

Copy

SUPREME COURT - STATE OF CALIFORNIA

THE PEOPLE OF THE
STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

KEVIN COOPER,

Defendant-Appellant.

SUPREME COURT NO. CRIM 24552

FROM SAN DIEGO COUNTY

HON. RICHARD C. GARNER,
JUDGE

San Diego County Superior Court Case No. CR 72787

REPORTERS' TRANSCRIPT

VOLUME 90

November 21, 1984, Pages 3652 through 3752
November 26, 1984, Pages 3753 through 3825
November 27, 1984, Pages 3826 through 3930

APPEARANCES:

For the Plaintiff
and Respondent:

JOHN K. VAN DE KAMP
Attorney General
State of California
110 West "A" Street
San Diego, Ca. 92101

For the Defendant
and Appellant:

IN PROPRIA PERSONA

ROBERT L. ROACH, CSR #1727
DONNA D. BEARD, CSR #1874
Official Reporters
San Diego County Superior Court
220 West Broadway
San Diego, California 92101

Copy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
DEPARTMENT NO. 30 HON. RICHARD C. GARNER, JUDGE

THE PEOPLE OF THE STATE
OF CALIFORNIA.

Plaintiff,

vs.

KEVIN COOPER,

Defendant.

NO. OCR-9319

REPORTERS' TRANSCRIPT
November 21, 1984

APPEARANCES:

For the People:

DENNIS KOTTMEIER
District Attorney
WITH: JOHN P. KOCHIS
Deputy District Attorney
1540 Mountain Avenue
Ontario, California 91762

For the Defendant:

DAVID L. MCKENNA
Public Defender
BY: DAVID E. NEGUS
Deputy Public Defender
1060 West Sixth Street
Ontario, California 91762

ROBERT L. ROACH, CSR #1727
DONNA D. BEARD, CSR #1874
Official Reporters

COMPUTERIZED TRANSCRIPT

017199

INDEX_OF EXHIBITS

		I den. _____ In Evid.
297	3 x 5 Color Photo	3702
	A-87	
303	3 x 5 Color Photo	3679
	A-95	
410	3 x 5 Color Photo	3676
	T-13	
502	3 x 5 Color Photo	3676
	T-2	

STOCKWELL

DIRECT
 3498

CROSS
 3652

REDIRECT
 3779

RE CROSS
 3781

ELLIS BELL

3789

3794

RICK ROPER

3795

3808

3823

017200

1 SAN DIEGO, CALIFORNIA, WEDNESDAY, NOVEMBER 21, 1984, 9:38 A.M.

2 --ooOoo--

3

4 THE COURT: Mr. Negus.

5

6 DAVID C. STOCKWELL,

7 called as a witness on behalf of the People, having been
8 previously duly sworn, testified as folloed:

9

10 CROSS EXAMINATION (Resumed)

11 BY MR. NEGUS:

12 Q. Mr. Stockwell, returning for a minute to the
13 hallway, you -- yesterday you couldn't quite remember where --
14 exactly where the -- the UU-7 was; is that right?

15 A. Yes. I couldn't remember in relation to which was
16 Joshua's room and which was Jessica's room.

17 Q. In fact, this particular diagram, the -- let's see,
18 put an orange "A" next to one wall and an orange "B" next to
19 another wall so we can discuss them --

20 In fact, in the actual layout of the house the wall
21 that I have labeled "A" is in fact considerably shorter than the
22 wall that I have labeled "B"; is that right?

23 A. I don't recall right now if it is or not.

24 Q. Well, do you recall that between the two walls that
25 we have there that I've labeled "A" and "B", that in fact the
26 UU-7 was taken from the shorter of the two walls?

27 A. It may have been.

28 Q. Did you so testimony at the preliminary hearing?

0
1
7
2
0
7

1 A. I don't recall.

2 Q. At the preliminary hearing was your recollection
3 better than it is now?

4 A. It is could have been, yes.

5 Q. And were you trying to be accurate at that point in
6 time?

7 A. Yes.

8 Q. Showing you Exhibit 503, do you recognize that
9 exhibit as a Xerox of an outline of the Ryen home with various
10 numbers and letters filled in by yourself?

11 A. Yes.

12 Q. And the letters and numbers in orange are your
13 indications that at that point in time of the locations of the
14 various different stains in the UU series that you picked up; is
15 that right?

16 A. The ones in orange, yes.

17 Q. And so the No. 7 would be at that point in time of
18 your remembrance of where UU-7 was, right?

19 A. Yes.

20 Q. And the -- apparently the outline of this
21 particular -- appears to be that in that -- in this one the wall
22 which we've labeled as "A" appears to be considerably shorter
23 than the wall that we labeled as "B" in the smaller diagram; is
24 that right?

25 A. Yes.

26 Q. Now, the stain that you had labeled there as 8,
27 that stain was sort of -- didn't look like -- didn't look to be
28 blood, right, is that's correct?

1 A. It's listed only as material collected from the
2 hallway wall.

3 Q. What is, at least as far as you could tell with
4 your naked eye, 7 appeared to be a bloodstain, right?

5 A. Yes.

6 Q. Now was No. 7, was that discovered fairly low down
7 on the -- on the -- on the wall?

8 A. Yes.

9 Q. In your -- and you wouldn't -- would you consider
10 four-and-a-half or five feet above the ground to be fairly low
11 down?

12 A. It's easily accessible, yes.

13 Q. But if -- well, would you -- was there -- was the
14 particular drop, UU-7, four-and-a-half to five feet off the
15 ground?

16 A. It was no higher than that.

17 Q. Was it considerably lower?

18 A. I really don't recall how low it was. All I recall
19 is that it was five feet or below because it was easily
20 accessible.

21 MR. NEGUS: I'd like to read, your Honor, from the
22 preliminary hearing transcript Page 37 Lines 15 through --

23 MR. KOCHIS: I need a volume first.

24 MR. NEGUS: Volume XX, Page 37, Lines 15 through 38 Line
25 8.

26 THE COURT: Just a moment.

27 MR. KOCHIS: I have that.

28 THE COURT: Go ahead.

017203

1 MR. NEGUS: "Question:" To Mr. Stockwell:
2 "What was the form of UU-7? What pattern was it
3 was it a drop, smear?
4 "Answer: I don't recall offhand.
5 "Question: It was located in the hall near Josh's
6 bedroom?
7 "Answer: Yes.
8 "Question: Had you seen that on the night of June
9 the 5th?
10 "Answer: Not to my recollection.
11 "Question: Do you remember whether it was up,
12 down, where it was, whether it was high low or where on
13 the wall?
14 "Answer: It was fairly low on the wall.
15 "Question: Did it appear to be total five feet or
16 was it something less?
17 "Answer: It was not of a five feet impression.
18 "Question: UU-8 was on the same wall?
19 "Answer: No.
20 "Question: Well, what wall was it on?
21 "Answer: A-7 was on a fairly small wall A-8. It's
22 on the wall connecting to that small wall.
23 "Question: Okay. You said A-7 and A-8?
24 "Answer: Oh, I'm sorry UU-7 and UU-8."
25 Q. Was in fact the stain, UU-8, about shoulder height?
26 A. As I recall it was higher than that.
27 Q. How much higher?
28 A. It was above my head, and I stand approximately

017204

1 five foot eleven.

2 Q. The -- did you -- did you prepare a lengthy summary
3 of all the -- all the items of evidence that had been logged
4 into the crime lab as of June 6th, 1984, together with a
5 description of the various tests that had been performed on
6 those items?

7 A. Yes.

8 Q. Do you have that with you?

9 A. Yes.

10 Q. Could you -- could you look at A-36.

11 The description that you have in that A-36
12 indicates that that blood drop came from the shelves on the west
13 wall, right?

14 A. It states: "Scraped blood samples recovered from
15 shelves, west wall."

16 Q. Are you still sure that -- that you didn't take the
17 blood off the -- off the shelves?

18 A. I don't recall taking it exactly from the shelves
19 of that wall unit.

20 Q. But you don't recall where you took it from either;
21 is that right?

22 A. The blood that I recall collecting was either from
23 the dresser or the sliding door portion of that wall unit, as I
24 recall.

25 Q. When -- when you were -- when you were collecting
26 it, did you sort of like mark on the item of furniture itself,,
27 you know, with your initials, date and time and laboratory
28 number, the spots that you were removing the blood from?

017205

1 A. Excuse me. I'm not sure what items you're talking
2 about.

3 Q. A-36 -- Excuse me. I'm back to A-36 now.

4 A-36 at that point when you took that it off the
5 unit, wherever it was, did you sort of like make a little
6 notation on the unit that, you know, DCS, date and time,
7 laboratory number?

8 A. No, I did not.

9 Q. Have you seen Mr. Ogino do that procedure?

10 A. I don't recall having seen Mr. Ogino do that, no.

11 Q. Is Mr. Ogino one of the people that you sort of
12 did, I don't know, ride-along, whatever you call it when you're
13 in your training, as far as going to crime scenes?

14 A. I recall going to one crime scene with Mr. Ogino
15 during my internship.

16 Q. Did that involve the collection of blood?

17 A. No.

18 Q. Showing you for a second a big photograph, 8 by 10
19 photograph, Exhibit 205, and a smaller photograph, Exhibit 424,
20 does that -- do those photographs appear to depict the area, the
21 general area of the room from which you -- from which you
22 collected item A-37?

23 A. Yes.

24 Q. Okay. Now if you -- one's a little out of focus on
25 the walls, but on the bigger one you can see that there's
26 numerous drops, smears, and other different types of blood
27 deposited on those walls. It also would appear from the little
28 photograph that there's some blood on the typewriter where you

1 have the number, and then there's some blood around the corner,
2 there's blood on one wall on the sill, whole different areas of
3 blood in that particular thing.

4 Do you remember which one you happened to take the
5 blood from?

6 A. It was blood from the wall. I believe it was one
7 of the smears on that wall.

8 Q. You made -- Ms. Schechter made a note that it was
9 from the wall; is that right. I mean, is that how you know it's
10 from the wall?

11 A. I'm using the notes which states that it's a thread
12 sample, and I would have used thread samples on smears where
13 scraping action would not be sufficient.

14 Q. Well now, let's see. We may need another
15 photograph here.

16 There was also some -- some -- some smears on
17 the --

18 Well, can you distinguish between a smear on the
19 wall that you may have -- that you took the samples from, and a
20 smear on the molding? I mean, can you say that you didn't take
21 it from one of the smears on the molding, it was definitely
22 something on the wall?

23 A. No, I don't think I could say that.

24 Q. Okay. Showing you two other little photographs, if
25 I can put them up here, which would be Exhibit 274 and Exhibit
26 227, and first off directing your attention to some -- some
27 smears above the door latch on the -- on the molding there.

28 Can you eliminate those as possible donors of A-37?

0177207

1 A. Yes.

2 Q. How about -- there also appears to be a smear right
3 near the light switch on the wall there; can you eliminate that
4 as a possible donor of A-37?

5 A. Yes.

6 Q. So, then it would be basically one of the smears on
7 the molding down near Jessica on this little piece of wall that
8 is right on the border between the hallway and the -- and the
9 bedroom, or on one of the smears that appears around the corner
10 heading towards the filing cabinet; is that right?

11 A. Yes.

12 Q. As far as a criminalist is concerned, do smears and
13 drops of blood deposited on walls have different evidentiary
14 significances?

15 A. They may have.

16 Q. Did the -- did the various smears and drops in that
17 particular area of the room, did they appear to you to have
18 different evidentiary significance when you were observing them
19 on the night of June the 5th?

20 A. Not to the extent where I had collected them
21 separately, no.

22 Q. Well, I understand that. But did they appear --
23 but leaving aside, whatever is in them, did they appear to you
24 to have different evidentiary significance?

25 A. They had significance in that they were deposited
26 in different manners.

27 Q. Showing you a small photograph, Exhibit 425, does
28 that appear to depict the -- the area from which you took the

017208

1 sample that was labeled by you as A-38?

2 A. Yes.

3 Q. And that sample was again from a smear?

4 A. Yes.

5 Q. Do you know where on the smear it was from, whether

6 it was this big long one, the middle size one, or one of the

7 little ones?

8 A. No, I don't recall.

9 Q. That door still exists, does it not, in the loft of

10 the identification division of our Sheriff's Department?

11 A. I don't know if it does or not.

12 Q. You haven't seen it up there?

13 A. Not personally, no.

14 Q. Have you made any attempt at all to go back and

15 review that part of the physical evidence in this case which has

16 been -- was -- you know, was carted away and put in that loft to

17 determine whether or not you can tell where you got the various

18 blood samples from?

19 A. I have not, no.

20 Q. This is approximately the third time that you've

21 been asked about that particular area; is that right?

22 A. Yes.

23 Q. Showing you photograph 422, again, small

24 photograph, does that depict the area from which you got the

25 stain which has been labeled as No. A-39?

26 A. Yes.

27 Q. Was that stain -- was that a drop or a smear, or

28 something else?

017209

1 A. It was a smear.

2 Q. Okay. Was that from the -- from the doorway or
3 from the molding or do you know where?

4 A. I believe it was from the doorway.

5 Q. Okay, all right. It doesn't show too good in that
6 picture.

7 Well, do you remember whether it was from the main
8 part of the door or the edge or particularly where?

9 A. I recall that it was on the door. I don't recall
10 if it was the edge or the large broad surface.

11 Q. Then in -- in this whole area of the room near
12 where Peggy and Jessica were found, from wherever it was on
13 the -- on the -- on the bedroom shelving thing there over to the
14 area where Chris was, did you collect any drops of blood from
15 the walls?

16 A. A-36, along the wall unit were drops.

17 Q. Leaving aside the -- After you got past A-36, any
18 of this area up in here?

19 A. Are you including "A" 40.

20 Q. We have -- A-40 is over by Chris, is it not? I'm
21 talking about the area near where Jessica was found, Peggy was
22 found, from that wall unit over, all the way over to that?

23 A. In just that area, no. Everything I collected was
24 from smears.

25 Q. Showing you Exhibit --

26 By the way on the various smears that you
27 collected, can you say that it was just from one smear that you
28 collected it or did you get it from a variety? I mean, on each

017210

1 one like A-37, is that just one smear or is that more than one?

2 A. I don't recall, no.

3 Q. A-38?

4 A. Again, I don't recall.

5 Q. A-39?

6 A. A-39 would have been from one smear.

7 Q. The little No. 4 here indicates in photograph -- in
8 photograph 423, that indicates the location from which A-40 is
9 taken; is that right?

10 A. Yes.

11 Q. And the reason it just says four is sometimes,
12 well, before your arrival in the crime lab that number zero got
13 lost somewhere; is that right?

14 A. Those numbers are from Identification Bureau's kit
15 and they did not have number zero.

16 Q. Has that been a long-standing thing with them --
17 well, that doesn't matter.

18 Q. Where did you get the A-40 from?

19 A. There were various blood spatters in the form of
20 drops on the wall that included the vent sometime on that wall,
21 above the vent on that wall, and along the closet doors
22 immediately to the east of that vent.

23 Q. Well, did you take a collection from all of them
24 and just put them in the same little bin?

25 A. It was a collection of drops to provide sufficient
26 material for serological purposes.

27 Q. And how many drops would that be?

28 A. I don't recall.

017211

1 Q. Did they come from -- was it a sample a little bit
2 from each of the different areas to get a representative sample
3 of the whole area?

4 A. I can't say exactly how large the area was that was
5 covered. I took enough of an area to include enough blood drops
6 to give sufficient sample for serological purposes. Right now I
7 could not say how large of an area that encompassed.

8 Q. Finally, showing you a photograph which has been
9 marked as 418, that depicts the general area from which you
10 picked up your last drop or your last sample of blood, Exhibit
11 42, right?

12 A. Yes.

13 Q. Okay. The -- can you see that, where that was on
14 that wall? You can take it off if that makes it easier.

15 A. It's rather hard to see the exact sample that I
16 collected from that wall.

17 Q. Well, was it a drop or a smear or what?

18 A. I don't recall at this time. The notes don't
19 reflect that it was scraped or a thread sample.

20 Q. Well, I take it then you have no idea of what
21 manner of -- what particular shape it was in; is that right?

22 A. According to Mr. Gregonis' note as to what I wrote
23 on the metal canister, it was blood scraped from the wall and
24 therefore it would have been blood drops.

25 Q. Okay. But then I take it from your -- the way
26 you've answered the question that would it be correct to say
27 that you have no present recollection or memory as to the -- as
28 to the shape of that particular drop?

1 A. That's correct.

2 Q. Placing on the board next Exhibit 505.

3 You recognize that as the central portion of the
4 south wall that was removed from your particular, your
5 particular laboratory, or removed by the Sheriff's office and
6 deposited in your particular laboratory, right?

7 A. Yes.

8 Q. And you were present when I took that picture,
9 right?

10 A. Yes.

11 Q. Now, based on your training as a criminalist, all
12 these little drops of blood that one can see can be interpreted
13 to give certain types of information; is that right?

14 A. Yes.

15 Q. Starting at the most simple level. One of the
16 things that you can do is determine the direction that a drop of
17 blood was going when it hit the wall, right?

18 A. That is possible, yes.

19 Q. And that is a fairly straightforward procedure; is
20 that right?

21 A. Usually, yes.

22 Q. For example, there are -- well, there are certain
23 kinds of drops of blood which look like exclamation points,
24 right?

25 A. Yes.

26 Q. And you can tell which way those drops of blood
27 were going because they -- there's an general rule that based on
28 some stuff we don't have to go into right now, that the little,

0117213

1 the dot of the exclamation point indicates the direction in
2 which the little blood drop is traveling when it hits the wall,
3 right?

4 A. Yes.

5 Q. So, like on this particular, on this particular,
6 that particular part of the wall there were drops going up,
7 drops going down, drops going left and drops going right when
8 they hit the wall, right??

9 A. Blood was deposited from several directions on that
10 wall, yes.

11 Q. But up, down, left, right on the picture, right?

12 A. Yes.

13 Q. Now, the -- well, the drop of blood that you
14 collected, A-41, that appeared to be one drop of blood which had
15 been falling, more or less falling down due to gravity and was
16 coming at an angle very close to the angle of the wall, right?

17 A. Yes.

18 Q. And appeared to be just one individual drop of
19 blood as far as you could tell.

20 A. Yes.

21 Q. I mean there was separations in it, there was wall,
22 part of the molding, but at least you could say that was
23 consistent with being one drop of blood.

24 A. Yes.

25 Q. Okay. The amount of blood in that one drop, if one
26 were to use proper procedures, could one get, just from that one
27 drop alone, just about all the serological information which is,
28 which is normally used by your laboratory and other laboratories

0
1
7
2
1
4

1 working in the field to develop a profile of the person that
2 gave that blood?

3 A. Again, that depends on several factors. If it is
4 fresh blood within a week, say, many of the systems would yield
5 useful information.

6 Q. I'm trying to focus on quantity, quantity. Just
7 the quantity of blood that you scraped off the wall for A-41,
8 testing procedures being adequate, the blood being fresh, all
9 other things being equal, there was enough quantity of blood
10 there to do all the tests, right?

11 A. I can't say there was enough to do every single
12 test. That is possible.

13 Q. No --

14 A. For most of them, yes.

15 Q. All the tests that are commonly used by your
16 particular laboratory, and your particular laboratory uses
17 basically the standard, your particular laboratory generally
18 uses the standard tests that are, that are practiced in the
19 field of criminalistics in the State of California, right?

20 A. We do many of the systems that are possible. There
21 are some that we currently do not do that are fully capable of
22 being done.

23 Q. Just making it easy then, all the ones that you
24 guys currently do could be gotten out of a drop of blood, A-41,
25 if everything was equal.

26 A. Again, I can't say totally every system could have
27 been obtained from that drop. Most of them, yes.

28 Q. Were the drops of blood that you picked up from the

017215

1 wall unit, the A-36 drops, were they significantly smaller than
2 A-41?

3 A. The individual drops I do not recall as to that
4 item number so I couldn't say.

5 Q. From somewhere on that, on this wall, which is not
6 totally depicted in this picture, but somewhere either on that
7 central area or some other area, you took some, um, blood drops,
8 right?

9 A. Yes.

10 Q. Okay. And those were scraped.

11 A. Yes.

12 Q. And you have had a chance to examine the six
13 segments of that wall which have been taken back to your
14 laboratory, right?

15 A. I had the opportunity, yes.

16 Q. And you have examined them, have you not?

17 Q. Sat there and looked at it.

18 A. I have looked at it, I would not necessarily term
19 that an examination.

20 Q. Have you any idea where you took the drop of blood
21 from from that wall?

22 A. I believe I said I took more than one drop of blood
23 from that wall. No, I could not state exactly where they were.

24 Q. Okay. The -- on that particular, on that
25 particular wall, there appears to be big drops, little drops,
26 roundish drops, speckled drops, exclamation drops going all
27 different directions.

28 Do you have any idea which kind of those drops it

0117216

1 was that you took?

2 A. No.

3 Q. Do you know if you mixed the exclamation-type drops
4 with scalloped-type drops?

5 A. Those drops that I did collect were all placed in
6 the same containers. I don't recall which drops I did collect
7 and what their form was on the wall when I collected them.

