

COPY

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 Plaintiff-Respondent, )  
 )  
 vs. )  
 )  
 KEVIN COOPER, )  
 )  
 Defendant-Appellant. )

CR 72787

Supreme Court  
No. *Crim 24552*

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY

HONORABLE RICHARD C. GARNER, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

For Plaintiff-Respondent: HON. JOHN K. VAN DE KAMP  
State Attorney General  
Department of Justice  
110 West "A" Street, Suite 700  
San Diego, California 92101

For Defendant-Appellant: IN PROPRIA PERSONA

*66*  
VOLUME ~~66~~ volumes.  
Pages 5907 to 6061, incl.

JILL D. MC KIMMEY, C.S.R., C-2314  
and  
BRIAN V. RATEKIN, C.S.R., C-3715  
Official Reporters

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

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

5 Plaintiff, )

6 vs. )

7 KEVIN COOPER, )

8 Defendant. )

NO. OCR-9319

VOLUME 56

Pgs. 5907 thru 6061, incl.

9  
10 REPORTERS' DAILY TRANSCRIPT

11 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

12 DEPARTMENT 3 - ONTARIO, CALIFORNIA

13 Tuesday, July 31, 1984

14 APPEARANCES:

15 For the People:

DENNIS KOTTMEIER  
District Attorney

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

19 For the Defendant:

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

22  
23 Reported by:

JILL D. McKIMMEY  
Official Reporter  
24 C.S.R. No. 2314  
and  
25 BRIAN RATEKIN  
Official Reporter  
26 C.S.R. No. 3715

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1 ONTARIO, CALIFORNIA; TUESDAY, JULY 31, 1984; 9:55 A.M.

2 DEPARTMENT NO. 3

HON. RICHARD C. GARNER, JUDGE

3 APPEARANCES:

4 The Defendant with his Counsel, DAVID

5 NEGUS, Deputy Public Defender of San

6 Bernardino County; JOHN P. KOCHIS,

7 Deputy District Attorney of San Ber-

8 nardino County, representing the

9 People of the State of California.

10 (Jill D. McKimney, C.S.R., Official Reporter, C-2314,

11 Brian Ratekin, C.S.R., Official Reporter, C-3715)

12  
13 THE COURT: Mr. Kochis, Mr. Negus and Mr. Cooper  
14 are all present.

15 Call your witness.

16 MR. NEGUS: Call Dr. John Thornton.

17  
18 J O H N T H O R N T O N, called as a witness by the  
19 defense, was examined and testified as follows:

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

24 THE WITNESS: I do.

25 THE CLERK: Please be seated.

26 State your name, please, for the record, and spell

1 your last name.

2 THE WITNESS: My name is John Thornton,  
3 T-h-o-r-n-t-o-n,  
4

5 DIRECT EXAMINATION

6 BY MR. NEGUS:

7 Q Dr. Thornton, what is your occupation?

8 A I am a professor of forensic science at the University  
9 of California at Berkeley, and occasionally a consultant  
10 in physical evidence matters.

11 Q What is forensic science?

12 A Well, forensic comes from a Latin word meaning of the  
13 forum. In ancient Rome the forum was where govern-  
14 mental debates were held, but it was also where trials  
15 were held; it was a courthouse; so forensic science  
16 has come to mean science that's exercised in the  
17 resolution of matters at the interface of law and  
18 science.

19 Q What are your duties at the University of California?

20 A Teaching and research. The program at Berkeley is a  
21 graduate program; so most of the instruction is at  
22 the graduate level. I am also concerned with research  
23 in a wide range of physical evidence categories, and  
24 I have some additional administrative responsibilities  
25 as vice-chairman of the department. The department is  
26 called the Department of Biomedical and Environmental

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Q What does that have to do with forensic science?

A Well, this is a department within the School of Public Health. Public health is concerned with the health of the public. Homicide is a leading cause of death in American males age 15 to 23. That's the introit into the School of Public Health. And then, additionally, there was a criminology department at Berkeley up until 1975 that was terminated for reasons unrelated to the criminalistics or forensic science program, and our program was placed under public health administratively.

Q Showing you Exhibit M-13, is that a vitae of your background and training and experience?

A Yes, it is.

Q And was that prepared by yourself?

**A. Yes.**

Q And does that accurately -- does that accurately state your educational background?

A. Yes.

Q Does it also accurately state your -- your work experience in the field of criminalistics and forensic science?

**A. Yes.**

Q You said that you worked as a consultant in addition to your work at the university. What -- what work do



1           you do as a consultant?

2       A   Well, I consult occasionally on physical evidence  
3           matters as a mechanism to ensure professional  
4           citizenship. If I were not to do so, I think that  
5           a portion of my credibility as an educator would be  
6           eroded, at least in the -- the eyes of the profession;  
7           so I engage in a limited amount of consulting, not an  
8           extensive amount, for that purpose.

9       Q   Approximately how many different homicide cases have  
10          you worked on?

11      A   About 300.

12      Q   And how many of those were in the past year where you  
13          were involved as a consultant?

14      A   In the past year, including this case, I've been  
15          involved in eight cases. Two of them have been  
16          substantial cases. The other six have not been  
17          complicated cases, have not been involved from the  
18          standpoint of a complexity of physical evidence.

19      Q   Were you retained in these cases by the prosecution or  
20          by the defense?

21      A   Two of them by the prosecution, the remainder by the  
22          defense.

23      Q   Have all those cases been in California or have they  
24          been involved in other jurisdictions?

25      A   Other jurisdictions as well as California.

26      Q   What other jurisdictions have you worked in?

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1 A I think about ten, eight or ten states. I -- well,  
2 Alaska, Washington, Oregon, California, Nevada, North  
3 Carolina, Missouri, Nebraska, Texas, Colorado.

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4 Q How many actual crime scenes have you actually yourself  
5 processed?

6 A Approximately 150. I'm not sure of the exact number.  
7 I think that's a reasonable approximation.

8 Q And of those, how many of them were you actually in  
9 charge of the scene?

10 A Probably 125.

11 Q Of those homicide cases that you have been involved in,  
12 have any of them involved four or more victims?

13 A Yes, a few, not many.

14 Q Have you testified previously as an expert witness?

15 A Yes, I have.

16 Could I clarify a previous response?

17 Q Sure.

18 A You asked me about homicide cases, and the numbers  
19 that I have given you would include cases that --  
20 that were handled as homicide cases but, in retrospect,  
21 were determined to be suspicious suicides, death by  
22 misadventure, but were processed initially as -- as  
23 homicide, so the numbers that I gave you would  
24 include those cases as well.

25 Q Do you have any estimate as to what percentage of the  
26 cases would be --

1 A A small -- a small percentage, certainly under ten  
2 percent,

3 Q How many different occasions have you qualified as an  
4 expert witness?

5 A Oh, well, hundreds. Including drug matters and  
6 handwriting comparisons, total court appearances  
7 would number in the hundreds.

8 Q And what -- in what different jurisdictions, the same  
9 ones that you mentioned earlier?

10 A Yes. I haven't appeared in -- in court in all of  
11 those jurisdictions that I mentioned previously.  
12 In most of them, yes.

13 Q Have you ever failed to qualify as an expert witness?

14 A No.

15 Q Have you written any technical articles or -- or books?

16 A Yes.

17 Q And are they listed accurately as far as the title  
18 and the place of publication, the date of publication  
19 in Exhibit M-13?

20 A Yes, except that the -- the list of articles is not  
21 altogether current. I believe there's another eight  
22 or ten articles that have appeared in print since --  
23 since I updated the resume the last time. The total  
24 number now I think is slightly in excess of a hundred.

25 Q And of these publications, have any of these publi-  
26 cations dealt with the processing of crime scenes?

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1 A Yes.

2 Q Have any of them dealt with -- with the analysis of  
3 blood spatter patterns?

4 A Yes.

5 Q Do you -- do you belong to various professional  
6 organizations?

7 A Yes.

8 (No omissions.)

9

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1 Q And on Exhibit M-13 are the professional organizations  
2 to which you belong as well as the offices that you  
3 held in those -- in those organizations and the awards  
4 that you received?

5 A Yes.

6 Q Have you ever -- have you ever served on any nationwide  
7 bodies dealing with -- with various aspects of forensic  
8 science?

9 A Yes.

10 Q And what was the nature of that -- of that -- those  
11 particular bodies and those particular activities you  
12 engaged in on them?

13 A Well, there have -- there have been several. A number  
14 of years ago there was a project funded by the U.S.  
15 Justice Department, the National Institute of Justice,  
16 which was concerned with a nationwide crime laboratory  
17 proficiency testing program. I was involved in the  
18 advisory committee for that project.

19 There was again a federally funded venture which  
20 resulted in the compilation of a number of standard  
21 techniques that are used in the crime laboratories, in  
22 operational crime laboratories, and I was concerned with  
23 with the project direction of that project.

24 And there was a -- another federally -- federally  
25 funded project, again funded by the National Institute  
26 of Justice, which was concerned with serology workshops

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1 and with workshops in the use of the microscope, the  
2 polarizing microscope, for trace evidence analysis.

3 And I was concerned with the -- with the project  
4 direction in that project.

5 Q So -- so basically the kind of work that you were doing  
6 was involved in -- in essentially quality control for  
7 criminalists?

8 A Yes.

9 Q Are there recognized standards in the field of criminal --  
10 criminalistics as to how crime scene processing and  
11 criminalistic type work should be done?

12 A I believe so, yes.

13 Q And are those standards embodied in a sort of professional  
14 literature?

15 MR. KOCHIS: Your Honor, I'm going to object. It's  
16 compound. "Standards for processing," I assume, might not be  
17 the same as "criminalistics," because criminalistics is such  
18 a wide field.

19 THE COURT: All right. Break it down, Mr. Negus.

20 Q (BY MR. NEGUS:) Are there standards for crime scene  
21 processing recognized in the literature?

22 A Yes.

23 Q And are those standards for laboratory work in criminalistics  
24 recognized in the literature?

25 A Yes. I think that, with respect to laboratory work, that  
26 the standards are -- are more diffused, less clearly

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1       enunciated in the literature than they are with respect  
2       to crime scene processing. But, clearly, there are  
3       standards.

4   Q   And is the literature that exists, is that literature  
5       that is written by people outside the law enforcement  
6       community, sort of enforcing standards from -- from  
7       outside, or --

8   A   Is your question with respect to crime scene processing?  
9   Q   Yes.

10   A   Almost all of the -- the works that are available that  
11       discuss protocols for crime scene processing have been  
12       written by law enforcement officers, people within the  
13       law enforcement community.

14   Q   Showing you various exhibits that have been marked in  
15       this hearing, H-198, are you familiar with that  
16       publication?

17   A   Yes.

18   Q   And is that a -- does that have to do with the collection  
19       of -- of -- of evidence at a crime scene?

20   A   Yes.

21   Q   Is that a recognized work in the field?

22   A   I believe so. It's certainly a very prevalent document.  
23       I'm sure most investigative agencies have it or have  
24       access to it.

25   Q   Showing you document H-197, a portion of a -- of a book  
26       by Svensson and Wendel, is that also a recognized book

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1 in the field of crime scene processing?

2 A Yes. This is the third edition, which has been revised  
3 by Mr. Fisher in Los Angeles. The -- this, along with  
4 previous additions, is a standard textbook on crime  
5 scene investigation.

6 Q And is Mr. Fisher a person who's involved in practicing  
7 in law enforcement on a daily basis?

8 A He's chief criminalist of the Los Angeles County Sheriff's  
9 Office.

10 Q Showing you Exhibit H-199, a portion of another document  
11 by Fox and Cunningham, is that likewise recognized in  
12 the field as a -- as a manual on -- on crime scene  
13 processing?

14 A Yes, it is. It's a document that has been disseminated  
15 widely and, I presume, used extensively.

16 Q And showing you two documents, H-281 and H-299, which  
17 appear to be chapters from a book that was edited by  
18 yourself, can you -- what -- what is -- what was the  
19 purpose of that particular book?

20 A Well, the -- one of the big names in forensic science  
21 in -- in the 20th Century, at least in this particular  
22 solar system, was that of Paul Kirk. Kirk was a  
23 professor of criminalistics at Berkeley who died in  
24 1970, leaving an unfinished draft of a second edition  
25 of his 1953, 1954 textbook. And on his death, I revised  
26 the -- the text, which appeared as a posthumous second

0-1-2-3-4-5-6-7



1        edition.

2    Q    And is that likewise widely recognized in the field and  
3        used?

4    A    Yes; I believe so.

5    Q    Finally, let me show you a document that's been marked  
6        as Exhibit M-14. Did you prepare that particular  
7        document?

8    A    Yes.

9    Q    And for what purpose was that prepared?

10   A    Actually, it was a portion of a commercial venture to  
11        sell a compendium of standard investigative guideline  
12        forms to police agencies.

13   Q    What relationship does that document have with the --  
14        with the standards in the field as far as crime scene  
15        processing -- processing that you have described?

16   A    Well, most investigative agencies have forms for  
17        investigation: forms for drawing in damage to vehicles,  
18        forms for indicating position of automobiles in traffic  
19        collisions, forms for homicide investigations, burglaries,  
20        arson, autopsy diagrams and the like. I collected as  
21        many of those forms as I could worldwide and edited  
22        them to conform to my perceptions of what is desirable  
23        in crime scene investigations, probably included some  
24        of my own neuroses, and drew up the set of however many  
25        pages.

26   Q    So the purpose of that would to be act as a guideline

0-1-2-3-4-5-6-7-8

1 for crime scene investigations or a reminder to them  
2 as to how to go about processing a scene?

3 A Yes. What I had in mind was that this would represent  
4 the so called boiler plate, the -- the features of the  
5 scenes that should be recorded or at least considered  
6 or some thought should be given to various aspects of  
7 scene investigation.

8 Q Do you have an opinion as to whether or not the processing  
9 of the crime scene at 2943 English Road in the Chino  
10 Hills in the months of June of 1983 conform to these  
11 national -- these standards that you enunciated?

12 A In my opinion, they do not --

13 MR. KOCHIS: Well, Your Honor, I move to strike as  
14 non-responsive. It was a "yes" or "no." And I would be  
15 objecting to no foundation when the ultimate question is  
16 asked.

17 THE COURT: Sustained on both counts. May be  
18 stricken.

19 Q (BY MR. NEGUS:) Do you have an opinion -- I'm just  
20 going to ask him, "yes" or "no," if he has an opinion.  
21 I don't think that requires any foundation.

22 THE COURT: So far I don't believe he has indicated  
23 a foundation, that is, that he studied that particular crime  
24 scene.

25 MR. NEGUS: Well, I just -- I'm going to get to that.

26 THE COURT: All right. Then I'll reverse the order.

0-1-2-3-4-5-6-7

1 Go ahead.

2 Q (BY MR. NEGUS:) Do you have an opinion as to whether  
3 or not the processing of the Ryen crime scene conforms  
4 to recognized standards in the field of criminalistics?

5 A I have an opinion.

6 Q And what materials have you used to form that particular  
7 opinion?

8 A May I refer to my notes?

9 Q Sure.

10 Copies of which Mr. Kochis Has.

11 A In addressing this particular issue, I examined the  
12 photographs that were taken of the Ryen residence, the  
13 initial scene reports, the laboratory reports, the  
14 initial reports and subsequent reports and the tran-  
15 scripts of testimony given at the Preliminary Hearing  
16 and of what I understand to be Hitch motion proceedings.  
17 Do you want me to -- to indicate whose testimony I took  
18 into consideration?

19 (No omissions.)  
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1 Q Yes, if you would, please.

2 A At the preliminary hearing, the testimony of William  
3 Hughes, Patricia Schechter, David Stockwell, Craig  
4 Ogino, Dan Gregonis, Bill Baird, Irving Root, David  
5 Bellomy, Ann Punter, Rick Roper, Héctor O'Campo,  
6 Rodney Hoops, Robert Hall, Stephen Moran, James Hill,  
7 Harvey Walker, Gale Duffy, Gary Woods and Timothy  
8 Wilson. And at the Hitch motion proceedings, the  
9 testimony of Tony Longhetti, Bill Baird, Patricia  
10 Schechter, David Stockwell, Gale Duffy, Rick Roper,  
11 David Bellomy and Craig Ogino.

12 Now, certain of that testimony did not bear to  
13 the -- to the examination of the Ryen household rather  
14 than -- rather was relevant to the Lease household,  
15 but I read it for purposes of background.

16 Q In the field of criminalistics, are transcripts of  
17 the -- of the testimony of people who process the  
18 scene, laboratory reports, police reports and  
19 photographs the kind of materials on which criminalists  
20 base opinions as to the processing of crime scenes?

21 A Yes, I believe so. For a review of -- of a case,  
22 those materials are somewhere between useful and  
23 essential.

24 Q What is your opinion as to whether or not the  
25 processing of the Ryen crime scene at 2943 English  
26 Road met those -- met those recognized standards?

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1 MR. KOCHIS: I would object, no foundation as to  
2 his expertise in this area.

3 THE COURT: Overruled.

4 THE WITNESS: In my view, the scene processing,  
5 the Ryen scene, does not -- does not meet generally  
6 accepted standards of police practice. I consider it  
7 to be defective to one extent or another in the areas  
8 of supervision, crime scene photography, documentation  
9 of the crime scene, collection and preservation of the  
10 evidence at the crime scene, and a failure to address  
11 the issue of a crime scene reconstruction.

12 Q BY MR. NEGUS: With respect to supervision, what --  
13 what do you mean by supervision?

14 A In any crime scene investigation, there are command  
15 decisions that are made to carry out either  
16 administrative details, scientific details or details  
17 which are really related to unique legal situations,  
18 things such as unbroken chain of evidence, the  
19 adequacy of photographs to depict the scene accurately.  
20 When I use the term "supervision," I'm referring to  
21 the command decisions that implement those -- those  
22 areas,

23 Q How was -- with respect to supervision, how was the  
24 investigation of the crime scene at 2943 English Road  
25 defective?

26 A I think one of my major criticisms is the division of

1 responsibility at the crime scene where there were  
2 teams with different responsibilities attendant to  
3 their own particular precinct; and without any real  
4 concept of what was taking place by other teams, I  
5 feel that this not only dilutes the responsibility  
6 for the crime scene processing in that one person  
7 will feel that -- that some aspect of the processing  
8 is -- is not his or her job and will defer to another  
9 team, but in addition to that, I think that it diverts  
10 the attention of the investigator to an overall  
11 comprehensive image of the scene as it exists,

12 Q In what respect was the photography of the scene in  
13 this investigation defective?

14 A. Actually, your previous question in connection with  
15 supervision, I -- there were other elements which --  
16 which went into my thinking.

17 Q Excuse me. Would you -- could you list the other  
18 elements.

19 A Well, access to the -- the scene was not adequately  
20 controlled. Certainly, it was not adequately documented.  
21 In my experience, most investigative agencies have  
22 forms for that purpose to log in the -- the investi-  
23 gative personnel that were -- were present. In my  
24 view, the so-called boiler plate, the standard  
25 information that is ordinarily noted at any crime  
26 scene, homicide, burglary or whatever, was not noted,

1 standpoint of the -- from the quality of the image, I  
2 have no quarrel with them. But from the standpoint of  
3 a comprehensive and systematic approach to the scene,  
4 I feel that they are deficient.

5 Q With respect to this process of picking the evidence up,  
6 the collection of it and preserving of it, were there  
7 any defects in this particular investigation?

8 A I think there was an emphasis in the minds of the  
9 investigators on preservation and collection per se as  
10 if somehow this was the -- this was the end result and  
11 their ultimate responsibility. And that's a -- a notion  
12 that -- that I don't subscribe to.

13 There is another criticism I would have relative  
14 to collection and preservation, that in the testimony  
15 of the investigators I've frequently seen the phrase,  
16 "Well, we couldn't run all of the bloodstains at the  
17 scene. It would have been impossible, just wasn't  
18 feasible." And -- and I agree. But I think that there --  
19 there could have been or should have been a middle ground  
20 where additional stains were -- were taken. And I think  
21 that our knowledge of the circumstances at the scene  
22 would, at this point, be much more complete had additional  
23 stains been collected.

24 In lieu of taking every stain, a decision was made  
25 to take stains on more or less a random basis. But the  
26 random basis was random with respect to the geography of

1 things such as time of arrival, time of quitting the  
2 scene, position of drapes, lighting, presence of  
3 animals at the scene; in other words, the -- the  
4 standard information that -- that ordinarily should  
5 be collected in connection with any investigation  
6 was -- was not adequately documented.

3a 7 Q Was there also -- was there also any -- any defects  
8 with respect to the -- to the timing with which the  
9 scene was processed, that is, the way that the work  
10 proceeded?

