that were spoken? Did you record
18 the whole conversation?

19 A I did.

20 Q Did you also in February, on February the 1st, 1984,
21 talk to a Jerry Hoyle, a child psychologist on the staff
22 of Loma Linda University?

23 A Yes, I did.

24 Q Do you have that report before you?

25 A Yes.

26 Q During that interview with Dr. Hoyle, did he tell you

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1 that he had talked with me?

2 A Yes, he did.

3 Q Did he say that during that particular interview with
4 me he consulted some notes that he had made of an
5 interview with Joshua Ryen?

6 MR. KOCHIS: Objection, calls for hearsay.

7 MR. NEGUS: It's just foundational for a prior
8 inconsistent statement.

9 THE COURT: Foundational for what?

10 MR. NEGUS: A prior inconsistent statement.

11 THE COURT: Of whose?

12 MR. NEGUS: Dr. Hoyle's.

13 THE COURT: All right.

14 MR. KOCHIS: I withdraw it and I'll move to strike
15 it. I have a question.

16 THE COURT: Go ahead.

17 Q (BY MR. NEGUS:) Did he?

18 A I believe he did make mention that he referred from
19 selected information and excerpts from his notes taken
20 from that interview.

21 Q Did he also tell you that there was certain information
22 which he did not give to me because of its confidentiality?

23 A He did.

24 Q When you were interviewing Dr. Hoyle, did you have a
25 complete copy of his notes?

26 A Did I have a copy of his notes?

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1 Q Yes.

2 MR. KOCHIS: Objection, it would call for speculation
3 on his part as to whether or not he had a complete copy of
4 the doctor's notes.

5 THE COURT: Sustained.

6 Q (BY MR. NEGUS:) Did you have any copy of his notes?

7 A Not of his notes, no.

8 Q Did he ever tell you that he had given me copies of his
9 notes?

10 A I don't believe he did, no.

11 Q Showing you Exhibit H-322, is that the amended list that
12 you prepared from the original 60 names that you had
13 with the addition of 12 names that I asked you about at
14 the Preliminary Hearing?

15 A I believe so, yes.

16 Q What was the manner of separation of the original 60
17 names on the list?

18 A What was the manner in which I compiled the names?

19 Q Yes. How did you get those names?

20 A As I mentioned before, I went through the reports I had
21 available to me at that time as to who was at the scene,
22 who the investigators were, the ambulance crew, the
23 fire department, from the reports.

24 (No omissions.)

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- 1 Q The reports that you were speaking about are the regular
2 police reports of investigative actions; is that correct?
- 3 A That's correct.
- 4 Q And in your department, if an officer is at the scene
5 and does not do any particular investigative action,
6 he would not write a report; is that correct?
- 7 A That has happened in the past, yes.
- 8 Q It happened in this particular case; is that not correct?
- 9 A I'm beginning to find that out, yes, sir.
- 10 Q So other than somebody remembering that they saw somebody
11 there or something of that nature, there would be nothing
12 in the records that you have to go back and find out
13 precisely who was in the house; is that right?
- 14 A I would ask questions of those persons I found names in
15 the report.
- 16 Q And you were essentially relying on their memories; is
17 that correct?
- 18 A I was.
- 19 Q But there is no like documentation that anybody can go
20 back to to find out who was in the house and who wasn't?
- 21 A Not to my knowledge.
- 22 Q Last month did you interview by phone a Deputy Eckley?
- 23 A Yes, I did.
- 24 Q And did you tape record a portion of that interview?
- 25 A A portion?
- 26 Q Yes.

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1 A I tape recorded -- I don't understand what you mean,
2 sir.

3 Q Did you tape record your whole conversation with
4 Mr. Eckley?

5 A Yes, I did.

6 THE COURT: Put the mike right beside it.

7 Q (BY MR. NEGUS) I'm asking you to listen to Exhibit H-267.

8 MR. KOCHIS: Your Honor, could we have the tape
9 turned off for just a second?

10 For the benefit of the reporter, could perhaps we
11 have Mr. Negus stop the tape after the first portion that
12 he wants listened to and then have in some way those words
13 confirmed for the court reporter so he knows in his own mind
14 where to start in listening to the tape?