8 Q. Let me ask it this way. When you were collecting
9 them, did you take care to make sure that all the drops that you
10 collected were going the same direction?

11 A. I don't believe so.

12 Q. Did you take care to make sure they were all the
13 same type as we have been using versus the scalloped, versus
14 exclamation, versus other types?

15 A. I don't believe so.

16 Q. From your training, are you aware of the proper
17 procedures to document photographically the patterns of blood on
18 a wall so that a criminalist can interpret them?

19 A. Yes.

20 Q. Does that involve eventually two things, having a
21 ruler in the picture so you can see what the dimensions are and,
22 if it is a flat surface making sure take the picture is at a 90
23 degree angle so that you can finalize parallax? I am not even
24 sure how to spell it. Maybe Mr. Stockwell knows.

25 A. Would you wish the spelling. P-a-r-a-l-l-a-x.

26 Those are two factors involved, and I would include
27 one more, that of a sense of orientation, you have to make sure
28 that you know what part of the wall you were taking a photograph

1 of.

2 Q. Okay. Well, that involves essentially taking some
3 sort of a note of what you took, or some other memory aid.

4 A. That, and include something in the photograph to
5 aid your recollection of that at a time, a later time.

6 Q. Alternate ways of doing it, right?

7 A. Yes.

8 Q. Did you -- you were working with Mr. Duffy on that
9 particular night, right?

10 A. Yes.

11 Q. And in the division of labor between crime lab and
12 I.D. bureau, having that particular knowledge was your
13 responsibility rather than Mr. Duffy's, right?

14 A. I would not say -- would not say it is totally my
15 responsibility.

16 Q. You don't expect him to have had training in
17 criminalistics to take the pictures, do you?

18 MR. KOCHIS: Your Honor, I am going to object.

19 THE WITNESS: No.

20 THE COURT: Yes, I will sustain the objection,
21 argumentative.

22 BY MR. NEGUS:

23 Q. Did you in fact ask Mr. Duffy to take pictures of
24 certain things?

25 A. Yes, I did.

26 Q. Did you ask him to take pictures of the various
27 blood splatters on the wall in such a way that a criminalist
28 could interpret them?

017218

1 MR. KOCHIS: I would object, lack of relevance. The
2 whole wall is in the crime lab. Any criminalist can look at it
3 and try to interpret it.

4 MR. NEGUS: Not the whole wall in the house, obviously.

5 THE COURT: Overruled.

6 THE WITNESS: I asked Mr. Duffy to take photographs of
7 the areas where I did collect blood from the walls.

8 BY MR. NEGUS:

9 Q. Did you ask him to do it with a ruler in place and
10 at a 90 degree angle with some sort of orientation so that you'd
11 be able to tell what drop you collected?

12 A. No.

13 Q. Did you ask Mr. Duffy to take photographs of the
14 bed as you successively took items off it?

15 A. I don't recall making that request.

16 Q. As you, for example -- as you took the comforter,
17 A-5, off the bed, did that reveal a bunch of blood, other types
18 of evidence, below the comforter which you couldn't see when the
19 comforter was in place?

20 A. I don't recall at this moment.

21 Q. Well, on, on -- or just before July 5th, 1983, when
22 you decided to cut out some blood drops from the, from parts of
23 the bedding, did you try and rearrange that bedding on the
24 laboratory table to determine, you know, what position it had
25 been in at the time of the crime?

26 A. I attempted to arrange certain items of bedding on
27 a laboratory table in order to orient where I found the shoe
28 impression on the top sheet.

017219

1 Q. And those items -- what items did those include
2 that you tried to orient?

3 A. As I recall the bottom sheet, the top sheet, and
4 the blue blanket.

5 Q. Did you also attempt to take, you know, photographs
6 at that point in time, photographs, and to study various stains
7 that appeared on the two sheets?

8 A. I photographed some impressions that were on the
9 sheets, yes.

10 Q. How did you go about arranging the sheets to try
11 and figure out what position they were in at the time that
12 the -- at the time of the crime?

13 A. First of all I could not necessarily orient the
14 sheets or the bedding in the order that they were in at the time
15 of the crime. All I could do was orient them at the time I was
16 at the scene and deputy Duffy was taking photographs of that. I
17 used those photographs to aid me in placing the items from the
18 bed back in their proper perspective.

19 Q. Did you have some photographs then of the bed first
20 with the comforter on it, then with, then with the comforter
21 removed, then with the blue blanket removed, and then like that?

22 A. I had several photographs of the bedding. Just
23 what orientation they were in at the time, I don't recall.

24 Q. During the first half hour you were there, were you
25 working really fast?

26 A. Not exceptionally, fast.

27 Q. During that first half hour, that, let's say, from
28 3:00 to 3:30, whenever you were interrupted by the call to go

017220

1 down and look at the hatchet, you collected, according to your
2 present memory, eight different items of evidence, right?

3 A. Yes.

4 Q. And each of those eight different items of evidence
5 were individually packaged, right?

6 A. Not totally.

7 Q. What were they?

8 A. As pointed out yesterday the tourniquet, A-4, and
9 the top sheet, A-8, were in the same container.

10 Q. I take it that before each of those, each of those
11 particular items were removed, did you do anything to try and
12 preserve any trace evidence, like hairs, or other things like
13 that that might be found on them?

14 A. We collected the bedding in a way from the physical
15 folding of them, in a way to help maintain any trace evidence
16 that was adhering to them and then placed them in paper sacks.

17 Q. How long did it take you to fold up the comforter
18 in that manner, in that careful manner?

19 A. I can't give the specific time for it. It would
20 have been minutes.

21 Q. 15 minutes or something like that?

22 A. Probably less than that.

23 Q. You did the same for the blue blanket and top
24 sheet?

25 A. Yes.

26 Q. Well, how long did it take you to check the
27 telephone wires to see if any of them had been cut?

28 A. I don't recall.

1 Q. Just a couple minutes?

2 A. It was longer than that.

3 A. Then was there sometime involved in going outside
4 around the house and picking up the rope and putting it in the
5 bag, or whatever you did with it, and then coming back in the
6 house again, that sort of thing?

7 A. There's time involved there, yes.

8 Q. After you got inside the bedroom, was there any set
9 up time involved? I mean, did you have to sort of setup your
10 equipment, get out your bags, that sort of thing?

11 A. The setup time mainly was done outside the bedroom.
12 I kept my equipment out near the patio.

13 Q. That reminds me. Would you clarify for the jury --
14 showing you Photograph 173, and specifically directing your
15 attention to what looks like a green box and cardboard box
16 outside the, outside the door of the Ryen house. Is that your
17 equipment?

18 A. No.

19 Q. Was that there when you got there?

20 A. I don't recall.

21 Q. Where did you have your equipment?

22 A. In this photograph, it would be off to the left
23 side of the sliding glass door.

24 Q. Right over here?

25 A. Yes.

26 Q. Well, you also, you also had to figure out your
27 numbering system, did you not?

28 Did you know what item you were going to call 1, 2,

1 3, 4, 5, 6, 7, that sort of thing?

2 A. Yes.

3 Q. You sat down and made that list out of the various
4 items that you were going to -- that you were going to collect;
5 is that right, 1 through 7?

6 A. Normally the items are listed in the order in which
7 they are picked up.

8 Q. Well, on this particular occasion you didn't do
9 that, right?

10 A. The only thing that was not done in that manner was
11 the pillow that was found on the bed.

12 It was assigned a number earlier but the time of
13 collection shows that was actually placed in a paper sack at
14 some later time.

15 Q. All right. Are you -- are you in essentially
16 relying on present recollection to tell us that or is that your
17 interpretation of the various notes and stuff that you managed
18 to save?

19 A. Both.

20 Q. When you were doing the bed, if an item were on top
21 of another item, did you remove the one that was on top first?

22 A. When possible.

23 Q. Do you recall any situation in working the bed,
24 where that wasn't possible?

25 A. Yes. With much of the bedding the various items
26 were intertwined at the foot of the bed.

27 Q. Well, basically the comforter was on top of
28 everything, right?

017227

1 A. For the most part, yes.

2 Q. Okay. And then the blue blanket was on top of
3 everything else, right?

4 A. I don't recall specifically, but I believe below
5 the comforter items began getting intertwined.

6 Q. Was there a -- well, let me back-up.

7 Were you attempting to take and package each and
8 every item that was found on that bed?

9 A. I can't recall specifically if my intentions were
10 to take every single item that was found on the bed, no.

11 Q. Well, were you trying to take each item that had
12 some evidentiary value?

13 THE COURT: Counsel, his subjective intent perhaps is not
14 at germane as what he actually did.

15 BY MR. NEGUS:

16 Q. To your knowledge, did you take everything on the
17 bed that had evidentiary value?

18 A. At the time, yes.

19 Q. What was the evidentiary value of the tourniquet?

20 A. It showed that there was someone there before we
21 arrived, namely, paramedics. We had information that Joshua
22 Ryen was found alive, that life-saving tactics were given. That
23 goes to show that someone else had been in the scene subsequent
24 to the attacks but before our arrival.

25 Q. There wasn't any -- it wasn't like there was any
26 blood or anything like that on the tourniquet?

27 A. Not that I recall, no.

28 Q. Placing on the board Exhibit 216, a sixteen by

1 twenty photograph of a portion of the bed and Douglas Ryen.

2 I would -- first I would direct your attention to a
3 blue item that is laying there at the foot of the bed.

4 Do you recall what that was?

5 A. I can't say for certain I knew what it was, it is a
6 blue elastic band of a nature.

7 Q. Like some sort of a -- like a girdle type thing
8 that you would use in exercising?

9 A. Possibly.

10 Q. It appeared to be elastic made of material, that
11 sort of thing?

12 A. Yes.

13 Q. Did you make a conscious decision not to seize
14 that?

15 A. I decided not to seize it, that's correct.

16 Q. Did it appear to you to be devoid of evidentiary
17 value?

18 A. Yes.

19 Q. What did you do with it when you decided not to
20 seize it?

21 A. I don't recall.

22 Q. Did you throw it on the ground?

23 A. I don't believe so.

24 Q. Excuse me. Did you throw it on the floor?

25 A. I don't believe so.

26 Q. Putting on the board photographs 502, 409, and 410;
27 do those appear to be photographs taken as various items of
28 bedding were removed?

0172255

1 A. They would be, yes.

2 Q. Okay. In -- In the top photograph, 502, you can --
3 that photograph was taken after the comforter was removed and
4 the sweatband was placed somewhere, but before the removal of
5 the blue blanket; is that correct?

6 A. Those items are -- have been taken off the bed,
7 yes.

8 Q. Okay. Once you got the comforter off and put in a
9 bag you didn't put it back on again; right?

10 A. Right.

11 Q. And did it too with the blanket and other items?

12 A. Right. What I meant to say is I don't know what
13 else may have been taken off the bed at that time.

14 Q. Well, all right. Between the comforter and the
15 blue blanket, the only thing that -- that you had was the gold
16 crown, right?

17 A. Did you mention the tourniquet? That was also --

18 Q. Between -- The tourniquet came off before the
19 comforter, right?

20 A. Right. It was something, though, in addition to,
21 that was removed.

22 Q. Between -- between the time of the -- between the
23 time of the comforter and the time of the blue blanket, the only
24 thing that came off was the gold crown, right?

25 A. Yes.

26 Q. Was the bathrobe -- The bathrobe is what's circled
27 in blue on the two bottom pictures that we have there; is that
28 right?

1 A. Yes.

2 Q. The bathrobe was -- was laying over the top sheet,
3 right, as it was revealed after you got the blue blanket and the
4 comforter off?

5 A. Yes.

6 Q. What did you do with the bathrobe while you were
7 taking off the top sheet?

8 A. I don't recall.

9 Q. Is it possible you took it off before you took off
10 the top sheet in a sort of logical manner?

11 A. I don't remember packaging it before taking the top
12 sheet.

13 Q. Well, the packaging got changed around quite a bit
14 there as you were -- as you were working, right? I mean, that
15 you started with one I.D. and then you went to the other.

16 A. I'm not sure what you mean by "packaging was
17 changed around".

18 Q. Well, like with this bag here, Exhibit 501, you
19 were first going to put a whole bunch of things in one bag, then
20 you changed it at some point in time; is that right?

21 A. Yes.

22 Q. So is it -- it at least is possible that you could
23 have taken off the item on top first, the blue blanket, even
24 though you might have earlier assigned them a number in a
25 different sequence; is that right?

26 A. I don't believe there's a discrepancy between the
27 order in which it was taken off and the itemization it was
28 given.

1 THE COURT: Find a point that's convenient.

2 MR. NEGUS: I'm getting there real quick, I hope.

3 Well, I guess maybe I better do it afterwards.

4 THE COURT: This is it? Okay.

5 MR. NEGUS: That wasn't what I planned, but that's it.

6 THE COURT: We will take the morning recess. Remember
7 the admonition, please.

8 (Recess taken.)

10 THE COURT: Please continue.

11 BY MR. NEGUS:

12 Q. Showing you Exhibit 303, does that appear to be a
13 picture of the area where Doug Ryen was taken after the
14 Coroner's Office had removed his body?

15 A. Yes.

16 Q. Anything -- any item of evidence that you seized
17 that you recognize in that particular picture?

18 A. The bottom sheet from the bed.

19 Q. That's A-10?

20 A. Yes.

21 Q. Okay. Anything else?

22 A. I would have collected blood from the night stand.

23 Q. Okay. Anything else?

24 A. I would have collected blood from beneath his body,
25 a standard blood sample. That's all I can recall at this point.

26 Q. Okay. That little clock -- this is -- this thing
27 here is -- right there at the top of the picture on the
28 nightstand, that's a clock and barometer type thing?

1 A. Appears to be so.

2 Q. Was the -- was the clock -- was the clock running
3 and showing correct time while you were there?

4 A. I don't recall.

5 Q. Can a clock have evidentiary significance in a
6 crime scene?

7 A. Sometimes.

8 Q. Did you examine it at the time, do you recall?

9 A. I don't recall examining it.

10 Q. According to your memory, all of the items except
11 A-11 up through A-15 were removed before the bodies of the
12 victims were taken out, right?

13 A. That is what the notes reflect, yes.

14 Q. And that was your testimony this morning and
15 yesterday?

16 A. Yes.

17 Q. Does that photograph that I placed on the board,
18 does that shake your confidence in your testimony?

19 A. To the extent that apparently the body has been
20 removed, the bottom sheet is still on the bed.

21 Q. So, obviously you're wrong about the bottom sheet,
22 right?

23 A. Wrong to the extent that it was not actually in a
24 paper sack.

25 Q. Well, except for the fact that it's been sort of --
26 it's been sort of scrunched up there at the top, the bottom part
27 still seems to be tucked into the side of the bed, right?

28 A. As it appears, yes.

01172299

1 Q. So you hadn't actually moved it or anything of that
2 nature when the bodies were removed, right?

3 A. Apparently so.

4 Q. And showing showing you again photograph 176, there
5 was a good reason for that, right?

6 A. Naturally, Douglas Ryen was leaning against it.

7 Q. So, you couldn't remove the sheet and take it away
8 and package it until the people came and took Douglas's body
9 away, right?

10 A. Yes.

11 Q. Having been wrong about that then, do you still
12 have the same level of confidence in your testimony about the
13 order in which you collected the other items?

14 A. I'm not necessarily sure I am wrong. I don't
15 believe I ever stated a time for the bottom sheet, for in the
16 notes there is no time listed for item A-10, the bottom sheet.

17 Q. Well, Mr. Stockwell, you told us that with the
18 exception of the pillow, you collected them all in order, right?

19 A. I believe those were my words, yes.

20 Q. And you also told us yesterday that you collected
21 the bottom sheet before Douglas Ryen's body was removed, right?

22 A. I don't recall if I did say that.

23 Q. Well, you certainly had to be wrong at least about
24 the order in which the items were collected; will you give me
25 that?

26 MR. KOCHIS: Your Honor, the form of the question is
27 argumentative.

28 THE COURT: Yes, it is. Sustained.

017230

1 BY MR. NEGUS:

2 Q. Is it true -- will you -- Do you acknowledge that
3 you are at least wrong about the order of the -- in which you
4 seized the particular items?

5 A. The physical placement of the items in containers
6 is not in order.

7 Q. And the removal of them from the bed is not in
8 order, right?

9 A. By the item listing they appear to be in order.

10 Q. The -- A-14, a number higher than A-10, was
11 collected before 6:00 o'clock, right?

12 A. Yes.

13 Q. And the body of Douglas Ryen was not removed until
14 approximately 9:05, right?

15 A. I don't know the exact time of his body removal.

16 Q. It was during the time that you -- it was around
17 the time that you were collecting items A-16 through A-11,
18 right?

19 A. That sounds about right.

20 Q. By the way it looks from the photograph here like
21 you collected the pillow, A-11, before you collected the bottom
22 sheet, right?

23 A. I don't know that I can necessarily tell from that
24 photograph.

25 Q. At least the pillow is not where it was when you
26 first got there; it somehow got moved; right?

27 A. I don't know. I would need to see more
28 photographs.

0-11-7-2-3-7

1 Q. Does that photograph show the position where the
2 pillow was when you arrived -- Oh, I will give you back the
3 other one for reference.

4 Showing you again the larger photograph, 176, the
5 area of the pillow in fact extends all the way over to the
6 nightstand, does it not?

7 A. It appears to, yes.

8 Q. So the pillow at least got moved then before that
9 picture was taken?

10 A. Apparently so, yes.

11 Q. Mr. Stockwell, do you have any reluctance to admit
12 when you're wrong?

13 A. I don't like to be wrong. I may have some
14 reluctance to admit it, but if I'm honestly wrong I will admit
15 it.

16 Q. Let me try and find the form of the question that
17 we can -- without --

18 Mr. Stockwell, did -- does the photograph that I've
19 shown you and the inferences which can be drawn from that
20 photograph shake your confidence as to the order --

21 MR. KOCHIS: Your Honor, I would object.

22 MR. NEGUS: I would withdraw that question.

23 MR. KOCHIS: His confidence is --

24 THE COURT: It's withdrawn.

25 BY MR. NEGUS:

26 Q. Does the photograph which I've shown you and the
27 inferences which can be drawn from that make you believe that
28 there's a possibility that you were wrong about the order in

1 which the other items were taken?

2 A. All of the other items? No.

3 Q. Well, just your general proposition that, for
4 example, you're sure that you took item 8 before item 9?

5 A. I feel good about those items. They have times
6 listed. I feel those times are accurate.

7 Q. The written list that you prepared yourself prior
8 to your going down the hill to look at the axe has 1 through 7
9 on it, right?

10 A. Yes.

11 Q. Then the list that you -- that was after that list
12 of 1 through 7 was completed, you and Ms. Schechter changed your
13 entire procedure of working and she was assigned the task of
14 taking notes and you essentially seized that particular task; is
15 that right?

16 A. First, I would say we did not change our entire
17 procedure; and second of all, she did take most of the notes
18 after that.

19 These notes do reflect some of my own handwriting,
20 so I know that I have added things to these notes even after the
21 first page.

22 Q. Okay. But there was at least, in your
23 documentation there was a basic gap or break or change, a basic
24 change between the way you listed items 1 through 7 and the way
25 you listed items 8 through the rest of it, through 45, right?

26 A. Yes.

27 Q. Didn't that reorganization of the way you were
28 doing things, didn't that take place in the gap of time after

- 1 you got back from the -- from the picking up the axe?
- 2 A. No.
- 3 Q. In this bottom photograph, which has laboratory
4 number T-13 on it, the top sheet is still in place, correct?
- 5 A. Yes.
- 6 Q. When you came back and were removing items --
7 After you picked up the axe, had Mr. Duffy shifted
8 his duties from taking photographs to lifting fingerprints?
- 9 A. I don't recall that.
- 10 Q. Item A-9 -- Well, the -- there are, in the notes
11 that you have there, various errors as far as correctly
12 designating things in military time, is that right, that is,
13 people -- there is some sign that the person that wrote the --
14 those notes as to times made mistakes as far as their
15 designation of things in military time, right?
- 16 A. Yes.
- 17 Q. And if you look at, starting on the page where Ms.
18 Schechter started taking the notes, you have a time of 1527 for
19 A-8 and then 1732 for A-9; is that right?
- 20 A. Yes.
- 21 Q. And then the next one where she has a time, that
22 would be 1747; is that right?
- 23 A. A-11 occurs before that and has a time as well,
24 although it's --
- 25 Q. We've already decided that A-11 happened later,
26 right? That's out of sequence?
- 27 A. The actual placement of it into the sack, yes.
- 28 Q. Is it possible that you were starting to work on --

0
1
7
2
3
4

1 on A-8 when you got the -- when you got the news that they had
2 found the axe and sort of left it there and on the bed and
3 didn't actually put it into a package until you got back?

4 A. No, not according to the times listed.

5 Q. Okay. Well, the times listed don't tell you when
6 you put the things in the package is what I -- I mean, they
7 list -- they are just a time listed?