11 A Well, I have difficulty in actually -- not only in  
12 reconstructing the crime. I have difficulty in  
13 reconstructing the manner in which the processing  
14 took place. There were -- there were, in my view,  
15 some lurches, some unaccounted-for periods of time  
16 in the collection of the evidence that would suggest  
17 to me that the processing did not flow in a -- in a  
18 systematic manner,

19 There's one period of time of approximately two  
20 hours, another period of time of approximately two  
21 and a half hours in the collection of -- of physical  
22 evidence that in the materials that I have reviewed,  
23 I am unable to account for the activities of the  
24 investigator during those periods of time.

25 Q The -- these particular criticisms as far as crime  
26 scene supervision, are these your own personal opinions

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1 or is this something which is reflected in the  
2 literature?

3 A Well, both, both. The standard textbooks on crime  
4 scene processing outline protocols that can be used  
5 or should be used in approaching any crime. In any  
6 crime, there's inevitably to be some divergence from  
7 those standard protocols. That's just an extension  
8 of common sense, but many of the factors of crime  
9 scene processing that are advocated by -- by standards  
10 were not followed in this instance.

11 Q In processing a crime scene, is that just something  
12 you do rote, by checklist, or does there need to be  
13 some sort of understanding of what's going on?

14 A Well, I think that -- that in an ideal world, there  
15 would be an understanding, an understanding of the  
16 function of processing a crime scene, but this isn't  
17 an ideal world, and so in lieu of -- of a full under-  
18 standing, which is not, in my view, a lurid fantasy,  
19 it's something that can be achieved, but in lieu of  
20 that, then a checklist is the next best thing.

21 (No omissions.)  
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012605

1 Q Did there appear to be any evidence on -- of -- of an  
2 understanding of the -- of the process of collecting  
3 physical evidence in this particular investigation?

4 A No. I -- I think that there's evidence of a failure  
5 to understand the -- the nature of -- of processing  
6 the crime scene. Could I explain what I --

7 Q Yes.

8 A -- what I have in mind?

9 Q What you meant.

10 A Ultimately, we're not as interested in the physical  
11 evidence, the tangible physical evidence as much as  
12 we're interested in the physical evidence telling a  
13 story as to what happened at the time that the crime  
14 occurred. Collecting and preserving physical evidence  
15 is certainly necessary. But, in my view, it's -- it's  
16 a step removed from what -- from our fundamental interest  
17 of using the physical evidence to -- to indicate the  
18 factual circumstances at the time that the crime occurred.

19 In my view, the emphasis in this scene was in the  
20 collection and preservation of the physical evidence,  
21 per se. The emphasis was, "Let's collect it, let's  
22 pick it up, let's package it and let's remove it from  
23 the -- the scene." And, in -- in my view, that's --  
24 that's not entirely adequate.

25 Q Why not?

26 A Well, to some extent, it's like a -- a -- a dog that

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1 takes a bone and -- and buries it and then forgets about  
2 it. In this instance, substantial items of physical  
3 evidence were secured, put in a property room and, for  
4 all practical purposes, forgotten until the -- the value  
5 of the physical evidence on those items was either  
6 destroyed or minimized.

7 Q Turning again to the -- to the issue of photography, in  
8 what way was the photography of the scene in this case  
9 defective?

10 A Well, standard procedure for crime scene photography is  
11 to start with general views of the scene and work down  
12 to increasingly specific items of evidence. My review  
13 of the photographs of the scene indicated that there was  
14 not necessarily a logical sequence from -- from the  
15 general to specific. And my comments are -- are based  
16 principally on the interior photographs of -- of the  
17 scene.

18 There were no closeups of the -- the bloodstains  
19 showing the distribution of blood and the spatter  
20 patterns. Certain of the photographs which were intended  
21 to represent closeups photographs of the bloodstains  
22 were not taken with a scale in place, which is essential  
23 for an interpretation of the distribution of blood and  
24 reconstruction of -- of the crime scene based upon a  
25 blood spatter analysis.

26 Certain areas that I consider to be critical, such

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1 as the ceiling over the -- the bed in the southeast  
2 bedroom were not photographed. And certain items of  
3 evidence were moved and re-photographed.

4 And, lastly, there was not a -- a photo log maintained  
5 of the photographs that were taken.

6 Q What difference would that have made?

7 A A photo log is a -- is a standard practice in police  
8 photography to ensure photographs are -- are not lost,  
9 to document the necessary photographic information  
10 concerning form and distance.

11 There's -- there's one other criticism I would have  
12 the -- of photography, and that is that for an interpre-  
13 tation of blood spatter analysis, a perpendicular  
14 photograph would be indispensable. And care was not  
15 taken in the photography in this case to take the  
16 photographs perpendicular.

17 Q With respect to documentation of the scene, how was this  
18 particular investigation defective?

19 A Well, in my view, it was defective from the standpoint  
20 of not -- there not being a comprehensive scene report,  
21 a narrative. That -- that may be my own personal view,  
22 though. It's -- that's not my most severe criticism of  
23 the -- of the case. But I think that in a case of the  
24 sort, or, really, a case of any sort, that good police  
25 practice would call for a -- a scene report that said some-  
26 thing beyond, "I went to the scene, and here are the

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1 things that I collected." I think that a scene report  
2 should attempt a verbal description of the -- of the  
3 scene, if for no other reason than to prompt the  
4 investigator to consider the interrelationship of items  
5 of -- of evidence. And, again, that ties in to  
6 perception of -- of whether the function is to interpret  
7 the scene or simply to collect evidence.

8 Q So rather than just list the measurements and -- and  
9 number in a list of items that were perceived, what  
10 you're saying is that there should be some attempt to  
11 describe their significance?

12 A I -- I don't know that it's necessary to describe the  
13 significance. But I think that it's necessary to  
14 acknowledge the -- the presence of the items of evidence  
15 and to document not only aspects of the scene but to  
16 document the activities of the investigator. To, in  
17 other words, to leave clear tracks as to what was done  
18 by the investigator.

19 Q Are there any other -- any other lacks as far -- or  
20 defects as far as the documentation is concerned?

21 A Well, yes. What I referred to previously, there are  
22 aspects of the scene that I feel should have been  
23 documented that were not, the -- the so called boiler  
24 plate information: position of lights, position of  
25 drapes, animals at the scene, position of doors, and so on.

26 There were large periods of time where the investigator,

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1 to my understanding, the investigator testified that  
2 she was observing the scene for extended periods of  
3 time. But it's not clear that what she was observing  
4 was recorded in any manner. There's no documentation  
5 that's been made available to me to -- to suggest what  
6 it was that she was observing.

7 The time of collection of items of evidence is  
8 blotchy in a number of instances. There's times of  
9 collection of certain items of evidence that was --  
10 and the times were not recorded for other items of  
11 evidence. In my view, that does violence to standard  
12 police practice in collection of physical evidence.

13 There's frequently -- it's -- it's not clear from  
14 the materials that I have reviewed as to who discovered  
15 the evidence. Who collected the evidence is documented.  
16 But frequently the testimony is "I didn't discover it.  
17 I just picked it up." And I think that that's a gap in  
18 the information that should have been documented, the  
19 person that discovered it, in the event that the  
20 position of that item of evidence relative to some other  
21 item of evidence could be determined retrospectively.  
22 And, again, that ties in to perception of function of  
23 the investigator at the scene.

24 And the last thing under documentation is I don't  
25 think that the photographs that were taken were  
26 particularly good crime scene photographs. From the

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1 the scene rather than random with respect to any  
2 activity that may have taken place, which, again, I think  
3 is a fundamental concern.

4 The sampling that was done, in my view, is somewhat  
5 whimsical. Samples were taken of the blood under the  
6 victims, which, in my view, is probably the -- the least  
7 important aspect of the bloodstain sampling at the scene.  
8 And yet bloodstains were not taken from other areas of  
9 the scene that I think would have been productive of  
10 meaningful information, such as to the east side of the  
11 bed.

12 In addition, in -- in collection and preservation,  
13 there -- in my -- in my opinion, there's almost certainly  
14 some trace evidence on the carpet which -- which I think  
15 should have been collected. Now, I -- I recognize  
16 fully the carpet has been vacuumed in the property loft.  
17 But there's still -- there's still useful physical  
18 evidence at this time. For example, there's some bone  
19 chips that adhered to the carpet in blood that might be  
20 correlated with a victim to indicate the position of the  
21 victim at the time that chop wounds were inflicted on  
22 the victim. That material has not been collected yet.

23 (No omissions.)  
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1 Q Is there anything that -- that's occurred to that,  
2 which as far as positioning of the victims might  
3 lessen its usefulness?

4 A Well, yes. There's -- even though the carpet has  
5 been vacuumed, there's still a great deal of -- of  
6 physical evidence, trace evidence present. That  
7 which has been immobilized by virtue of its being  
8 glued by blood, the position of that evidence can be  
9 determined with some certainty, but the carpet's been  
10 rolled up and the chances of -- of some physical  
11 evidence moving from one location on the carpet to  
12 another is -- is considerable.

13 Q With respect to crime scene reconstruction itself,  
14 how was the investigation defective?

15 A My principal quarrel with -- with that aspect of the  
16 investigation is with respect to the blood spatter  
17 interpretation, in my -- in my view, this scene, al-  
18 though certainly macabre, is not as complex a case as  
19 it may have been perceived as by the -- by the  
20 investigators. The blood spatter evidence is compli-  
21 cated, but in my view, it's not -- it would not be  
22 impossible to have sorted out the various distributions  
23 of the blood, the positioning of the -- of the victims  
24 and of the assailants or assailant, had that been --  
25 had the blood spatter evidence been properly documented  
26 at the time of the initial investigation.



1 Another criticism I have with respect to re-  
2 construction is that, although there's testimony  
3 that a reconstruction was considered at the time of  
4 the initial investigation, the items of -- certain  
5 large items of evidence were removed and taken to  
6 the property loft, but at that point, they were not  
7 then subsequently analyzed or interpreted from the  
8 standpoint of a crime scene reconstruction until a  
9 period of time had elapsed where the value of -- of  
10 the blood evidence on those items had diminished.

11 There were blood distributions that I think are --  
12 would have been critical to a proper interpretation  
13 of the scene, the most significant of which I think  
14 would have been the -- the blood on the ceiling,  
15 because that would have allowed us, in my opinion,  
16 to have determined the handedness of the assailant.

17 Q By that, you mean whether the person was left-handed  
18 or right-handed?

19 A Yes, There was blood on the edge of the bathroom door,  
20 which -- and I am unable to determine the probable  
21 origin of that blood. This is the bathroom door  
22 that was struck by a pillow; and on the edge, the  
23 lock-plate edge of the door, there's blood that hit  
24 the door at right angles, perpendicular and fairly  
25 high up.

26 Now, the crime scene photographs show the door open,

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1 and so the explanation for the blood in -- on the  
2 edge of the door is that the blood originated from  
3 inside the bathroom. That just doesn't make any  
4 sense relative to other aspects of the case, and in  
5 my mind, that's a big question mark. I don't know  
6 at this point that it would have been -- I don't know  
7 that at this point we can resolve the issue of how  
8 that blood got there. At the time of the initial  
9 investigation, possibly an answer would have been  
10 forthcoming. All things considered, at this point,  
11 with the scene dismantled, I'm uncertain even as to  
12 how to proceed on that -- on that particular issue.  
13 There was -- in my mind, there was trace evidence  
14 on the floor, and there were additional bloodstains  
15 on the floor which I think would have been useful in  
16 a crime scene reconstruction, and as an example of  
17 this, there -- there are stains to the east of the  
18 bed that I think might have been useful in determining  
19 the position or the activities of Peggy Ryen prior  
20 to -- prior to death and prior to the position in  
21 which she was found. The -- there are some blood  
22 spatters which would be very useful for determining  
23 origin and determining the trajectory on the ironing  
24 board, and those stains were not typed; so although  
25 the ironing board might be positioned retrospectively  
26 at this point in -- in a mock-up of the -- of the scene,

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1 we don't have the information as to whose blood type  
2 it was. I think that that would have been another  
3 factor that would have been useful in an interpre-  
4 tation of -- of the sequence of events at the scene.

5 The same thing holds true of the typewriter.  
6 There's some stains on the typewriter that I feel  
7 would have been useful in indicating the position of  
8 the victim and also the assailant or assailants,

9 Those are the major points.

10 Q Do you have an opinion, based -- by the way, you have --  
11 in addition to reviewing documents, you have also  
12 yesterday looked at some of the larger items of  
13 physical evidence at the loft and in the crime lab;  
14 is that correct?

15 A In the loft, yes.

16 Q Did you also look at some evidence in the crime lab?

17 A No. I picked up evidence in the crime lab, but I  
18 didn't examine it there.

19 Q Do you have an opinion, based upon what you've seen  
20 at the loft, and as well as -- as -- as your -- the  
21 studying of the documents and photographs that you've  
22 studied as to whether there's a likelihood that there  
23 was additional physical evidence at the scene which  
24 was not collected or preserved?

25 A Yes. I'm certain that there was additional physical  
26 evidence that was not collected or preserved.

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1 Q What kind of evidence -- what kind of information  
2 could have been derived from this evidence had it  
3 been properly collected and preserved?

4 MR. KOCHIS: Well, I am going to object. That  
5 would call for speculation, and I think it's a little  
6 vague in its present form.

7 THE COURT: It's part of his expertise, opinion.  
8 Overruled.

9 THE WITNESS: I think that if greater care had  
10 been taken to the distribution of blood at the scene  
11 with the position of other trace evidence on the carpet  
12 factored into the interpretation, I think that the scene  
13 had the potential of determining the position of the  
14 victims, not only in the terminal position, which, of  
15 course, is recorded by the crime scene photography, but  
16 intermediate positions prior to death. And an example  
17 of that is that, in my view, there's some indication  
18 that Peggy Kelly (sic) had been prone face down through  
19 an interpretation of bloodstains on the carpet. Whether  
20 this can be determined with any exactitude at this point,  
21 I'm skeptical, I think the evidence may well have  
22 determined the position of the assailant or assailants.  
23 An example of that is in the bedroom, there's a file  
24 cabinet. There are some spatters of blood on the file  
25 cabinet, but it's curiously devoid of an extended  
26 distribution of blood, which would indicate to me that

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1 perhaps the assailant had been standing in front of the  
2 file cabinet at some period in this time continuum and  
3 had, therefore, intercepted the distribution of blood  
4 on that item. I think the number of assailants might  
5 have been determined, the sequence of activities, I  
6 think the handedness, whether the assailant was left-  
7 handed or right-handed, might have been determined on  
8 the distribution to the south wall and on the ceiling.

9 I'm less sanguine as to the probability of deter-  
10 mining handedness on other distributions towards the  
11 center of the room, and the bloodstain that has been  
12 designated or was designated at the original crime scene  
13 investigation as A-41, I think that -- that a more  
14 systematic investigation might have shed some additional  
15 information concerning that blood in that it strikes  
16 me as something of a non sequitur relative to the sequence  
17 of events that took place to have an isolated droplet of  
18 blood that far removed from the remainder of the activity,  
19 which I take it to be the southeast bedroom.

20 (No omissions.)  
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1 Q (BY MR. NEGUS:) Referring to the -- to blood spatter  
2 evidence, just -- just that in this particular  
3 investigation, was it feasible -- would it have been  
4 feasible to attempt a reconstruction based in part on  
5 that physical evidence?

6 A Yes. I think that -- I think that we would know a great  
7 deal more now had that been attempted at the -- back  
8 in June of '83.

9 Q You indicated earlier that -- that -- that there may have  
10 been a misperception as to how complex this particular  
11 scene was. Was this, for example, one of the more  
12 complex scenes that you have been involved in?

13 A No. Well, I have been involved in -- in certainly more  
14 complex scenes. The blood distribution on the south  
15 wall was probably the most salient aspect of the -- of  
16 the physical evidence other than the multiplicity of --  
17 of victims. And I -- I can understand how an investigator  
18 would -- would be perplexed by that distribution on the  
19 south wall. But a systematic and detailed analysis of  
20 that distribution does reveal some -- some patterns that  
21 can be interpreted as to their origin. I think, had that  
22 been done, that our knowledge of the factual circumstances  
23 would be much more complete.

24 Q How long would it have taken to, in your experience, to --  
25 to adequately document the blood splatter evidence in  
26 this particular case?

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1 A Well, I think a quick and dirty job could have been  
2 done under an hour. And by "a quick and dirty job" I  
3 mean if someone had taken a 35 millimeter camera and  
4 had put a -- a scale in place in the major areas of  
5 blood distribution and had taken a -- a roll or two of  
6 closeup photographs.

7 Something that I think would be superior to a -- a  
8 quick and dirty job would have been the same photographs  
9 taken but with a -- with documentation, either in form  
10 of a tape recording or -- or written documentation of  
11 what -- what it was that was being photographed in the  
12 location with the -- with the essential measurements to  
13 fixed locations.

14 I think that could have been done by adding several  
15 more hours, certainly under half a day. Perhaps --  
16 perhaps considerably less.

17 Q Is that -- is that a whole bunch of people working or  
18 just -- or just one person?

19 A Well, that's -- that's one person. I think if -- if  
20 another person were taking notes, adequate documentation  
21 of virtually all of the blood at the scene could have  
22 been achieved in --

23 THE COURT: Why don't you break it, Mr. Negus.  
24 Let's take the morning recess.

25 MR. NEGUS: Can we just finish that one answer?

26 THE COURT: I thought you had. I'm sorry.

1 THE WITNESS: A couple of hours, two hours.

2 THE COURT: All right. Thank you.

3 All right. You may step down. Take about 15  
4 minutes.

5 (Recess.)

6 THE COURT: Go ahead, Mr. Negus.

7 Q (BY MR. NEGUS:) Dr. Thornton, I believe earlier today  
8 you, in one point in time, said "Peggy Kelly" as one of  
9 the names of one of the victims. Is that what you meant?

10 A No. Peggy Kelly is a graduate student. I meant Peggy  
11 Ryen.

12 MR. KOCHIS: Freudian slip.

13 Q (BY MR. NEGUS:) Do you have an opinion as to whether a  
14 reconstruction of the crime is present -- possible at  
15 the present time?

16 A Not in all respects, no. My opinion is that it is not  
17 possible in all respects.

18 Q What do you mean by that?

19 A Well, I think that the scene could be reconstructed --  
20 a facsimile of the scene could be physically constructed  
21 with the carpet in place, the various items of furniture  
22 in place, and some sense made out of the distribution  
23 of blood on areas of the scene, typewriter, file cabinet,  
24 ironing board, dressers and so on. However, an  
25 interpretation of the origin of the blood that was thrown  
26 on those items would not be at this -- at this point

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1 also deliver the -- the name of the victim from whom  
2 the blood was shed because of the problems in typing of  
3 the blood at this time.

4 Additionally, there are some aspects of the scene  
5 which are no longer available, of the blood on the wall,  
6 the east wall, the sliding glass door, so on.

7 Q What more could have been told from the physical  
8 evidence had that reconstruction been possible?

9 A Well, I think I've -- I think I covered that. I think  
10 the information that a crime scene reconstruction could  
11 have -- have provided would indicate the position of  
12 the victims, assailant or assailants, number of assailants,  
13 the handedness of assailant, provide a -- a fuller  
14 picture of the factual circumstances at the time the  
15 crime occurred.

16 Q Is that sort of a minimum that -- that could be expected  
17 if there had been better preservation?

18 A Yes. Now, that's -- that's not to say that the equivalent  
19 reliance could be placed on -- on all elements, all of  
20 those -- those elements. It's likely that there would  
21 be more uncertainty as to the position of -- of the  
22 victims than, for example, the handedness of the  
23 assailant.

24 Q And it is possible, under certain circumstances, to  
25 even get more information than that; is that correct?

26 A Yes.

1 MR. KOCHIS: Well, I would object as not being  
2 relevant unless we're talking about this scene.

3 THE COURT: No.

4 MR. NEGUS: I'm perfectly willing to rephrase the  
5 question to make it certain --

6 Q (BY MR. NEGUS:) You don't know what evidence would have  
7 been obtained had a more thorough job been -- better job  
8 been done; is that correct?

9 A That's right.

10 Q So basically what your testimony has to do with is what  
11 you can say we would have known without your engaging in  
12 any speculation as to what might have been found; is  
13 that basically correct?

14 A That's right. I -- I can't speculate as to the nature  
15 of evidence that wasn't collected.

16 Q So just based on what you do know about the scene is  
17 what -- is basically what you're basing your opinion on  
18 at the present time, that is --

19 A Oh, yes, yes, that's correct.

20 Q And obviously, if there had been other evidence which  
21 might have led to identity, then we could have known  
22 much more --

23 MR. KOCHIS: Objection. That calls for speculation.  
24 He's already testified he didn't speculate as to what may not  
25 have been there.