15 It's very hard to take tapes.

16 MR. NEGUS: What I would be willing to do is
17 stipulate that the part that I'm interested in is the last
18 few sentences of the tape. I'm going to play the end of the
19 tape and I would stipulate that the last, say, three
20 sentences of the tape as played to Mr. Eckley could be
21 deemed to be what I'm playing to this witness.

22 MR. KOCHIS: Fine.

23 THE COURT: All right. Accepted.

24 (The following is the transcription of
25 the tape recording as played:)

26 "MR. ECKLEY: How they got to our office,

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1 I don't know. But the Kellisons called Negus.
2 So now the series, the flavor is that Homicide
3 fouled up this investigation so bad that, you
4 know, they didn't follow up this lead and they
5 weren't contacted about it and stuff like that.

6 "Okay. The impression that I tried to
7 leave Forbush with is that Homicide could
8 come in there and start a fire and I wouldn't
9 even know it.

10 "You know, I'm just a field patrol officer.
11 I took the stuff in, put it in evidence and
12 notified Homicide, and whatever Homicide or
13 my superiors did, I don't really know. It's
14 hearsay. I understand they were contacted,
15 but I don't really know.

16 "Anyway, what I think they are going to
17 do is try to put me on the stand and get a
18 shadow of a doubt on the homicide investigation
19 is what my impression is. I do not know if
20 that is true or not.

21 "MR. WOODS: Well, that's a pretty safe
22 assumption, Rick.

23 "MR. ECKLEY: Yeah, that's the gut
24 feeling I get.

25 "MR. WOODS: That's a safe assumption.
26 You know, all you can do is get up there

9-4

1 and say what happened.

2 "Okay, partner. I appreciate your time.

3 "MR. ECKLEY: Stalnaker was out there
4 a few days ago. He was not there the same
5 day the Kellisons were. I don't remember
6 what day that was.

7 "And Stalnaker copied my evidence book
8 on that page, when it was destroyed and
9 everything.

10 "MR. WOODS: Okay. Well, if it's any
11 consolation to you, we did contact this
12 Lee character, and I can't remember his
13 last name. And we talked to Diana again,
14 and that's blown out of the water.

15 "MR. ECKLEY: Okay. I understand
16 this Negus character is really good, you
17 know, for raking somebody over the coals.

18 "MR. WOODS: Well, he is. I'll tell
19 you what to be careful of, is -- "

20 Q (BY MR. NEGUS) Was that a tape recording of the
21 conversation that you had with Mr. Eckley?

22 A That was between he and I, yes.

23 Q And what did you tell him when the tape stopped there?

24 A I told him the same thing as I advised Mrs. Lease that's
25 also on tape.

26 Q What was that?

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1 A I advised Mr. Eckley to ask to listen to the tape
2 recording of the conversation had between Mr. Forbush
3 and himself and/or read a copy of his written report.

4 Q The last words you were saying, I believe, were
5 something like "I'll tell you what to watch out for."

6 What were you telling him to watch out for?

7 A Just that.

8 Q Watching out for making a request?

9 A No. I told him to ask you to listen to the tape recording
10 and a written report.

11 Q The conversation that you just heard, didn't he ask you
12 what to watch out for in court and you said, "I'll tell
13 you what to be careful of, is -- "?

14 A No, I did not. Are you asking the exact words?

15 Q Listen to that again.

16 (The following is the transcription of
17 the tape recording as played:)

18 "MR. ECKLEY: How they got to our office,
19 I don't know. But the Kellisons called Negus.
20 So now the series, the flavor is that Homicide
21 fouled up this investigation so bad that, you
22 know, they didn't follow up this lead and they
23 weren't contacted about it and stuff like that.

24 "Okay. The impression that I tried to
25 leave Forbush with is that Homicide could
26 come in there and start a fire and I wouldn't

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9-6

1 even know it.

2 "You know, I'm just a field patrol officer.
3 I took the stuff in, put it in evidence and
4 notified Homicide, and whatever Homicide or
5 my superiors did, I don't really know. It's
6 hearsay. I understand they were contacted,
7 but I don't really know.

8 "Anyway, what I think they are going to
9 do is try to put me on the stand and get a
10 shadow of a doubt on the homicide investigation
11 is what my impression is. I do not know if
12 that is true or not.

13 "MR. WOODS: Well, that's a pretty safe
14 assumption, Rick.

15 "MR. ECKLEY: Yeah, that's the gut
16 feeling I get.