8 A. On the contrary, I think that is what they refer
9 to, is the times they were actually placed in a package.

10 Q. The 1527 that you -- that you wrote here on the bag
11 where it says "A-8", did you write that before you put the sheet
12 in the bag?

13 A. As I placed the sheet in the bag.

14 Q. You are placing the sheet in the bag and writing at
15 the same time?

16 A. Relatively speaking.

17 Q. In terms of steps, in terms of Step 1, Step 2, Step
18 3, Mr. Stockwell, did you first write on the bag so that the
19 writing would be on the bag and it wouldn't sort of disturb
20 whatever you put in the bag by writing on it? Did you do that
21 first, that step first?

22 A. I don't recall the exact step-by-step nature,
23 whether I wrote on the bag first and placed the sample then into
24 the bag or placed the sample into the bag and then wrote on the
25 bag.

26 Q. Well, as far as -- the only thing that you're, that
27 you're relying on as far as your particular -- your particular
28 memory of what happened on that particular afternoon about when

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

1 the sheet was placed in the bag is the time that you wrote on
2 the bag; is that right? I mean, you have no clear recollection
3 now of -- of doing that particular act; is that correct?

4 A. I rely on the notes, yes, to refresh my memory as
5 to the actions on that date.

6 Q. So if the notes are confusing and ambiguous and in
7 conflict with other evidence that we have, then your memory
8 could be the same?

9 MR. KOCHIS: I would object. That's argumentative.

10 THE COURT: I'm not sure. Repeat the question, please.

11 MR. NEGUS: I will try and rephrase it.

12 Q. Is it true that your memory is no better than your
13 notes?

14 A. I can recall some things that are not in the notes
15 at this day, things that I did not think to write in notes at
16 that time. On other subjects there are things in the notes that
17 I would not remember today, but I rely on my notes to refresh my
18 memory.

19 Q. Time and sequence I take it are one of the later;
20 is that right?

21 A. Yes.

22 Q. I note yesterday -- is it true like, for example,
23 yesterday when Mr. Kochis would ask you a question about that,
24 that you had to sort of even look up to see what was A-7, what
25 was A-8, and what the sequence of items collected was?

26 A. Yes.

27 Q. With respect to this particular sheet, do you feel
28 it's important to testify that it was collected as early as

1 possible to minimize the possibility that one of the many people
2 who were coming through that master bedroom may have left the
3 foot impression that you've testified about?

4 A. I feel it is important to tell the truth.

5 Q. That wasn't the question exactly that I asked you.
6 Would you try and answer the other question?

7 A. I don't know that I can answer that particular
8 question. Why do I feel it's important? I feel it's important
9 for telling the truth. It may also be important as to the time
10 that the sheet was collected for the very purpose that you spoke
11 of.

12 Q. By the way, is one of the requirements of being a
13 good criminalist that you have a certain amount of manual
14 dexterity?

15 A. I don't know that that is a requirement.

16 Q. You can't go around dropping evidence and
17 throwing -- dropping photographs and that kind of stuff, like
18 for example, I wouldn't make a good criminalist, right?

19 A. I would not necessarily say that.

20 Q. Let's see. I guess we are going to have to do this
21 by halvesies.

22 The big hole that's missing from that particular
23 sheet was not taken by yourself, I mean, it was not removed by
24 yourself; is that right?

25 A. That's correct,

26 Q. The little holes though, which have a little letter
27 in it, looks like a black, some sort of marking pencil next to
28 the, next to the, next to them, those were the ones that were

1 removed by yourself on July, July the 5th; is that right?

2 A. Yes.

3 Q. Now, putting on the board Exhibit 507, is that an,
4 is that a photograph of the sheet, this particular sheet, before
5 this big hole was taken out of it, but after all the little
6 holes were taken out of it?

7 A. Yes.

8 Q. And -- okay. And obviously you were present when
9 the photograph was taken and Mr. Forbush is sort of hiding
10 behind the other corner there, and that was taken approximately
11 in December of 1983; is that correct?

12 A. I believe so.

13 Q. Now, before you cut these little holes out, did you
14 take that picture, such as the one we have up here, of the sheet
15 in its uncut condition?

16 A. No.

17 Q. Did you take any pictures of the individual drops
18 of blood that you, that you cut out, before you cut them out?

19 A. No.

20 Q. When you test the drops of blood that were cut out,
21 does their position on the little piece of cloth, does their
22 condition on the little piece of cloth-cut become altered?

23 A. The sheet itself has been altered, the stain itself
24 is just replaced into another container.

25 Q. Okay. But the stain -- when you take them and you
26 do the electrophoretic testing, do that kind of stuff, at that
27 point in time did the little pieces of cloth -- I guess it is
28 "D" -- does "D" look the same after it's been tested as when --

017278

1 as before you cut it out?

2 A. No.

3 Q. How many different, how many different areas did
4 you cut stains from on that particular date, July 5th?

5 A. From this item alone, or all of the items?

6 Q. We're only with just one sheet at the time.

7 A. ll.

8 Q. Were those just randomly selected samples?

9 A. There was some thought that went into the
10 collection of each and every sample. In that sense it was not
11 random.

12 Q. Was there a sense in which it was?

13 A. Yes.

14 Q. What sense was that?

15 A. Samples were taken from various portions of the
16 sheet where the patterns suggested that they had been deposited
17 by separate sources.

18 Q. You can sit down. I think we're going -- what do
19 you mean by "patterns"?

20 A. The shape and style of the stains, as they appeared
21 on the sheet, suggesting different manners in which they were
22 deposited upon the sheet.

23 Q. When you -- when I originally packaged that sheet,
24 did you and Ms. Schechter both work on it?

25 A. I believe it was both of us that packaged it, yes.

26 Q. Okay. And basically you were -- you were trying to
27 work over the bed so that if you dropped anything off the --
28 that particular sheet, it would just fall back on down to the

017239

1 bed and get caught up in one of the other items of bedding; is
2 that right?

3 A. Yes.

4 Q. Do you remember exactly how you arranged that?
5 Was one standing on one side and the other on the other side of
6 the bed. How did you do that?

7 A. As I recall that was a close approximation to our
8 positions as we folded the sheet.

9 Q. As that sheet exists now, the blood on it is all
10 pretty much dried out; is that right? I mean, there is no --
11 hopefully no wet blood on there?

12 A. It is dry blood, yes.

13 Q. Was that the case when you were, when you and Ms.
14 Schechter were folding it up?

15 A. I believe so, yes.

16 Q. Did you check to see?

17 A. Just to some extent, yes.

18 Q. What do you mean by that?

19 A. I checked over as much as of the sheet as I could,
20 in the manner that it appeared on the bed.

21 Q. Then when -- well, like up in here. Did you check
22 up in that area where it seems a little heavier than some of the
23 others?

24 A. I believe I did.

25 Q. You are not sure?

26 A. Not totally sure.

27 Q. Did you and Ms. Schechter just then fold it up into
28 a bunch of different parts?

017240

1 A. Yes.

2 Q. So, you like halvsies, and then halvsies and on
3 down until you got it to a manageable size.

4 A. Yes.

5 Q. Was that the same procedure that you followed with
6 all of the different comforter, the blanket and the other sheet?

7 A. Yes.

8 Q. All done over the bed?

9 A. To the greatest extent possible, yes.

10 Q. Then there was also a pad, No. A-12, underneath the
11 mattress; is that right?

12 A. Yes.

13 Q. That pad, did that get packaged with one of the
14 sheets for a time until you got it back to the lab?

15 A. Yes. The notes state that it was packaged with the
16 bottom sheet.

17 Q. The pad was a thicker, a thicker piece of material
18 than the cotton sheet?

19 A. Yes.

20 Q. And if you just qualitatively, the bottom sheet was
21 a lot, had a lot more, you know, blood on it than the top sheet;
22 is that right?

23 A. Yes.

24 Q. I mean the actual mass.

25 Putting on the board also item 506. Is that a
26 picture of the bottom sheet taken at the same time and same
27 place as the top sheet?

28 A. Yes.

1 Q. When you and Ms. Schechter folded the bottom
2 sheet -- let's see.

3 Well, is that sheet being held so that the slightly
4 longer part of the sheet is being held horizontal and the
5 slightly shorter dimensions of the sheet is being held vertical,
6 right?

7 A. I really can't tell the dimensions. That could be.

8 Q. Well, okay. In the photograph there -- well, let
9 me just -- actually your head would be to the, to the bottom of
10 the sheet as it actually lay on the bed; is that right?

11 A. I don't believe that is actually the way it was on
12 the bed.

13 Q. But, the top of the photograph, the portion of the
14 sheet depicted on the top of the photograph would have been
15 towards the top of the bed portion, where your head is would be
16 towards the bottom of the bed, right?

17 A. That -- to that limited extent, yes.

18 Q. Now, in fact this photograph is a photograph of the
19 side of the sheet that was towards, was towards the mattress of
20 the bed, that is not the part of it that's facing up, correct?

21 A. Yes.

22 Q. Okay. So, this big glob of blood over on the left
23 side, that would have been the area where Doug Ryen was laying.

24 A. Yes.

25 Q. When you and Ms. Schechter folded up that sheet,
26 did you do the same process? That is, take this particular side
27 and fold it over to that particular side?

28 A. I don't recall which side met which side. That was

0177242

1 the general sequence in which we did fold it.

2 Q. That particular sheet was still partially wet,
3 right?

4 A. I don't recall.

5 Q. In your opinion, if a sheet is dry, there is no
6 danger of transfer, for example, of blood from this stain over
7 to this -- one of these stains, if in fact they are folded
8 together, right? Is that right?

9 A. That's correct.

10 Q. But, you would -- would you agree that if in fact
11 the sheets are damp, there is such a danger?

12 A. Yes.

13 Q. The blood on the bed underneath Doug Ryen, had sort
14 of like become jelled without necessarily being hard.

15 A. The term is coagulated. Yes, there was coagulated
16 blood underneath Douglas Ryen.

17 Q. Well, okay. I am not trying -- I don't know, I am
18 not trying to be technical.

19 Was the blood sort of in a jelly-like state as
20 opposed to being hard?

21 A. Some of it was, yes.

22 Q. And that would have been some of the blood on the,
23 on the plastic mattress directly underneath this big hunk right
24 here, right?

25 A. I don't really recall if the portion that was on
26 the mattress itself was -- I recall in the crevice between the
27 mattress and the side of the bed, that in that crevice there was
28 that coagulated blood.

017243

1 Q. This whole area was tucked in, right?

2 A. I believe part of it was.

3 Q. From approximately where you start seeing that
4 whole area, where you don't see any spots down here, and that
5 whole area in there, that was all tucked like on the photograph,
6 left three-quarters of an inch or so?

7 A. It may have been, I can't state for certain.

8 Q. In the crevice where the jelled blood was, right?

9 A. Maybe, yes, into the crevice.

10 Q. Did the mattress pad have heavy concentrations of
11 blood on it as well?

12 A. I don't recall just how heavy the concentration on
13 the -- were on the mattress pad.

14 Q. Well, the blood that had been on top of the, on top
15 of the sheets, had like soaked through to the bottom, sort of,
16 you know, had caking on it there on the photograph?

17 A. Yes, it may have.

18 Q. Did you put the folded up mattress cover on top of
19 A-10 in the bag?

20 A. I don't recall which order they were actually in
21 the bag, they were side by side one on top of the other.

22 Q. Did -- did this -- showing you on the actual sheet
23 a sort of the speckled area which I will label with a
24 corresponding point on the photograph with a red "A". That
25 would be the corresponding point on photograph 507.

26 When you were, when you were looking at that, did
27 that appear to have any evidentiary significance to you?

28 A. On July?

1 Q. On June the 5th.
2 A. July 5th.
3 Q. You didn't really look very closely on June the
4 5th, right?
5 A. Not in any detail, no.
6 Q. So the time you studied it was July 5th.
7 A. July 5th.
8 Q. Did you have -- on July 5th did that appear to have
9 any evidentiary significance to you?
10 A. Yes, it would have had some. Just the fact that it
11 was blood on the sheet is evidence. I did not cut it out for
12 serological purposes.
13 Q. I know that. But did you say, okay, that's not
14 important, it didn't appear to have any evidentiary
15 significance?
16 A. I did not say that, no.
17 Q. When you looked at it did you interpret that
18 particular pattern?
19 A. No, not that I recall.
20 Q. There is a trail of blood which I will put a "B"
21 for on the photograph and indicate to you on the sheet appears
22 to be a line of blood drops.
23 Did you interpret that pattern when you were
24 flipping out the spots for comparison?
25 A. No.
26 Q. Showing you a brown stain on the, on the sheet,
27 which would be located at the approximate spot where I put a red
28 "C" on the photograph.

017245

1 Does that stain appear to you to be blood? Is that
2 like -- did I put it in the right spot?

3 A. That's what I'm checking. No, it does not look
4 like blood to me.

5 Q. Did you analyze that to find out what it was?

6 A. No.

7 Q. The -- the spot that was labeled, I believe "C" on
8 the -- on the sheet, what was it about that particular spot that
9 made it of evidentiary significance worth doing serological
10 analysis?

11 A. There is a pattern of blood in this general
12 location, and I took one sample of it. It is divided from the
13 first sample I took, "A", up in here, by a somewhat intervening
14 space where there's not as much blood.

15 Q. So you were trying to take samples from each of the
16 different geographical areas of the sheet?

17 A. To some extent, yes.

18 Q. What do you mean by that?

19 A. I did take samples throughout the entire surface
20 area of the sheet as representative samples at least.

21 Q. When you were taking the samples, did you -- did
22 you have the -- did you have the photographs that Mr. Duffy had
23 taken of the bed before you so you could try and determine from
24 the position of the sheet at the time that it was found, you
25 know, what would be the more likely areas that would be -- have
26 some sort of evidentiary significance?

27 A. I don't recall if we had those pictures on July the
28 5th or not.

017246

1 Q. When did you do the -- your reconstruction of the
2 position of the sheets to try and figure out where the
3 fingerprint was -- where the foot -- the shoeprint was?

4 A. I don't have a specific date for that.

5 Q. Was it before or after July 5th?

6 A. I don't recall.

7 Q. The blood on the sheets, you might be able to do
8 one, if you were lucky, two of the many tests on it, but the
9 vast majority of serological testing could not be done on that
10 sheet at this present time; is that correct?

11 A. The majority of the tests that we do would not
12 yield useful results at this date, that is correct.

13 Q. As far as if you -- if we -- if we take the fact
14 that that's human blood as somehow a given, that is only one
15 that you can do, that your lab does that can still be done at
16 the present time time, right?

17 A. You can attempt more than one, but one that I am
18 reasonably confident of getting a reliable result.

19 Q. Or at least there's a chance to get a reliable
20 result; is that right?

21 A. There's a chance.

22 Q. At no time during the course of the
23 investigation --

24 Well, at any time during the course of the
25 investigation did you attempt to freeze like the whole sheet?

26 A. No.

27 Q. By the way, are you aware of the results, without
28 saying what they were, but just generally, are you aware now as

0-1-1-2-4-7

1 you testify of the results of the serological testing that was
2 been done on the portions of the sheets that you cut out?

3 A. Not in totality, no.

4 Q. Some of it you are?

5 A. Some of it, yes.

6 THE COURT: Can we break now, Mr. Negus?

7 MR. NEGUS: So sure.

8 THE COURT: Thank you. Let's take the noon recess.

9 Remember the admonition and return at 1:30. Thank
10 you.

11 (Noon recess taken.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

017248

1 1 SAN DIEGO, CALIFORNIA, WEDNESDAY, NOVEMBER 21, 1984 1:35 P.M.

2 --oo0oo--

3
4 THE COURT: We're all together. Go ahead.

5
6 DAVID C. STOCKWELL,

7 The witness on the stand at the adjournment, having been
8 previously sworn, testified further as follows:

9
10 CROSS EXAMINATION (Resumed)

11 BY MR. NEGUS:

12 Q. The towel that was draped over Peggy Ryen's leg,
13 did you collect that as evidence?

14 A. I don't recall collecting anything like that.

15 Q. Showing you this little picture, 430, there appears
16 to be a dark blue thing down near a business machine of some
17 sort on the floor, next to the dressers.

18 Does that -- was that the blue, the blue sweatband
19 that was on the bed?

20 A. That appears to be that.

21 Q. Do you know how it got there.

22 A. No.

23 Q. On blood that you took inside the, inside the Ryen
24 house, did you make any attempt, as you were, as you were
25 collecting your various samples, to try and and analyze the room
26 in order to determine where the most likely sources of blood
27 which would have some evidentiary value would be, or did you
28 just sort of go around the room sort of taking random samples

1 from this wall, that wall and the other one?

2 A. The specific blood samples I collected, I
3 collected, you know, in a way of collecting samples in areas
4 where blood appeared that was separated from other areas by
5 intervening spaces where there were no blood.

6 Q. Well, let's see. Between this one that you have --
7 I believe it is, I think it is "B", this one cut-out and this
8 other cut-out on the sheet are the same sort of general idea.

9 A. That is a closely paralleled idea, yes.

10 Q. Well, in most crime scenes, or particularly in this
11 particular crime scene, forgetting about other ones, but in this
12 particular crime scene, did you appear, did it appear to you
13 that evidence, that the highest evidentiary value was evenly
14 distributed around the room?

15 A. I wouldn't say that the blood was evenly
16 distributed around the room, no.

17 Q. Okay. But were there some areas where there seemed
18 to be richer concentrations of blood that might have a high
19 evidentiary value?

20 A. I don't know that I assigned degrees of evidentiary
21 value to those areas of blood where I collected it.

22 Q. Directing your attention to a bare spot in the
23 carpet, in this photograph that I put on the board, Exhibit 216.
24 There are what appears to be various droppings of blood over on
25 this, that piece of concrete.

26 Did you see those when you were there at the crime
27 scene on June the 5th?

28 A. I may have.

01172500

1 Q. You don't remember?

2 A. I don't independently recall it without looking at
3 these photographs.

4 Q. Did -- was there any items -- well, in that
5 particular area you found a, a Gold crown that you seized as
6 item A-6; is that right?

7 A. Yes.

8 Q. That Gold crown would have been located just, just
9 a little bit towards Doug from where the tip of the, the tip of
10 the blue bathrobe is; is that right?

11 A. It would have been somewhere in that general
12 location.

13 Q. Photograph A-87, I.D. A-87, our Exhibit 297, does
14 that depict the area where the Gold crown was seized?

15 A. Yes.

16 Q. Okay. And that Gold crown is circled in what looks
17 to be purple and has a number little No. "C" next to it on that
18 photograph; is that right?

19 A. Yes.

20 Q. Would that be within a couple of feet of that spot
21 on the concrete?

22 A. Within a few feet, yes.

23 Q. On the bed depicted in Exhibit 297, between the
24 bathrobe and the crown, there is what appears to be a circular
25 or a U-shaped lock of hair, correct?

26 A. Yes.

27 Q. Did you seize that particular lock of hair?

28 A. Not independently, no.

1 Q. Did you even notice it?

2 A. I may have at the time, I don't recall right now.

3 Q. Does that lock of hair appear in the large

4 photograph right where I'm pointing just above the blue blanket

5 in the large photograph, No. 216, I believe it was?

6 A. Yes.

7 Q. Can you tell from the photographs that we have of

8 that lock of hair whether or not that came from Doug Ryen, just

9 by looking at the photographs?

10 A. I don't believe I could make that determination,

11 no.

12 Q. Basically one of the ways that you determine, you

13 know, whether or not hair could have come from a person is

14 color; is that right?

15 A. Yes.

16 Q. And the particular color in these particular

17 photographs isn't totally accurate; is that right?

18 A. I would not assume that it is.

19 Q. In fact, we have photographs, different photographs

20 and these walls appear green, they appear to be pink, they

21 appear yellow, just because of the different, just because of

22 the nature of color photography; is that right?

23 A. Yes.

24 Q. Did you collect any of the blood from that hole in

25 the carpet then?

26 A. No, I don't believe so.

27 Q. When you went back on June the 30th, was that, was

28 that blood still there in that spot?

1 A. I don't independently remember looking at that spot
2 to see if it still was there. The carpeting on June the 30th
3 was no longer there.

4 Q. Did -- on June the 5th did you notice any of the
5 droppings of blood over there on the corner between the bed
6 stand and Doug's closet?

7 A. Yes. I may have, yes.

8 Q. And did you see any evidentiary significance in
9 those drops of blood?

10 A. Again, to the extent that it was blood at the
11 scene, that is evidence. In the areas of blood that I was
12 collecting I would have attributed that to the same blood as I
13 collected from the the nightstand.

14 Q. Is that -- well, did you, as you collected blood on
15 that particular, that particular day, were you qualified, in
16 your own opinion, to make determine as to whether one drop of
17 blood came from the same source as another?

18 A. By what means?

19 Q. By just using whatever experience, common sense,
20 knowledge, training, education, background you had?

21 MR. KOCHIS: Well, your Honor, I am going to object, it
22 is vague. If we're talking about back in the laboratory
23 analyzing, certainly he has qualifications. I don't know where
24 we are at this point.