26 THE COURT: I think that's a good objection.

1 Sustained.

2 MR. NEGUS: Well, I'll leave it the way it is.

3 I have nothing further.

4 THE COURT: Mr. Kochis.

5

6 CROSS EXAMINATION

7 BY MR. KOCHIS:

8 Q Dr. Thornton, you're essentially a teacher at this  
9 period in time?

10 A Well, I think my responsibilities are split principally  
11 between teaching and research. I --

12 Q How much of your time -- I'm sorry. I don't --

13 A I actually spend more time in research in terms of hours  
14 than I do in -- in teaching.

15 Q What percentage of your time do you spend with your  
16 administrative responsibilities?

17 A Probably 10 percent or less. But that -- that's --  
18 that has varied somewhat. I was acting chairman for  
19 a number of months last year, and that took full-time  
20 responsibilities. But in my present position as vice  
21 chairman, approximately -- approximately 10 percent of  
22 my university activities are administrative.

23 (No omissions.)

24

25

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1 Q How much of your time do you spend teaching, percentage-  
2 wise?

3 A Probably about 20 percent.

4 MR. NEGUS: Could I interpose -- move to strike  
5 and interpose an objection? I think the question is  
6 vague as to whether Mr. Kochis is talking about time spent  
7 at the university or time spent total time in his life.

8 THE COURT: Details. Overruled.

9 Q BY MR. KOCHIS: At the present time, say, within this  
10 school-year, what percentage of your time then do you  
11 spend doing research?

12 MR. NEGUS: Objection, again the vagueness. That's  
13 got to do -- is he talking about within a 24-hour day or  
14 about the time spent at the university? That would vary  
15 the answer, I believe.

16 THE COURT: The witness didn't have any trouble  
17 answering the last similar question. Overruled.

18 MR. NEGUS: I would like to clarify the two  
19 assumptions.

20 THE COURT: Let the witness clarify. Overruled.  
21 You may answer, if you can, sir.

22 THE WITNESS: The remainder of my university time  
23 would be spent on -- on research.

24 Q BY MR. KOCHIS: How much of your time have you spent  
25 this year, this school-year, processing crime scenes?

26 A In terms of hours or percentage? In terms of percentage,

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1           it would be rather small,

2       Q   Well, within the last year, how many crime scenes have  
3           you gone to to process that crime scene?

4       A   One,

5       Q   Was that a homicide?

6       A   Yes.

7       Q   And do you recall the name of that case?

8       A   People versus Skoggins, S-k-o-g-g-i-n-s. It's a  
9           Birmingham, Alabama case.

10      Q   When you got there, was the victim still at the scene?

11      A   No.

12      Q   How much time had passed between the time the crime  
13           took place and the time that you got to the scene?

14      A   I believe it was two years.

15      Q   Is it fair to say that this year you have not engaged  
16           in any on-the-scene crime processing? By that, I mean  
17           processing at a crime scene anywhere near in time to  
18           when the crime took place.

19      A   Well, not to be argumentative, but the case that we're  
20           talking about, though, although it was not contemporan-  
21           eous in -- in -- in time, the scene had been preserved  
22           for the intervening two years, so I think that that  
23           would qualify as a -- as a legitimate crime scene  
24           processing, but other than that, no.

25      Q   You were employed, according to your resume, at some  
26           time in Contra Costa County as a criminalist?

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- 1 A Yes.
- 2 Q And were you employed there as a supervisor?
- 3 A Yes.
- 4 Q How many years did you act as a supervisor in Contra  
5 Costa County?
- 6 A Probably about four, perhaps five. I was there for  
7 nine years of which one year I spent as laboratory  
8 director, probably four or five years as a supervisor.
- 9 Q The period of time you spent as the director of the  
10 laboratory, was that at a period in time in which  
11 someone was on a leave of absence and you filled in  
12 for that person?
- 13 A That's right.
- 14 Q And you were the acting director for the period of time  
15 that person was absent?
- 16 A Yes.
- 17 Q How many years did you spend in Contra Costa in the  
18 crime lab during which you actually went to scenes  
19 and attempted to process scenes?
- 20 A Probably eight years. I'm sure that in the year that  
21 I was laboratory director, that I would also have  
22 processed some crime scenes, if I couldn't find anyone  
23 else to do it; so my crime scene processing during that  
24 last year would have been minimal, but I don't think  
25 that it would have been nill.
- 26 Q How many times have you testified in a court of law

1 as an expert as a criminalist?

2 A Many hundreds,

3 Q More than a hundred?

4 A Yes.

5 Q More than 200?

6 A Yes,

7 Q Three hundred, perhaps?

8 A Probably, yes.

9 Q Somewhere between -- is it fair to say that you've  
10 testified as a criminalist somewhere between two and  
11 three hundred times, two hundred fifty and three  
12 hundred times?

13 A Probably somewhere around there. When I was working  
14 for the Sheriff's Office, a great many of those cases  
15 were drug cases, document cases.

16 Q How many cases of the 300, if you've testified that  
17 many times as an expert, involved cases where you  
18 testified as an expert as to the analysis of a  
19 controlled substance?

20 A Probably a hundred, hundred fifty times.

21 Q The 300, that's the total number of times you've --  
22 You've actually testified as an expert in a court of  
23 law 300 times, you think?

24 A I think that's probably a reasonable estimate. I have  
25 never kept records. I don't have access to precise  
26 numbers, but I think 300 times would probably be fair.

00-1-10000000

1 Q And of those 300 times, almost half or as many as  
2 150 of those times you testified in narcotics cases?

3 A Yes.

4 Q How many times did you testify as an expert where the  
5 issue was questioned documents?

6 A Scores of times. It would be under a hundred, but I --  
7 I wouldn't -- wouldn't know the precise number; some --  
8 some number in excess of 50, I would think,

9 Q Well, is it true that you've testified approximately  
10 200 times in the area of questioned documents as an  
11 expert?

12 A I don't think that would -- that would be reasonable.

13 Q Have you ever made that statement under oath in  
14 another court of law?

15 A No, I don't recall that.

16 Q Do you recall testifying in Department 2 on July the  
17 1st, 1980, in the afternoon session on a case of  
18 People versus Melvin Perera? I believe it's  
19 P-e-r-e-r-a.

20 A No.

21 MR. NEGUS: Could I have a copy of the document  
22 or at least look at the document that Mr. Kochis --

23 THE COURT: Show it to him, Counsel.

24 MR. NEGUS: Could I have a chance to look at this  
25 for a second?

26 THE COURT: What jurisdiction are you in, Counsel?



7-6

1 MR. KOCHIS; I believe Alameda County. I know  
2 it's California. I know it's Northern California.

3 THE COURT: Every court has a department two.

4 MR. NEGUS; I'd like to get a copy of this,

5 THE COURT: You may,

6 MR. KOCHIS; That won't be a problem,

7 THE COURT; But not right now.

8 Q BY MR. KOCHIS; Dr. Thornton, showing you an item  
9 which appears to be a portion of a transcript taken  
10 on Tuesday, July 1st, 1980, where it appears that  
11 a person by the name of John I. Thornton was examined  
12 by two lawyers, a Mr. Jackson who's a deputy district  
13 attorney, and it appears you were called by a  
14 Mr. Pynn, P-y double-n, who was a defense lawyer  
15 representing someone in a questioned documents case.

16 A I have no recollection at this time of -- of the case.  
17 Clearly I recognize some of the terminology and -- in  
18 the testimony. I am prepared to accept that this was  
19 a case that I testified.

20 Q Well, looking at the first page, your name is John I,  
21 Thornton, isn't it?

22 A Yes, it is,

23 Q And as you read the qualifications that appear on  
24 the pages 239 and 240 and 241, those are almost  
25 verbatim as to the series of answers you gave this  
26 morning with Mr. Negus on direct examination, aren't

0-1-2-3-4-5-6-7-8-9

1           they?

2       A    Yes.

3       Q    And it appears to be you testifying in another  
4           criminal case somewhere in California; is that correct?

5       A    Yes, yes. I agree to that,

6       Q    And did you testify at that time that you had testified  
7           as an expert approximately 200 times in the area of  
8           questioned documents?

9       A    Yes. That's what the transcript says.

10      Q    Do you recall so testifying?

11      A    No.

12      Q    When you testified in that case in Northern California,  
13           were you testifying honestly?

14      A    Well, I would assume so, yes. I -- if the answer is  
15           was I dissembling when I said 200 times, I don't know.  
16           I answered the question at the time, I suppose, to  
17           the best of my knowledge, Two hundred times would  
18           seem somewhat excessive, I worked in the Sheriff's  
19           Office for nine years. That would be 20 cases a year  
20           or several -- well, actually --

21                   (No omissions.)

22

23

24

25

26

0-1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-1102-1103-1104-1105-1106-1107-1108-1109-1110-1111-1112-1113-1114-1115-1116-1117-1118-1119-1120-1121-1122-1123-1124-1125-1126-1127-1128-1129-1130-1131-1132-1133-1134-1135-1136-1137-1138-1139-1140-1141-1142-1143-1144-1145-1146-1147-1148-1149-1150-1151-1152-1153-1154-1155-1156-1157-1158-1159-1160-1161-1162-1163-1164-1165-1166-1167-1168-1169-1170-1171-1172-1173-1174-1175-1176-1177-1178-1179-1180-1181-1182-1183-1184-1185-1186-1187-1188-1189-1190-1191-1192-1193-1194-1195-1196-1197-1198-1199-1200-1201-1202-1203-1204-1205-1206-1207-1208-1209-1210-1211-1212-1213-1214-1215-1216-1217-1218-1219-1220-1221-1222-1223-1224-1225-1226-1227-1228-1229-1230-1231-1232-1233-1234-1235-1236-1237-1238-1239-1240-1241-1242-1243-1244-1245-1246-1247-1248-1249-1250-1251-1252-1253-1254-1255-1256-1257-1258-1259-1260-1261-1262-1263-1264-1265-1266-1267-1268-1269-1270-1271-1272-1273-1274-1275-1276-1277-1278-1279-1280-1281-1282-1283-1284-1285-1286-1287-1288-1289-1290-1291-1292-1293-1294-1295-1296-1297-1298-1299-1300-1301-1302-1303-1304-1305-1306-1307-1308-1309-1310-1311-1312-1313-1314-1315-1316-1317-1318-1319-1320-1321-1322-1323-1324-1325-1326-1327-1328-1329-1330-1331-1332-1333-1334-1335-1336-1337-1338-1339-1340-1341-1342-1343-1344-1345-1346-1347-1348-1349-1350-1351-1352-1353-1354-1355-1356-1357-1358-1359-1360-1361-1362-1363-1364-1365-1366-1367-1368-1369-1370-1371-1372-1373-1374-1375-1376-1377-1378-1379-1380-1381-1382-1383-1384-1385-1386-1387-1388-1389-1390-1391-1392-1393-1394-1395-1396-1397-1398-1399-1400-1401-1402-1403-1404-1405-1406-1407-1408-1409-1410-1411-1412-1413-1414-1415-1416-1417-1418-1419-1420-1421-1422-1423-1424-1425-1426-1427-1428-1429-1430-1431-1432-1433-1434-1435-1436-1437-1438-1439-1440-1441-1442-1443-1444-1445-1446-1447-1448-1449-1450-1451-1452-1453-1454-1455-1456-1457-1458-1459-1460-1461-1462-1463-1464-1465-1466-1467-1468-1469-1470-1471-1472-1473-1474-1475-1476-1477-1478-1479-1480-1481-1482-1483-1484-1485-1486-1487-1488-1489-1490-1491-1492-1493-1494-1495-1496-1497-1498-1499-1500-1501-1502-1503-1504-1505-1506-1507-1508-1509-1510-1511-1512-1513-1514-1515-1516-1517-1518-1519-1520-1521-1522-1523-1524-1525-1526-1527-1528-1529-1530-1531-1532-1533-1534-1535-1536-1537-1538-1539-1540-1541-1542-1543-1544-1545-1546-1547-1548-1549-1550-1551-1552-1553-1554-1555-1556-1557-1558-1559-1560-1561-1562-1563-1564-1565-1566-1567-1568-1569-1570-1571-1572-1573-1574-1575-1576-1577-1578-1579-1580-1581-1582-1583-1584-1585-1586-1587-1588-1589-1590-1591-1592-1593-1594-1595-1596-1597-1598-1599-1600-1601-1602-1603-1604-1605-1606-1607-1608-1609-1610-1611-1612-1613-1614-1615-1616-1617-1618-1619-1620-1621-1622-1623-1624-1625-1626-1627-1628-1629-1630-1631-1632-1633-1634-1635-1636-1637-1638-1639-1640-1641-1642-1643-1644-1645-1646-1647-1648-1649-1650-1651-1652-1653-1654-1655-1656-1657-1658-1659-1660-1661-1662-1663-1664-1665-1666-1667-1668-1669-1670-1671-1672-1673-1674-1675-1676-1677-1678-1679-1680-1681-1682-1683-1684-1685-1686-1687-1688-1689-1690-1691-1692-1693-1694-1695-1696-1697-1698-1699-1700-1701-1702-1703-1704-1705-1706-1707-1708-1709-1710-1711-1712-1713-1714-1715-1716-1717-1718-1719-1720-1721-1722-1723-1724-1725-1726-1727-1728-1729-1730-1731-1732-1733-1734-1735-1736-1737-1738-1739-1740-1741-1742-1743-1744-1745-1746-1747-1748-1749-1750-1751-1752-1753-1754-1755-1756-1757-1758-1759-1760-1761-1762-1763-1764-1765-1766-1767-1768-1769-1770-1771-1772-1773-1774-1775-1776-1777-1778-1779-1780-1781-1782-1783-1784-1785-1786-1787-1788-1789-1790-1791-1792-1793-1794-1795-1796-1797-1798-1799-1800-1801-1802-1803-1804-1805-1806-1807-1808-1809-1810-1811-1812-1813-1814-1815-1816-1817-1818-1819-1820-1821-1822-1823-1824-1825-1826-1827-1828-1829-1830-1831-1832-1833-1834-1835-1836-1837-1838-1839-1840-1841-1842-1843-1844-1845-1846-1847-1848-1849-1850-1851-1852-1853-1854-1855-1856-1857-1858-1859-1860-1861-1862-1863-1864-1865-1866-1867-1868-1869-1870-1871-1872-1873-1874-1875-1876-1877-1878-1879-1880-1881-1882-1883-1884-1885-1886-1887-1888-1889-1890-1891-1892-1893-1894-1895-1896-1897-1898-1899-1900-1901-1902-1903-1904-1905-1906-1907-1908-1909-1910-1911-1912-1913-1914-1915-1916-1917-1918-1919-1920-1921-1922-1923-1924-1925-1926-1927-1928-1929-1930-1931-1932-1933-1934-1935-1936-1937-1938-1939-1940-1941-1942-1943-1944-1945-1946-1947-1948-1949-1950-1951-1952-1953-1954-1955-1956-1957-1958-1959-1960-1961-1962-1963-1964-1965-1966-1967-1968-1969-1970-1971-1972-1973-1974-1975-1976-1977-1978-1979-1980-1981-1982-1983-1984-1985-1986-1987-1988-1989-1990-1991-1992-1993-1994-1995-1996-1997-1998-1999-2000-2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-2095-2096-2097-2098-2099-2100-2101-2102-2103-2104-2105-2106-2107-2108-2109-2110-2111-2112-2113-2114-2115-2116-2117-2118-2119-2120-2121-2122-2123-2124-2125-2126-2127-2128-2129-2130-2131-2132-2133-2134-2135-2136-2137-2138-2139-2140-2141-2142-2143-2144-2145-2146-2147-2148-2149-2150-2151-2152-2153-2154-2155-2156-2157-2158-2159-2160-2161-2162-2163-2164-2165-2166-2167-2168-2169-2170-2171-2172-2173-2174-2175-2176-2177-2178-2179-2180-2181-2182-2183-2184-2185-2186-2187-2188-2189-2190-2191-2192-2193-2194-2195-2196-2197-2198-2199-2200-2201-2202-2203-2204-2205-2206-2207-2208-2209-2210-2211-2212-2213-2214-2215-2216-2217-2218-2219-2220-2221-2222-2223-2224-2225-2226-2227-2228-2229-2230-2231-2232-2233-2234-2235-2236-2237-2238-2239-2240-2241-2242-2243-2244-2245-2246-2247-2248-2249-2250-2251-2252-2253-2254-2255-2256-2257-2258-2259-2260-2261-2262-2263-2264-2265-2266-2267-2268-2269-2270-2271-2272-2273-2274-2275-2276-2277-2278-2279-2280-2281-2282-2283-2284-2285-2286-2287-2288-2289-2290-2291-2292-2293-2294-2295-2296-2297-2298-2299-2300-2301-2302-2303-2304-2305-2306-2307-2308-2309-2310-2311-2312-2313-2314-2315-2316-2317-2318-2319-2320-2321-2322-2323-2324-2325-2326-2327-2328-2329-2330-2331-2332-2333-2334-2335-2336-2337-2338-2339-2340-2341-2342-2343-2344-2345-2346-2347-2348-2349-2350-2351-2352-2353-2354-2355-2356-2357-2358-2359-2360-2361-2362-2363-2364-2365-2366-2367-2368-2369-2370-2371-2372-2373-2374-2375-2376-2377-2378-2379-2380-2381-2382-2383-2384-2385-2386-2387-2388-2389-2390-2391-2392-2393-2394-2395-2396-2397-2398-2399-2400-2401-2402-2403-2404-2405-2406-2407-2408-2409-2410-2411-2412-2413-2414-2415-2416-2417-2418-2419-2420-2421-2422-2423-2424-2425-2426-2427-2428-2429-2430-2431-2432-2433-2434-2435-2436-2437-2438-2439-2440-2441-2442-2443-2444-2445-2446-2447-2448-2449-2450-2451-2452-2453-2454-2455-2456-2457-2458-2459-2460-2461-2462-2463-2464-2465-2466-2467-2468-2469-2470-2471-2472-2473-2474-2475-2476-2477-2478-2479-2480-2481-2482-2483-2484-2485-2486-2487-2488-2489-2490-2491-2492-2493-2494-2495-2496-2497-2498-2499-2500-2501-2502-2503-2504-2505-

1 Q Let me ask you this. In the transcript in front of you,  
2 you can tell from glancing at the first four or five  
3 pages that in that case some Defense lawyer called you  
4 as an expert in the area of questioned documents; is  
5 that true?

6 | A. Yes.

7 Q And during the first four or five pages over the objection  
8 of the District Attorney, the Defense lawyer attempted  
9 to lay your qualifications as an expert in the area of  
10 questioned documents; is that true?

11 A. Yes.

12 Q And you knew that you were being called in that case  
13 as an expert in the limited area of questioned documents;  
14 is that true?

15 A. It seems so, yes.

16 Q And you were asked how many times you had qualified  
17 as an expert in that particular area in the past, weren't  
18 you?

19 | A. Yes.

20 Q And when you said two hundred -- and from the transcript,  
21 you answered "two hundred times"; is that correct?

22 | A. Yes.

23 Q And that either was the truth to the best of your  
24 knowledge, is that correct --

25 | A. Yes.

26 Q -- or perhaps you were exaggerating the number of times

1       that you had so testified to establish your expertise  
2       in a court of law?

3   A.   Well, I would -- I don't think so. Now, it -- it's  
4       difficult for me to sort this out, because I have never  
5       paid much attention to -- to numbers. Ordinarily it's  
6       the attorneys who are more interested in -- in that --  
7       in numbers than -- than I.

8       Earlier today, when I said 50 cases, it seemed like  
9       a reasonable number, and two hundred seemed like an  
10      unreasonable number. But that would be about 20 cases  
11      a year. And, for a period of time, I had virtually the  
12      sole responsibility for that laboratory and -- and all  
13      bad check cases, including non-sufficient fund cases,  
14      were prosecuted by the Prosecutor at that time. So  
15      two hundred cases, it might be a reasonable number.  
16      It's -- I don't know -- you see, I don't agonize over --  
17      over the numbers of cases.

18   Q.   Do you ever try to come within the accuracy of one  
19      hundred one way or the other?

20   A.   Well, I -- I do my best. And I -- I suppose the  
21      impression in that process would leave -- lead to  
22      problems like this. But --

23   Q.   If you have testified three hundred times as an  
24      expert, and if you have testified honestly back in  
25      1980 that you have testified two hundred times as an  
26      expert in the area of questioned documents, and you have

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1 just from the standpoint of gravity of the cases. I  
2 pay more attention to the numbers. During the period  
3 of time that I worked for Contra Costa County from 1963  
4 to 1972, we had about 70 homicide cases a year or cases  
5 that were initially processed as homicide cases. Those  
6 would include a few suspicious death cases. And so  
7 during that period of years, nine years, there would  
8 have been somewhere between six hundred and seven  
9 hundred cases.

10 Now, I'm fairly certain of that number, because it  
11 figured into our thinking in -- in the laboratory at  
12 that time. And during the period 1963 to 1965 or 1966,  
13 I was involved in the majority of -- of crime scene  
14 processing to which the laboratory was asked to respond  
15 by virtue of the fact that I was number two in the  
16 laboratory, the junior person. And the laboratory  
17 director didn't go to the -- the crime scene and --  
18 unless I was unavailable. So I think that number is  
19 reasonable.