17 "MR. WOODS: That's a safe assumption.
18 You know, all you can do is get up there
19 and say what happened.

20 "Okay, partner. I appreciate your time.

21 "MR. ECKLEY: Stalnaker was out there
22 a few days ago. He was not there the same
23 day the Kellisons were. I don't remember
24 what day that was.

25 "And Stalnaker copied my evidence book
26 on that page, when it was destroyed and

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1 everything.

2 "MR. WOODS" Okay. Well, if it's any
3 consolation to you, we did contact this
4 Lee character, and I can't remember his
5 last name. And we talked to Diana again,
6 and that's blown out of the water.

7 "MR. ECKLEY: Okay. I understand
8 this Negus character is really good, you
9 know, for raking somebody over the coals.

10 "MR. WOODS: Well, he is. I'll tell
11 you what to be careful of, is -- "

12 Q (BY MR. NEGUS) What did you tell him to be careful of?

13 A Prior to going on the stand, listening to the tape
14 recording or reading the written report.

15 Q Why did you disconnect the tape recorder at that point
16 in time?

17 A No particular reason.

18 Q How much longer after you disconnected the tape
19 recorder did that conversation last?

20 A I wouldn't say any more than a minute.

21 Q Do you remember what else was said besides telling him
22 to ask you listen to his tape to Mr. Forbush?

23 A That's about it.

24 Q Were you instructed by any of your superiors to tell
25 that to various witnesses that you contacted?

26 A No.

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1 Q That was your own idea?

2 A Yes.

3 MR. NEGUS: Nothing further.

4

5 CROSS-EXAMINATION

6 BY MR. KOCHIS:

7 Q Mr. Woods, when you compiled the list, did you review
8 the written reports in this case?

9 A I did.

10 Q And did those written reports list names of persons who
11 were at the scene?

12 A They did, yes.

13 Q Did you also review the photographs in this case?

14 A Yes, I did, the ones that were available at the time, yes.

15 Q And were people in the Sheriff's Office depicted in the
16 photographs as being at the Ryen scene?

17 A Yes.

18 Q Did you ever get a -- prior to the time you had the
19 interview with Mr. Eckley, did you ever have a copy of
20 Mr. Forbush's interview with Mr. Eckley?

21 A No, I didn't.

22 Q Have you ever gotten that?

23 A No.

24 MR. KOCHIS: Nothing further.

25 ///

26 ///

01181

9-9

REDIRECT EXAMINATION

BY MR. NEGUS:

Q Were the photographs which showed C.C.D. people in them the only source you had as to which C.C.D. people had actually gone in the house?

A That and word of mouth, contacting the different officers.

MR. NEGUS: Thank you.

Nothing further.

MR. KOCHIS: Nothing further.

THE COURT: Thank you.

(Witness excused.)

THE COURT: Any further witnesses?

MR. NEGUS: No.

THE COURT: Come into chambers, please.

(The following proceedings were taken and had in chambers:)

THE COURT: All right. The defendant and counsel and investigators are in chambers.

Lay it on me, Mr. Negus. What can we predict?

MR. NEGUS: Mr. Kochis and I were talking and we believe we have two, two and a half more weeks of the Hitch motion, followed by two weeks of miscellaneous motions. We are trying to give you what we think, what we hope are maximums.

And two weeks of, a potential of two weeks of motions concerning James Taylor, Phillip Walz, Josh Ryen,

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1 some more lengthier motions about who will be allowed to
2 testify to what, if anything.

3 MR. KOCHIS: Which Mr. Negus and I will be able to
4 plan further after tomorrow, at which time we are reviewing
5 the documents in Century City on Josh Ryen.

6 After that, a one-week break between motions and
7 movement to San Diego.

8 THE COURT: Let me understand before we go on.

9 You said two weeks of miscellaneous, then two weeks
10 of Walz --

11 MR. NEGUS: Taylor.

12 MR. KOCHIS: And Josh Ryen.

13 THE COURT: What would the miscellaneous motions be?

14 MR. NEGUS: Mr. Kochis has some motions he wants to
15 make after that.

16 MR. KOCHIS: The prior similar acts, your Honor,
17 the motions regarding photographs, motions regarding
18 Mr. Gregonis, motions regarding jury selection.