25 THE COURT: You want to define your area of expertise.

26 MR. NEGUS: Sure.

27 Q. You indicated that you felt that at the scene that
28 that drop of blood there in the corner came from the same source

1 as the drop of -- as the blood on the nightstand, right?

2 A. I attributed the blood in that area to that same
3 general location. The blood I collected for that location, I
4 did so from the nightstand.

5 Q. Right. But did I misunderstand you, did you
6 attribute it to the same source?

7 MR. KOCHIS: Well, I would object, that would call for
8 speculation. He didn't -- he can't make that decision.

9 THE COURT: That's one of the criteria, however, he used
10 in making his collection, counsel. Overruled.

11 THE WITNESS: I could not make the determination
12 conclusively that blood came from the same source as the blood I
13 collected from the nightstand. It was in the same general
14 location.

15 BY MR. NEGUS:

16 Q. Well Mr. Stockwell, would it be fair to say that
17 some criminalists could analyze that blood to form an educated
18 guess, as you would call it, as to whether or not the blood came
19 from the same source but you lack those particular
20 qualifications?

21 A. Yes. A further analysis could be carried out at
22 the scene by what we refer to as blood splatter interpretation,
23 the degree of which I am not capable at least at that time of
24 doing.

25 Q. Are you now?

26 A. I have not received any further training since that
27 time.

28 Q. Does that mean no?

017254

1 A. Yes, that means no.

2 Q. Basically then on the night in question, um, June
3 the 5th, given your level of expertise and training at that
4 point in time, is it fair to say, to say that you had no way of
5 knowing whether or not you collected sufficient samples of blood
6 for a blood splatter analyst to do his work?

7 A. I would say that I had not done it to that extent.

8 Q. On that particular night, did you attempt to
9 consult with anybody who might have had more expertise than
10 yourself in determining how much, how many samples of blood to
11 collect?

12 A. No.

13 Q. You indicated yesterday that, that you hoped that
14 you were still undergoing training in your particular field.

15 Is part of that training peer review of your work?

16 A. Yes.

17 Q. Have you received peer review from other people in
18 your crime lab as to your collection and preservation of
19 physical evidence on the night of June the 5th?

20 MR. KOCHIS: I would object on two grounds, relevance and
21 hearsay.

22 THE COURT: You object to him reciting his qualifications
23 or for training?

24 MR. KOCHIS: No, your Honor. The question was, has he
25 received peer review of his evidence collection on the night of
26 June the 5th.

27 MR. NEGUS: But he's testified that he believes that he
28 did an adequate job and that peer review is part of his

01172555

1 education and training.

2 THE COURT: You are asking him as a matter of fact
3 somebody else's opinion as to his qualifications.

4 MR. NEGUS: Right. But that's something that he relies
5 upon in his particular opinions. He relies upon other opinions,
6 he says, so if they're adverse, I think I am entitled to them.

7 THE COURT: You can ask him an opinion he's based it
8 upon, but the number of factors you are not entitled to,
9 counsel. I will sustain the objection. Move on. Your not
10 entitled to go into everyone of those factors.

11 MR. NEGUS: Well, Mr. Stockwell, in your, in coming to
12 your opinion that you did an adequate job on that particular
13 night, is there any information to the contrary that you are
14 overlooking?

15 MR. KOCHIS: Well, your Honor, I am going to object as
16 calling for speculation on his part. I don't think he knows
17 what everybody in the world may think or not think about his
18 job.

19 THE COURT: I assume you are asking whether of his own
20 personal knowledge --

21 MR. NEGUS: Yes.

22 THE COURT: -- that he is overlooking or disregarding.
23 Does he know something that he's disregarded in order to come to
24 that opinion. Is that what you are asking?

25 MR. NEGUS: That's probably a better way to phrase the
26 question.

27 THE COURT: I won't sustain the objection to my question,
28 if you want to re-ask it.

01172559

1 BY MR. NEGUS:

2 Q. In coming to your opinion that you did an adequate
3 job on that, on that night, are you disregarding any information
4 to the contrary?

5 A. I don't believe I'm disregarding any information.

6 Q. Are you sort of putting it aside, that is, not
7 giving it any weight, any information to the contrary?

8 A. There are areas I'm giving less weight.

9 Q. Would that include the opinions of your peers?

10 MR. KOCHIS: Your Honor, again I'm going to interpose a
11 hearsay objection.

12 MR. NEGUS: Everything in expert testimony is hearsay if
13 you really get down to it, I don't think. But when you are
14 dealing with Mr. Kochis he has the right to have --

15 THE COURT: Counsel, I will take this up at the next
16 recess if you wish.

17 MR. NEGUS: I will try and figure out something else to
18 get into.

19 Q. In making your evaluation of what to, which samples
20 to seize and not to seize on the night of June the 5th, did you
21 treat it of no consequence as far as the value, evidentiary
22 value of an item of evidence as to whether it was a drop, a
23 smear was flung on the wall, fell on the floor by gravitational
24 force or how it happened to get there?

25 A. I did not take that into account to any great
26 extent, other than by the means of collection.

27 For instance, a smear was normally collected on a
28 thread sample, drops of blood were collected by scraping.

017257

1 Q. Other than that, was it your opinion that blood is
2 blood and didn't matter what its source was?

3 A. I feel that is rather terse in form. The manner in
4 which I collected it, I was going under the assumption that
5 blood in a general vicinity most probably was deposited from the
6 same source, not necessarily by the same actions.

7 Q. If I could read Volume, Volume XIX of the
8 preliminary hearing transcript, page 125. Excuse me, 124, in
9 order to I guess get the context, 124, Line 24. No, wait a
10 minute. Excuse me. 125, Line 7 through 11.

11 THE COURT: Okay.

12 MR. KOCHIS: Well, I have it but I don't think its
13 inconsistent with what he just said so I would object.

14 THE COURT: What did he just say?

15 MR. KOCHIS: Mr. Negus just asked him an opinion about
16 the process by which he took certain samples.

17 THE COURT: Is there, for example, anything inconsistent,
18 Mr. Negus?

19 MR. NEGUS: I think it is, yes. Well, let me back-up and
20 try to it more artfully if I can.

21 Q. Mr. Stockwell, you indicated that you thought that
22 the statement "blood is blood" was too terse.

23 Did you in fact make that statement at the
24 preliminary hearing?

25 A. In some context, yes, I did.

26 Q. And did that context have to do with your failure
27 to make notes as to whether, as to whether the blood that you
28 collected was from a smear or was from a blood drop or was flung

1 or was gravitational?

2 MR. KOCHIS: Well, I would object as not being relevant,
3 what he said at the preliminary.

4 THE COURT: Overruled.

5 MR. KOCHIS: Well, your Honor, it is not inconsistent
6 with anything he said here today. He's testified here today he
7 didn't make specific notes as to whether he took certain samples
8 from the smear or a drop and whether the drop was going up or
9 down or sideways. What he said at preliminary is not
10 inconsistent with that.

11 THE COURT: Mr. Negus.

12 MR. NEGUS: He's indicated, however, he's stated
13 inconsistent positions. One, that he thought it was significant
14 I believe that whether a blood came from a particular source or
15 not but, two, that he didn't, he didn't, he didn't actually take
16 any notes of it.

17 THE COURT: Mr. Negus, some of your inferences are
18 becoming a little less clear. I think that I have given you
19 very wide latitude but it's starting to run together and I am
20 going to start cracking the whip that under 352 it is becoming
21 particularly time-consuming.

22 However, you can finish up this one and I will
23 overrule his objection.

24 BY MR. NEGUS:

25 Q. Mr. Stockwell, did you -- at the preliminary do you
26 remember saying in that particular context of noting that you
27 didn't take any notes, that you just thought blood is blood?

28 A. Yes, somewhat inaccurately I made the statement

0117259

1 blood is blood. I know as a scientist all blood is not the
2 same.

3 Q. Then later on at the Hitch motion did you deny
4 making that statement?

5 A. I don't recall if I denied making it or not.

6 Q. Did you ever say, "I don't think I ever said that"?

7 A. I don't recall.

8 Q. Well, Mr. Stockwell, in your testimony here today
9 you've had the benefit, have you not, of having gone through
10 this material at least twice before on the witness stand.

11 THE COURT: Counsel, that's been brought out several
12 times now. Asked and answered.

13 MR. NEGUS: Mr. Stockwell, have your answers here on the
14 witness stand today changed as you have been educated on the
15 witness stand?

16 MR. KOCHIS: I would object to the form of the question.
17 It is argumentative.

18 THE COURT: No. Overruled on that basis.

19 THE WITNESS: I don't believe so.

20 MR. KOCHIS: Well, it is also not relevant. I don't know
21 if Mr. Negus is claiming he's educating people or what.

22 THE COURT: Overruled.

23 THE WITNESS: I don't believe my answers are
24 substantially changing due to the fact that I'm sitting on the
25 witness stand and being asked questions.

26 BY MR. NEGUS:

27 Q. When you first began testifying at the preliminary
28 hearing, did you tell us that you were collecting blood so that

1 a reconstruction of the crime could be done?

2 A. I believe my term was "limited reconstruction".

3 Q. Did you testify at page --

4 THE COURT: Volume.

5 MR. KOCHIS: Volume XIX, Page 41, lines 15 through 17,

6 MR. KOCHIS: I need just a moment, your Honor.

7 Volume XIX or XX?

8 MR. NEGUS: XIX.

9 MR. KOCHIS: I have that portion. Again, I would object
10 in that it is hearsay and it is not relevant.

11 THE COURT: As I understand it is foundational.

12 Overruled.

13 MR. NEGUS: Did you testify: "I attempted to take
14 evidence from the scene in such a way that later if a
15 reconstruction was required, that it can be done?"

16 Was that your original testimony at the preliminary
17 hearing?

18 THE COURT: You have read it, counsel. If you wish to
19 attack the authenticity of the transcript you don't have to ask
20 the witness.

21 MR. NEGUS: Well, I know. It is foundational, your
22 Honor.

23 Q. Do you remember saying that?

24 A. I believe I said that, yes.

25 Q. Then as you were asked more questions under
26 cross-examination, did you change that testimony so that it was
27 just a partial reconstruction that you were doing?

28 A. I would say that I qualified what I meant earlier

0-17267

1 by talking about a reconstruction.

2 Q. Did you have a reason for not taking blood samples
3 from the blanket and the two pillow cases and preserving them
4 serologically?

5 MR. KOCHIS: Objection. I believe this was the area we
6 handled sometime previous.

7 THE COURT: Yes, I believe so.

8 MR. NEGUS: Well --

9 THE COURT: I don't want to go through a subjective
10 thinking process, counsel. Sustained.

11 BY MR. NEGUS:

12 Q. Did the blanket and two pillows appear to have any
13 less evidentiary value to you than did the sheets?

14 A. One pillow definitely had different evidentiary
15 value in that it was not found on the bed, it was across the
16 room and into the bathroom.

17 The mere fact that it had changed locations from
18 its expected place gave it some real relevant evidentiary value.
19 Whether that is serologically important, I don't know at this
20 point.

21 Q. You didn't preserve any of that, any portion of the
22 blood on that pillow for analysis, correct?

23 A. That's correct.

24 Q. And likewise you preserved no portion of the blood
25 on the blue blanket for analysis; is that correct?

26 A. That's correct.

27 Q. At the preliminary hearing do you recall saying,
28 when you originally were testifying, that you attempted to take

1 representative samples of arterial blood, blood from all the
2 different sources, that was deposited around the room?

3 A. I don't recall making that statement.

4 Q. When you first were asked about your time of
5 arrival at the Ryen house at the motions last spring, did you
6 forget that you had gone down to pick up the axe?

7 A. At some point during the testimony I was asked
8 whether I'd ever left the Ryen residence, and I believe I said
9 that I did not recall leaving the scene, although at some point
10 I actually had left to go down and look at the hatchet.

11 Q. Okay. Right after you said you hadn't left then
12 you were prompted and you remembered, right?

13 A. Yes.

14 Q. Did you also originally, for example, testify that
15 you arrived at the Ryen house at 2:00 o'clock in the afternoon?

16 A. There may have been something said to that effect.

17 Q. And then did you, after that you were prompted and
18 did you then recalled that you had gone to the Hughes house
19 first mistaking it for the Ryen house and then actually arrived
20 45 minutes later?

21 A. Yes. Something to that effect.

22 Q. When you were in the Ryen house on June the 5th,
23 did you attempt to vacuum the carpet in the room to pick up
24 items of trace evidence?

25 A. No.

26 Q. On June 22nd did you go to the I.D. lot to vacuum
27 that carpet?

28 A. I don't remember the exact date, but yes.

01172577

1 Q. From a criminalistics point of view, if you are
2 going to vacuum a carpet for trace evidence, is it preferable to
3 do it before 75 police officers have walked over it, if that's
4 possible?

5 A. Yes.

6 Q. Each time somebody who is, who is not connected
7 with the the actual commission of the crime passes over a crime
8 scene, especially as far as trace evidence is concerned, does
9 that produce the likelihood that the trace evidence is going to
10 be altered?

11 A. It may be altered, it may be relocated, it may be
12 taken away, additional evidence may be left behind. There are
13 many possibilities.

14 Q. On June the 22nd did you spray the carpet with
15 luminol?

16 A. Yes.

17 Q. Did you spray the -- was there still a lot of blood
18 on the carpet that was visible to the naked eye?

19 A. Yes.

20 Q. Did that glow mightily in the dark there when you
21 sprayed it with luminol?

22 A. Yes.

23 Q. Could you distinguish anything when you sprayed it
24 that you couldn't see with the naked eye?

25 A. We didn't know anything of exceptional value that
26 we could not already see as visible blood.

27 Q. Did you, within ten or fifteen minutes of the time
28 that you finished spraying the stuff with luminol did you then

1 roll up the carpet again?

2 A. Soon thereafter, yes.

3 Q. Ten or fifteen minutes is what you testified to
4 before?

5 A. Could be, yes.

6 Q. Had the carpet -- Well, excuse me.

7 Had the blood on the carpet had a sufficient chance
8 to dry in those ten or fifteen minutes before you rolled it up?

9 A. I believe so, yes.

10 Q. When you sprayed the carpet on June the 22nd, was
11 it mildewed?

12 A. In portions.

13 Q. If blood is mildewed it can't be reliably typed; is
14 that right?

15 A. I don't believe so.

16 Q. You don't believe it can be reliably typed?

17 A. I don't believe that could be reliably typed, that
18 is correct.

19 Q. While you were working on June the 5th, 1983, with
20 Ms. Schechter, was there a problem of not having enough time to
21 do the job adequately?

22 A. I did not think there was a problem with time, no.

23 Q. When you took the different blood drops off the --
24 off the sheets, did you consult with anyone with more experience
25 than yourself as to how many samples should be collected and
26 from where?

27 A. I believe I consulted with Mr. Ogino, not to each
28 and every individual spot that I collected, but how best to go

1 about collecting the samples.

2 Q. Okay. By that do you mean he gave you advice as to
3 cut them out and put the little letter on the sheet where you
4 took them out from?

5 A. It was more than that. It was how to approach
6 different areas of the sheet and what samples to take.

7 Q. While -- while you were collecting evidence and on
8 the night of June the 5th, with the exception of the fifteen
9 minutes in which the samples in the bathroom were collected and
10 helping you to fold the sheets, did Ms. Schechter primarily
11 stand there watching you taking notes?

12 A. She definitely wrote many of the notes herself,
13 what she did in addition to that I don't think I could say.

14 Q. Did you ever see her do anything besides stand
15 there?

16 A. She accompanied me on my tour through the house.
17 She did other things as well, but what they were I don't think I
18 could say.

19 Q. She produced two pages of notes, essentially, while
20 you were collecting evidence; is that right?

21 A. There are two pages of written notes, also the
22 items that you had me initial yesterday as to who the author
23 was. She has two diagrams as well as the written notes.

24 Q. So, whatever else -- is it fair to say that
25 whatever else Ms. Schechter was doing, it wasn't collecting
26 evidence?

27 A. That's correct. Otherwise it would have been
28 entered into the log.

017266

1 Q. Showing you photographs 264, this person standing
2 holding something, looks like the person is writing, to the
3 right-hand side of that photograph, was that Ms. Schechter?

4 A. It could be.

5 Q. Does that -- does that look like her?

6 A. She was the only female that I saw in the bedroom.
7 I would assume it was her.

8 Q. The same in photograph 266?

9 A. Yes.

10 Q. Did you make any attempt to document the different
11 areas where there was blood in the master bedroom?

12 A. I made some attempt at that, yes.

13 Q. Was that just by the notes of where you had -- you
14 yourself collected evidence?

15 A. More so the diagram of the bedroom that I drew.

16 Q. That doesn't purport to be complete or anything of
17 that nature, does it?

18 A. Of course not.

19 Q. Was there any blood on the ceiling?

20 A. I believe I've seen pictures that show blood on
21 certain portions of the ceiling.

22 Q. You've seen pictures?

23 A. Yes.

24 Q. Did you happen to notice any when you were out
25 there that particular day?

26 A. I don't remember if on that particular day I
27 noticed any particular bloodstains on the ceiling.

28 Q. We mentioned the word "reconstruction", does that

017267

1 have a technical meaning in criminalistics?

2 A. It has a meaning, yes.

3 Q. Okay. What does that mean?

4 A. Reconstruction is basically attempting to sort out
5 the events that occurred at a particular location, possibly at a
6 particular time.

7 Q. And in the context of the -- of the Ryen crime
8 scene, does that, would that include the question how many
9 assailants there were?

10 A. It could, yes.

11 Q. Would that include the question of where the
12 victims were when they were attacked?

13 A. It could, yes.

14 Q. Would that include the question of attempting to
15 sequence an attacks.

16 MR. KOCHIS: Your Honor, I would interpose an objection.
17 This is beyond the scope of any direct and it calls for
18 speculation. It's not relevant.

19 THE COURT: No. Overruled, both grounds, all grounds.

20 THE WITNESS: It's possible.

21 BY MR. NEGUS:

22 Q. But you didn't do that, did you, you didn't try and
23 collect evidence for those purposes?

24 A. Would you list the three areas again..

25 Q. Number of assailants; location of victims when they
26 were attacked; and the sequence in which the victims were
27 attacked?

28 A. To a limited extent the second one is taken care of

017268

1 by the fact that I collected blood from areas around the room
2 that might help in positioning various victims around the room.

3 Q. Well, you didn't do that in the sort of systematic
4 fashion that would be necessary to obtain a rigorous answer to
5 that particular question, did you?

6 A. Let's say I did not -- I did not do all that is
7 possible for I do not have the requisite background in blood
8 spatter interpretation.

9 Q. The documentation that you provided us as to where
10 you got the items from, do you consider that an adequate job for
11 a criminalist?

12 A. I believe it depends also on actions of others. If
13 there was no photography done, no, definitely not. If there are
14 no measurements taken, no, definitely not. The way we handle a
15 crime scene normally the criminalist does not do those
16 functions.

17 Q. As to each item of evidence that you collected, did
18 you make sure that the I.D. Bureau identified it in place in
19 such a manner that it can be used in a reconstruction before you
20 collected it?

21 A. I believe I discussed with Deputy Duffy the items
22 that were being collected. I can't say for certain that
23 everything was photographed. I'd have to go through the
24 photographic records for that at this point.

25 Q. How about measurements, did you -- did you -- at
26 the crime scene did you make sure that the homicide people, if
27 they are the ones that are responsible for it, had measured the
28 location of each item before you collected it?

017269

1 A. I can't state for certain that each and every item
2 was measured, no.

3 Q. Well, Volume XIX, Page 37, Lines 4 through 9, when
4 you were testifying in the -- in the early stages of your
5 testimony about -- about your job of collecting and preserving
6 evidence at the preliminary hearing, do you recall saying that:
7 "Before I collected any particular piece of evidence I would ask
8 the person from I.D. if they had photographed that."?

9 A. I believe I said that, yes.

10 Q. That was -- actually it was a bit of and idealized
11 version of what actually happened on June the 5th. You didn't
12 actually do that, did you?

13 A. I can't recall for each and every item that that
14 was done.

15 Q. That's what should have been done but not
16 necessarily what was done; is that right?

17 A. It depends on the type of photographic record that
18 is being done. Many times an overall shot will encompass
19 several items of evidence and individual pictures need not be
20 taken.

21 Q. But you didn't ask Duffy each time you picked up an
22 item of evidence whether he had taken a picture, right? That
23 was an exaggeration?

24 A. I don't recall asking him each and every time I did
25 collect an item of evidence asking him, no.

26 Q. And similarly you didn't really ask homicide
27 whether they had measured an item each and every time before you
28 picked it up, right?

017270

1 A. That's true.

2 Q. Again, that would have been an exaggeration if you
3 testified that way at the preliminary hearing?

4 A. That's true.

5 MR. NEGUS: I am about to get into a different area. I'm
6 going to need to shuffle my with exhibits around if you want to
7 take the break now.

8 THE COURT: You will conclude with this witness today,
9 Mr. Negus?

10 MR. NEGUS: I doubt it.

11 THE COURT: You doubt it?

12 MR. NEGUS: Yes.

13 THE COURT: Let me see all counsel briefly in chambers.
14 Let's go in the back.

15 All right. We will take the afternoon recess
16 alleges early. Remember the admonition, ladies and gentlemen.

17

18 (Chambers conference reported.)