20 Q So in the nine years you were with the crime lab in  
21 Contra Costa, the one year as an acting director, you  
22 wouldn't really go to crime scenes?

23 A Well, that's -- that's not necessarily true. But  
24 certainly during that year I went to relatively few.

25 Q And then there was a period of time, wasn't there, two  
26 years at least, in which you were essentially their

0-1-2-3-4-5

1 questioned document examiner, and you were evaluating  
2 every questioned document case?

3 A Well, yes, that -- that's true. But that did not relieve  
4 me of other -- other responsibilities.

5 Q And you weren't the only criminalist employed by Contra  
6 Costa during these eight years, were you?

7 A No.

8 Q How big was their department?

9 A When I started, there were two, the laboratory director  
10 and myself. When I ended, there were, I believe, eight  
11 criminalists and other -- other professionals, latent  
12 print examiners and crime scene examiners.

13 Q How many homicide scenes have you processed in which  
14 there were quadruple victims involved?

15 A One that I can recall. There were --

16 Q Go ahead.

17 A There were other cases that I have been involved in but  
18 only one crime scene that I can recall.

19 Q Did you actually go to that crime scene while the victims  
20 were still at the scene?

21 A Yes.

22 Q What year was that?

23 A I don't recall. I don't recall the year, and I don't  
24 recall the name of the victims, either. I think the --  
25 the case could be located in the Contra Costa laboratory  
26 by virtue of the fact that for a number of years a -- a

0-1-2-3-4-5-6-7-8-9

1 court display was hanging on the wall where there was a  
2 match in the striations on the bullet's test firing and  
3 for other bullets, one from each victim.

4 Q Was it a Contra Costa County case?

5 A Yes.

6 Q Do you remember what decade it took place?

7 A Probably in the late sixties. I think Mr. Murdock in  
8 the laboratory would be able to find the case for you.

9 Q Do you remember the defendant's name?

10 A No, I don't.

11 Q Name of the Prosecutor that worked on the case?

12 A No.

13 Q Did you actually involve yourself in the evidence  
14 collection of that case?

15 A I have certainly no recollection of that case. I recall  
16 doing the firearms examination and matching up a bullet  
17 from each of the victims with the -- with test firing  
18 from the suspect's weapon. And that's -- that's the  
19 reason that I remember that there are four victims. But,  
20 other than that, I don't have any independent recollection  
21 at this time.

22 Q Well, you recall going to that scene; is that correct?

23 A I -- I remember the autopsy because of the -- the crowded-  
24 ness of the -- the room. And that's the only image that  
25 I can recall. I don't think the case would be that hard  
26 to find in the records. And my involvement, I'm sure,



1 would be indicated in the -- in the laboratory reports.

2 Q But you don't recall whether you even took photographs  
3 at that scene?

4 A I don't recall.

5 Q You don't recall if you did diagrams at the scene?

6 A I don't recall.

7 Q You don't recall what if anything you decided was  
8 important enough to take from that scene?

9 A No. The scene was not a particularly profound scene.  
10 It occurred outside with victims running from someone  
11 doing the shooting, and there was not a great deal of  
12 physical evidence other than the firearms evidence.

13 (No omissions.)  
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1 Q Were the victims actually found in that case inside  
2 the scene -- inside a home?

3 A No, I don't believe so,

4 Q Were they found somewhere outside a residence?

5 A Yes,

6 Q So is it fair to say you've never been involved in  
7 the processing of a multiple homicide scene in which  
8 the victims were all found, for example, in a  
9 particular room in a residence?

10 A I think that's -- that's apt, yes.

11 Q Have you ever processed a murder scene in which  
12 there were three victims at the scene when you  
13 arrived?

14 A I don't know.

15 Q You just don't remember at this time?

16 A No.

17 Q There are none that you remember?

18 A No.

19 Q In Contra Costa at the present -- well, in Contra  
20 Costa County when you were there, who processed the  
21 crime scene -- the crime lab or Sheriff's homicide?

22 A Crime lab.

23 Q Then when you worked there, would it have been your  
24 responsibility at a crime scene to decide which  
25 step should be taken first at a crime scene?

26 A Yes.

0-1-2-3-4-5-6-7-8-9

1 Q Let's jump for a minute up to the present, to the  
2 Ryen crime scene. Assuming that you were the first  
3 San Bernardino County Sheriff's officer to arrive at  
4 the scene, what step would you have taken at that  
5 scene initially?

6 A Well, certainly to determine if there -- the presence  
7 of an assailant, to determine the presence of an  
8 assailant in the scene, to ensure that -- the safety  
9 of the officer I think would be -- would be paramount.

10 Secondly, to determine if any of the victims were  
11 alive; if so, summon medical attention.

12 I would consider those aspects to be paramount.

13 Following that, I think the officer had a duty  
14 to seal the scene, to freeze the scene, and leave it  
15 as intact as possible, disrupting as -- as little at  
16 the scene as possible, and call for assistance.

17 Q So in this case, you're aware that the first two  
18 steps that you have enunciated took place at the Ryen  
19 scene?

20 A Yes.

21 Q So as far as you're concerned, even in an ideal world,  
22 you don't have any quarrel with the first two steps  
23 that were taken in this case; is that correct?

24 A No, I do not.

25 Q When was the last time you were at a murder crime  
26 scene within 48 hours after the crime took place?

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1 A Probably back in '72.

2 Q When was the last time you were at a murder crime  
3 scene in which there was a survivor, a surviving  
4 victim at the scene?

5 A I just don't remember. It would have been when I was  
6 working for the Sheriff's Office, so it would have  
7 been '72 or prior to that.

8 Q Perhaps I forgot to ask the foundational question.  
9 Were you ever at the scene, a murder scene, in which  
10 there was one person who was deceased and a survivor?

11 A Well, certainly there would have been instances where  
12 there was a survivor. I doubt that I was ever called  
13 at a scene and got there before the survivor was --  
14 was removed for -- for medical attention, but fre-  
15 quently there were instances where -- where rather  
16 than a wounded victim, there was a location where the  
17 wounded victim had previously been prior to our  
18 responding to the scene. That's not uncommon,

19 Q Can you recall the name of the last such case you  
20 worked on?

21 A No, I can't.

22 Q That would have been about 14 years ago, do you think?

23 A Yes.

24 Q You mentioned on direct examination that, in your  
25 opinion, it is important to note the time at which a  
26 particular piece of evidence is collected; is that true?

0-1-2-3-4-5

1 A Yes,

2 Q And with regard to the Ryen scene only in this case,  
3 do you think that should have been done in the Ryen  
4 case?

5 A Yes,

6 Q And is the lack -- well, first of all, do you think  
7 that there's a lack of documentation in that regard  
8 in terms of the Ryen scene?

9 A Yes,

10 Q And do you base your opinion as to that on what, the  
11 transcripts?

12 A No, principally on Patricia Jo Schechter's notes of  
13 the collection of A-1 through A-41 series.

14 Q Well, she noted the exact time at which most of those  
15 items were collected, didn't she?

16 A Well, yes. "Most" isn't the standard to which I was  
17 referring, though, when I said that I felt that that  
18 was incomplete. If one is going to determine or make  
19 a notation of the time on some -- some items, then I  
20 think they should be determined -- or noted on all of  
21 the items.

22 Q Well, then, with respect to each item in which the  
23 time was noted, do you feel that as to that item,  
24 in the ideal world, the guidelines that, in your  
25 opinion, should have been followed were in fact  
26 followed in this case?

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1 A. I'm sorry. I am not sure whether I heard "were" or  
2 "were not." Could you --

3 Q Were, were followed.

4 A Could we start over with the question?

5 Q Sure. You place importance on noting the time at  
6 which a particular item of evidence is seized at a  
7 particular crime scene; is that true?

8 A Yes.

9 Q And in this case, we agree that that was done as to  
10 some of the items; isn't that true?

11 A Yes.

12 Q As to the items which Miss Schechter noted the exact  
13 time at which they were collected, that was following  
14 proper procedure, according to you; is that correct?

15 A Well, yes. There's some other problems towards the  
16 end of -- of that series where the times don't really  
17 make much sense, but other than that, yes.

18 MR. KOCHIS: Your Honor, I was wondering if I  
19 could have an exhibit marked as next in order.

20 THE COURT: Sure.

21 MR. KOCHIS: I need a stapler.

22 Q In your opinion, you've testified that it's important  
23 to note the time at which an item is -- is collected.  
24 Is that a personal preference or is there a reason  
25 behind your opinion?

26 A Well, it establishes -- yes. There's a reason behind

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1           that.

2       Q   In your opinion, what's the reason?

3       A   I think it establishes a continuity to the collection  
4           of the physical evidence. It establishes a backup  
5           check on the -- the correctness of any other notation  
6           that may have been placed on the evidence, on the  
7           specific packaging of the evidence, and it drives  
8           home the responsibility of the individual collecting  
9           that evidence that that person is the person that  
10          may be called upon later to justify his or her  
11          involvement in the -- in the collection.

12      Q   Let's break those down. Continuity, how is that  
13          important?

14      A   Well, I think that there -- that there has to be a  
15          design in the processing of a -- of a crime scene;  
16          that it's not enough to simply put things in bags  
17          or boxes, but rather that there be an expression of  
18          a systematic attempt to document the scene as -- as  
19          well as possible. Continuity is an element of that  
20          process.

21                (No omissions.)

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1 Q Well, would some type of record, then, that would allow  
2 you to determine, for example, what order in which  
3 things were collected be important, which was first,  
4 which was last?

5 A Yes.

6 Q Certainly the room in which something was collected from,  
7 in your opinion, is that something that would be important?

8 A Yes.

9 Q Would the day on which a piece of evidence was collected  
10 in your opinion be important?

11 A Yes.

12 Q And time?

13 A I wouldn't -- I wouldn't quibble over -- over the period  
14 of time, around midnight, if there was in fact continuity  
15 in the -- in the collection of physical evidence. I  
16 think that's an aspect in this case, that's not an  
17 important consideration, but in other instances the  
18 day would be of particular importance.

19 Q In terms of time, what type of parameter would satisfy  
20 you? An hour, a minute?

21 A A minute.

22 Q So you would want to know with specificity each minute  
23 something was picked up at a scene?

24 A Yes.

25 Q And is there a reason that minute would be more  
26 appropriate than a five-minute interval?

0-1-2-3-4-5



1 A Well, if one's going to look at one's watch, one can  
2 read it to -- to a minute as -- about as easily as five  
3 minutes. I think it would be -- it would be a better  
4 professional practice to read it to a minute.

5 Q Scientifically, in terms of later conducting a re-  
6 analysis, do you think it's important to know whether  
7 something was collected at 7:25 as opposed to 7:23?

8 A Well, I -- I don't know that the answer to that question --  
9 in the abstract, clearly good police practice would --  
10 would say that one would record the time at 7:20 if in  
11 fact it was 7:20, and one would not record 7:25 if in  
12 fact the time was 7:20. Reading the time of collection  
13 to the nearest minute is -- is adequate. I would see  
14 no -- would see no benefit and some problems in being  
15 less precise.

16 Q With regard to the work that Miss Schechter and Mr.  
17 Stockwell did at 2943 Old English Road, which documents,  
18 if any, have you reviewed as to the documentation they  
19 took of what they collected?

20 A The notes that Miss Schechter took at the scene.

21 Q And what else?

22 A I compared those notes against a typewritten report.  
23 I -- I don't think that the time -- the time of  
24 collection was abstracted onto the typewritten report.  
25 But I did go back and forth from her notes to the type-  
26 written scene report of Mr. Stockwell and -- and

0-1-2-3-4-5-6

1 Miss Schechter to verify the -- the nature of the item  
2 that was collected.

3 Q Other than the typewritten report -- and by that are  
4 you referring to a typewritten, itemized list of items  
5 that were seized from 2943 Old English Road?

6 A Yes.

7 Q And then by the, for example, the handwritten notes  
8 you're talking about, a portion of them I have separated  
9 as M-15, which appears to be a handwritten exhibit; is  
10 that correct?

11 A Yes. Oh, there was one other element that I neglected  
12 to mention in response to your previous question, and I  
13 also took into account Miss Schechter's testimony at  
14 the Preliminary Hearing concerning the -- the item which  
15 is A-8, because I could not read the -- her notes. I  
16 took her testimony as -- at that initial time.

17 Q Those are essentially three documents, transcripts,  
18 typewritten list, handwritten list?

19 A Yes.

20 Q Directing your attention to an item I believe Mr.  
21 Negus had marked for identification, H-281, do you  
22 recognize what that appears to be a Xerox copy of?

23 A Yes. This is a Xerox copy of a chapter -- Chapter 4 in  
24 Crime Investigation, the second edition.

25 Q Your name apparently appears on the front page of that  
26 document?

0-1-2-3-4-5-6-7

1 A Yes.

2 Q You had some responsibility as to that chapter; is that  
3 correct?

4 A Yes.

5 Q You edited it?

6 A Yes.

7 Q Is it fair to say that you agree with what's said in  
8 that chapter?

9 A Well, I -- I don't know that I necessarily embrace  
10 everything that's in that chapter for two reasons. The  
11 first reason is that there are portions of the -- of the  
12 text that had been completed by Kirk, and I maintained  
13 Kirk's flavor in those aspects, as -- as the preface  
14 indicates. And then I -- I may have changed my mind  
15 since this -- this appeared. So I'm not sure that I'm  
16 prepared to accept everything.

17 Q Well, then, let's break it down. You're saying, then,  
18 that that item, that Crime Scene Investigation Second  
19 Edition, H-281, that is not something that you would  
20 recognize as establishing guidelines in the field of  
21 criminalistics in total?

22 A Well, my recollection of -- of your question was whether  
23 or not I accepted everything in that chapter. And I  
24 don't know. We haven't talked about what it was that  
25 you're -- you have reference to.

26 Q Well, that particular item, that is more than something

00-1-20-1-00

1       you have just read, that is something on which your name  
2       appears and it's circulated in the community of  
3       criminalistics; isn't that true?

4   A    Yes.

5   Q    And I assume -- correct me if I'm wrong -- you would  
6       not allow a document with your name on it to circulate  
7       in a community unless you agree with it; is it fair to  
8       say?

9   A    Well, it doesn't -- doesn't work that way. I'm sure  
10       that at the time that I edited it, at that time. After  
11       that, of course, I have no -- no control over the -- the  
12       disposition. Not quibbling with you, just --

13   Q    Well, let me ask you -- you have it in front of you.  
14       Are there portions on the other portions of the exhibit  
15       that you can no longer agree with?

16   A    I don't know. I haven't -- haven't read it in some time.

17   Q    Did you feel at the time that you edited it that it  
18       provided a general guideline that could be followed in  
19       processing crime scenes?

20   A    Yes, yes.

21   Q    And would you agree with the phrase "guideline" as  
22       opposed to a text which must be absolutely followed in  
23       every case?

24   A    Yes. I don't -- I don't think that one can impose on a  
25       crime scene investigation anything more than guidelines.

26   Q    In that book, in that chapter of the book, did it mention

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1 a suggested method of preserving a scene for  
2 reconstruction?

3 A I don't remember.

4 Q How much time did you spend on the book editing it?

5 A About a year and a half.

6 Q How long ago was that?

7 A Would have been in 19 -- about 1970.

8 THE COURT: Counsel, find a break point, please.

9 Q (BY MR. KOCHIS:) Would you agree if the statement  
10 appeared in the book that one of the methods to preserve  
11 a scene for reconstruction would be through the use of  
12 photography and the use of diagrams?

13 A Yes.

14 Q And would you agree with the proposition, if it exists  
15 in that book, that the reason for that is there is often  
16 a practical problem with seizing all the items at a  
17 particular location?

18 A Yes.

19 Q Is the purpose for photographing a scene to provide some  
20 documentation as to the placement, for example, of  
21 furniture in a particular room?

22 A Yes. Yes, that's one function.

23 Q Is another function to place the position of bodies in  
24 the room when officers arrive?

25 A Yes.

26 Q And that would apply to the configuration of the limbs

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1 on the bodies, first of all?

2 A Yes.

3 Q And the actual location of the body within the particular  
4 room?

5 A Yes.

6 Q And is that important? Does that serve any function  
7 for criminalists?

8 A Certainly.

9 Q Well, what function is served by a photograph that  
10 depicts the location of furniture in a room?

11 A Well, documents the scene. If there is to be any  
12 interpretation of the -- of the scene -- I'm using  
13 "interpretation" in -- in the broadest aspect, not just  
14 an interpretation of blood splatter -- then the position  
15 of the items of evidence in the scene should be documented.  
16 Photography -- photography provides us with an image of  
17 how the scene appeared. The diagrams indicate spacial  
18 relationship of the items of evidence which the -- which  
19 the photography is poorly suited to -- in doing.

20 Q So photography provides the visual information, and the  
21 diagram, the actual mechanics, things like that?

22 A Yes.

23 Q And do you agree with the proposition stated in that  
24 book, if it appears, that weapons that were used in the  
25 crime should be photographed if they're at the scene?

26 A Yes.

1 Q Broken windows or doors that appear to be points of  
2 entry should be photographed at the scene?

3 A Yes.

4 Q Now, in this case, the -- those two procedures that we  
5 have just discussed, the photography to show the  
6 relationship of furniture and bodies and the diagrams to  
7 show the relationships of furniture and bodies, those  
8 were both carried out by the sheriff's office in this  
9 case, weren't they?

10 A Yes.

11 Q How many of the diagrams that were completed of the  
12 master bedroom in the Ryen house did you review?

13 A How many of the diagrams?

14 Q Yes.

15 A I don't know the number. Mr. Negus supplied me a number  
16 of diagrams which I reviewed. But I don't have that --  
17 that number in mind.

18 MR. KOCHIS: I suppose this would be convenient.

19 THE COURT: Let's resume at 1:30 this afternoon.  
20 You may step down.

21 (Whereupon the noon recess was taken  
22 at 12:04 p.m.)  
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1 ONTARIO, CALIFORNIA; TUESDAY, JULY 31, 1984, 1:35 P.M.

2 DEPARTMENT NO. 3

HON. RICHARD C. GARNER, JUDGE

3 (Appearances as heretofore noted.)

4  
5 THE COURT: Defendant and all counsel are present,  
6 Mr. Kochis,

7 MR. KOCHIS: I'm missing my co-counsel at the moment.

8 THE COURT: So you are, but we shan't wait. Let's  
9 proceed.

10  
11 CROSS-EXAMINATION (Resumed)

12 BY MR. KOCHIS:

13 Q When we broke this morning, we discussed why, in your  
14 opinion, it was important to record with some specificity  
15 the time at which a piece of object was collected at  
16 a crime scene. Do you recall that?

17 A Yes.

18 Q And you articulated, I believe, this morning on the  
19 record three reasons why you felt, in your opinion,  
20 the exact time may be important in the collection of  
21 evidence at a crime scene. Do you recall that?

22 A Yes.

23 Q One of those was, in your opinion, continuity. Do  
24 you recall that being I think the first one you  
25 articulated?

26 A Yes.

11-1-84



1 Q And the other two were what?

2 A Let me think. I don't recall offhand which -- which  
3 ones I -- I mentioned today.

4 Q Well, other than -- you now recall that continuity  
5 is one of the reasons why it may be important to  
6 document the time at which an object is collected;  
7 is that true?

8 A Yes.

9 Q Is that the only one that you recall at this time?

10 A No, I mentioned a couple others this morning, but  
11 I don't remember what my testimony was.

12 Q Well, if there is another reason other than continuity,  
13 what would it be?

14 A Oh, well, first of all, I think that it's -- it's  
15 good investigative practice to record the -- the  
16 time of collection of evidence, and, additionally,  
17 it -- the active recording of the time of the  
18 collection of the evidence prompts the investigator  
19 to -- to acknowledge the responsibility of documenting  
20 the -- the case as well as possible.

21 There was another aspect, too, that I mentioned  
22 this morning, which I just thought of and then forgot  
23 it. It may come to me.

24 Q Not something that is important enough to leap out  
25 at this time?

26 A Well, I don't know. It --

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1 Q Well, discussing those two, if you could look at  
2 M-15 which appears to be a xerox copy of some notes  
3 that pertained to the collection of the A series of  
4 items from the Ryen scene Sunday afternoon, June the  
5 5th, I believe even into Monday morning, June the 6th,  
6 have you reviewed that document prior to today?

7 A Yes, I have.

8 Q Now, in general terms, would it be important to note  
9 the day at which a piece of evidence was collected?

10 A Yes.

11 Q So in terms of the records that were kept in this case  
12 on the Ryen crime scene, that general requirement  
13 was met as to each of the A items that were removed  
14 from the scene; is that correct?

15 A Yes.

16 Q And then starting with the second page, specifically  
17 item -- what appears to be item A-8, that appears to  
18 have an exact minute at which it was recovered, recorded  
19 in what is commonly referred to as military time; is  
20 that correct?