19 MR. NEGUS: In my preparation, I'm barely keeping
20 up with what we are doing. I have been hoping to get a
21 chance to get ahead. I expect to get somewhat ahead during
22 the time that you are on vacation. How much I get ahead, I
23 don't know. I don't know whether I will get beyond -- I
24 hope to at least get caught up so that I'm finished with
25 everything that I can do with respect to this particular
26 motion, and by the end of that week, I may get further than

9-11

1 that. I don't know.

2 There is a bunch of things I have to do with respect
3 to the defense investigation and defense experts during that
4 period of time.

5 I, at some point in time, hope to --

6 THE COURT: You are saying you are barely able to
7 stay up; therefore, you are not very confident about these
8 figures?

9 MR. NEGUS: No. Those are our best guesses, and
10 they are just guesses as to court time.

11 What I'm saying is I don't know how much time I'm
12 going to be asking for between the time we finish these
13 motions and the time we start jury selection because I
14 don't know how much work I'm going to have to do to prepare
15 the case.

16 I have gotten lots and lots of lab work. Most of
17 the lab work that was not done by the prosecution in the
18 first month after the crime has been done and is still being
19 done, and I haven't gotten some of the most important parts
20 of it.

21 It isn't their fault. It has to do with people in
22 the Crime Lab. But it's a fact that I still don't know
23 some of the most important evidence, physical evidence in
24 the case. I don't know the results of that analysis and
25 I haven't yet, because they are still working on it, have
26 not yet requested most of what I'm going to want my own

9-12

1 people to look at.

2 So that particular -- those particular factors
3 plus not having finished my complete analysis of what
4 motions I want to make, I don't think -- I think we have
5 told you most of the long evidentiary-type motions. There
6 may be more legal-type motions. That's the best that I'm
7 able to do.

8 I can tell you basically the Hitch motion is
9 reasonably close.

10 MR. KOCHIS: I tried to pin Mr. Negus down when we
11 discussed it and he and I tried to come to some agreement.
12 With the potential of finishing the motions sometime in
13 August, if there is time left, the break to move to
14 San Diego and looking at questioning jurors the beginning
15 of September right after Labor Day.

16 • MR. NEGUS: If I had my preference, if I can do all
17 the work that I have to do before then, my preference is
18 still and always has been to get it on as quickly as I can.

19 There is only one of me, however, and I only have
20 so many hours in a week. And I have found that I can't
21 actually work on this case 90 hours a week. ✓

22 THE COURT: I'm sure you are working very hard,
23 Mr. Negus. I'm sure that both of you are.

24 MR. NEGUS: I'm trying to get it organized, but I
25 don't know how much time I'm going to be asking for between
26 the end of the motions and the time we begin jury selection.

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9-13

1 I know your Honor very well and I know that once
2 we have actual jurors coming into the courtroom that you
3 are not going to be booking any delays. And so I would like
4 to be prepared with what I'm going to do as much as I can
5 before we start jury selection so I don't back the whole
6 thing up during the trial.

7 THE COURT: I can see us doing probably somewhat
8 the same way that it was done in Gray. That is, we will
9 death-qualify them, have them come back. Eventually, we
10 are going to come down to where we have a lot of people in
11 the courtroom when you start regular voir dire.

12 There may then be a break there between jury
13 selection and swearing of witnesses, perhaps.

14 MR. NEGUS: I wouldn't like to count on that because
15 I need to be prepared in doing the work that I'm doing. I've
16 got seven or eight people whose schedules are harder to
17 coordinate than mine, depending upon what I'm asking them
18 to do, so that's --

19 THE COURT: We have got that part of the work. We
20 have to do work on those details.

21 Okay. That's about the best we can do, I guess.

22 Is there anything I can do for you in San Diego
23 when I see the people down there?

24 MR. KOTTMEIER: Find out a decent place for us to
25 stay.

26 THE COURT: As things stand now, you guys will

9-14

1 receive more of a per diem than the Judge will. I think
2 your schedule is something like fifty-seven. I'm down to
3 about thirty-eight.

4 MR. NEGUS: Does that include meals?

5 THE COURT: Yes, that includes meals.

6 MR. KOCHIS: If you are down there and have a
7 chance to talk to the Presiding Judge about the possible
8 courtroom we may be in --

9 THE COURT: I know already.

10 MR. KOCHIS: Are there any geographical problems in
11 terms of elevators, stairs, accessibilities that we should
12 be aware of?