19 THE COURT: I won't keep you long, counsel. This is the
20 third day on him, Mr. Negus.

21 MR. NEGUS: Well, it's only, you know, but I -- it's not
22 a third day of my cross-examination on him.

23 THE COURT: Well, heaven's forbid. What else are you
24 going into?

25 MR. NEGUS: Well, I'm going to -- I expect to spend the
26 rest of the afternoon on luminol which I haven't got into yet.

27 THE COURT: Indeed you have, many times. You have gone
28 into the chemical composition, where all he sprayed it. What

1 else are you going do on that?

2 MR. NEGUS: We certainly haven't done much of luminol on
3 this particular witness, haven't done the chemical composition
4 or that sort of stuff with him.

5 THE COURT: I thought we did.

6 MR. NEGUS: No, just a few --

7 THE COURT: Who did we do it with?

8 MR. NEGUS: Ogino, and Ogino didn't know most of the
9 answers. But Mr. Kochis lays the foundation again each time, so
10 I think I'm obligated to go into that. Anyway, I expect the
11 luminol, just given the fact that it takes a long time for me to
12 get information out of Mr. Stockwell, I expect that to take most
13 of the rest of the afternoon.

14 And I deliberately have been trying to hold off
15 most of my prior inconsistent statements till I get all the
16 transcripts in so I can go through it a little bit quicker, so I
17 expect to do that on Monday. That's basically what I expect
18 will happen.

19 THE COURT: Okay. So be it. You do have staying power.

20 MR. NEGUS: I'm not too sure about that.

21 MR. KOCHIS: Your Honor, before we leave, the objection I
22 was interposing in front of the jury was this stuff about
23 reconstruction where we may have -- it may have been somewhat of
24 a proper area of inquiry for Hitch, but I think, as we brought
25 out during Hitch, there are many questions that could never be
26 answered in a given crime scene. Perhaps this scene is one of
27 them.

28 THE COURT: That's argument though. He has a right to

017272

1 say, "Hey, you guys didn't do the things that you should have
2 done to determine the real killers in this case." And he has a
3 right to cross-examine on that point. I can't stop him from
4 going into reconstruction imperfection.

5 MR. NEGUS: As a practical matter, seeing as how it takes
6 five hours, if we start asking "why" questions with Mr.
7 Stockwell -- I'm not trying to change your ruling on that,
8 because -- that I'm not supposed to ask him "why" questions, but
9 there are some areas where Mr. Kochis has brought out
10 interpretations of the evidence on the part of Mr. Stockwell,
11 and those areas particularly have to do with some of the stuff
12 about the luminol. And in that particular area where Mr. Kochis
13 has elicited interpretations, I think that it's fair to ask "why
14 didn't you do this? Why didn't you do that? Because that goes
15 to the -- that goes to the weight of his opinion and it's a
16 different type of area than: Did you pick up a piece --
17 particular piece of item of evidence?

18 So I'd like to at least be able to bring that kind
19 of question which, I have fairly well avoided except for a few
20 lapses, which Mr. Kochis has caught me at.

21 THE COURT: I can't see specifically how that -- you
22 know, the specific areas that you're going to go into, couldn't
23 you get at it another way, saying, couldn't you conceive of
24 other criminalists doing this or that for that reason.

25 MR. NEGUS: Well, I've avoided that. I mean, I'd love to
26 ask that question, too, but I sort of have not asked that
27 particular question. And if and when I do ask it, Mr. Kochis
28 objects.

017273

1 MR. KOCHIS: That's the specific area that the Court held
2 the day before we did general -- opening statement that he would
3 not go into that, and I've got the transcripts on that. And I
4 did not ask reconstruction type questions of Mr. Stockwell based
5 on luminol. I asked two questions about: Is that consistent
6 with any type of activity? And that was it.

7 MR. NEGUS: But that's a reconstruction type.

8 MR. KOCHIS: Nothing about blood splatter pattern, number
9 of assailants, positions, nothing. And now I'm forced to go
10 back over that.

11 MR. NEGUS: But that's today -- that is a reconstruction
12 question. He asked him: Is it consistent with? That's just
13 another word for asking him to reconstruct what happened. And
14 once he gets --

15 THE COURT: Here's a man that collects the evidence.
16 You've got to go into the grounds or the method of evidence
17 collection, and that's just won't of the methods. I can't keep
18 that out.

19 MR. KOCHIS: Well, no, your Honor. He has gone in with a
20 fine tooth comb to the method of collection. I haven't objected
21 to any questions by Mr. Negus on the method of collection. But
22 the way he wants to expound something is, if I ask a question:
23 Do you see a stain in the photograph that's visually consistent
24 with human blood? Yes. That doesn't opened the door up to
25 every question on reconstruction. I asked a question on
26 luminol: Was the reaction consistent with blood?

27 THE COURT: If you asked no question on reconstruction,
28 to my mind he would have a right to go into it with this witness

1 since this witness is the specialist that went in there and
2 collected the evidence. For what purpose, neither I nor he
3 knows apparently. All right. So he can go into reconstruction.

4 I don't know how to anticipate your other
5 questions. I may well sustain an objection to that.

6 MR. NEGUS: Okay. The other thing about the fact that
7 he's been, what I believe is the fact, that he's been told by
8 Gregonis and Ogino he didn't collect enough blood samples.

9 THE COURT: I know specifically what you're referring to
10 on that, and I suggest to you that there is a distinction
11 between cross-examining on what an expert relies upon in forming
12 his opinion and cross-examining on what an expert did not rely
13 upon in forming his opinion. In his opinion he did an adequate
14 job and he did not base that upon some peer contrary evidence or
15 contrary opinions. And so therefore one is for a hearsay
16 purpose the other is for a nonhearsay purpose.

17 MR. NEGUS: Can I make an analogy? A psychiatrist comes
18 in and says, "Joe Schmoo is a peaceful -- peace loving
19 individual." The prosecution is allowed to say, "Well, did you
20 take into -- did you take into account in your opinion, doctor,
21 the fact that Joe Schmoo has murdered five people, raped three
22 others?" I mean, the expert can't just sort of --

23 THE COURT: "Have you heard," and since you have to go
24 into have you heard, did he do that, and then did you take it
25 into account.

26 MR. NEGUS: I'm going to ask him --

27 THE COURT: I'm satisfied as to my ruling on that. I'm
28 not changing it based upon what you're now saying.

0177275

1 Anything further?

2 MR. KOTTMEIER: Yes, your Honor. Based upon Mr. Negus'
3 estimate, I then will not plan to bring Dr. Root until Tuesday.

4 THE COURT: We are not going to spend all day, are we, on
5 this?

6 MR. KOTTMEIER: We will we have two witnesses that follow
7 Mr. Stockwell, and due to the logistics of bringing Dr. Root
8 down it would be very difficult if we have an open-ended Monday
9 planned to have Dr. Root wait here for half day or all day.

10 THE COURT: I would suggest you use other witnesses as
11 fillers, sounds reasonable, rather than the doctor.

12 MR. KOTTMEIER: We are going to try to, but I am just
13 suggesting we may wind up with a period of time on Monday that
14 is not filled because of the difficulty of trying to get
15 everyone here.

16 THE COURT: Just do the best you can. I recognize the
17 problems. Thank you.

18 Take a recess.

19 (Chambers conference concluded.)

20 (Recess taken.)

21

22 THE COURT: All right, Mr. Negus.

23 BY MR. NEGUS:

24 Q. Okay. Mr. Stockwell, at some point in time over
25 the last couple of days you mentioned that at some point in time
26 you did a test where you took an impression in blood off of a
27 shoe.

28 Can you describe what you did there?

017276

1 A. In that particular instance I was attempting to
2 make an impression on white sheeting that I could later
3 photograph. I basically put some blood on a sponge, placed the
4 shoe on the sponge to get blood onto the contours of the sole
5 of the shoe, put my foot in the shoe and then stepped on the
6 white sheeting to make the shoeprint.

7 Q. Okay. And it did in fact make a shoeprint?

8 A. Yes.

9 Q. Now, let's see. Did you -- when you did that did
10 you like keep walking with the, with the shoe on across the
11 sheet to see how many steps it was before the blood disappeared?

12 A. No.

13 Q. Well, had you all done any tests in your laboratory
14 along those lines as to how far, how far you can walk with blood
15 on your shoes before it sort of wipes off and you can't see it
16 with the naked eye anymore?

17 A. I haven't done any studies like that.

18 Q. Do you know of anybody else that has done any of
19 those?

20 A. Not to my knowledge.

21 Q. What about in your -- in your tests with luminol.
22 Have you ever -- have you ever done any tests along those lines
23 with luminol to see how far a person could walk before their
24 footprint is no longer distinguishable by the luminol?

25 A. No.

26 Q. Is there, in the scientific literature that you are
27 aware of, is there any such -- I mean, is that sort of something
28 that people have done published worked on?

1 A. Not in that nature, no.

2 Q. What about, what about with sinks, s-i-n-k-s. Did
3 you ever like put any blood on your hands, wash it in the sink
4 and then come by later and see what kind of reaction you got
5 from the luminol?

6 A. No.

7 Q. Going back to our sink picture here, where we have
8 got this visible reddish-brown stain on the side of the sink
9 there.

10 If you were to spray that stain with luminol and it
11 glowed in the dark, and then you were going, then you would take
12 some of your ortho-tolidine and were to scrape some of the stain
13 off and put it on your filter paper and add the ortho-tolidine
14 and the peroxide, and you were to get a reaction with all have
15 those tests, there is not a lot of things in the world that that
16 could be other than blood; is that right?

17 A. That is true.

18 Q. When you can actually see something, see a stain
19 that looks reddish brown, even without any chemical tests at all
20 can you tell about as much as whether the substance is blood or
21 not as it would be if you sprayed some luminol on it?

22 A. If the stain is visible in most instances I would
23 say that eyesight is better than using luminol on it.

24 Q. Okay. When you get down then to the invisible
25 stains though, that's where obviously luminol has some sort of
26 advantages over just eyesight; is that right?

27 A. Yes.

28 Q. Now, when you all say that, well, the reaction is

1 consistent with blood, it is -- you also could just as well say
2 it is consistent at any time as having stepped in horse manure;
3 is that right?

4 A. It is possible, yes.

5 Q. Well, visually you can normally tell the difference
6 between horse manure and blood, right?

7 A. If you see a stain on the floor, that is true.

8 Q. The is chart that we have on the board here, No.
9 206, we basically, I think with another witness, have gone
10 through the chemistry before, but when you do the ortho-tolidine
11 test in a proper manner, using the two-step test, when you do
12 the ortho-tolidine plus certain minerals you get a color, right?

13 A. Yes.

14 Q. Then if you don't get a color on the first step you
15 go onto the second step, you have, and you have ortho-tolidine
16 plus animal, vegetable products, plus peroxide and you get a
17 color; is that right?

18 A. It is possible with both of those, yes.

19 Q. Basically, that's once you have done the test, if
20 you can't see what you are doing that's basically all that you
21 know, right? That you have what you know is either -- first on
22 the first step you know that there is mineral reacting with it,
23 one of a variety of minerals, and then secondly on the second
24 step that if you get a reaction it is one of a variety of
25 mineral or vegetable products, correct?

26 A. Yes.

27 Q. Now, I suppose when you people are looking for
28 blood you tend to -- when you say consistent with blood, you say

1 that rather than consistent with horse manure because that's
2 what you are looking for; is that right? And that's your
3 hypothesis, oh, gee, it could be blood; is that correct?

4 A. Yes.

5 Q. The luminol is even less sensitive than the
6 ortho-tolidine, right? You get the animal, vegetable and
7 mineral products and it will give off light.

8 A. To be perfectly accurate it is less specific.

9 Q. Let's try and keep it as little technical as we
10 can. But basically where the ortho-tolidine will sort of
11 distinguish to have the minerals to the luminol, won't it?

12 A. Ortho-tolidine makes more distinction than does
13 luminol, yes.

14 Q. Now, I take it that from what you said before that
15 you personally, as far as, as far as certain tests are
16 concerned, you haven't like taken either of these substances and
17 tested them against everything in the known world to distinguish
18 what they will react to it or not, right?

19 A. That's true.

20 Q. So, basically in stating your particular opinions
21 about these matters before the jury, as far as the chemistry of
22 these particular substances, you are relying primarily upon the
23 published literature; is that right?

24 A. Yes.

25 Q. In the scientific world is there a premium put on
26 literature that is published as opposed to unpublished?

27 A. Yes.

28 Q. And is that because --not because of any snobbery

1 on the part of the people but because the published literature,
2 too, is subject to what is called peer review. People have to
3 look at it, study it, and if there is something wrong with it
4 because it is published inaccurately, other people can write and
5 say, you are all wrong.

6 Is that basically the theory behind it?

7 A. That's true.

8 Q. Now, in the literature about these what are called
9 catalytic or presumptive tests, that's what they are called,
10 right?

11 A. They are presumptive, yes.

12 Q. And they are catalytic.

13 A. Yes.

14 Q. Starting at the bottom, amongst the mineral
15 substances that will cause either a step-one reaction with
16 ortho-tolidine or reaction with luminol. Is lead oxide?

17 A. I don't recall if I have specifically seen that
18 compound listed. It may be.

19 Q. How about Iodine. Do you know about that?

20 A. I've not certain about that one.

21 Q. How about bleach?

22 A. I have seen bleach listed.

23 Q. Certainly we went through the bleach business many
24 times before, right?

25 A. Yes.

26 Q. Various salts of copper.

27 A. Yes.

28 Q. Various salts of nickel.

1 A. I can't say that I have seen that. I can't recall
2 literature, but I would assume so.

3 Q. And rust, the iron oxide.

4 A. Yes.

5 Q. Amongst the various vegetable compounds that we're
6 dealing with, would there be algae?

7 A. Again, I don't know that I have actually seen that
8 in the literature that I can recall, but it seems reasonable.

9 Q. Fungae?

10 A. I don't recall seeing that.

11 Q. How about bacteria. And I have aerobic bacteria.
12 Bacteria are alive in oxygen, right.

13 A. Yes.

14 Q. And anaerobic bacteria are bacteria that live in
15 absence of oxygen.

16 For example, if you had bacteria in your plural
17 cavity that would normally be an anaerobic spot on the body,
18 right?

19 A. Yes.

20 Q. Basically that bacteria are at least divided into
21 those two main categories, right?

22 A. That's correct.

23 Q. So, basically in the literature it has been found
24 that all aerobic bacteria and some of the anaerobic bacteria
25 will react with these various catalytics and cast and produce
26 your color change and light reaction.

27 A. I have seen reports that some bacteria can react.

28 Q. Is it true -- have you ever seen the statement that

1 all aerobic bacteria and some anaerobic.

2 A. No. I have never seen that statement that I can
3 recall.

4 Q. Do you think it is untrue?

5 A. I would rather doubt that every single species of
6 aerobic bacteria was tested.

7 Q. Probably not. But then green leaves. They have
8 been listed in literature as various substances which will react
9 and produce the reaction.

10 A. Yes.

11 Q. And then there's a whole -- and I have just listed
12 a few -- a whole list of house, common household fruits and
13 vegetables that will react; is that right?

14 A. Yes.

15 Q. And in fact in the literature, in the book that we
16 have mentioned a couple days ago, this source book in forensic
17 serology -- well, this book here that I have in my hand, this
18 book, that's basically a review of all the different articles on
19 forensic serology and related subjects that have been published
20 up until 1981 or '82, whenever the author stopped collecting
21 material for his book; is that right?

22 A. I don't know if it is an entire review of all the
23 literature but it is quite extensive.

24 Q. Certainly the most extensive thing that has been
25 published in the area.

26 A. That I have seen, yes.

27 Q. In that particular book, did Mr. Gaensslen report
28 on some studies where criminalists have actually gone out to

01172007

3
1 shoe repair places in England and tested a bunch of old shoes
2 and found that at least a certain number of them would give a
3 positive reaction using what's called the benzedine test?

4 A. I believe I have read that, yes.

5 Q. And the benzedine test, ortho-tolidine and
6 benzedine, as far as here we are concerned, are basically
7 chemically indistinguishable; is that right?

8 A. For the most part, yes.

9 Q. As far as the results with the particular type of
10 issues that we're talking about in this particular case they're
11 basically indistinguishable; is that right?

12 A. Yep.

13 Q. The only reason that people use ortho-tolidine more
14 than they use benzedine is because it is felt that benzedine may
15 be somehow poisonous?

16 A. Carcinogenic. Cancer-causing, yes.

17 Q. That is a class of poison

18 A. I suppose it is.

19 Q. What about various animal substances that I have
20 listed there. We have -- you have already said blood will
21 react. Will pus?

22 A. I imagine it could.

23 Q. Bone marrow, leukocytes?

24 A. Are you making a distinction between bone marrow
25 and leukocytes?

26 Q. No. Leukocytes out of the bone marrow. A. I am not
27 certain if they would or not.

28 Q. Brain tissues?

1 A. I believe it would. It has blood in it.
2 Q. Spinal fluid?
3 A. It may if it has blood introduced in it.
4 Q. Intestine, lung saliva and mucous?
5 A. Intestine and the lungs have blood flowing through
6 them. I'm fairly sure they would react.
7 Q. Well, what about just the -- just substances
8 themselves without any blood in them.
9 A. I am not certain.
10 Q. Showing you -- this is a book, "Forensic Science
11 Handbook." This is one of the books that you have in the past
12 said is most important to you as a reference book; is that
13 right?
14 A. I have referred to it, yes.
15 Q. And asking you to look at Page 273. Mr. Lee, who
16 wrote the chapter on the "Identification in Grouping and
17 Bloodstains", back over here has listed a whole series of things
18 which will give quote false positive results with the benzedine
19 test; is that right?
20 A. He speaks of false positive, yes, and he defines
21 what he means by that.
22 Q. False positive is some substance other than blood
23 which will produce a result which you can't tell from the
24 results that it -- which would be produced by blood, excuse me.
25 A. That's not exactly what he states in his
26 definition.
27 Q. What does he say?
28 A. "A false positive reaction may be defined as any

017285

1 positive reaction given by any substance other than
2 bloodstains."

3 Q. So, he lists all of these things that I have on the
4 chart, which I think, let me think, there may be, with the
5 exception of the old shoes and the algae, fungae and bacteria as
6 false positives; is that right?

7 A. He lists those which you have listed.

8 Q. And some others that I didn't bother to list as
9 well; is that right?

10 A. That's correct. And he lists some more that you
11 have not listed.

12 Q. Right. So basically that's what we have up there
13 is what it says, is examples and not Mr. -- not Mr. Lee's
14 complete list?

15 A. Yes.

16 Q. Now, are you -- are you familiar with an article by
17 Edward Blake and D. J. Dillon titled "Microorganisms and the
18 Presumptive Test for Blood "which appeared in the "Journal of
19 Police Science and Administration" in 1973?

20 A. I've heard of it, not having read it.

21 Q. You haven't read that?

22 A. I can't recall specifically reading it. I've heard
23 about it.

24 Q. From what you heard, did -- did they -- those two
25 gentlemen analyze a chemical called catalase, c-a-t-a-l-a-s-e, I
26 think, as the chemical in algae, fungi, and bacteria that
27 produced false positive's in those particular subjects?

28 A. I don't recall discussing that with anyone, whether

1 that was the exact substance.

2 Q. Well, is catalase present in algae, fungi, all
3 aerobic and some anaerobic bacteria?

4 A. I'm not sure what catalase is so I could not say
5 whether it was present in them.

6 Q. Now, when -- when you and -- and Mr. Ogino were --
7 were running the luminol tests at the Ryen house on June 10th, I
8 think you said it was, was the significance of some of the
9 things that you saw, the pattern that was formed by the reaction
10 of the luminol and whatever substance it was?

11 A. Yes.

12 Q. Specifically the -- what looked to be shoe
13 impressions. Was that -- were those examples of things where
14 what was significant was the pattern?

15 A. Yes.

16 Q. Those -- those shoe impressions under the
17 circumstances of that particular case could have been
18 significant even if the impression was in horse manure as
19 opposed to blood; is that true?

20 A. That's true.

21 Q. Now, you indicated just sort of in passing I think
22 yesterday that you had had some experience with luminol prior to
23 June the 10th, 1983.

24 On how many occasions had you used luminol at a
25 crime scene prior to June 10th, 1983?

26 A. Possibly once or twice.

27 Q. Well, let's see. You used it once or twice
28 actually at the -- at the Lease house, right?

1 A. That was one time, yes.

2 Q. Well, didn't you come back on both the 8th and the
3 9th to try it there?

4 A. I believe it was just the 8th.

5 Q. Any other place that you can recall?

6 A. I thought I had worked with it in another case
7 prior to that occasion at a crime scene, but I can't recall it
8 offhand right now.

9 Q. Well then, would it be fair to say that -- that at
10 least your experience was limited?

11 A. Yes.

12 Q. Now, in your -- in your particular laboratory, the
13 laboratory subscribes for you to a series of periodicals; is
14 that right?