21 A Yes.

22 Q So as far as the time documentation on that item, the  
23 manner in which that was documented conforms to your  
24 requirements; is that true?

25 A Yes.

26 Q And would the same be true, for example, for A-9?

0-1-2-3-4-5-6-7-8-9

11-4

1 Does that also appear to have a military time at  
2 which it was collected?

3 A Yes.

4 Q Is it fair to say that with the exception of A-1  
5 through A-7, A-10 and A-11 and then again A-38  
6 through 40, all of the other items conform to your  
7 requirement in terms of a minute at which they were  
8 collected?

9 A No. There's A-12, there's A-17, there's A-18, and  
10 then there's -- there's some confusion in the last  
11 few because I assume that 2435 means 12:35, but there  
12 is no such time as 2435, and the 10 -- or rather the  
13 1210, 1212 and 1215 I assume to be just that, rather  
14 than military time, because an extension of the -- of  
15 the previous nomenclature -- or previous system would  
16 put that in the afternoon of the next day.

17 Q Well, does that appear to be a subject that could be  
18 clarified by talking to a criminalist in this case,  
19 the criminalist who made the notation?

20 A Probably, yes.

21 Q And in terms of time parameters, you are aware, are  
22 you not, through the testimony that was elicited in  
23 this case through the transcripts as to what time  
24 the criminalists in this case arrived; is that fair  
25 to say?

26 A Yes.

65-25550

1 Q And what time were you aware of that Miss Schechter  
2 and Mr. Stockwell arrived?

3 A I don't recall the specific time. I recall the  
4 testimony that there was a conversation with other  
5 investigators at the scene and that they commenced  
6 collection of a portion of the evidence within a  
7 fairly short period of time.

8 Q Do you recall Mike Hall testifying that he arrived  
9 at approximately 2:30 or 2:45?

10 A Yes,

11 Q And were you then told that there was some conver-  
12 sation that took place before they entered the house  
13 and started processing?

14 A Yes.

15 Q Did you assume that that took a period of time?

16 A Yes.

17 Q And then from the testimony, were you able to determine  
18 that the A series of items were collected in sequence?

19 A Yes.

20 Q And does A-8 indicate a time at which it was in fact  
21 collected, I believe 1527 or thereabouts?

22 A Yes,

23 Q And in civilian time, that is approximately, what,  
24 27 minutes after 3:00 o'clock in the afternoon?

25 A Yes, 3:27.

26 Q And from that, were you able to ascertain that in this

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1 case the first seven items were collected within an  
2 approximate 35-minute time span, somewhere between  
3 a quarter to 3:00 and 3:27?

4 A Yes.

5 Q And does that give you as another criminalist a fair  
6 idea of when the items were actually collected?

7 A Well, not to be argumentative, but no, because my  
8 standard would be that there's no reason that the  
9 time couldn't have been recorded for each of those  
10 items, I will accept the fact that A-1 through -7  
11 was collected prior to 3:27, but the standard to  
12 which I was referring to this morning was that a  
13 time should be recorded for each item, and the fact  
14 that there is a time recorded at some further point  
15 does not, in my mind, relieve the investigators of  
16 the responsibility for the early items.

17 Q Well, I believe part of the reason you said time was  
18 important was due to the continuity which the  
19 collection process took place; is that fair to say?

20 A Yes.

21 Q And with the documentation that took place in this  
22 case, specifically with item M-15 in conjunction with  
23 the transcripts, that requirement has been satisfied,  
24 has it not?

25 A Well, again, not to quibble, but, no, I think that  
26 there is a requirement that was -- that was not met,

00-1-2-3-4-5-6-7-8-9-0

1       and the -- any subsequent testimony may clarify --  
2       may clarify the actual collection, but the testimony,  
3       in my mind, should not be used in lieu of -- of good  
4       notes properly taken at the scene. That's essentially  
5       the -- the essence of my testimony this morning.

6       Q   Well, there's no question in your mind as to which  
7       items were removed from the Ryen home by Schechter  
8       and Stockwell, based on the exhibit in front of you,  
9       M-15, is there?

10      A   No.

11      Q   And there's no question as to in terms of documentation  
12      what system they assigned to assign laboratory numbers  
13      to the items that they did seize?

14      A   No.

15      Q   No question in your mind as to which items were  
16      seized first?

17      A   No.

18      Q   And some of the items there's absolutely no question  
19      in your mind as to the exact minute that they were  
20      seized; isn't that true?

21      A   That's right.

22      Q   And with the items of A-1 through A-7, there's no  
23      question in your mind but that they were seized  
24      somewhere in a 30- to 45-minute period on June the 5th  
25      between 2:45 and 3:27?

26      A   That's correct.

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1 Q But, in your opinion, that is not sufficient docu-  
2 mentation as to time?

3 A No.

4 Q The other requirement that you mentioned, I believe  
5 this morning, was it's a backup record --

6 A That's correct.

7 Q -- of packaging?

8 A That's correct.

9 Q Is that still your opinion this afternoon?

10 A Yes.

11 Q And in terms of a packaging record, what did you mean?

12 A Well, until yesterday, I had not examined any items  
13 of evidence, and I was unaware as to the nature of  
14 any notation that had been made on any items of evidence.  
15 In addition to notes that ordinarily are -- are taken  
16 of the collection of the evidence, it's standard  
17 practice in, I suppose, any investigative agency that  
18 the evidence is marked with any relevant information  
19 such as case file, the officer's name, the date and  
20 the time.

21 (No omissions.)  
22  
23  
24  
25  
26

00-1-250000

1 Q Or the laboratory identification numbers that correspond  
2 to that particular item of evidence?

3 A Or the laboratory numbers, yes.

4 Q And in this case, did you look at each of the 40-odd  
5 items that were seized at the Ryen crime scene?

6 A No.

7 Q How many did you look at?

8 A I -- I don't know. I accepted a number of items for  
9 examination. That was yesterday afternoon. I have not  
10 reviewed the -- the actual packaging of -- of the  
11 materials.

12 Q So as to the items that you did not review, you can't --  
13 you can't answer the question whether or not those were  
14 sufficiently documented?

15 A No.

16 Q And you don't even know which ones those are?

17 A No.

18 Q So you can't render an opinion in this case as to whether  
19 or not acceptable procedures were carried out in terms  
20 of documentation on the items themselves?

21 A Well, yes, I think so. I -- I see the proper marking  
22 of the -- of the evidence, the actual packaging of the  
23 evidence and the taking of proper notes to be part of  
24 the same process. I -- I don't think that one can  
25 divide up the process of note taking and marking the  
26 evidence. To the extent that the documentation at

00-1-2900-1



1 the scene reflects some -- some defects in my view of --  
2 in note taking, then -- then I think that that extends  
3 to the -- the quality of the scene processing.

4 Q And, again, that defect is, on some of the items, not  
5 noting the specific time in which it was taken; is that  
6 correct?

7 A Or incorrect time.

8 Q Well, with A-11, that followed your -- even your  
9 requirement for note taking in terms of time, did it  
10 not?

11 A Yes.

12 Q And is one of the documentation notes that is important in  
13 crime scene processing whether or not an item was taken  
14 from inside or outside of a home?

15 A Surely.

16 Q And if it's taken from inside of the home, which room  
17 inside the home it's taken from?

18 A Yes.

19 Q And if it's taken from a particular room, which portion  
20 or section of the room?

21 A Yes.

22 Q And the documentation in this case on location was proper,  
23 according to your standards, was it not, as to the A  
24 series of items that came out of the home?

25 A No. I think I have said that several times, that I  
26 consider the -- the documentation to be faulty by

1 virtue of the fact that the time is not -- not noted.

2 Q Well, the -- all items were described as to where they  
3 were taken from; is that true?

4 A Yes.

5 Q And also a description of the particular item?

6 A Yes.

7 Q And do you feel that there's any importance to be  
8 attached to the location from which an item is seized?

9 A Of course.

10 Q And that documentation was provided in this particular  
11 case; is that not correct?

12 A Yes. There's different -- different terminology used  
13 in Miss Schechter's notes and -- and the typewritten  
14 report, but -- it's clear that the same items are being  
15 referred to. Somewhat different terminology is used as  
16 to describing the location.

17 Q And that was not the only documentation of the location  
18 of the items that were seized in this case, was it?

19 A No. There's an extended series of photographs.

20 Q And, again, that was not the only form of documentation  
21 as to items that were seized in this case? By that I  
22 mean typewritten reports, handwritten notes and  
23 photographs.

24 A Not sure that I follow what you're getting at.

25 Q Well --

26 A You're referring to -- to testimony at -- at the

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1 Preliminary Hearing?

2 Q Well, to form an opinion as to whether or not this  
3 scene was processed correctly, did you evaluate all the  
4 documents that were taken by the criminalists as to the  
5 records they kept of seizing evidence in the Ryen home?

6 A I believe so.

7 Q And could you then again enunciate those.

8 MR. NEGUS: Objection. Asked and answered.

9 Q (BY MR. KOCHIS:) Other than maybe -- that's a good  
10 objection.

11 Other than the document in front of you, which is  
12 M-15, and the typewritten list which was taken from  
13 M-15 and some photographs which we'll get to in a moment,  
14 are those the three sources of documentation that you  
15 reviewed to form an opinion as to what was done in this  
16 case?

17 A Oh, no. There -- there were scene diagrams that were  
18 prepared at the scene.

19 Q And did you review the documents that were prepared by  
20 the sheriff's homicide investigator of the scene?

21 A I believe so. I -- I have no -- no detailed knowledge  
22 of -- of that material at -- at the present time.

23 Q Did you bring with you to court today a copy of the  
24 items that you have reviewed to base whatever opinion you  
25 have?

26 A Yes.

- 1 Q And where are those items?
- 2 A Well, the items are -- I did not bring the items; I  
3 brought a list of the materials that I reviewed. The  
4 items are in my home in Napa.
- 5 Q Directing your attention to what appears to be a hand-  
6 written paper, is that to which you're referring?
- 7 A Yes.
- 8 Q And is this a list of the items upon which you based your  
9 testimony?
- 10 A Yes.
- 11 MR. KOCHIS: Your Honor, could I get this marked  
12 as next in order.
- 13 THE COURT: Sure.
- 14 Q (BY MR. KOCHIS:) Do you recall when you prepared this  
15 list?
- 16 A Sunday night.
- 17 Q And did you have the materials with you at the time you  
18 prepared the list that you relied upon when you sat  
19 down to enunciate the things you were going to base your  
20 opinion upon?
- 21 A Yes.
- 22 Q Do you know anywhere -- well, M-16 is a copy of that  
23 list, is it not?
- 24 A Yes.
- 25 Q And is that your writing or the writing of Mr. Negus?
- 26 A That's mine.

00-1-2655

1 Q Did you note on there anywhere that you had reviewed  
2 diagrams, seen diagrams?

3 A No. I'm sure that in my mind I was including that under  
4 scene reports.

5 Q Are you sure now that you actually looked at any  
6 diagrams?

7 A Yes.

8 Q Can you recall which diagrams you did look at?

9 A If I could see them, yes.

10 Q Without looking at general diagrams, do you have any  
11 recollection of what you may have looked at?

12 A Well, there were -- there were a fairly extensive  
13 series of diagrams, initial diagrams prepared by the  
14 investigators on the 5th, other more -- other neater  
15 diagrams of a foreplan -- floorplan of the Ryen residence  
16 for purposes of location of evidence and for purposes  
17 of indicating paths taken by various investigators.

18 Q Let me ask you this, Dr. Thornton. Is documentation  
19 a concept that is important to a criminalist?

20 A Surely.

21 Q And for what purpose?

22 A Well, initially it's good investigative practice to  
23 document all of the salient aspects of a scene for  
24 purposes of future testimony, for purposes of -- for  
25 investigative purposes in the conduct of investigation  
26 prior to court time, and for purposes of specific

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1 inquiries as to the nature of specific items of evidence  
2 at the scene.

3 Q Does it allow other people to evaluate the work of a  
4 criminalist?

5 A Yes.

6 Q Is there a reason you didn't, on M-16, provide the  
7 type of record that would allow another person such as  
8 another criminalist to determine what you had actually  
9 reviewed when you formed your opinion?

10 A Yes. I think that the purpose of -- of this list was  
11 a general -- was to provide a general array of the items  
12 that I took into consideration rather than -- than  
13 the specific features that would cry out for specific  
14 exceptions. My testimony concerning the defects that I --  
15 I see in the scene processing were general comments with  
16 with some examples used as specific instances. But I  
17 did not attempt to go through the -- the scene and  
18 comment on each and every aspect of the scene investigation  
19 that I considered to be improper or imprecise. My  
20 understanding of the purpose of these proceedings here  
21 was that something else was -- that the interest was  
22 directed in -- in terms of fairly general comments.

23 (No omissions.)  
24  
25  
26

0-1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26

1 Q Well, that item in front of you doesn't even allow  
2 you to articulate, for example, which diagrams you  
3 may have seen; is that correct?

4 A That's correct.

5 Q You can't even articulate which reports you may have  
6 reviewed to form an opinion; is that correct?

7 A That's correct.

8 Q When were you first retained in this case?

9 A October, 1983.

10 Q And have you been working on the case with Mr. Negus  
11 since October of 1983?

12 A Yes.

13 Q And when you were retained, did you have in mind  
14 potentially doing a reconstruction in this case, if  
15 it was possible?

16 A Yes.

17 Can I clarify that response?

18 Q We may get to that.

19 To do a reconstruction of a scene, would you as  
20 a criminalist want to look at the physical items of  
21 evidence that were seized at a crime scene?

22 A Yes.

23 Q Have you done a crime scene reconstruction as of this  
24 time?

25 A No.

26 Q Did you review any of the items of evidence that were

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1 seized in this case in October of 1983?

2 A No.

3 Q In November of 1983?

4 A No.

5 Q December?

6 A No.

7 Q Is it fair to say that the first time you looked at  
8 the actual items of evidence that were seized in this  
9 particular case was yesterday here in San Bernardino?

10 A Yes.

11 Q Have you then completed your attempt to do a crime  
12 scene reconstruction in this case?

13 A No.

14 Q Is it fair to say that you're still engaged in this  
15 process?

16 A In my mind, yes.

17 Q And is it fair to say that you will -- well, will you  
18 be complete with that process prior to the time you  
19 conduct your own independent analysis of items of  
20 evidence that had been seized by the Sheriff's Office  
21 at the crime scene?

22 A The problem that I -- that I have, my hesitancy in  
23 answering the question is because I'm not certain  
24 what can be done at this point and what could ever  
25 be done. Your original question was did I have it  
26 in mind to conduct a reconstruction, and in -- in my

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1 mind, I was going to attempt to do that. I'm not  
2 sure that that's what Mr. Negus had in mind, and at  
3 this point I think an attempt to reconstruct the  
4 crime would be hopeless, but that would have been,  
5 in my opinion, as of October, 1983 as well. I don't  
6 think all aspects of a reconstruction are hopeless,  
7 but I think that any reconstruction would be pale in  
8 comparison to one that had been done if the blood  
9 types could be factored into the interpretation,

10 Q Well, what you can determine from a crime scene varies  
11 from scene to scene; isn't that true?

12 A Yes.

13 Q And to make a determination of which questions may  
14 be answered, you have to do some analysis of the  
15 scene; isn't that correct?

16 A Well, you used the word "may." Is that an abstract  
17 "may," or more concrete "may"?

18 Q Well, this morning you testified, in terms of  
19 reconstruction, what potentially may be shown is  
20 position of victims at the time they bleed?

21 A Yes.

22 Q Possibly position of an assailant?

23 A Yes.

24 Q Possibly number of assailants?

25 A Yes.

26 Q And perhaps the handedness of an assailant?

1 A Yes.

2 Q When we talk about reconstruction in this case, is  
3 that what we're talking about?

4 A Yes.

5 Q So there's no confusion for the record, you would  
6 never anticipate a filmed reenactment from physical  
7 evidence, would you?

8 A No.

9 Q You would never anticipate information as to what  
10 victims may have said during an attack in this case,  
11 would you?

12 A No.

13 Q And you would never be able to determine with  
14 certainty which was the first blow struck in this  
15 case, would you, from physical evidence alone?

16 A No. I think -- I think the likelihood of that is  
17 essentially nil.

18 Q And with multiple victims, you would not be able to  
19 determine, for example, in this case whether an attack  
20 was completed on one victim before another victim  
21 was struck?

22 A I'm not sure,

23 Q Directing your attention back to the issue of diagrams,  
24 starting with H-214, have you seen a copy of that  
25 diagram prior to today?

26 A Yes, I have.

0-1-2-3-4-5-6-7-8

- 1 Q H-217, have you seen a copy of that diagram prior  
2 to today?
- 3 A Yes.
- 4 Q H-218, have you seen a copy of that diagram prior  
5 to today?
- 6 A Yes.
- 7 Q H-228, have you seen a copy of that diagram prior to  
8 today?
- 9 A Yes, without the --
- 10 Q Red marks?
- 11 A -- red marks, yes.
- 12 Q H-234, have you seen a copy of that diagram prior to  
13 today?
- 14 A Yes.
- 15 Q H-208, excluding the marks in red and blue, have you  
16 seen a copy of that diagram?
- 17 A Yes,
- 18 Q And H-215, have you seen a copy of that diagram?
- 19 A Yes, I have.
- 20 Q Any others?
- 21 A Yes, but I don't recall which ones,
- 22 Q H-228, without the marks in blue and the marks in red,  
23 have you seen a copy of that prior to today?
- 24 A Yes,
- 25 Q And the same question for H-292,
- 26 A Yes, I've seen that.

2-10-1-10

1 Q Would you agree that it's proper procedure to conduct  
2 a walk-through of a residence by investigators to  
3 determine what the scene consists of prior to the  
4 time that the processing starts?

5 A I certainly would agree to that if -- if we held  
6 down the number of investigators to a number probably  
7 not in excess of two. I wouldn't agree that it would  
8 be proper procedure for a greater number of individuals  
9 to walk through the scene.

10 Q Well, are you aware through the transcripts in this  
11 case that Sergeant Arthur conducted a walk-through of  
12 the scene with, I believe, Detective Hall prior to the  
13 time assignments were made in this case?

14 A Yes.

15 Q And then is it your testimony that as far as the  
16 initial walk-through which those two people consisted  
17 of, you did not quarrel with that procedure?

18 A No, I don't.

19 Q Do you think it was an appropriate procedure, for  
20 example, to follow in this case?

21 A Yes, I do.

22 Q Do you also feel it's important to process a residence  
23 for fingerprints first?

24 A Well, I think that it depends on the exigencies of  
25 the situation, I have no -- no fundamental quarrel  
26 with processing a scene for fingerprints first. I

13b

1 think that that can be overridden if there's some  
2 compelling reason to do so, and I think that an  
3 investigation has to have the flexibility to deviate  
4 from print processing first.

5 Q Do you believe it's proper to photograph a residence  
6 prior to the time objects are collected and removed?

7 A Yes.

8 Q And you're aware from the photographs in this case  
9 that that was done in this particular case?

10 A Yes,

11 Q Did you think that particular photographic procedure  
12 was proper?

13 A I'd say in general. If -- I'm not sure that there  
14 might be some specific exceptions, but in general I  
15 have no criticism of that aspect of the investigation.

16 Q In this case, you're aware that Mr. Duffy and  
17 Mr. Roper processed the residence for prints while  
18 they were photographing prior to the time that items  
19 were removed from the residence by the crime lab. Do  
20 you have any quarrel with that procedure?

21 MR. NEGUS: Object. I think that states facts not  
22 in evidence.

23 THE COURT: Better lay a foundation for it then.

24 Q BY MR. KOCHIS: Well, you saw photographs of certain  
25 items that were later seized by the crime lab; is that  
26 correct?

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1 A Yes.

2 Q And from that, you can draw an inference that the  
3 pictures were taken before the crime lab picked the  
4 items up and moved them out of the house?

5 A Yes,

6 Q And you also reviewed the testimony of Sergeant Arthur  
7 in this case on the Hitch area?

8 A I'm not sure. No, I don't think I did. I certainly  
9 have no recollection of it, and I don't see it on my  
10 list there.

11 (No omissions.)

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1 Q Well, to determine whether or not a scene was processed  
2 properly, would it be of assistance to you to read the  
3 testimony of the sergeant who was assigned to process  
4 that scene?

5 A Well, possibly. That -- the testimony on the Hitch  
6 motion, I know that I have only received a portion of  
7 that prior to going on vacation. That was up until  
8 Sunday. So it may -- it may be in the mill; I don't  
9 know. I haven't discussed it with Mr. Nequs.

10 I -- I -- we have discussed other testimony of  
11 the criminalists which was still in progress when I  
12 left on vacation. I know that I am to receive that.

13 Q Well, according to your list, you did not review the  
14 testimony at the Hitch hearing of Detective Hall, who  
15 actually processed the Ryen homicide, did you?

16 A. Apparently not, no.

17 Q Nor did you review the testimony of Detective John  
18 Clifford, who assisted him in the processing of the  
19 Ryen scene, did you?