13 THE COURT: I think it's Department 33. It's on
14 the fifth floor. There are no other criminal courts up
15 there. I don't know how many civil courts there are. But
16 we will be the only criminal department on the fifth floor.

17 MR. NEGUS: That's the Broadway building?

18 THE COURT: It's downtown. I have never been in
19 the courthouse.

20 MR. KOCHIS: The courthouse is located on Broadway.

21 THE COURT: Have you heard from the Supreme Court?

22 MR. NEGUS: No. Mr. McCraw from my office has
23 another writ he filed before mine. He called them up
24 a while back and they said they are swamped.

25 THE COURT: Toward the end, as we get down closer
26 to the time of transfer, one of your security people

9-15

1 should perhaps see one of theirs because I'm going to
2 actually be having Mr. Cooper transferred to the San Diego
3 Sheriff.

4 SERGEANT ARTHUR: No problem with that.

5 THE COURT: So far, he has been a perfect gentleman
6 as far as the security, the obvious things are concerned.
7 But I don't know what the security aspects are there.

8 SERGEANT ARTHUR: I'm not sure of their rules and
9 regulations.

10 MR. NEGUS: That's done -- If you need to contact
11 somebody in San Diego, the security in the courtroom is
12 done by the Marshal. They have a consolidated Marshal that
13 handles the security for all the courts. There is a
14 Marshal's office that handles that.

15 I don't know how it goes from the jail.

16 THE COURT: Ventura does it that way, too.

17 MR. KOCHIS: There is an overpass that goes from
18 the jail over to the courthouse.

19 THE COURT: In Ventura, the Sheriff has them, then
20 I think at the elevator or perhaps in this case, at some
21 point in the tunnel, they are turned over to the Marshal.

22 SERGEANT ARTHUR: Because of the change of venue,
23 my understanding is they have the sole responsibility and
24 the way we do it in San Bernardino County would not have
25 any reflection on the way they do it there as far as the
26 Sheriff being the chief law enforcement for the Superior

9-16

1 Court.

2 THE COURT: No. This will be a San Diego case once
3 it's down there. I will be a San Diego Judge.

4 But I have already received the actual assignment
5 from the Presiding Judge. I have got the Judicial Council
6 assignment. Subject to the completion of the motions,
7 outside of an order of transfer, there is not much else I
8 need to do.

9 MR. NEGUS: I think I probably will be wanting to
10 make a motion changing venue once we get down there, and I
11 don't think it will take very long to present. But I'm sure
12 I will want to do that.

13 So if we get down there, I would think that we would
14 have -- and I'm not sure yet exactly what my position is on
15 their jury panels, but there might be a jury challenge and
16 might be a change of venue motion which might take two or
17 three days before we begin scheduling people.

18 THE COURT: All right.

19 (No omissions.)
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1 THE COURT: Well, again, I assume if that be so
2 that you'll be working on that sometime and you'll have a
3 better idea as to that --

4 MR. NEGUS: But you --

5 THE COURT: -- whether or not who all is going to
6 be testifying, what documents you've got, and you'll be getting
7 all the publicity and whatever, I suppose.

8 MR. NEGUS: But just -- the reason I said that was
9 because that we specifically put off those kind of motions
10 until we get to San Diego.

11 THE COURT: That's true, that's true.

12 MR. ARTHUR: Could I inquire as to when the first
13 possible testimony might be starting so I can inform my
14 people as to when I would have to --

15 MR. KOCHIS: Jury selection typically takes in a
16 case of this magnitude five to six weeks.

17 THE COURT: So we're looking --

18 MR. NEGUS: End of October.

19 THE COURT: October.

20 MR. ARTHUR: All right.

21 THE COURT: Don't plan on any extensive trips during
22 the holidays.

23 MR. ARTHUR: Ten-day hunting trip in October. You
24 answered my question.

25 THE COURT: Thank you all very much.

26 (Whereupon the proceedings concluded
at 2:45 p.m.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

THE PEOPLE OF THE STATE
OF CALIFORNIA,

PLAINTIFF,

-VS-

KEVIN COOPER,

DEFENDANT.

NO. CR-72787
OCR-9319

REPORTERS' CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS

WE, LEONARD D. GUNN AND JUDITH L. MORRIS, OFFICIAL
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OF JULY, 1985.

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OFFICIAL REPORTER, C.S.R. NO. 1109

Judith L. Morris
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