15 A. Yes.

16 Q. And they would -- they have those periodicals there
17 available to you to use as a reference in -- in your work?

18 A. Yes.

19 Q. When -- when you -- when you went out to the -- to
20 the crime scene, did you have in mind to photograph what you
21 saw?

22 A. Are you speaking on June the 10th?

23 Q. Okay. Let's -- yeah, June 10th.

24 A. We came prepared to take photographs, yes.

25 Q. Okay. In your laboratory is one of the -- one of
26 the journals that you have there the "Journal of Forensic
27 Sciences"?

28 A. Yes.

017288

1 Q. And that's the official journal of the American
2 Academy of Forensic Sciences, it's one of the biggies in the
3 field as it were; is that right?

4 A. Yes.

5 Q. In that particular journal is there an article
6 about just that subject, essentially how to take pictures of
7 bloodstains that are made visible by luminol?

8 A. I believe we've talked about there before, yes.

9 Q. And that was an article that was published by some
10 folks from -- from North Carolina whose names are Zwiedinger,
11 Lytle, and Pitt, Zwiedinger spelled, Z-w-i-d-i-n-g-g-e-r, Lytle
12 spelled, L-y-t-l-e, and Pitt spelled, common spelling, P-i-t-t;
13 is that correct?

14 A. You misspelled Zwiendinger.

15 Q. I did? How do you spell it?

16 A. Z-w-i-e-d-i-n-g-e-r.

17 Q. Now did you go out and did you read that article
18 before you went out to the field?

19 A. I don't recall having read that article before we
20 went to the Ryen house.

21 Q. In the various reference books that you have, is
22 that article the one that's most often cited about photographing
23 luminol?

24 A. It seems reasonable.

25 Q. In fact, is that the only article that you're aware
26 of that's available in the English language about that subject?

27 A. It's the only one I've heard of to date.

28 Q. Why didn't you look at it before you went out

1 there?

2 A. I really couldn't say other than I had not gotten
3 to read that article beforehand.

4 Q. Did you -- you've read it since?

5 A. Portions of it at least, yes.

6 Q. Did you and Mr. Ogino on the -- on the 10th attempt
7 to take pictures the way that they describe in that particular
8 article?

9 A. No.

10 Q. With respect to the only patterns that were on the
11 tile, were those the clearest patterns?

12 A. For what was there, I believe they were the
13 clearest.

14 Q. You didn't sketch those patterns?

15 A. No, I did not.

16 Q. And didn't measure them?

17 A. No, I did not.

18 Q. In no way attempted to take any sort of notes or
19 documentation whatsoever; correct?

20 A. Only to their relative position in the house.

21 Q. But as far as the -- the pattern which is, I
22 suppose, what you were interested in, you didn't do anything as
23 far as the pattern is concerned; is that right?

24 A. That's correct.

25 Q. Now, the other -- the two footprints coming up
26 the -- up the stairs from the living room, were they in an area
27 where you had seen on June the 5th people going up and down to
28 eat, to have briefings, that sort of thing?

1 A. Yes.

2 Q. And when you -- when you sprayed them with the
3 luminol, basically those patterns were -- were so blurred that
4 you really couldn't even distinguish a pattern on them; is that
5 true?

6 A. That's correct.

7 Q. It looked like the general shape of a foot through?

8 A. Yes.

9 Q. The two patterns that were -- that were in the
10 hall, that is, close to the patterns that were found closest to
11 the actual scene of the violence, could you distinguish a
12 pattern on those?

13 A. Yes.

14 Q. Showing you Exhibit 498, is that a sketch that you
15 did at the preliminary hearing of the general pattern that you
16 observed in luminol on the rug?

17 A. Yes.

18 Q. And you indicated that -- I take it that when you
19 saw it you were -- you were concerned as to whether or not it
20 could have been your particular footprint, is that right?

21 A. That was one of my concerns, yes.

22 Q. But you found out that it wasn't because it was the
23 wrong size?

24 A. Yes. It was larger than my shoe size ultimately
25 when I relinked the two pieces of carpeting.

26 Q. So, you didn't make that particular impression in
27 the carpet?

28 A. I don't feel that I did. I can't see how my shoe

01172971

1 size would fit what I saw.

2 Q. And in taking -- making that particular -- in
3 making that particular opinion you also had an opportunity to
4 observe the impression on the tile which was -- which at least
5 in part was clear; is that right?

6 A. Yes.

7 Q. Are you using that as also one of the bases for
8 your particular opinion that it wasn't you that did it?

9 A. I'm not using what I saw on the tile for that
10 particular opinion.

11 Q. Just what you saw on the carpet?

12 A. Yes.

13 Q. On -- When did you this drawing for me before
14 the -- you indicated, did you not, that that little arrow
15 indicates that this pattern continues along the length of the
16 shoe; is that right? We stopped you before you had to go
17 through all the work of putting in the whole pattern.

18 A. Okay. At the time of the preliminary hearing I
19 said the pattern continued for the length of the impression.

20 The impression on June the 10th only showed the toe
21 area of the shoe because, as I said, the carpeting had been
22 severed, thus taking away the rest of the shoe.

23 Q. Okay. When you -- eventually you got the missing
24 part of the carpet and sprayed that as well; is that correct?

25 A. Yes, back at the laboratory.

26 Q. Okay. And you found out that in fact the
27 impression did continue?

28 A. The impression continued, but the pattern was no

01172597

1 longer visible.

2 Q. In your particular -- in your particular shoe there
3 appears to be a -- first of all a wear pattern. It's where I
4 guess the balls of your feet go.

5 Did you observe any such diminution of the zig-zags
6 on the shoe that you saw on the carpet?

7 A. I don't think I could say at this time. I
8 didn't -- make a drawing at the time that I saw the impression.

9 Q. There's also, looks like on your particular shoe
10 two or three inch gap between -- between sole and heel. Was
11 there that two or three inch gap on the -- on the surface of the
12 carpet when you pieced it together?

13 A. There was a very small -- very small area where
14 there was little or no activity, but not the size of that gap.

15 Q. Is that another thing that you take into account in
16 your opinion that you didn't make that particular shoe
17 impression?

18 A. Yes.

19 Q. And in making shoe -- in making shoe comparisons,
20 that's basically the type of work that criminalists do, they try
21 and see whether or not a certain class characteristics, like
22 size, shape, that sort of thing, of the shoe, such that one shoe
23 could have left the impression, is that basically the
24 philosophy?

25 A. Yet.

26 Q. Now, when you -- back at the laboratory you say
27 that you couldn't see the pattern any more; is that correct?

28 A. Yes.

1 Q. At the -- at the laboratory did you -- did you
2 photograph the impression?

3 A. Yes.

4 Q. Basically the impression that you photographed is
5 sort of a blur or a blue glow in the shape of a foot without
6 much of a pattern being visible; is that right?

7 A. That's true, yes.

8 Q. And the -- the general shape of the pattern had
9 lost some of its definition and sort of spread out a little bit?

10 A. Yes.

11 Q. By the way, did you collect a large series of
12 photographs from -- of the shoe wear of various and sundry
13 sheriff's personnel and civilians who were thought to have had
14 access to the Ryen home?

15 A. Yes.

16 Q. Any of those other shoe impressions that you saw,
17 did they all appear to be consistent in pattern with the
18 impression that you saw in luminol on the night of June the
19 10th?

20 A. Yes.

21 Q. Which one?

22 A. The shoes that I saw from Deputy Coins from the
23 West End.

24 Q. Okay. To your knowledge was Deputy Coins somebody
25 who wasn't in the house until the 15th of June?

26 A. I was not given any information as to what times
27 these individuals were there and what times they were not.

28 Q. Did the -- when did you see those shoes from Deputy

017294

1 Coins?

2 A. I don't recall -- Approximately August 9th of this
3 year.

4 Q. Oh, of this year?

5 A. Yes.

6 Q. Did you see -- do you know Deputy Coins?

7 A. Not personally.

8 Q. I mean, would you -- would you recognize him if you
9 saw him walk in the courtroom?

10 A. No.

11 Q. Any other shoes besides Deputy Coins that you --
12 that you saw that could have matched those impressions?

13 A. No.

14 Q. The part of the carpet that you matched up back at
15 the laboratory, did you go over and -- and fetch that from the
16 I.D. loft?

17 A. Yes.

18 Q. And it was your understanding when you went over
19 and fetched it that it was carpet that had been removed by the
20 career criminal folks on June the 6th?

21 A. Yes.

22 Q. And putting it next to the piece that you saw on
23 June the 10th, they -- the pieces matched up so that the -- that
24 you got like two more or less complete shoes?

25 A. Yes.

26 Q. So, from that you could infer that the same shoe
27 made the impression on both pieces of carpet, that was at least
28 consistent with that?

01172655

1 A. I don't know if I could say the same shoe made both
2 impressions.

3 Q. Well, let me -- I see I did that a bit sloppily.
4 If I could just, using a blue pen, put a
5 continuation.

6 Where I put the blue continuation on 6-F, is that
7 essentially when you pieced it together how the impressions
8 would have appeared?

9 A. One of the impressions definitely continued. I
10 don't believe the other impression did.

11 Q. Which which one was which?

12 A. I believe the one nearest the wall was the one that
13 continued.

14 Q. Okay. So I will put a -- an "X" over the one that
15 doesn't; is that correct?

16 A. Okay.

17 Q. Now, from the position of the carpet, was the one
18 that's closest to the wall, the complete shoeprint, was that
19 consistent with having been made by a single shoe?

20 A. Yes.

21 Q. The photographs that you took and impression that
22 you saw back in the lab, was that particular impression
23 consistent with the luminol which you had sprayed at the house
24 on June the 10th, having seeped into the carpet and diffused the
25 blood or whatever other substances was in the carpet, blurring
26 the image and obliterating the pattern?

27 A. That is what happened, yes.

28 Q. You said that is what happened. We're getting

1 beyond -- you are sure that was what happened as opposed to it
2 was just consistent with?

3 A. I am fairly sure that is what happened, the only
4 thing that I can think of at this point to account for that.

5 Q. Did you foresee that happening when you, when you
6 were out at the scene on June the 10th?

7 A. No.

8 Q. On June -- on June the 10th, the doorway that led
9 into the master bedroom had been carted away; is that right?

10 A. I don't recall.

11 Q. But it was possible if, for example, you put a
12 blanket over the doorway there, that you could just close off
13 enough doors so that there was no source of external light
14 coming into that particular hallway; is that right?

15 A. Possible.

16 Q. So, if you had followed the procedures in the
17 writing of the article you would have been able to get a nice
18 crisp black and white photo of the impression out there at scene
19 on June the 10th.

20 A. It was possible to photograph that, yes.

21 Q. Now, let's see. The shower. The reaction that you
22 saw on the inside of the shower door in the Ryen master
23 bathroom. Was that over the whole door?

24 A. I don't recall.

25 Q. Well, did you take any notes?

26 A. There were notes made to locations in the house
27 where luminol reactions were seen?

28 Q. What was the condition of that bathroom door?

1 A. I don't know what you mean "what was the
2 condition".

3 Q. Well, was it glass?

4 A. As I recall glass, or something like glass.

5 Q. Did you spray both the inside and the outside?

6 A. I'm not sure.

7 Q. Where did you get -- did you get the specks? Do
8 you remember whether you got the specks on the inside or the
9 outside?

10 A. They were on the inside.

11 Q. And when was it that you, that you came up with the
12 idea that those might be fly specks?

13 A. I believe the -- I believe the idea was really
14 formalized on June 30th when we went back to collect the "UU"
15 items I noticed other small specks in other areas of the house.

16 Q. The ones that -- the ones that you collected, the
17 "UU", I guess 2 through 4.

18 A. Yes.

19 Q. They were right down there near the carpet?

20 A. I don't recall if they were very close to the
21 carpet or not.

22 Q. They were low down, correct?

23 A. I believe lower than waist high.

24 Q. Did they glow in the dark when you were spraying
25 the luminol on June the 5th?

26 A. I don't believe we sprayed the walls.

27 Q. Well, when you spray the stuff does it -- you spray
28 along the carpet, it does get along the edges of the bottom of

1 the wall.

2 A. It might hit very low portions of the wall.

3 Q. Have you done any experiments with luminol to see

4 whether a speck of blood as small as that which would be

5 deposited by the feet of the fly would in fact give you a glow

6 from luminol?

7 A. I'm not sure what the question is you are asking.

8 Could you repeat that?

9 Q. When you spray luminol is there -- first of all,

10 you spray luminol long enough everything is going to glow,

11 right?

12 A. Yes, luminol has that tendency.

13 Q. As you spray the stuff, just in general, there's a

14 certain amount of background light that is given off just in

15 spraying it, right?

16 A. Yes.

17 Q. Okay. Now, with respect to the fly specks, just

18 the kind, the amount of blood that would be small enough to be a

19 fly's footprint, as it were, do you know if you could just, if

20 you could, if that would produce a glow which would be

21 distinguishable from just the background luminescence that you

22 see?

23 A. Yes, it would.

24 Q. Have you done experiments to show that?

25 A. I have not done any experiments with just very

26 small specks of blood, no.

27 Q. So you are just basing that on your own -- that is

28 an inference that you've made from having seen luminol sprayed,

01772999

1 is that why you are saying that?

2 A. With the inneraction between luminol and blood, and
3 the amount of light shed, it would be enough to distinguish it
4 from the background.

5 Q. How many different specks did you see on the inside
6 of that shower? I mean, were they all over the place or just a
7 few?

8 A. I didn't count them. There were not a multitude of
9 specks.

10 Q. Was there, was there anything inside the shower
11 that would have attracted flies?

12 A. If my memory serves me there was sort of a plant
13 off in one corner of the shower, a planter. If there was
14 something on that that might attract flies, I don't know. I
15 didn't take an exceptionally good look at it.

16 Q. When you were out there on June the 5th did you
17 notice flies like congregating inside the shower?

18 A. I didn't notice that or make any note of that, no.

19 MR. NEGUS: I think that this is probably good as time as
20 any, your Honor.

21 THE COURT: You must return Monday, 9:30 on the 26th of
22 November.

23 When I repeat my reference to the admonition to
24 you, ladies and gentlemen, don't just take it for granted, it is
25 so very important. Don't try to research, don't go to the
26 library and try to read up on it, don't play detective in any
27 way, just be patient with us.

28 I don't know, this gets tiresome, and it is long

017300

1 but it is the nature of the business that we're on. So be very
2 mindful of the admonition. Don't talk to your spouse, anybody
3 that you might be chummy with, don't let anybody discuss it with
4 you, don't express or form any opinion on the case until it is
5 finally submitted to you, which is a long time from now.

6 Other than that, I wish you all a very happy
7 Thanksgiving and return, if you would, at the hour of 9:30. The
8 same with you, counsel.

9 --oo0oo--

10 (Adjournment)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

0
1
7
3
0
1

Copy

1

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

DEPARTMENT NO. 30

HON. RICHARD C. GARNER, JUDGE

THE PEOPLE OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

KEVIN COOPER,

Defendant.

NO. OCR-9319

REPORTERS' TRANSCRIPT
November 26, 1984

APPEARANCES:

For the People:

DENNIS KOTTMEIER
District Attorney
WITH: JOHN P. KOCHIS
Deputy District Attorney
1540 Mountain Avenue
Ontario, California 91762

For the Defendant:

DAVID L. MCKENNA
Public Defender
BY: DAVID E. NEGUS
Deputy Public Defender
1060 West Sixth Street
Ontario, California 91762

ROBERT L. ROACH, CSR #1727
DONNA D. BEARD, CSR #1874
Official Reporters

COMPUTERIZED TRANSCRIPT

01177202

INDEX OF WITNESSES

FOR THE PEOPLE:

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
STOCKWELL, David C. (Mr. Kochis) (Mr. Negus)		3753	3779	3781
BELL, Ellis Lee (Mr. Kochis)	3789			
ROPER, Rick (Mr. Kochis) (Mr. Negus)	3795	3808	3823	3823

0117307

INDEX OF EXHIBITS

		<u>Iden.</u>	<u>In Eyd.</u>
2-B	Plastic Overlay for Exhibit No. 2	3802	
5-F	Plastic Overlay for Exhibit No. 5	3805	
6-G	Plastic Overlay for Exhibit No. 6	3804	
493	2943 Notes - Schechter	3756	
510	DCS Notes, T-Series	3878	
511	3 x 5 Black and White Photo Sole Impression - Coronado	3780	
512	Diagram - DCS 7-5-83 42376 A-5 Bottom	3780	
513	Diagram - 42376, A-5 Top	3780	
514	Diagram - 42376, A-10	3780	
515	Diagram - 42376, A-8	3780	
516	8 x 10 Color Photo Old English Road	3798	
517	8 x 10 Color Photo Hatchet	3798	
518	Latent Prints - Roper, Ryen Residence	3804	
519	Latent Prints - Roper, Lease Residence	3806	
520	Latent Prints - Roper, Ryen Vehicle	3807	
521	8 x 10 Color Photo Pickup Truck, English Road	3794	
523	8 x 10 Color Photo of Nick in Fence	3799	
524	8 x 10 Color Photo of Relationship of Truck to Pole	3800	

017304

1 1 SAN DIEGO, CALIFORNIA, MONDAY, NOVEMBER 26, 1984, 9:35 A.M.

2 --oo0oo--

3
4 THE COURT: Good morning, everybody. I trust you all had
5 a pleasant holiday. Everybody is present.

6 Mr. Stockwell, you are still under oath to tell the
7 truth.

8 Mr. Negus, try to conclude.

9 MR. NEGUS: Well, we're certainly hoping to, your Honor.

10
11 DAVID C. STOCKWELL.

12 The witness on the stand at the adjournment, having been
13 previously sworn, testified further as follows:

14
15 CROSS EXAMINATION (Resumed)

16 BY MR. NEGUS:

17 Q. Mr. Stockwell, on this Exhibit 500, the lab report,
18 each time that a separate document is submitted by the lab, a
19 separate criminalist will sign the parts for which they're
20 responsible; is that right?

21 A. Yes.

22 Q. And there's also an, there's also a signature after
23 each, after each particular part where somebody sort of takes
24 over all responsibility for that particular segment; is that
25 right?

26 A. Yes.

27 Q. In this particular case, were you the person who
28 was in overall charge of logging in the items of evidence and

4 A. I would say for most of the evidence, I was.

8 A. If I was present at that time, yes.

13 A. Yes.

18 A. I would have to go through the entire list to find
19 out if I did or not.

22 A. I've gone through the list, some items are stated
23 as, for instance, articles of clothing, and it does not go in
24 depth into what each article of clothing is.

27 A. Those that were collected by criminalists, I
28 believe so, yes.

1 Q. Any other, any other, any other items of clothing
2 that was received by your laboratory that you can recall having
3 been collected at the Lease house?

4 A. Without going through the entire list, I don't
5 recall any.

6 Q. Did you ever receive from the Lease house, any
7 items of clothing that were listed as having come from the
8 washer/dryer of the Lease house?

9 MR. KOCHIS: Your Honor, I would object, it is beyond the
10 scope of the direct. We didn't cover in any fashion on direct
11 the Lease house with this witness.

12 MR. NEGUS: I think we covered though his duties as the
13 person that was collecting and preserving all the different
14 evidence in this particular case.

15 THE COURT: But in another part or area. I think that is
16 a good objection, sustained.

17 BY MR. NEGUS:

18 Q. Well, in this document that you have before you,
19 you and Mr. Ogino both signed the general overall thing on June
20 the 14th; is that right?

21 A. Yes.

22 Q. Okay. And then the next, first supplement after
23 June the 14th was August 1st; is that correct?

24 A. Yes.

25 Q. And the final section where it says "Results and
26 Conclusions and Disposition of Evidence", you signed that; is
27 that correct?

28 A. At the end of that report. I signed it, yes.

017307

1 Q. Okay. There is nobody else's signature under
2 "Results and Conclusions" other than yours; is that right?

3 A. That's correct.

4 Q. And your results and conclusions, August the 1st,
5 was that "No tests or examinations have been conducted at this
6 time"; is that correct? That's what you wrote.

7 A. Yes.

8 Q. That was incorrect; is that correct?

9 A. To some extent, yes.

10 Q. With respect -- getting back just for a second to
11 the bedding items, and showing you particularly 409 and 410.

12 As to A-7, the blue blanket, and A-8, the top
13 sheet. Is there any doubt in your mind that A-7 was collected
14 prior to A-8?

15 A. I have no doubt that the blue blanket was collected
16 before the top flat sheet.

17 Q. Showing you Exhibit 4 -- by the way, you never took
18 down yourself a time for the collection of the blue blanket; is
19 that right.

20 A. That's correct.

21 Q. And on the list of notes that you have before you,
22 from Miss Schechter, A-8 is the first one that she listed; is
23 that right?

24 A. Yes.

25 Q. Could you find in your laboratory notes the
26 original of a sketch which, the copy of which is exhibit, excuse
27 me, 493. Okay.

28 That sketch was a view of the master bedroom south

0173008

1 wall and some of the items along that wall that was done by Ms.
2 Schechter; is that right?