20 | A. No.

21 Q Nor did you review any of the testimony of William  
22 Arthur, who was the sergeant assigned to this particular  
23 homicide scene.

24 | A. No.

25 Q So is it fair to say, in terms of testimony, you're not  
26 aware of any decision that they made at the scene, those

1 people?

2 A No, I don't think that that's -- well, I don't know what  
3 they said at the Hitch motion, but I do know what several  
4 of those individuals said at the -- at the Preliminary  
5 Hearing. I based my comments this morning at least in  
6 part on -- on the Preliminary Hearing.

7 Q You have listed in the left hand column the witnesses  
8 whose Preliminary Hearing testimony that you have  
9 reviewed; is that correct?

10 A Yes.

11 Q You did not review Sergeant Arthur's testimony at the  
12 Preliminary Hearing?

13 A No.

14 Q Nor did you review the testimony of John Clifford at  
15 the Preliminary Hearing?

16 A No.

17 Q So in terms of their testimony, you have no idea of what  
18 Sergeant Arthur actually saw at the crime scene when  
19 he got there on Sunday, do you?

20 A No.

21 Q Nor do you have any idea of what Detective Clifford saw  
22 at the crime scene when he got there?

23 A No.

24 Q So you weren't -- you're not aware of what problems  
25 faced Sergeant Arthur based on his observations of what  
26 he saw at the scene on Sunday?

0-1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26



1 A No, not from his testimony.

2 Q Nor Mr. Clifford?

3 A No.

4 Q Nor what Mr. Hall has testified to at the Hitch hearing  
5 in this particular case?

6 A No.

7 Q You testified, I believe, this morning that in this  
8 case one of the things that caused you some concern was  
9 the delegation of responsibility that took place in this  
10 case. Do you recall that?

11 A Yes.

12 Q You haven't -- strike that.

13 The reports that you reviewed in this case are the,  
14 what you have referred to as, the crime scene reports;  
15 are those correct?

16 A Yes.

17 Q And you didn't document whose reports you actually  
18 reviewed, did you?

19 A No. I received an extended series of reports from  
20 Mr. Negus some time ago. My notation on Exhibit M-16  
21 was intended to encompass all of those.

22 Q If you haven't reviewed the transcripts of Sergeant  
23 Arthur's testimony, Mr. Clifford's testimony -- oh, and,  
24 by the way, you haven't reviewed Mr. Swanlund's testimony  
25 at the Hitch hearing, have you?

26 A No.

00-1-2-3-4-5-6-7-8-9-0

1 Q Nor did you review his testimony at the Preliminary  
2 Hearing?

3 A No.

4 Q Between Sergeant Arthur, Detective Hall, Detective  
5 Clifford and Sergeant Swanlund, which one was assigned  
6 to process the scene on Monday the 6th in the morning  
7 after 9 a.m., if any of those people were?

8 A I don't know.

9 Q If you haven't reviewed the transcripts, on what basis  
10 do you form the opinion that responsibilities were  
11 delegated?

12 A Well, my awareness of the fact that at the initial  
13 scene investigation there were three teams working, the  
14 homicide team, the I.D. team and the crime lab team.  
15 I think that even if all three teams perform their  
16 respective functions properly, that that still is a --  
17 a division of responsibility that I think works to -- to  
18 the detriment of a properly processed scene.

19 I -- I also, in forming that opinion, I'm thinking  
20 of many instances in the transcripts of testimony at  
21 the Preliminary Hearing where in response to a -- a  
22 question as to what someone else was doing, the -- the  
23 response is, "I don't know," or, "I don't recall." I  
24 think that it's not a good idea to have someone at a  
25 crime scene not knowing what someone else is doing.  
26 There's -- there's certainly enough opportunities for

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1        impreciseness in the -- in the process. Those  
2        opportunities are -- are enough without compounding it  
3        with lack of knowledge of what other people are doing.

4    Q    Well, is it -- is it your opinion that it's improper to  
5        have an identification bureau that is responsible to  
6        photograph and lift fingerprints at the crime scene?

7    A    Yes.

8    Q    And it is improper to have a crime lab that has the  
9        responsibility of collecting and removing from a scene  
10       items that have evidentiary value?

11   A    No.

12   Q    Is it your position that it's improper to have a homicide  
13        detective at the crime scene who is going to document  
14        through diagrams and a report the position in and  
15        location of the furniture in a room?

16   A    Yes.

17   Q    Do you feel homicide detectives aren't qualified to do  
18        diagrams?

19   A    No. But I feel that the crime laboratory is, and I  
20        think that that's -- that makes all the difference in  
21        the world. There's nothing so profound about diagrams  
22        or photography that the crime laboratory can't do it.  
23        And since they're called to the scene, I think that that's  
24        proper procedure.

25   Q    Well, you testified this morning that the purpose for  
26        diagraming and photographing at a scene in terms of

1 objects is to note the prospective locations of bodies  
2 and furniture. Do you recall that?

3 A. Yes.

4 Q And you also testified that in this particular case,  
5 at least you did this morning, that based on your view  
6 of the photographs and the diagrams that those items  
7 were accurately documented in this particular case; do  
8 you recall that?

9 A I don't think I testified precisely to that. I -- my  
10 recollection of my testimony is that the -- the photo-  
11 graphs and -- and the diagrams are adequate for purposes  
12 of general location of items of evidence, but that I  
13 feel that there -- they do not measure up to what I would  
14 consider to be a minimum threshold of acceptability for  
15 crime scenes, photographs and documentation by other  
16 means.

17 Q So in your opinion, the documentations of the sheriff's  
18 office in this case as to position of the bodies did  
19 not meet a minimum standard?

20 A No, no. I -- I think that the photographs with respect  
21 to the position of bodies display that aspect of the  
22 scene reasonably. I would -- I think the scene cried  
23 out for some additional photographs of a general nature  
24 which -- which apparently were not taken. But I have  
25 no real quarrel with the photographs of the bodies.

26 Q Well, in documenting a body location, you want to know

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1 where in a room it is found; isn't that true?

2 A Yes.

3 Q And do the measurements have any importance in terms  
4 of where a bodies found?

5 A Surely.

6 Q Are general measurements, without going to, for example,  
7 feet and inches, are general measurements sufficient?

8 A No.

9 Q In terms of the location of furniture in this case,  
10 was not the -- were not the photographs sufficient to  
11 document location of furniture in the master bedroom?

12 A No. In a general sense, certainly you can look at the  
13 photographs and get a general idea of the location, that  
14 is, dressers relative to beds, lamps relative to dressers,  
15 and so on. But for a -- for a rigorous determination  
16 of the position of the items such as would be required  
17 in a crime scene reconstruction, the photographs would  
18 be inadequate for that.

19 Q And it's -- is it your testimony that there wasn't  
20 sufficient documentation in this case as to that type  
21 of information?

22 A That's right.

23 Q And you -- you feel that type of information is important  
24 in a reconstruction?

25 A Yes.

26 (No omissions.)

Q - 11-25-68

1 Q With respect to diagram number H-215 which appears  
2 to be a diagram of the Ryen bedroom with one of the  
3 victims depicted in the diagram, does that diagram  
4 appear to sketch out the position of the victim on  
5 the floor?

6 A Yes,

7 Q Does it appear to place his location in a particular  
8 portion of the bedroom?

9 A Yes,

10 Q And does it appear that measurements down to the  
11 inches were drawn, for example, of the distance  
12 between a wall and what appears to be his left foot?

13 A Yes.

14 Q And the distance from --

15 A Well, excuse me. Yes.

16 Q -- from his heel. Excuse me.

17 A From -- yes.

18 Q And does the diagram in fact contain a number of  
19 measurements that go from points of reference in the  
20 room to various portions of the victim's body?

21 A Yes.

22 Q Is that the type of documentation that you feel should  
23 be conducted at a crime scene?

24 A Yes, it is. I -- I feel very strongly, however, that  
25 that's the type of documentation that should be taken  
26 by the crime lab or, alternatively, by the homicide or,

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15-2

1           alternatively, by the ID Bureau, but not -- not one  
2           team of -- of a -- a trinity of teams working  
3           independently of one another.

4       Q   As far as that one victim is concerned, that diagram  
5           H-215 even meets your standards in terms of  
6           documentation; isn't that true?

7       A   Yes, it does.

8       Q   And would that provide you some of the type of  
9           information from which you would lay a foundation  
10          to attempt to do a reconstruction?

11      A   Yes.

12      Q   Likewise, directing your attention to Exhibit 208  
13          which appears to be a diagram of the Ryen master  
14          bedroom with the furniture in it, does it appear, for  
15          example, that measurements were taken as to the width  
16          and length of the waterbed?

17      A   Yes.

18      Q   And the width and length of the various pieces of  
19          furniture that were in the particular bedroom?

20      A   Yes.

21      Q   And have those measurements even been conducted down  
22          to the inch?

23      A   Or fraction of inches, yes.

24      Q   And is that the type of documentation that you feel  
25          is necessary -- was necessary in this type of case  
26          in the Ryen master bedroom?

15a

- 1 A Yes,
- 2 Q And would that, in effect, allow you to reposition the
- 3 furniture in the bedroom, based on the documentation
- 4 in that diagram?
- 5 A Yes,
- 6 Q Is that the type of diagram you were talking about
- 7 when we were exchanging our questions and answers
- 8 this afternoon?
- 9 A Yes.
- 10 Q Directing your attention next to what has been marked
- 11 for identification as H-234, does that appear to be
- 12 a diagram of the Ryen master bedroom with the
- 13 furniture removed?
- 14 A Yes.
- 15 Q And does that appear to have the dimensions noted on
- 16 it of the various walls within the room itself?
- 17 A Yes.
- 18 Q Down to the inch or half inch?
- 19 A Yes.
- 20 Q And is that the type of detailed diagram that you feel
- 21 should be done in a case such as this?
- 22 A Yes.
- 23 Q And that diagram meets the standards that you've
- 24 set for this particular case; is that true?
- 25 A Well --
- 26 Q In terms of measurements?

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- 1 A In terms of measurements, yes.
- 2 Q Directing your attention next to what has been  
3 marked for identification as H-216, does that appear  
4 to be a diagram of a portion of the Ryen home?
- 5 A Yes.
- 6 Q Does it appear to depict the approximate locations  
7 of the two female victims in this case?
- 8 A Yes, it does.
- 9 Q And are you aware of which symbol pertains to which  
10 victim?
- 11 A Yes. At the apex of the angle here in the hallway,  
12 it would be the body of Jessica. The larger figure  
13 in the master bedroom would be the body of Peggy Ryen.
- 14 Q And from two -- from the Exhibit 215, that depicts  
15 which victim?
- 16 A Christopher Hughes.
- 17 Q Does Exhibit H-218 in fact record with inches -- with  
18 measurements down to the inch the position of the  
19 victims actually within the room?
- 20 A Yes,
- 21 Q And does it also record the position of the victims  
22 in terms of measurements to other items of furniture  
23 in the room, some of the furniture?
- 24 A Yes,
- 25 Q Directing your attention to 217, do you recall which  
26 victim that that depicts?
- 27 A Yes. That would be the body of Doug Ryen.

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1 Q And are there also measurements in inches on that  
2 diagram that place his approximate location within  
3 the Ryen master bedroom?

4 A Well, in this particular diagram, the -- no, I think  
5 I would disagree with that. That -- that diagram I  
6 believe was intended to affix the position of a  
7 severed finger rather than the position of Douglas  
8 Ryen. The position of Douglas Ryen could not be  
9 determined with any precision, any exactitude from  
10 that particular diagram.

11 Q You have also had the chance to look at some of the  
12 furniture that was seized in this case and placed in  
13 the loft in the Sheriff's ID Bureau; is that correct?

14 A Yes.

15 Q Is it fair to say that with the diagrams that you've  
16 reviewed, the photographs and those pieces of furniture  
17 in the loft, that you could replace the furniture in  
18 almost exactly the same position it was in at the  
19 time the Sheriff's Office arrived on June the 5th?

20 A Yes.

21 Q Would that type of information be important to you  
22 in determining whether or not you could answer the  
23 questions that you mentioned before this morning  
24 that are possible to answer in reconstruction?

25 A Yes.

26 Q So in terms of recording what the scene looked like

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1 in terms of placement of furniture, you agree with  
2 the Sheriff's procedure in this case?

3 A. Well, almost. The "almost" is that I -- I don't  
4 approve of the procedure in which the measurements  
5 were -- were taken concomitantly with other aspects  
6 of the scene investigation taking place. There's  
7 no reason that the measurements of the furniture  
8 couldn't have been taken hours, even days, after the  
9 initial investigation, but other than that, I have  
10 no -- no criticism of the manner in which the diagrams  
11 were prepared or the measurements.

12 Q. Well, one of the end results of the crime scene  
13 processing is supposed to be that you in some way  
14 document what the scene looks like; is that fair to  
15 say?

16 A. Yes.

17 Q. And in this particular case, with the photographs and  
18 the diagrams and the evidence list, the Sheriff's  
19 Office has documented what furniture certainly was  
20 in that master bedroom, have they not?

21 A. Yes.

22 Q. And the location of the furniture when they arrived  
23 at the scene?

24 A. Yes.

25 Q. And the exact location of the victims in the house  
26 when the Sheriff's Office arrived?

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1 A Yes.

2 Q In terms of collecting evidence from within a scene,  
3 do you agree with the statement that larger objects  
4 should be collected first?

5 A No.

6 Q Do you feel the size of an object has any importance  
7 in terms of when it should be collected in terms of  
8 chronology?

9 A Yes.

10 Q Do you feel an appropriate standard to apply in  
11 processing a crime scene would be to collect larger  
12 items first?

13 A No.

14 Q Would you agree with such a philosophy?

15 A No, I think a crime scene is something like an  
16 archeological dig where you tease away the -- the  
17 smaller items of evidence and remove them and move  
18 on to larger items.

19 Q So that particular technique you would not endorse?

20 A Movement of larger items?

21 Q First.

22 A No, I would not. Again, there may be an overriding  
23 compelling reason to -- to do so in a specific case,  
24 but as a -- as a general policy, I would oppose  
25 moving the larger items.

26 Q Do you agree that between items that have some significance,

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1       some material significance, if you have half a dozen  
2       of those, that you should pick up the larger items  
3       first as a result?

4       A.   No, I think that the proper procedure is to tease  
5       away the -- the items that are on top of larger items  
6       and to secure those so that the positioning of those  
7       items would not be disrupted if one were to move the  
8       larger items first. If you lose -- if you use -- if  
9       you remove, rather, the larger items first, the  
10       smaller items will be dislodged and transposed.

11       Q.   Well, do you agree with the following statement: The  
12       collection of evidence should now be started. First,  
13       all the larger objects that appear to have material  
14       significance will be picked up?

15       A.   No.

16       Q.   Is there a reason that you would edit and allow your  
17       name to be placed on a chapter of a book that made  
18       that recommendation?

19       A.   I think that -- that that passage refers to not  
20       larger items in -- in the sense of physical dimensions,  
21       but conspicuous items that -- that could be easily  
22       removed without dislodging any other items, in other  
23       words, firearms. I think probably firearms could be  
24       as good an example of that category of evidence.  
25       Certainly a firearm is going to be removed before the  
26       hair and fiber evidence. A hatchet would be removed

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15-9.

1 before small fragments of glass, but in terms of  
2 the large items that -- that we've been -- well,  
3 in my response to previous questions, when I was  
4 thinking of large items, I was thinking of dressers,  
5 beds, other items of furniture.

6 (No omissions,)

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- 1 Q Is there any reason, when you edited Kirk's chapter,  
2 you didn't take the time to make that correction in the  
3 book?
- 4 A Oh, I -- I don't know. I have no idea what was going  
5 through my mind at that time.
- 6 Q So then in terms of Exhibit H-281, the one that Mr. Negus  
7 has -- has had marked, that is an example of one rule  
8 that you don't agree with?
- 9 A Well, within the context of -- of larger items, meaning  
10 the things that are conspicuously related to a crime  
11 that can be collected without easily -- without dis-  
12 rupting the remainder of the crime, I would agree with it.  
13 If the interpretation of -- of that statement is that you  
14 collect furniture prior to collecting other material,  
15 then I would not agree with it.
- 16 Q In terms of processing, do you place any importance on  
17 how an item is actually picked up and packaged?
- 18 A Yes.
- 19 Q Do you feel that items should be assigned separate  
20 laboratory identification numbers?
- 21 A Yes.
- 22 Q Do you feel that they should be packaged separately?
- 23 A Yes.
- 24 Q Do you feel that they should be placed in separate  
25 receptacles?
- 26 A Yes.

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1 Q And you're aware from the material that you have  
2 reviewed in this case that, as to the A items from  
3 the Ryen master bedroom, that's what took place in this  
4 case?

5 A Yes.

6 Q And the manner in which those items were numbered  
7 separately, packaged individually in separate receptacles,  
8 that meets your criteria for crime scene processing?

9 A Yes, it does.

10 Q In terms of processing a crime scene, other than the  
11 items that you mentioned this morning and this afternoon  
12 that deal with reconstruction, and that, I believe, the  
13 definition that you used this morning was position of  
14 victim, position of defendant, handedness, possibly  
15 number of assailants, what else should a criminalist  
16 take into consideration when he's looking at a crime  
17 scene to determine what to take and what not to take?

18 A Well, I don't think I testified that position of the  
19 defendant was a -- I don't think that was in my -- my  
20 list. I think the position of the assailant or  
21 assailants. I don't think I used the term "defendant."

22 In addition to -- to those features, I think that  
23 it was imperative to have taken some measurements of  
24 the size of the -- the blood, not only on items that  
25 were removed and stored in the -- the property room,  
26 because that still can be done, but on the portions of

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1 the scene that were not secured. The measurement of  
2 the size of the droplets will be essential in determining  
3 the velocity of the blood, to permit a reconstruction  
4 of the origin of that blood, and there -- thereby the  
5 position of victims and other factors related to the  
6 reconstruction.

7 Q What else?

8 A I think -- I think short shrift was given to the notion  
9 of -- of the possibility of trace evidence on the -- on  
10 the carpet. I think that the -- the scene would have  
11 been graced by additional investigation effort at the --  
12 at the scene to secure any -- any trace material on the  
13 carpet.

14 I think additional emphasis should have been placed  
15 at the scene on the interpretation of -- of certain of  
16 the droplets of blood that are neither cast-off nor  
17 high speed spatter, which we have already talked about.  
18 And an example of that would be the droplet of blood on  
19 the -- the left inside leg of Christopher Hughes, which  
20 I think would probably figure very prominently in any  
21 crime scene reconstruction.

22 Q Well, as a criminalist, when you go to a crime scene,  
23 is your mental outlook limited to reconstruction as we  
24 have defined it today?

25 A Is it limited to?

26 Q Yes.

Q - 125057-1

1 A Well, I would hope not.

2 Q Wouldn't one of the things as a criminalist you would  
3 look for would be pieces of evidence that would give  
4 you actual investigative leads as to the potential  
5 identity of the assailant?

6 A Surely.

7 Q And would you place those equal or greater than the  
8 factors that might lead you to the position of a victim  
9 within the room?

10 A In my mind, I would -- I would give them equal credence.  
11 Certainly the identity of the -- of the perpetrator,  
12 if the identity was not known at that time, would be of --  
13 of very, very important consideration. I don't think  
14 that it overrides proper processing of a crime scene.  
15 I don't think that that can be used as an apology for --  
16 for not deriving the maximum information content that  
17 the scene's capable of.

18 Q Well, is it your opinion, then, that, in terms of crime  
19 scene processing, pieces of evidence that allow you to  
20 draw inferences to where a victim is standing at a  
21 point in time are as important as pieces of evidence  
22 that would lead to the identity of an assailant?

23 A No. I -- I didn't say that. I -- I said I would -- I  
24 would give essentially credence to both considerations.  
25 I would not go after one at the expense of -- of the  
26 other. I would attempt to get both types of information.

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1 Q Well, when you worked -- strike that. When a criminalist  
2 goes to a crime scene, is it one of the -- first of all,  
3 one of the questions to answer, when it's a dead body,  
4 is it a murder or is it a suicide?

5 A Yes.

6 Q Certainly that wasn't a question that had to be answered  
7 in this case.

8 A No.

9 Q And in this case, then, would the first and foremost  
10 question be who did it to the family?

11 A Well, no, no. I -- I think -- and I think you have just  
12 put your -- your finger on -- on the major problem that --  
13 that I see with -- with this case. I don't think that  
14 the fundamental question is to ask who did this horrible  
15 thing, because that leaves -- leads to a mind set that  
16 may divert our attention from other factors. And in  
17 fact it may lead to conceptual flaws.

18 I think the major question, the fundamental question  
19 to ask, is not who did this but a more fundamental one  
20 of what happened. And if you can answer that question,  
21 then the first question is -- is answered also. Now,  
22 it --

23 Q Let me ask you this.

24 A -- it may seem like a subtle difference, but I think  
25 that conceptually it's a very important one.

26 Q If a question as to who did it was not answered,

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1 certainly the other questions we have been discussing  
2 would have much less relevance; isn't that true?

3 A Well, not -- not in my mind, no. I think that -- I think  
4 that if we had a full picture of the factual circumstances  
5 at the time the crime occurred that -- well, if we did  
6 in fact have a -- a full picture of -- of what occurred,  
7 then any question could probably be either answered or  
8 derived vicariously from -- from what we had established.

9 Q Well, without a video camera, we're never going to have a  
10 full picture of what happened in the bedroom, are we?

11 A I agree.

12 Q And without, perhaps, a survivor who's in condition --  
13 who observed everything from start to finish, we're  
14 not going to be in a position to have a full picture,  
15 are we?

16 A No.

17 Q And your opinion is at a crime scene it is as important  
18 to look for items that will show position of a victim as  
19 it is to looking for pieces of evidence that will reveal  
20 the identity of a defendant -- of an assailant?

21 A Yes, I do.

22 MR. KOCHIS: I need Exhibit H-291.

23 MR. NEGUS: Could we take a break at this time?

24 THE COURT: Take about 15 minutes.

25 (No omissions.)  
26

00-1-2-1987-7

1 THE COURT: Go ahead, Mr. Kochis.

2 MR. KOCHIS: Thank you, Your Honor.

3 Q Dr. Thornton, you would agree that in terms of  
4 priority in terms of time, that leads that would  
5 develop as to a suspect would be more important to  
6 seek first, as opposed to pieces of evidence that  
7 would lead to victims' positioning?

8 A I'd -- I don't think that I would agree with that if  
9 it meant that -- that -- that the scene would be  
10 compromised in the attempt, in the haste to develop  
11 information concerning the identity of the accused  
12 if the entire scene could be processed in a systematic  
13 and comprehensive manner with the expenditure of a  
14 few more hours. I think that I would agree that the  
15 identity of the assailant or assailants would be an  
16 exceedingly important aspect of the investigation  
17 which certainly would channel virtually all of the  
18 investigative effort at that point into that area.

19 Q Well, do you agree that a premium should be placed  
20 on attempting to identify those leads as soon as  
21 possible?

22 A Yes.

23 Q And in fact, is it not important to apprehend a  
24 suspect as soon after the commission of a crime as  
25 possible?

26 A Yes.

- 1 Q And is one of the reasons for that in that you want  
2 to examine a person who is a suspect?
- 3 A Well, that's one reason, yes,
- 4 Q Well, you'd want to examine, for example, if he's  
5 apprehended in a vehicle, that vehicle?
- 6 A Yes.
- 7 Q And a suspect's clothing?
- 8 A Yes.
- 9 Q An assailant's physical condition?
- 10 A Yes,
- 11 Q And in cases where that takes place, that type of  
12 information will then allow criminalists to conduct  
13 a more specific search of a crime scene for certain  
14 pieces of evidence; isn't that correct?
- 15 A Frequently, yes.
- 16 Q And in fact, isn't that how trace evidence can be  
17 very important?
- 18 A Yes.
- 19 Q For example, if a victim -- strike that. If a  
20 suspected assailant has blood on his clothing and  
21 no obvious physical injuries, that can direct the  
22 criminalist in a certain direction?
- 23 A Yes.
- 24 Q If he has items of clothing that are torn, that may  
25 direct the criminalist in a certain direction?
- 26 A Yes.

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1 Q If he's apprehended inside a vehicle, that may direct  
2 the criminalist in a certain direction?

3 A Yes.

4 Q And is it true to say that if that does not take  
5 place, a suspect is not apprehended within a short  
6 period of time after a crime is discovered, it, in  
7 effect, makes a criminalist's duty at a crime scene  
8 a little harder, makes the evaluation process harder?

9 A Well, I would -- I would tend to agree, but I think  
10 for a different reason than what I suspect that you  
11 have in mind. I think that it makes the work of a  
12 criminalist harder because it places an additional  
13 burden on the criminalist to provide a comprehensive  
14 processing analysis of the -- of the scene. At that  
15 point when the -- when the identity of the assailant  
16 is not known, that it reaffirms the responsibility to  
17 derive as much information from the scene as possible,  
18 because it may -- it may develop retrospectively that  
19 some aspects of the scene, the significance of which  
20 was not immediately apparent, might later develop into  
21 a -- a critical issue.

22 Q Well, one of the things as a criminalist that you  
23 would try to answer if you were at a crime scene  
24 was who did it; isn't that true?

25 A Yes. I don't -- but I would not subordinate the  
26 fundamental question of what happened, what did in

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1 fact take place.

2 Q And in attempting to answer that question, there are  
3 certain things that obviously may lead to who was  
4 responsible for a crime in terms of physical evidence;  
5 isn't that true?

6 A Yes.

7 Q For example, fingerprints?

8 A Yes.

9 Q So that's something you would want to process a  
10 residence for?

11 A Yes.

12 Q And, obviously, weapons that appeared consistent with  
13 the murder weapon, you would want to seize those items,  
14 would you not?

15 A Yes.

16 Q And then what additional evidence may be important  
17 as to the identity of an assailant, that certainly  
18 would vary from case to case?

19 A Yes,

20 Q And without apprehending a suspect, at the point in  
21 time in which you're processing the scene, you don't  
22 have the same guidelines that you have in looking for  
23 trace that you have in a situation where a suspect  
24 is apprehended; is that correct?

25 A No. I'd profoundly disagree. I don't make a  
26 distinction on whether an individual is in custody or

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**A. Yes,**

1 Q And by that, you referred several times to the use of  
2 the terms "boiler plate"; is that correct?

3 A Yes.

4 Q And you mentioned various items within the boiler plate  
5 which to you were important; for example, the time at  
6 which the investigator arrives at a scene; is that  
7 correct?

8 A Well, the time in which everyone arrives at the scene  
9 I consider to be important, not just the -- not just  
10 the initial investigator or not just the -- the time  
11 when people log on or off the radio, but a full  
12 documentation of the individuals at the scene,

13 Q And is that so that you can determine who actually  
14 is at a scene?

15 A Yes.

16 Q Approximately what time they're at the scene?

17 A Yes.

18 Q And then you also mentioned descriptions about, for  
19 example, drapes, I think were one of the things you  
20 mentioned this morning. Do you recall that?

21 A Yes.

22 Q And within the boiler plate, are you talking about  
23 the type of things that you may traditionally read in  
24 a burglary report about the description of a home,  
25 whether it's split-level or two-story, that type of  
26 stuff?

1 A In part, yes.

2 Q You feel that in this case that type of description  
3 was important?

4 A Yes, yes,

5 Q You feel that in this case, in a case where there were  
6 four victims of a homicide, a fifth that was surviving,  
7 description of the outside of the house is something  
8 that was -- that was important?

9 A Yes.

10 Q Now, in this case, was it apparent to you that much,  
11 if not all, of the assault took place in one room  
12 inside the house?

13 A Yes.

14 Q And would that have been the master bedroom?

15 A Yes.

16 Q Was it -- you've reviewed some photographs in this  
17 case; is that true?

18 A Yes.

19 Q You don't have any record of which pictures you have  
20 reviewed, do you?

21 A Not with me, no. I reviewed all of the photographs  
22 that Mr. Negus supplied me with. It's -- it was my  
23 understanding that I had reviewed virtually every-  
24 thing, if not all of the photographs.

25 (No omissions.)

26

- 1 Q Did you keep track by number or in any other fashion  
2 of which pictures you looked at?
- 3 A Yes.
- 4 Q Did you keep track of which days you actually looked  
5 at the pictures?
- 6 A Yes.
- 7 Q Do you have the list with you?
- 8 A No.
- 9 Q Where is it?
- 10 A At home.
- 11 Q In reviewing those pictures, was it apparent to you  
12 that there were rooms in the house in which no blood  
13 was shed?
- 14 A Yes.
- 15 Q Was it apparent to you that the inference could be drawn  
16 that the victims were not bleeding in those rooms?
- 17 A Yes.
- 18 Q For example, there was a what appeared to be a girl's  
19 bedroom?
- 20 A Yes.
- 21 Q And a bedroom that, at one time, which was occupied by  
22 Joshua Ryen?
- 23 A Yes.
- 24 Q And did it appear that the assault did not take place  
25 in those rooms?
- 26 A Yes.

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1 Q It would not have been important, then, to have a  
2 narrative description of those rooms, would it have been?

3 A No.

4 Q And --

5 A Well, I -- I don't think it would have been particularly  
6 important. I -- I think that -- that from the standpoint  
7 of completeness, that it would have been desirable to  
8 have a -- some narrative documentation of the fact that  
9 there was not or was no evidence of -- of a struggle or  
10 injuries sustained in those other rooms.

11 Q And you -- you really feel that should have taken place  
12 in this case?

13 A Well, that's not a -- it's not a bone of contention as  
14 far as I'm concerned. I think the inference is -- is  
15 clear from the lack of whether you had evidence in those  
16 rooms that there was no significant involvement in those  
17 rooms, or, if there was, there's no means of documenting  
18 it by means of blood splatter interpretation.

19 Q In your opinion, in processing this scene, was it  
20 necessary, to meet up with your standards, to have this  
21 narrative description of rooms that -- the two I have  
22 talked about, Jessica's room and Joshua's room, in which  
23 there was no involvement?

24 A Well, yes. I think that, to measure up to -- to my  
25 standards, and I'm not -- I don't think that I am so  
26 alienated from my profession that I have standards other

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1       than other people in my profession -- but I think that --  
2       that it was necessary to have given some attention to  
3       the areas of the house that do not indicate involvement  
4       for simply that purpose, to eliminate them as being  
5       involved.

6   Q    Would details such as drapery have been required to be  
7       noted to meet even your standards in those other rooms,  
8       for example, in Joshua's room and Jessica's room?

9   A    I think so, yes.

10  Q    The kitchen, there didn't appear to be any blood shed  
11       in the kitchen from the photographs that you have  
12       reviewed?

13  A    Well, apart from the refrigerator, you mean?

14  Q    Apart from the refrigerator.

15  A    No.

16  Q    Was it therefore necessary, according to your standards,  
17       to have some verbal narrative description of the kitchen?

18  A    Yes.

19  Q    Have you seen in the photographs what appeared to be the  
20       dining room?

21  A    Yes.

22  Q    And there didn't appear to be any blood shed in that  
23       particular room, did there?

24  A    No.

25  Q    Did you then feel it was even necessary, even to meet  
26       up with your standards, to have some type of narrative

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- 1 description of that dining room?
- 2 A Yes.
- 3 Q You don't feel that photograph -- do you feel the  
4 photographs of that room are sufficient?
- 5 A Essentially, yes.
- 6 Q Is it your opinion, then, that a narrative, written  
7 narrative in addition, for example, to photographs of  
8 the dining room, would not have been required in this  
9 case?
- 10 A No.
- 11 Q You feel they should have been?
- 12 A Yes.
- 13 Q And that's one of your criticisms of the investigation  
14 in this case; is that correct?
- 15 A Yes.
- 16 Q Now, would the same pertain to the -- well, there were  
17 two bathrooms in the house, weren't there?
- 18 A Yes.
- 19 Q And one of the rooms was a -- one of the bathrooms was  
20 a room that's consistent with a -- a bathroom that was  
21 used by the children?
- 22 A Yes.
- 23 Q And the bathroom away from the master bedroom in the  
24 Ryen home?
- 25 A Yes.
- 26 Q The photographs indicated that there was no blood shed

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1 in that room; is that correct?

2 A That's right.

3 Q And because there was no blood shed, do you feel that  
4 some type of narrative description would have been  
5 necessary in this case to meet your standards as to that  
6 particular room, even if there wasn't visible blood in  
7 it?

8 A Yes. My answer to that is -- is based on my attitudes  
9 towards documentation of a crime scene and applies to  
10 the other rooms that you have referred to as well. When  
11 you say that the photographs don't indicate a blood  
12 distribution in the bathroom, it presuppose that someone  
13 took the photographs or did not take the photographs  
14 or made some type of value judgment as to what to take.

15 I think that a narrative description, even if it  
16 was just a paragraph long or a few paragraphs long,  
17 would -- would support the fact that there was not a  
18 blood distribution, and then reliance could be placed  
19 on the photographs. I think the two compliment one  
20 another, and, without the narrative, I think that there's  
21 -- there is a defect in that process.

22 Q Returning for a moment to the bedroom that appeared to  
23 be occupied by Joshua Ryen, the bedroom in which the  
24 photographs showed no blood splatter patterns, in that  
25 type of room, where the photographs show there is no  
26 visible blood, you still feel that there should have been



1       some type of narrative description?

2   A     Yes.

3   Q     And, for example, in this case, you would fault the  
4       sheriff's office for not doing that?

5   A     Yes.

6   Q     Okay. And --

7   A     Well, now, there are narrative descriptions on aspects  
8       of the same. But I do not feel that they're sufficiently  
9       complete to -- to document the scene in all respects.

10  Q     For example, the bedroom that appeared to be occupied  
11       by Joshua Ryen, what -- what type of description would  
12       you expect someone to note in a room where there were  
13       no visible blood splatter patterns?

14  A     Well, I think the narrative would -- would be unremark-  
15       able, to some extent. Clearly, it would be like a news-  
16       paper reporting all the cats that aren't lost any  
17       particular day. It would not -- the narrative would --  
18       probably wouldn't tell us much of anything worth knowing.  
19       But that sort of information is, in my mind, worth  
20       knowing, the fact that the -- the room is unremarkable.

21       The other thing, too, is that what's remarkable and  
22       what isn't remarkable has a -- a tendency of emerging  
23       later. And if that -- that sort of documentation is not  
24       obtained at the time that the scene is processed, then  
25       it's no longer recoverable. Frequently it's no longer  
26       recoverable at a later time, and that's another element

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1       in my thinking.

2   Q    In this case, the majority of the activity seemed to  
3       take place in the Ryen master bedroom; is that not  
4       correct?

5   A    Yes.

6   Q    And you have reviewed from the witness stand today a  
7       series of different diagrams, at least six, that were  
8       completed by investigators in this case of the -- their  
9       observations inside the Ryen master bedroom; is that  
10      true?

11   A    Yes.

12   Q    And you have reviewed, prior to today, I assume, correct  
13      me if I'm wrong, a number of photographs depicting items  
14      located in the Ryen bedroom when officers got there?

15   A    Yes.

16   Q    And isn't it true that the diagrams in the photographs  
17      would provide the type of documentation that you're  
18      talking about and that a written -- a separate written  
19      narrative in this case would not have been necessary?

20   A    Well, I disagree.

21   Q    You don't feel that the photographs in the diagrams  
22      adequately depicted the scene?

23   A    No. May I --

24   Q    Well --

25   A    -- give you an example?

26   Q    -- my next question is going to be what additional

1 information would you expect in some type of general  
2 narrative?

3 A. Well, I think that the type of general narrative that --  
4 that I have in mind is a description, and, to use an  
5 example, a description of a bloodstain appearing on the  
6 inside left leg of Christopher Hughes. The stain is  
7 fairly large, it's circular, indicates that it dripped  
8 down almost perpendicular or virtually perpendicular,  
9 which would suggest to me that -- that it had -- that  
10 blood had dripped off some object, quite possibly a  
11 weapon, after Christopher Hughes was dead. I think that,  
12 although that can be determined retrospectively from  
13 the photographs, that -- that looking at it in the  
14 photographs was no substitute for having it noted at  
15 the scene with all the people observing things for an  
16 extended period of time.

17 There's no evidence that I can see in the materials  
18 that I have examined that -- that that stain, which I  
19 consider to be a particularly critical one, was even  
20 acknowledged at the -- at the scene.

21 A narrative description of what the investigators  
22 were thinking about at the scene is what I'm referring  
23 to. And that's -- that's what I think is conspicuously  
24 absent.

25 Q So you're not -- well, your earlier descriptions of  
26 narratives of the other rooms would have been, for

1       example, the absence of items of evidentiary value, you  
2       mentioned that, didn't you? That should be in a  
3       narrative?

4   A    Yes.

5   Q    And things that may actually appear in the room?

6   A    Yes.

7   Q    Are those types of narrative important in the master  
8       bedroom, where we already have photographs and diagrams?

9   A    Well, I believe so. Now, the narrative that I am  
10       referring to and, I think, earlier today, this morning,  
11       I said that I thought that, to document a scene, care  
12       should be taken by the investigator to leave clear  
13       tracks, not -- not literal tracks, but figurative tracks  
14       as to what the investigator did do, what the investigator  
15       gave attention to, what the investigator considered,  
16       what the investigator did not consider.

17                (No omissions.)

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- 1 Q Would what he saw be important?
- 2 A Sure.
- 3 Q And you think that's the type of thing, even if we  
4 have photographs, that should be in a narrative, what  
5 people saw?
- 6 A Yes, I do.
- 7 Q And is it fair to say that that's one of the reasons,  
8 in your opinion, you would fault the investigation in  
9 this case?
- 10 A Yes.
- 11 Q Directing your attention to an exhibit which has been  
12 marked for identification as Exhibit H-379, have you  
13 reviewed those reports prior to testifying today?
- 14 A Yes, I have.
- 15 Q And those -- have you reviewed specifically the crime  
16 scene report that was prepared by Detective Mike Hall  
17 in this case?
- 18 A Yes.
- 19 Q And many of the things that we discussed here this  
20 afternoon that you claim should have been done were  
21 actually done in his report; isn't that true?
- 22 A Yes.
- 23 Q For example, this description of the outside of the  
24 Ryen home, he actually did that in this case, didn't  
25 he?
- 26 A Yes.

- 1 Q And description of what he saw inside the master  
2 bedroom in the Ryen home, he actually went into in  
3 great detail in his report itself; isn't that true?
- 4 A Yes.
- 5 Q And that included locating in terms of feet and inches  
6 various spots of blood inside the Ryen master  
7 bedroom; isn't that true?
- 8 A Yes.
- 9 Q And he also noted his observations inside of each  
10 and every room inside the Ryen home; isn't that  
11 correct?
- 12 A Yes. Well, I don't know that he observed -- if he  
13 recorded each and every of his observations, but  
14 clearly the -- his report is detailed in the  
15 observations that he -- that he did make.
- 16 Q Well, for example, there are descriptions by Mr. Hall  
17 of the rooms that were occupied as bedrooms by the  
18 children in this case; isn't that true?
- 19 A Yes.
- 20 Q And many of the things that you just suggested perhaps  
21 should be noted were in fact noted in his report;  
22 isn't that correct?
- 23 A Yes,
- 24 Q For example, the absence of items of evidentiary value?
- 25 A Yes.
- 26 Q Absence of blood?

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1 A Yes,

2 Q He even noted whether or not there were drapes in  
3 certain rooms; isn't that true?

4 A Yes, I believe so.

5 Q And he noted the position of certain curtain rods;  
6 isn't that true?

7 A I don't recall the curtain rods. It may be there,  
8 but I -- I don't recall that.

9 Q Well, in terms of documenting what actually was at the  
10 house in a narrative form, Mr. Hall did that in this  
11 case in his report, didn't he?

12 A Yes,

13 Q So is it fair to say that you don't have any  
14 quarrel with Mr. Hall's narrative report of what the  
15 scene at the Ryen house looked like when he arrived?

16 A Well, actually, again, not to be argumentative, but  
17 I do, because I -- I don't think that it's an appropriate  
18 procedure to have Detective Hall making a narrative  
19 description of aspects of the scene at the same time  
20 that other individuals have a -- have a responsibility  
21 for other elements of the investigation. I think  
22 that it's imperative that there be a closer relation-  
23 ship of -- of individuals who are constructing the  
24 narrative, those doing the fingerprint work, those  
25 doing the photography and those doing the evidence  
26 collection. The -- my -- my reading of the Hall

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1 report is that there are some aspects of the -- of  
2 the scene which he did not take cognizance of con-  
3 cerning which his report is silent. From that  
4 standpoint, I consider the documentation to be  
5 defective.

6 Q Well, the purpose, is it not, of writing a report of  
7 a crime scene is to record what the scene looks like;  
8 is that correct?

9 A Yes.

10 Q And perhaps to devise some foundation from which  
11 others at a later time may try to draw inferences  
12 based on what was seen at a crime scene; is that  
13 fair to say?

14 A Yes.

15 Q And is it fair to say that Mr. Hall in great detail  
16 recorded in writing what he observed in the Ryen  
17 master bedroom?

18 A Yes, I suppose,

19 Q And is it fair to say that with reference to the other  
20 rooms in the house in which there was no blood-letting,  
21 he recorded the type of information you have earlier  
22 testified would be necessary to record in a room in  
23 which an assault did not take place?

24 A Yes.

25 Q And is your quarrel with the report the fact that  
26 perhaps it should have been written by someone from

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1 the crime lab?