3 A. Yes.

4 Q. Okay. And at some point in time you told her that
5 she didn't have to do a sketch, you'd do it yourself; is that
6 right?

7 A. I did not tell her she did not have to do a sketch,
8 I told her that I would do my own sketch.

9 Q. As to the. as to the various items that are listed
10 on that, does she have a list of items 1 through 8?

11 MR. KOCHIS: Objection, it is hearsay.

12 MR. NEGUS: Mr. Stockwell has relied upon Ms. Schechter's
13 notes in giving times and so testified.

14 THE COURT: What he has is a conclusion in his mind as to
15 what she has or hasn't done.

16 MR. NEGUS: Well, it has got to do with the basis of his
17 particular opinion as to what time. In the course of direct
18 examination he referred repeatedly to Ms. Schechter's notes.

19 THE COURT: Reframe your question. Sustained.

20 BY MR. NEGUS.

21 Q. Well, does this document that has been marked as
22 Exhibit 493, does that have a time of collection for the blue
23 blanket on it?

24 A. I can't tell from these notes exactly what it has a
25 time listed for.

26 Q. Okay. Let's just look here. There was A-7, a blue
27 blanket in blue ink with the letters "1720" immediately to the
28 right of it; is that right?

017309

1 MR. KOCHIS: Objection, it is hearsay if it is not his
2 notes.

3 THE COURT: Yes. Sustained.

4 MR. NEGUS: The exception --

5 THE COURT: We're not concerned with his state of mind.

6 MR. NEGUS: No, your Honor, but he refreshed his
7 recollection using Ms. Schechter's notes, therefore one is
8 allowed whenever somebody has used a document to refresh in
9 recollection, to introduce any parts of it. That is an
10 exception to any rule about hearsay. He's relying --

11 THE COURT: Mr. Kochis.

12 MR. KOCHIS: My understanding is that he didn't refer to
13 that document when he gave his earlier time.

14 THE COURT: You will have to lay a better foundation that
15 he himself refreshed his recollection with that particular
16 information.

17 BY MR. NEGUS:

18 Q. You used all the notes in the file from Ms.
19 Schechter of that time to refresh your recollection as to when
20 things were taken, did you not?

21 A. Up to this point, no.

22 Q. Well, you have no present recollection, other than
23 Ms. Schechter's notes, as to the times of any of the items being
24 collected; is that correct, with the exception of the A-8 when
25 you think you wrote on the bag.

26 A. That's correct.

27 Q. So in giving your timeline that you did as to the
28 the times that various things were collected, Ms. Schechter's

017310

1 notes are your only source; is that right?

2 A. Yes.

3 Q. Okay. Looking at this particular document,
4 according to Ms. Schechter's notes that you have been relying
5 on, A-7 was collected at 5:20 p.m.; is that correct?

6 A. I'm sorry, I have not relied on this document yet.

7 Q. Is this document somehow apart from Ms. Schechter's
8 notes? I mean, is it something that's less significant in your
9 mind?

10 THE COURT: Counsel, it makes no difference. I will
11 sustain the previous objection, don't go into that time element.
12 It is hearsay, conclusionary. It makes no difference whether he
13 relied upon it or not. I allowed you to see it, but not
14 cross-examine it.

15 You can take it up later, but not now. Proceed.

16 BY MR. NEGUS:

17 Q. Assuming that Ms. Schechter, and I'm going to
18 introduce this evidence later on, your Honor, assuming that Ms.
19 Schechter noted down a time of collection for the blue blanket
20 as 5:20 p.m., would that cause you to change your testimony as
21 to the time that you collected A-8?

22 A. Yes, it could.

23 MR. NEGUS: If I could read, your Honor. from Volume XX,
24 Page 56, lines -- this would be of the preliminary hearing --
25 Lines 8 through 12. and then skipping some consistent material
26 to Lines 24 and 25.

27 MR. KOCHIS: I have that that.

28 BY MR. NEGUS:

1 Q. (Reading)

2 "Question: On the night of June 5th, did you see
3 anybody in the house from the Bureau of
4 Administration of the Sheriff's Department?

5 "Answer: I don't know that many people in the
6 Bureau of Administration.

7 "Question: Did you see Lieutenant Bradford of
8 homicide?

9 "Answer: Yes."

10 Could you put Jimmy Bradford under Eugene Majors
11 there on the list.

12 A. (Witness complied).

13 THE COURT: Anything else on the chart?

14 BY MR. NEGUS:

15 Q. Do you recall now having had the transcript read to
16 you where you saw Jimmy Bradford?

17 A. Not exactly, no.

18 Q. Was it inside the house?

19 A. I believe so, yes.

20 Q. Could you put then 6-5 under "Rest of House" next
21 to him and put a check mark.

22 A. (Witness complied).

23 Q. On the date that you sprayed the house with
24 luminol, I believe that it was June 10th, did you spray the
25 areas where the stains UU-10. UU-11. UU-12. UU-14 and UU-13 were
26 collected with the luminol before they were collected?

27 A. I know we sprayed the area where UU-13 was
28 collected. That is inside the shower area. I don't recall

017312

1 whether or not the areas UU-10, 11, 12 and 14 were sprayed with
2 luminol or not.

3 MR. NEGUS: Well, let me -- if I could, your Honor, I'd
4 like to read from 3598 of the motion transcripts, Line 26,
5 through 3599, Lines 14.

6 THE COURT: Just a moment.

7 MR. KOCHIS: Does Mr. Negus have a Volume number?

8 MR. NEGUS: It appears to be Volume XXXV but I couldn't
9 swear to it.

10 MR. KOCHIS: I have that.

11 BY MR. NEGUS:

12 Q. (Reading)

13 "Question: Exhibit H-289, the letters in orange
14 were put there by yourself at the preliminary
15 hearing; is that correct?

16 "Answer: Yes.

17 "Question: And they correspond to the numbers
18 in the 'UU' series of blood that you and Mr. Ogino
19 collected on June the 30th; is that correct?

20 "Answer: Yes.

21 "Question: How many of those had you sprayed with
22 luminol?

23 "Answer: Five.

24 "Question: What were their numbers?

25 "Answer: 10. 11. 12. 13. 14.

26 "Question: Why didn't you collect those samples
27 before you sprayed the luminol?

28 "Answer: I don't know.

017313

1 And if we can find it, I'm prepared to stipulate
2 that H-289, the little diagram of the Ryen house with orange
3 numbers on it that I showed Mr. Stockwell last week, which would
4 be exhibit --

5 MR. KOCHIS: If and when we find it, if I could look at
6 it, I probably would join in the stipulation.

7 THE COURT: Perhaps later.

8 MR. NEGUS: We'll find it.

9 And then I'd like just to read, it looks like
10 Volume XIX of the preliminary, page 113, Line 14, through 114,
11 Line 17.

12 MR. KOCHIS: I believe I would have an objection to that,
13 and I believe that on Page 114 certain portions of that are not
14 inconsistent with anything Mr. Stockwell has said at this
15 proceeding,

16 MR. NEGUS: Certain portions are in the -- you have to
17 read the whole thing in order to get the context.

18 MR. KOCHIS: I'd also have an objection to 113. I don't
19 recall anything that he testified at the preliminary hearing on
20 that page being inconsistent to what he said in the trial.

21 THE COURT: Mr. Negus.

22 MR. NEGUS: Your Honor, Mr. Stockwell has testified at
23 the trial that he did not take blood off the shelf areas for the
24 A-36 sample of blood.

25 The plain import of that, this particular
26 quotation, is that he couldn't, he wasn't sure of that at the --
27 he wasn't sure where he got it.

28 THE COURT: It is arguable. Ill permit it. Go ahead,

0
1
7
3
1
4

1 sir.

2 BY MR. NEGUS:

3 Q. (Reading)

4 "Question: In that area on the west side, the
5 west side of the room, there is a desk and shelf
6 combination; is that true?

7 "Answer: Yes.

8 "Question: Did you take any blood off of that?

9 "Answer: Yes.

10 "Question: From where?

11 "Answer: I can't say for certain.

12 "Question: No records were taken of that?

13 "Answer: Myself and Miss Schechter made notes as
14 to the general location that they were taken from.

15 "Question: It says something about shelves; is
16 that correct?

17 "Answer: Yes:

18 "Question: How many shelves were there on that
19 piece of furniture?

20 "Answer: I don't recall.

21 "Question: Many?

22 "Answer: What is many?

23 "Question: Ten?

24 "Answer: There may have been that many, I don't
25 recall.

26 "Question: How much time would it have taken to
27 note from which one of those shelves the blood
28 came from?"

017315

1 MR. KOCHIS: Your Honor, at this point I have an
2 objection to the continuing portion. It is not inconsistent
3 with anything Mr. Stockwell said at the trial. He's going into
4 certain --

5 THE COURT: Seems so, Mr. Negus.

6 MR. NEGUS: Your Honor, I think it goes -- if I could
7 explain.

8 THE COURT: Perhaps you can skip portions then.

9 MR. NEGUS: Well, I think that --

10 THE COURT: It seems to be amplifying upon the so-called
11 inconsistent now.

12 MR. NEGUS: I want to get the whole thing in.

13 THE COURT: He hasn't said want you --

14 MR. NEGUS: If you'd read it I think you'd see that you
15 can draw inferences from the rest of that as to that point in
16 time.

17 THE COURT: I will sustain the objection. You may have
18 to lay a better foundation.

19 MR. NEGUS: Could you read it? I will show you the page.

20 THE COURT: From Line 8?

21 MR. NEGUS: To where I have marked it in orange there at
22 the end.

23 THE COURT: Through at least Line 14 appears to be
24 clearly objectionable. I will sustain the objection. I don't
25 know if there is an objection to the last two lines or not.

26 MR. NEGUS: Well, then, I will finish reading 15 through
27 17.

28 MR. KOCHIS: I would have an objection to that.

017316

1 THE COURT: Is there any inconsistency in those lines?

2 MR. NEGUS: He said that he took more than one.

3 THE COURT: Go ahead.

4 BY MR. NEGUS:

5 Q. (Reading)

6 "Question: Did you take that sample from one drop
7 of blood or more than one drop of blood?

8 "Answer: I don't recall offhand."

9 I'd like to be heard on that outside the presence
10 before we finish with the witness.

11 Mr. Stockwell, according to the principles by which
12 you were collecting blood that night, that was to do a limited
13 reconstruction or to make a limited reconstruction possible; is
14 that correct?

15 A. That's one of the reasons for doing that, yes.

16 Q. According to your definition of a limited
17 reconstruction that would be determining areas where the victims
18 may have been, where they may have been injured and if they
19 moved from room to room, et cetera; is that correct?

20 A. Yes.

21 Q. You didn't collect sufficient samples of blood to
22 answer those questions, did you?

23 A. It depends to what degree the questions are to be
24 answered.

25 Q. Well, just as a, as a simple example, if a blood
26 drop was falling straight down when it hit a wall, um, that
27 would position a victim differently than if it were going in an
28 up direction; is that correct?

017317

1 A. It could, yes.

2 Q. And you made no efforts to provide the kind of
3 information that would enable us to note, for example, if the
4 drops of blood that you collected from A-36 came from any
5 particular spot on this particular room.

6 As far as you know it could, from any spot in the
7 room, even could have flown through the doors in the bathroom;
8 is that correct?

9 A. It is possible.

10 Q. And there is nothing that you did to try and
11 determine whether it came from the direction of the bed, the
12 direction of Jessica, the direction of Chris, the direction of
13 where Josh was found, the direction of Peggy Ryan, or from some
14 other person, assailant over here; is that right?

15 A. That's correct.

16 Q. The same with all the other blood you collected,
17 correct?

18 A. Yes.

19 Q. So, other than the spot where the victims were
20 found by Bill Hughes, there is nothing that you did that would
21 add to our information about where they had been as far as
22 collecting blood is concerned; is that correct?

23 A. I would say the possibilities are limited as to
24 where the victims were. The probabilities are limited.

25 Q. Well, as far as, as far as, for example, the
26 collection of blood is concerned, there is no way from your
27 particular, your particular collection, that you could tell
28 whether the blood that you collected from A-36, for example,

0-1731-0

1 came from one or more than one victim; is that right?

2 A. That's correct.

3 Q. And by mixing up the blood, you mixed up different
4 drops of blood from different places, right?

5 A. In some locations yes.

6 Q. By doing that that's bad practice, is it not?

7 A. It depends on the circumstance.

8 Q. Under the circumstances of this particular crime,
9 and that particular evidence collection, that was bad practice,
10 was it not?

11 A. It might have been done better by someone with more
12 knowledge about blood spatter impressions than what I have. I
13 did what I could with the information I had at hand.

14 Q. You knew enough, did you not, to know that you are
15 supposed to keep the blood drops separate from one another if
16 they came from different sources.

17 A. That is a rule to run by and the question is, what
18 do you term separate sources? I defined what I termed as a
19 source as to a general localized area. That is the way I
20 collected the blood. If I had only collected one drop of blood,
21 it would not be sufficient for serological purposes.

22 Q. Well, as far as this particular, this particular
23 collection of blood is concerned that you did, the ten or
24 whatever it was samples you collected from the walls and
25 furniture inside the Ryen master bedroom on that particular
26 night, even according to your own definitions it was inaccurate,
27 was it not?

28 A. It could have been done better, yes.

1 Q. And at that point in time even you could at least
2 make elementary determinations as to which direction blood was
3 traveling when it hit the various surfaces.

4 A. Yes.

5 Q. You just ignored that information in your
6 collection of blood, right?

7 A. I can't say I ignored it totally.

8 Q. Well, you lumped together the drops of blood that
9 came from totally different directions, right?

10 MR. KOCHIS: Objection, that has been asked and answered.

11 THE COURT: Yes. Sustained.

12 MR. NEGUS: I don't think that exact --

13 THE COURT: The same import, Mr. Negus Sustained.

14 BY MR. NEGUS:

15 Q. On A-35, by look and studying the photographs, you
16 can tell that not only did you not take care not to lump dropped
17 blood from different directions but in fact you lumped different
18 drops of blood in totally different collections.

19 MR. KOCHIS: Objection, asked and answered.

20 THE COURT: Yes, that particular question has been asked
21 and answered. You went blood drop by blood drop in the
22 photographs.

23 MR. NEGUS: I didn't either.

24 THE COURT: Sustained. Just don't reiterate, please.

25 MR. NEGUS: I'm trying. That particular point was not
26 gone into, your Honor.

27 Q. What did you do to determine where the -- the
28 victims might have been injured on the night of June 5th?

017320

1 A. Most of that evidence was collected in the form of
2 blood collected from the walls around the room.

3 Q. You were by no means trying to be -- trying to
4 systematically answer that question; is that correct?

5 A. I don't know what you mean by "systematically".

6 Q. Is that a word that's foreign to science?

7 A. It's not a word that's foreign to science; but in
8 the context in which you give it, it's confusing.

9 Q. Well, is it possible just to go step-by-step and
10 attempt to make that kind of determination?

11 A. Yes.

12 Q. You didn't do that, did you?

13 A. I did take step-by-step several actions in that
14 room to collect blood.

15 Q. But I'm talking about did you step-by-step
16 undertake the collection of blood with the idea of
17 systematically answering the questions of where the victims were
18 when they were injured?

19 MR. KOCHIS: Your Honor, I'm going to object. That
20 assumes a fact that's not in evidence. You can't absent a movie
21 camera recreate where they were in the room each and every time
22 they were struck.

23 MR. NEGUS: He has already testified they can, and that's
24 what he was trying to do.

25 THE COURT: I will overrule the objection. Go ahead.

26 THE WITNESS: I don't believe I recall all of the
27 question. Could you repeat?

28 BY MR. NEGUS:

017321

1 Q. When you were collecting the blood, did you do it
2 in a systematic step-by-step manner so that your collection of
3 blood was designed to answer the questions where the victims
4 were when they were injured?

5 A. I did take step-by-step actions. It was not
6 designed to foresee every possibility from every direction where
7 the victims could have been struck.

8 Q. Similarly you didn't try to systematically
9 determine whether the victims had moved from room to room,
10 right?

11 A. My steps there were quite limited as the only idea
12 I could have was whether they were moving while they were
13 bleeding. If they moved from room to room while they were not
14 bleeding, I could not collect any physical evidence that would
15 point to that.

16 Q. Well, you didn't even -- you didn't even attempt to
17 answer that question with what you had.

18 For example, there was a trail of blood that led
19 from that bare spot in the carpet in that general direction,
20 around from the -- around the bed there.

21 You didn't, for example, collect that blood, did
22 you?

23 A. I did not collect blood from that location.

24 Q. And of the various blood smears on the molding, you
25 didn't collect any of those that you can say for sure; is that
26 correct?

27 A. Which molding?

28 Q. Any of the molding.

017322

1 A. That's correct, I really couldn't say.

2 Q. So, even by your own limited definition, you were
3 inadequate for the questions that you think are part of the
4 limited reconstruction; is that correct?

5 A. I don't believe I was inadequate for what I have
6 stated today and on previous dates.

7 Q. On previous days you have stated that you want to
8 determine where the victims were when they were injured,
9 correct?

10 A. To a limited extent, yes.

11 Q. That was -- Do you have your copies of the
12 transcript with you?

13 A. I have some of them.

14 Q. Do you happen to have the prelim?

15 A. Yes, I believe so.

16 Q. And could you turn in the prelim to Volume XIX,
17 Page 112?

18 A. I'm afraid my copies aren't listed by volume
19 number, at least that I can tell.

20 Q. Allow me to provide with you a multicolored copy to
21 orient yourself.

22 A. Okay. I have that page.

23 Q. Okay. At that point in time you were trying to
24 define the limited purposes for which you were collecting
25 evidence; is that right?

26 A. Yes.

27 Q. And that limited purpose was exactly what I read to
28 you earlier, where the victims may have been, where they may

1 have been injured, if they moved from room to room, et cetera;
2 is that right?

3 A. Yes.

4 Q. So, you were defining a minimum standard of what
5 you were trying to do, right?

6 A. I don't know that it's a minimum standard.

7 Q. It's a limited reconstruction as opposed to the
8 kind of reconstruction that's -- reconstruction that somebody
9 with more experience than yourself could have undertaken; is
10 that right?

11 A. Certainly.

12 Q. And even on your limited -- under your definition
13 of limited reconstruction, you didn't do all you could to answer
14 those questions, right?

15 A. Given my knowledge and training at the time, I
16 think I did all of those to the best extent that was possible.
17 It is possible to do more, but I don't believe I had that much
18 training to do more.

19 Q. When you first testified you told us, did you not,
20 that you could document what type of blood you have; is that
21 right?

22 A. It's possible, yes.

23 Q. Not mixed blood from different sources.

24 MR. KOCHIS: Objection. This has been asked and
25 answered.

26 THE COURT: Counsel, we are getting argumentative as
27 well. Sustained.

28 BY MR. NEGUS:

0-1-7-3-4

1 Q. Didn't you know enough to do more than you did?
2 A. I might have been able to do a little bit more than
3 what I did.
4 Q. Of the luminol reactions that you got from the Ryen
5 house, did you attempt to test any of those areas with
6 ortho-tolidine to give you a further screening on -- on the
7 reactions that you saw?
8 A. Some of them, yes.
9 Q. Do you recall which ones?
10 A. Those that I recall offhand, one of the impressions
11 near T-1, the north sink of the master bathroom, the shower area
12 of the master bathroom.
13 Q. Could you sort of put a circle around the "UU" --
14 or the "T" numbers, excuse me -- could you put a blue circle
15 around the luminol reactions that you tested with
16 ortho-tolidine?
17 A. I'm not sure which one in T-1 as there were two.
18 Q. Okay. Circle T-1 then we will know it's one of
19 those.
20 A. (Witness complied.) The sink area and the bathroom
21 shower area.
22 Q. Okay. Now at that particular point in time, were
23 you under any misapprehensions which you have since learned were
24 incorrect about how to -- how to do the ortho-tolidine test?
25 A. I'm not sure what you're asking.
26 Q. Well, did you do it incorrectly according to your
27 present-day knowledge?
28 A. I believe I did it correctly.

1 Q. Well, according to your present-day knowledge the
2 way you tell between the minerals and the animal and the
3 vegetables, as it were, is by virtue of, if you -- if the first
4 reaction you see is -- you see a reaction right off the bat,
5 then you know it's a mineral rather than blood, right, or some
6 other animal or vegetable substance?

7 A. If, with just the addition of the ortho-tolidine
8 alone, without hydrogen peroxide, a color develops, that is
9 indicative of an oxidizer such as a mineral, something other
10 than blood.

11 Q. Is it possible to do that test on an one-step
12 basis, that is, put the ortho-tolidine and the hydrogen peroxide
13 on the substance at the same time?

14 A. Yes.

15 Q. Did you do that?

16 A. No. It was a two-step procedure adding the
17 ortho-tolidine and then adding hydrogen peroxide.

18 C. Well, do you remember -- the first time that you
19 gave an explanation of the ortho-tolidine test, that was when
20 Mr. Kochis was asking you questions at the preliminary hearing;
21 is that right?