2 A Well, I wouldn't agonize over whether it should be  
3 written by someone from the crime lab. I do feel  
4 strongly, though, that the narrative should be  
5 written by someone who is intimately concerned with  
6 all aspects of the -- of the case. I do have some  
7 criticisms of the narrative Hall report in that I  
8 don't consider it to be as detailed in some respects  
9 as it could have been, and I would have that criticism  
10 apart from the fact that I'm skeptical of the -- of  
11 the efficacy of any situation where one individual is  
12 making a narrative, another individual is otherwise  
13 occupied in some other activity without -- well, in  
14 some other activity, period.

15 Q Well, what is your understanding of Mr. Hall's  
16 involvement at the crime scene on June the 5th?

17 A Well, I gather that he was given the assignment of  
18 conducting the initial scene report, the initial  
19 investigative report, describing the scene, performing --  
20 performing the narrative description of the -- of the  
21 case.

22 Q Would you consider a homicide detective who's assigned  
23 to a particular homicide, to a particular homicide  
24 scene, someone who is going to be involved with the  
25 case to the extent that they should be the one doing  
26 the narrative?

- 1 A No, no. Again, I don't really -- I don't agonize  
2 over -- over who it is that's conducting the narrative,  
3 It's the -- it's the division of responsibility that  
4 I quarrel with.
- 5 Q You feel one person should do the whole thing start  
6 to finish?
- 7 A I think two people should do the whole thing start to  
8 finish.
- 9 Q Regardless of the number of victims at a scene?
- 10 A Yes,
- 11 Q Regardless of the complexity of the scene?
- 12 A Yes.
- 13 Q Regardless of the premium to be placed on developing  
14 leads early on to apprehend a suspect?
- 15 A Yes.
- 16 Q Does the condition of deceased victims at a scene  
17 play any importance on how fast a scene should be  
18 processed?
- 19 A I think it's a subordinate consideration.
- 20 Q If it takes two people five days to process the  
21 scene, the victims, deceased victims, stay at the  
22 scene for five days, more or less?
- 23 A Well, that strains credulity. If -- if it was two days,  
24 I would have accepted that in this instance.
- 25 Q So in this case, if you and another criminalist were  
26 processing the scene, you wouldn't have had any problem

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1 with leaving the victims there for two days while  
2 the two of you processed the scene, as opposed to  
3 getting additional help?

4 A That's correct.

5 Q Does physical evidence that plays importance in  
6 reconstruction also consist of evidence that may be  
7 located by an autopsy pathologist?

8 A Yes.

9 Q And are there some time constraints that are placed  
10 upon how soon you should get a deceased person to the --  
11 to a pathologist so that he can start his examination?

12 A In some instances, I'm not sure that there would be.  
13 I think that certainly there's no reason that a  
14 pathologist could not be consulted in that respect,  
15 as it's my understanding was done in this instance.

16 Q Is it your opinion that in this case the autopsy  
17 should have started inside the Ryen master bedroom?

18 A No.

19 Q I believe you testified this morning that there were  
20 blood splatter patterns that may have had some  
21 significance in this case that would have required  
22 that they be documented?

23 A Yes.

24 Q And would you agree that there are methods to preserve  
25 splatter patterns that consist of, for example,  
26 photography?

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1 A Yes.

2 Q Are there other methods of preserving a splatter  
3 pattern?

4 A Securing the item upon which the blood was deposited.

5 Q You -- did you author a chapter in a book somewhere  
6 about blood splatter pattern analysis?

7 A Yes,

8 Q And did you list in there the steps that could be  
9 taken to preserve splatter patterns?

10 A I believe so, I haven't read that chapter in some  
11 considerable time.

12 Q Exhibit H-299, Chapter 14, Blood: Physical Investi-  
13 gation --

14 MR. NEGUS: What page would that be, Counsel?

15 MR. KOCHIS: I believe it's Exhibit H-299. It  
16 starts on page 167, and I believe it ends on page 181.

17 MR. NEGUS: Did you have a particular page I was  
18 asking?

19 MR. KOCHIS: At this point, no.

20 Q Do you recognize that document?

21 A Yes, I do, This is a chapter of -- chapter in Kirk's  
22 Crime Investigation that I edited.

23 Q Did -- you didn't write it, then, or did you write it?

24 A Well, actually, I think that -- yes. The major  
25 portion of that chapter is -- was written by myself.  
26 I don't recall what fraction of an unfinished chapter

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(No omissions.)

1 Q And when you wrote the chapter, did you have in mind  
2 setting out a guideline as to how blood splatter patterns  
3 could be documented?

4 A Yes.

5 Q Did you have in mind recording what type of information  
6 those patterns may give?

7 A Well, I illustrated what some -- what some of the  
8 distributions would appear -- would appear like, yes.

9 Q Did you attempt to cover what type of information blood  
10 splatter patterns could provide, what questions, if any,  
11 they could answer?

12 A Yes.

13 Q How much time did you spend with -- you spent a year and  
14 a half with the other chapter. How much time did you  
15 spend on that one?

16 A No, a year and a half was for the whole text.

17 Q How much time do you think you spent on Exhibit H-299?

18 A Well, I don't know in terms of -- of hours. I know that  
19 I spent more time on this than many of the other chapters.  
20 But I -- I just don't recall.

21 Q You mentioned in the book that one of the ways to  
22 preserve the patterns was through photographs; is that  
23 correct?

24 A I believe so, yes.

25 Q And you also mentioned that you could even take items  
26 of evidence.

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- 1 A Yes.
- 2 Q And potentially you mentioned that you could prove or  
3 you could draw inferences from blood splatter patterns  
4 as to the position perhaps of a victim when they were  
5 stabbed; would that be correct?
- 6 A Yes. Well, stabbed, bludgeoned, gunshot wounds.
- 7 Q And did you also indicate that the portion of the body  
8 from which they bled possibly could be established from  
9 splatter pattern analysis?
- 10 A Well, I don't specifically recall that. I think I would  
11 agree with it, clearly, from -- from my present attitudes.  
12 But I don't -- I don't recall what I had to say in that  
13 regard.
- 14 Q Did you give an example in the chapters as to what type  
15 of things that you may be able to draw inferences as  
16 to from splatter patterns?
- 17 A Yes.
- 18 Q Did that involve a situation where a victim apparently  
19 had been stabbed in an automobile?
- 20 A I don't remember that instance or that example.
- 21 Q How long ago did you edit the book?
- 22 A Fourteen years.
- 23 Q Then you don't -- you don't refer to it at this time?
- 24 A I don't use that text at the present time.
- 25 Q Did you feel the contents of the text were accurate when  
26 you edited it?

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1 A Yes.

2 Q And did you also indicate that potentially you may be  
3 able to add some clarity to the sequence of a crime  
4 from splatter pattern analysis?

5 A Yes.

6 Q And essentially those are the only questions you indicated  
7 in the entire chapter might have light shed on them  
8 through splatter pattern analysis; is that correct?

9 A No, that's not correct. There's -- there's a section  
10 that indicates the -- the appearance of blood spatters  
11 as -- as they fall on a target from various heights,  
12 so height can be determined, directionality can be  
13 determined, velocity can be determined, and the relative  
14 power of whatever course it is that's causing the blood  
15 to be shed can be determined. And a distinction can be  
16 drawn between high velocity blood spatter from a gunshot  
17 or from a -- from considerable impact and blood that's  
18 dropped from -- from a wound, nosebleed, whatever.

19 Q Well, in Chapter 14, you didn't indicate, did you, that  
20 one of the questions you might be able to draw inferences  
21 to answer would be number of assailants?

22 A I don't recall what I said relative to number of  
23 assailants.

24 Q You didn't indicate in that chapter that one of the  
25 inferences you may be able to draw from splatter pattern  
26 analysis would be the handedness of an assailant, did you?



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MR. KOCHIS: That's correct, Your Honor.

THE COURT: Who else are we going to have tomorrow?

1 MR. NEGUS: We're going to do Witherspoon tomorrow,  
2 but I'm assuming that we can --

3 MR. KOCHIS: We have no witness scheduled for  
4 tomorrow.

5 MR. NEGUS: We can probably do Witherspoon -- we had  
6 Monday morning open to us, I believe, in our schedule. If  
7 you're not -- if you're going to be here Monday morning --

8 THE COURT: I'll be here.

9 MR. NEGUS: -- I believe I'm going to be here. I got  
10 a call from my doctor, so I may be here in the afternoon as well.

11 THE WITNESS: I don't -- I don't see a discussion  
12 of handedness in -- in this chapter.

13 Q (BY MR. KOCHIS:) Is there -- did you mention that you  
14 could draw inferences anywhere in the chapter as to  
15 number of assailants?

16 MR. NEGUS: Objection. That's been asked and  
17 answered twice, I believe.

18 Q (BY MR. KOCHIS:) Well, I'm asking you to look -- you  
19 said --

20 THE COURT: I'll overrule the objection.

21 Q (BY MR. KOCHIS:) -- you can't recall. Could you take a  
22 moment, look through the document and see -- look through  
23 it -- look for two things: One, did you mention you  
24 could draw inferences as to number of assailants and,  
25 two, what, if anything, did you mention in the chapter  
26 could be inferred from -- from the splatter pattern

1 analysis.

2 MR. NEGUS: Objection, Your Honor, 352. I'm going  
3 to offer that chapter into evidence. You can read it and see  
4 for yourself.

5 THE COURT: It's foundational for cross examination.  
6 Look it over during the recess time, if you would.  
7 Ask another question, Counsel, and come back to it.  
8 You can answer that question tomorrow morning.

9 Q (BY MR. KOCHIS:) Generally, did you say in the chapter  
10 that one of the things you could draw an inference from  
11 from splatter patterns is possibly the point of origin  
12 from which the blood was shed?

13 A Yes.

14 Q And possibly the generating mechanism that caused the  
15 blood to be splattered?

16 A Yes.

17 Q Those are the types of things we're talking about when  
18 we're talking about blood splatter pattern analysis; is  
19 that correct?

20 A In part, yes.

21 Q Now, did you see in this case in the photographs  
22 splatter patterns that in your opinion would allow you  
23 to draw the inferences that we have mentioned?

24 A Yes.

25 Q Did you see any on the -- what appeared to be on the  
26 south wall, the wall behind -- at the head of the master



1 A Well, this -- the south wall is a rather spectacular  
2 distribution of blood. Certain of the photographs were  
3 taken at an angle other than perpendicular. And I would  
4 not rely upon those as much in interpretation. But  
5 the -- the other photographs that are taken at a 90  
6 degree angle are photographs that I am referring to,  
7 and there's two series, one with the bed in place and  
8 one with the bed removed. And either of those series  
9 would document the -- the distribution as well as can  
10 be documented at this point.

11 (No omissions.)  
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- 1 Q Did you see in the photographs patterns that were  
2 consistent with arterial blood?
- 3 A Yes.
- 4 Q Cast-off blood?
- 5 A Yes, probably.
- 6 Q Patterns that were consistent with medium velocity  
7 blood?
- 8 A Yes.
- 9 Q High velocity blood?
- 10 A Yes.
- 11 Q Were there patterns that were consistent with an  
12 object being brushed across them that had blood on  
13 it, for example, a human body?
- 14 A I recall something of a swipe in that distribution,  
15 but I -- I don't have it firmly implanted in mind.
- 16 Q From the photographs that you've referred to, the  
17 two photographs, in your opinion, is it possible  
18 with what you saw in the photograph to draw any of the  
19 inferences that we've alluded to today?
- 20 A Well, possibly. It possibly arises from -- from a  
21 deficiency in my knowledge as to the dimensions of  
22 the blood droplets. In none of the crime scene  
23 photographs was a scale in place to extrapolate  
24 the dimensions of the droplets.
- 25 Q Why would that be necessary?
- 26 A Good professional practice would -- would not only

1 indicate; it's indispensable to have a scale in  
2 photographs in which a blood spatter interpretation  
3 is being attempted to indicate the size of the  
4 droplets, to get an assessment of the velocity.

5 Q Well, have you attempted to do a reconstruction of  
6 that wall at this point?

7 A No. I -- I think there's some generalizations that  
8 could be made. My interpretation and my generalizations  
9 that I've made thus far are tentative, but I have not  
10 attempted to do a full-blown reconstruction in the  
11 ordinary sense of the word.

12 Q Have you been able to draw any tentative inferences  
13 as to the handedness of the assailant?

14 A Not really, no.

15 Q When you say "not really," do you mean none?

16 A Well, none that -- that I would wish to share, I'm  
17 not -- I'm not being adamant. It's just that I  
18 consider my work in this regard to be incomplete, and  
19 before I wanted a -- or before I committed myself,  
20 I would want to factor in some additional information,  
21 such as the size of the droplet.

22 Q Have you drawn any inference as to assailant from the  
23 information on the south wall?

24 A No.

25 Q Absent typing every drop of blood on the south wall,  
26 is there information on that wall, in your opinion,

0-1-2-3-4-5-6-7-8-9

21-3

1 based on your review of the photographs, that would  
2 allow you to draw any inference as to the presence  
3 of more than one assailant at this scene?

4 A I'm sorry, John. What was the question again?  
5 Absent -- absent typing every droplet on the south  
6 wall?

7 Q You've looked at at least two pictures of the splatter  
8 patterns on the south wall behind the Ryen master  
9 bed; is that correct?

10 A Well, there's an extended series, but there are  
11 probably two photographs that -- that document that  
12 distribution better than the others,

13 Q From the splatter patterns themselves, putting aside  
14 for a moment the issue of serological typing, do you  
15 see from the photographs the type of evidence that  
16 would allow you as a criminalist to make an inference  
17 as to the presence of more than one assailant in the  
18 master bedroom at the Ryen scene?

19 A No.

20 Q From the splatter pattern alone, do you see the type  
21 of information that would allow you to draw any  
22 inference as to the handedness of an assailant?

23 MR. NEGUS: Are we still talking about on the  
24 south wall?

25 MR. KOCHIS: On the south wall.

26 THE WITNESS: No. I think our -- our information

0-1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26



1 will -- the information that's available to me at this  
2 point is incomplete with respect to that issue.

3 Q BY MR. KOCHIS: From the splatter patterns alone of  
4 that south wall, other than the presence of more  
5 than one assailant, the handedness of the assailant,  
6 the presence of arterial and cast-off blood on the  
7 wall, is there any other information on the wall  
8 that you have seen that allows you to draw any other  
9 inference?

10 A I think that there's a -- there exists the possibility  
11 of correlating some of the distribution with the  
12 wounds on Douglas Ryen. This is -- this would involve  
13 some medical aspects of the wounding, and I don't  
14 consider myself competent to -- to comment on those,  
15 but I think that it's possible to sort out certain of  
16 the distributions as to whether they're -- whether  
17 they're multiple wounds or whether they're successive  
18 heartbeats of Douglas Ryen during arterial bleeding.  
19 I think the potential exists for doing that.

20 Q Is that the potential to separate perhaps possible  
21 cast-off pattern from arterial blood?

22 A Yes, and more definitively cast-off or arterial blood  
23 from high velocity blood.

24 Q Do you see any other inferences that you can draw  
25 from the splatter patterns on the south wall as a  
26 criminalist?

0-1-2-3-4

21-5

- 1 A Well, that issue I think would distinguish between  
2 the assailant striking the victim, Douglas Ryen,  
3 multiple times in that location as opposed to one  
4 wound which then expressed itself differently as  
5 the victim moved.
- 6 Q Are you talking about the neck wound?
- 7 A Well, again, I'm -- I would defer to the -- to the  
8 pathologist as to the potential of -- of various  
9 wounds to -- to produce blood in the quantities that  
10 we're speaking of,
- 11 Q Well, in this case, you said that one of the  
12 deficiencies of a photograph, if there is a  
13 deficiency, is that there's no ruler in the photograph?
- 14 A Yes.
- 15 Q And you've testified that apparently that results in  
16 a deficiency in that you can't tell how big the  
17 blood drop is?
- 18 A Yes, not from the photographs.
- 19 Q And, of course, that is not a problem in this case,  
20 is it?
- 21 A Not in the sense that the -- the wall has been  
22 removed. That could be done at this point, yes,
- 23 Q So have you actually looked at the wall yet?
- 24 A No.
- 25 Q And I take it by that, you have no quarrel with the  
26 proposition that we did -- we adequately preserved

0-1-2-3-4-5

1           whatever splatter patterns were on the south wall?

2       A    I think that there probably should have been additional  
3           samples taken of -- of the splatter. I have no quarrel  
4           with the premise that most, if not all, of that blood  
5           is from Douglas Ryen.

6       Q    My question would be, in your opinion, there's  
7           certain things a blood splatter pattern can tell you?

8       A    Yes.

9       Q    Certain inferences you can draw?

10      A    Yes.

11      Q    And taking the wall is certainly as good, if not  
12           better, than taking a photograph with a ruler, isn't  
13           it?

14      A    Yes. I -- I agree, and had that been coupled with  
15           an attempt to type some additional stains, then I  
16           think that that procedure would have been a good  
17           procedure. To take the wall and not follow it up  
18           with the typing that I think should have been done  
19           was -- was improvident.

20      Q    Well, to your knowledge, what samples were taken off  
21           the wall for serological typing?

22      A    I have a record of that, but I don't recall the number --

23      Q    Where's your record? Do you have the record with you?

24      A    No, no, but the number was rather abbreviated. It  
25           did not -- it did not represent a sampling from the  
26           various epics of blood distribution on that south wall.

1 Q Are you referring to the notes that Miss Schechter  
2 and Mr. Stockwell took at the scene and the subsequent  
3 typewritten report of the scrapings of blood that  
4 were taken from the scene?

5 A Referring to principally the typewritten reports, the  
6 subsequent laboratory reports that talked about the --  
7 that described the blood types.

8 Q My question was in terms of collection, what was  
9 collected. Are you relying on the typewritten report  
10 that had the blood typing of the samples that were  
11 taken from around the room in the Ryen master bedroom,  
12 including the south wall?

13 A Well, again, in part, but principally, I was relying  
14 on the typewritten report that described the -- the  
15 ABO and the enzyme typing of stains that were  
16 collected.

17 Q Have you reviewed documents of samples that were taken  
18 after that?

19 A Yes.

20 Q And do you recall what those documents consist of?

21 A The laboratory reports? I don't recall the dates of  
22 them. My previous answer actually included those  
23 subsequent reports of additional samples,

24 Q But in terms of the pattern itself, there's no  
25 question in your mind that we've preserved the  
26 pattern for you, for example, in terms of actual

0-1-2-3-4-5-6-7

1 size of the blood drops; isn't that correct?

2 A That's correct,

3 Q Distribution of the blood drops?

4 A Yes.

5 Q And that is an important piece of evidence, is it not,  
6 for you to look at to determine what questions could  
7 be answered from the wall; is that fair to say or not?

8 A I think that's fair.

9 Q And you haven't chosen to do that up until this point;  
10 is that true?

11 A No. I think that -- that -- no, I have not,

12 Q Do you intend to do it prior to the time the trial  
13 starts in this case?

14 A Well, I don't know. Mr. Negus and I have not discussed  
15 in detail the -- that particular aspect. In my mind,  
16 a crime scene reconstruction is not, at this point, or  
17 even at the point where I entered the case, totally  
18 feasible. Whether or not Mr. Negus prevails on me  
19 to attempt to do a partial one, we have come to no  
20 definitive opinion. We have discussed it and -- but --

21 Q So in terms of the things we discussed this morning  
22 and this afternoon in terms of reconstruction,  
23 specifically possible position of victims, possible  
24 position of an assailant, handedness, those are  
25 questions you haven't answered at this point; is that  
26 fair to say?

1 A Well, that's not totally true. The south wall --  
2 are we still talking about south wall?

3 Q South wall first.

4 A South wall, I think that there's no question as to  
5 the position of the victim, based upon the south  
6 wall. That's -- that's fairly straightforward.

7 (No omissions.)

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CONFIDENTIAL

1 Q Which victim?

2 A The victim Douglas Ryen. That's fairly clear.

3 Position of the other victims is -- is considerably  
4 more problematic.

5 Q So with Douglas Ryen, you can draw the inferences on  
6 his position based on the evidence you have reviewed  
7 already?

8 A Yes.

9 Q Is that from start to finish through the attack?

10 A No, because I haven't sorted out the distribution  
11 relative to the velocity of the blood and addressed the --  
12 the medical problem or medical issue of arterial versus  
13 multiple chop wounds.

14 Q Is it fair to say that at this point you still feel that  
15 you may be able to draw that inference?

16 A I think so. I think that it's -- I think the potential  
17 is there. Working in concert with a pathologist, I  
18 think that some additional sense can be made out of the  
19 south wall.

20 Q Peggy Ryen?

21 MR. NEGUS: Your Honor, could we break for the day?

22 THE COURT: Would you yield, Mr. Kochis?

23 MR. KOCHIS: Unless you want to go longer.

24 THE COURT: No; that's fine.

25 All right. We'll break until 9:30 tomorrow morning,  
26 be in recess until then. Thank you.

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