22 A. Yes.

23 Q. That was before I had even ever asked you the first
24 question that I ever asked you, right?

25 A. I suppose so, yes.

26 Q. And at that point in time did you give a slightly
27 different explanation as to how to tell the difference between
28 minerals and animal and vegetable substances than you did now?

0-1-7-3-2-9

1 A. I don't recall exactly what I said at that time.

2 MR. NEGUS: If I could read, your Honor, from Volume II,
3 Lines 101 -- 2 to -- excuse me, Volume II, Page 101 Line 2 to
4 Page 102 Line 1.

5 MR. KOCHIS: I have that.

6 MR. NEGUS:

7 "Question: By Mr. Kochis.

8 "Mr. Stockwell, directing your attention back to
9 June the 8th of 1983, the day which you performed the two
10 tests, the luminol reagent test and the ortho-tolidine
11 test, is it one of those tests more specific than the
12 other?

13 "Answer: Yes.

14 "Question: Which one?

15 "Answer: Ortho-tolidine is more specific for blood
16 than is luminol.

17 "Question: Why is that?

18 "Answer: Luminol will react with quite a few
19 substances, some that I don't even know why it would,
20 certain fabrics, et cetera, in the same way that it
21 would with blood, whereas ortho-tolidine will not react
22 with those substances. There are a few exceptional
23 items, for instance, some oxides of metals that may cause
24 reactions with both, but still with the ortho-tolidine
25 it gives a slightly different reaction than with blood.
26 Blood gives an immediate blue color, whereas these oxides
27 take longer to create the blue color. So even that, in
28 that, the ortho-tolidine is more specific than the

017327

1 luminol.

2 "Question: When you performed the ortho-tolidine
3 test inside the 2991 residence, did the blue reaction you
4 saw, was that an immediate reaction, or did that take
5 some time to form?

6 "Answer: That was an immediate reaction."

7 According to the explanation that you gave at the
8 preliminary hearing, an immediate blue reaction to your present
9 understanding would indicate a mineral, correct?

10 A. If I were talking at the time about two steps, you
11 are correct. What I was stating there was a simplification. I
12 did not even mention the two steps that were involved.

13 Q. Right. You never mentioned the two steps, in fact,
14 in any of your testimony until Mr. Kochis asked you about two
15 steps hereto today; is that right?

16 MR. KOCHIS: Objection. I haven't asked him any
17 questions today.

18 MR. NEGUS: Excuse me. Last week.

19 MR. KOCHIS: And I would also object not being relevant.

20 THE COURT: Overruled.

21 THE WITNESS: That's correct, it was not brought out or
22 elicited by questioning until last week.

23 BY MR. NEGUS:

24 Q. And in fact, the difference is not -- the
25 difference between how you distinguish between minerals and
26 animal substances is not in the speed of the reaction at all; is
27 that correct?

28 A. It can be.

1 Q. Well, assuming that the bleach is fresh, the blood
2 is fresh, you get a really quick reaction with bleach, right,
3 even quicker than with blood?

4 A. You would get a color formation upon addition of
5 ortho-tolidine alone without hydrogen peroxide. With blood you
6 would have to add the hydrogen peroxide.

7 Q. And if you were, if you were confused and you did
8 it the one-step way, that is, where both ortho-tolidine and the
9 peroxide were added at the same time, the bleach would give you
10 an immediate blue color, right?

11 MR. KOCHIS: Objection. Assumes a fact not in evidence
12 and it's argumentative.

13 THE COURT: I will permit the assumption and the fact.
14 And it might be argumentative. Overruled.

15 THE WITNESS: Under those circumstances, yes.

16 BY MR. NEGUS;

17 Q. And under those circumstances, hydrogen peroxide
18 and ortho-tolidine added together, some oxides of metals would
19 take longer to give a reaction than blood, right?

20 A. I've seen that happen, yes.

21 Q. Just like you describe it in your testimony?

22 A. Yes, as an example in my testimony.

23 Q. When you were giving that testimony then, is it
24 reasonable to think that you were -- you were thinking in your
25 mind's eye of a test where the ortho-tolidine and the hydrogen
26 peroxide were added at the same time?

27 A. No.

28 Q. Mr. Stockwell, don't you in your testimony always

017330

1 try to be as precise about scientific matters as you possibly
2 can be?

3 A. No, not always.

4 MR. NEGUS: Nothing further.

5

6 REDIRECT EXAMINATION

7 BY MR. KOCHIS:

8 Q. Mr. Stockwell, the victims I believe were
9 transported from the scene to the morgue in what is called a
10 body bag; is that correct?

11 A. Yes.

12 Q. And were each of the body bags retained by a member
13 of the crime lab at the autopsy?

14 A. Yes.

15 Q. Was that yourself?

16 A. Yes.

17 Q. Were they assigned laboratory identification
18 numbers?

19 A. Yes.

20 Q. Were they taken back to the crime lab and
21 preserved?

22 A. Yes.

23 Q. On Exhibit 500, specifically on Pages 1706, 1707,
24 and 1708, that contains the list of items that you removed from
25 the victims at the autopsies; is that correct?

26 A. Yes.

27 Q. And does it also include by laboratory
28 identification number, the number assigned to each body bag

1 which the victim was taken out of?

2 A. Yes.

3 Q. Directing your attention to a series of exhibits,
4 four documents which have been marked for identification as
5 Exhibit 512 through and including 515; do you recognize what
6 these are Xerox copies of?

7 A. Yes.

8 Q. Are they Xeroxed copies of the diagrams you
9 prepared of the sections you took from the sheet and the
10 comforter which were removed from the Ryen master bedroom?

11 A. Yes.

12 Q. And, for example, on -- taking one of them, Exhibit
13 512, have you indicated on that exhibit, using letters or
14 numbers, the approximate location of the samples which were cut
15 out and later frozen?

16 A. Yes.

17 Q. And did you use on that exhibit, on 512, numbers or
18 letters?

19 A. Yes.

20 Q. Which one?

21 A. Excuse me. I used letters on all of these
22 exhibits.

23 Q. Directing your attention to a photograph which has
24 been marked for identification as Exhibit 511, which appears to
25 be a photograph of the bottom of the sole impression, is the
26 pattern on that sole impression, is that consistent or
27 inconsistent with the pattern of the impression that you saw in
28 luminol in the Ryen home on June the 10th?

1 A. It looks consistent with the pattern that I saw.

2 MR. KOCHIS: I have nothing further.

3 THE COURT: Anything else?

4

5 RECROSS EXAMINATION

6 BY MR. NEGUS:

7 Q. Mr. -- let me see what picture we're talking about.

8 The -- This Exhibit 511, the wavy lines, you drew
9 on your -- on your drawing of the pattern you saw in luminol
10 sharp diagonal lines, is that right, without a curve to them?

11 A. Yes.

12 Q. And, in fact, that's what you saw, is it not?

13 A. I can't say exactly how sharp or how rounded they
14 actually were. What I showed you was a diagram.

15 Q. Okay. And the -- what size of -- what size of shoe
16 is your boot?

17 A. My personal boot.

18 Q. Yeah, the one you were wearing.

19 A. I wear size eight and a half.

20 Q. And the impression you saw was bigger than that,
21 right?

22 A. Yes.

23 Q. Let's see you -- by -- let's see, this would
24 appear -- that's a foot long ruler -- would be approximately a
25 ten-and-a-half inch shoe; is that right?

26 A. It looks about eleven inches to me.

27 Q. The impression -- that's about the same size, a
28 little smaller perhaps than your boots?

1 A. I believe it's actually a little larger than my
2 boot.

3 Q. But it would be considerably smaller than the
4 impression that you saw in luminol in the -- in the Ryen house;
5 is that right?

6 A. When I measured that impression it was
7 approximately thirteen inches.

8 Q. So, as far as size is concerned, that would not
9 be -- that would not be consistent?

10 A. I don't know that I could say it is totally
11 inconsistent. When I measured the footprint from the Ryen
12 house, as I had said, it had time to difuse due to the nature of
13 the liquid luminol, how much it difused I really couldn't say.

14 Q. Did it difuse two inches?

15 A. Possibly.

16 Q. Now, Mr. Stockwell, you -- how long is your shoe?

17 A. I don't recall offhand how long my shoe is.

18 Q. About just approximately eleven inches; is that
19 right?

20 A. Approximately ten inches I would say.

21 Q. It would appear that, showing you Exhibit 490
22 alongside of this other exhibit, 511, you apparently didn't put
23 a ruler in your particular picture, right?

24 A. I didn't take this particular picture, but there is
25 no ruler in it.

26 Q. Well, it would appear at least that, that whatever
27 that printing is along the bottom of the picture is -- the two
28 pictures look to be taken approximately at the same place; is

1 that right?

2 A. I don't know if I could say that or not from these
3 photographs.

4 Q. Well, does it appear to be approximately the same
5 distance from the shoe that they were taken?

6 A. It could be.

7 Q. Did you -- did you -- at some point in time were
8 you given the assignment to -- to compare all of the
9 investigators' shoes with the -- with the various impressions
10 that were lifted from the Lease and Ryen house?

11 A. I was never formally assigned to it. I was given
12 various shoe impressions since I and Mr. Ogino were the only
13 criminalists in the lab that had actually seen the impression in
14 the Ryen house.

15 Q. And that particular one there of Mr. Coronado's
16 shoe was one of the ones that you examined prior to the
17 preliminary hearing; is that right?

18 A. That's possible.

19 Q. At the preliminary hearing did you testify that all
20 of the shoes that you had seen to date were inconsistent with
21 the impression that you'd seen in luminol?

22 A. That's what I said at that time, yes.

23 Q. In your mind as you testify here today, do you feel
24 it's important for the prosecution's case that the particular
25 luminol impressions that you saw in the Ryen house be
26 demonstrated not to have come from one of the assailants?

27 A. I feel it's important for both the prosecution and
28 the defense to try and determine where the particular

017335

1 impressions came from.

2 Q. I understand that, but that wasn't the question I
3 asked you.

4 Do you think that it's important for the
5 prosecution's case to demonstrate that it didn't come from and
6 assailant?

7 A. That could be used by the prosecution, yes.

8 Q. Is that why your opinion has changed as to whether
9 or not Mr. Coronado's shoe is consistent?

10 A. I don't know that it's changed.

11 Q. Well, assuming that particular photograph was shown
12 to you prior to the preliminary hearing, it's changed?

13 A. You would have to --

14 MR. KOCHIS: Objection. That assumes a fact that's not
15 in evidence.

16 MR. NEGUS: I assume we can tie it up.

17 THE COURT: Well, let's tie it up first. Lay your
18 foundation.

19 MR. NEGUS: Well, I'm going to have to bring in other
20 witnesses and stuff like that, lay the foundation that that was
21 one of the impressions that Mr. Stockwell showed me in the
22 laboratory that he had at such and such a date. I mean, I can
23 do that, but I --

24 THE COURT: Ask your question again, let's see, Mr.
25 Negus.

26 BY MR. NEGUS:

27 Q. Assuming that that was one of the impressions that
28 you had in the laboratory prior to the preliminary hearing,

1 what's caused you to change your opinion?

2 THE COURT: Overruled.

3 THE WITNESS: Assuming that fact, it would probably be
4 due to the fact that what I have to go on is purely rote, rote
5 memory. I did not make a diagram of it.

6 The photograph of the impression that I did take
7 was taken at a time that the impression had difused into the
8 carpeting and rendered no pattern, so I am relying only on
9 memory, which is imperfect.

10 BY MR. NEGUS:

11 Q. By the way, were the impressions that you saw in
12 the carpet at the Ryen house, consistent in size with luminol
13 impressions that you saw and measured on the carpet at the Lease
14 house?

15 A. Yes.

16 Q. And you have also taken foot impressions of Kevin
17 Cooper; is that right?

18 A. No, I haven't.

19 Q. Were you not present when foot impressions of Kevin
20 Cooper were taken?

21 A. I may have been.

22 Q. And have you studied those?

23 A. No.

24 Q. Well, did you at one point in time get a pair of
25 Kevin Cooper's shower shoes so that you could study those?

26 A. Yes, I did.

27 Q. And you determined what size shoe that Kevin Cooper
28 wears; is that right?

1 A. There was an approximate size.

2 Q. Approximate size 10?

3 A. Yes.

4 Q. And that is smaller than the shoe impressions that
5 you saw in the luminol in the Lease house and in the Ryen house;
6 is that correct?

7 A. It depends upon a lot of variables.

8 Q. The particular impressions that you saw were
9 smaller, were they not?

10 A. Excuse me. The impressions were smaller?

11 Q. The shoes, the shower shoes you saw from Mr.
12 Cooper?

13 A. The shower shoes --

14 MR. KOCHIS: I would object, that's irrelevant. We
15 haven't introduced any evidence that Mr. Cooper was wearing
16 shower shoes in the Lease house or in the Ryen house. If it is
17 another shoe, it is not going to be the same size. A person's
18 shower shoes and tennis shoes aren't necessarily the same size.

19 THE COURT: Overruled, for what it's worth.

20 Ladies and gentlemen, I don't pass upon the weight
21 that you are to be given evidence, if any. You will determine
22 whether or not it has any weight. I simply permit it to come
23 in. Overruled.

24 THE WITNESS: The shower shoes were less than 13 inches
25 in length.

26 BY MR. NEGUS:

27 Q. Well, let me -- if I could just for one second,
28 bring out something I neglected to do before.

1 Showing you Exhibit 510. Is that the notes that
2 you took on June the 10th when you were collecting evidence and
3 spraying luminol in the Ryen house?

4 A. Yes.

5 Q. And is that the complete set of notes that you took
6 on that date?

7 A. In regards to the luminol, yes.

8 Q. Did you take any other notes of your activities of
9 collecting evidence and spraying luminol inside the Ryen house
10 on June the 10th?

11 A. Those are the only notes from inside the house on
12 that date.

13 Q. And is that something that you relied on in
14 refreshing your recollection as to your testimony last week for
15 Mr. Kochis?

16 A. Yes.

17 MR. NEGUS: Nothing further.

18 MR. KOCHIS: I have no further questions.

19 THE COURT: Thank you, Mr. Stockwell.

20 MR. NEGUS: Before we finish with Mr. Stockwell. Could
21 we be heard?

22 THE COURT: Take the morning recess, ladies and
23 gentlemen. Remember the admonition. Let's remain in session,
24 we will take it up outside the presence of the jury.

25 Bailiff would you let them out, please.

26 (The jury exits the courtroom).

27

28 THE COURT: Yes, Mr. Negus. The jurors have departed.

0117349

1 MR. NEGUS: I believe that the inference that one can
2 draw from his answers to the questions starting on Line 8, "How
3 much time would it have taken to note which one of those shelves
4 the blood came from?" And his answer, "Perhaps five minutes to
5 logically number the shelves", indicates that, that is an
6 implied statement that the blood well could have come from the
7 shelves. That is inconsistent with his testimony here in court.

8 MR. KOCHIS: Well, I can't stretch it that far. It is
9 not inconsistent in terms of actual verbage with anything he
10 said at the trial.

11 He's testified that he's not sure where it came
12 from. He doesn't believe it was taken from the shelves, and
13 there is nothing in there that indicates that it was taken from
14 the shelves.

15 Mr. Negus went into another area and covered how
16 much time he would have had to document the samples in the
17 fashion it would have pleased Mr. Negus, and it wasn't with
18 their location.

19 MR. NEGUS: I don't think it has to be -- an inconsistent
20 statement has to be exactly word for word inconsistent, and if
21 there is inferences that one can draw as far as admissibility is
22 concerned, I would submit that as long as one of the inferences
23 that one can draw is that it is inconsistent then it is
24 admissible. Its weight may not be very great, as you said.

25 THE COURT: I'm also considering the weight and the other
26 factors that I have. So, under Evidence Code section 352 the
27 ruling will stand, counsel. I think I was correct the first
28 time.

0-1-7-3-4-0

1 (Recess)

2

3 THE COURT: Everybody is present. The delay was
4 occasioned by something completely unrelated to the trial,
5 ladies and gentlemen.

6 Mr. Kochis.

7 MR. KOCHIS: Ellis Bell, your Honor, is our next witness.

8

9 ELLIS LEE BELL,

10 Called as a witness on behalf of the People, having been duly
11 sworn, testified as follows.

12 THE CLERK: Thank you. Would you be seated.

13 Would you state your full name for the record.

14 THE WITNESS: Ellis Lee Bell.

15 THE CLERK: Would you spell Ellis?

16 THE WITNESS: E-l-l-i-s. That's Bell. B-e-l-l.

17

18 DIRECT EXAMINATION

19 BY MR. KOCHIS:

20 Q. Mr. Bell, do you know the Dunn family that lives on
21 Old English Road in Chino?

22 A. Yes.

23 Q. Where is their home in relation to the home of Bill
24 and Mary Ann Hughes?

25 A. Right next door to it.

26 Q. On Sunday, June the 5th, of 1983, did you visit the
27 Dunns at their home in Chino?

28 A. Yes.

0
1
7
3
4
1

1 Q. What type of vehicle did you use to get to the
2 location?

3 A. A '84 pickup truck.

4 Q. Do you remember what time you got to the Dunn home
5 on that day?

6 A. Approximately 9:00 o'clock.

7 Q. Were you sent to run an errand sometime in the
8 afternoon on that Sunday, June the 5th?

9 A. Yes.

10 Q. What time did you leave the Dunn residence?

11 A. About 2:30.

12 Q. Did you take somebody with you.

13 A. Yes. A girl by the name of Linda who works there.

14 Q. Did you and Linda go to the store to pick up some
15 supplies or something?

16 A. Yes. We went to pick up groceries and some things
17 like that.

18 Q. After you made your purchase, did you come back
19 then to the Dunn residence?

20 A. Yes.

21 Q. Where did you park your car when you got back?

22 A. Almost across from their driveway, on the north
23 side of the road.

24 Q. Do you remember about what time it was on that
25 afternoon that you got back to the Dunn home?

26 A. Approximately 3:30.

27 Q. Now, when you got out of your car, did you see
28 anything in the area that caught your attention?

017342

1 A. Yes. I seen a hatchet.

2 Q. Where was the hatchet when you first saw it?

3 A. It was laying in the weeds, between my truck and

4 the fence on the north side of the road back by the rear wheel.

5 Q. Did the hatchet have anything on it that you could

6 tell at that time?

7 A. It had a dried reddish substance on it.

8 Q. Looked like blood?

9 A. Yes.

10 Q. Directing your attention, Mr. Bell, to an eight by

11 ten color photograph which we have marked for identification as

12 Exhibit 521.

13 First of all, do you recognize any of the vehicles

14 in that particular photograph?

15 A. Yes.

16 Q. There appears to be a Ford pickup truck in the

17 middle of the picture. Whose car is that?

18 A. That is my car.

19 Q. And is that the car that you drove to the Dunn home

20 on that Sunday?

21 A. Yes.

22 Q. Is that the position your car was in when you

23 parked it and later saw the hatchet?

24 A. Yes.

25 Q. Do you see on the photograph any writing which

26 indicates the approximate location at which the hatchet was

27 found?

28 A. Yes.

0177343

1 Q. And can you step to the photograph and can you tell
2 which of the letters pertains to the approximate location you
3 saw the hatchet.

4 A. Yes. The letter "H".

5 Q. This particular photograph, Exhibit 521, is that a
6 photograph of the road that in fact leads up to the Ryen home?

7 A. Yes.

8 Q. Away from Peyton Road.

9 A. Yes.

10 Q. Now, directing your attention to Exhibit 517, which
11 is another eight by ten color photograph.

12 Do you recognize the area depicted in that
13 photograph as well?

14 A. Yes.

15 Q. Is it a photograph that depicts the approximate
16 location your truck was parked at on June the 5th when you saw
17 the hatchet?

18 A. Yes.

19 Q. And is the photograph taken facing the other
20 direction, going down Old English Road toward Peyton Road?

21 A. Yes.

22 Q. Directing your attention next to an eight by ten
23 color photograph which we have marked for identification as
24 Exhibit 83.

25 Do you recognize either of the objects in that
26 picture?

27 A. Yes.

28 Q. Which ones?

017344

1 A. The hatchet, and the tape measure.

2 Q. Does the photograph accurately depict the placement
3 of the hatchet in the grass when you first saw it on that
4 particular Sunday?

5 A. Yes.

6 Q. When you saw the hatchet did you try to get
7 anybody's attention.

8 A. Yes. I said "Linda, look."

9 Q. Did you eventually contact a police officer?

10 A. Yes.

11 Q. Did you point the hatchet out to him?

12 A. Yes.

13 Q. Were you there when the hatchet was photographed in
14 place?

15 A. Yes.

16 Q. Were you there when it was picked up by the police?

17 A. Yes.

18 Q. Directing your attention to an item which has been
19 removed from a bag which we have marked for identification as
20 Exhibit 42.

21 This particular Estwing hatchet. Do you recognize
22 that particular item?

23 A. Yes.

24 Q. Is that the hatchet you found by the roadside on
25 that Sunday in June?

26 A. Yes.

27 Q. Is the color the same on the hatchet today in
28 court?

0177345

1 A. No.

2 Q. Does it appear the color has changed?

3 A. Yes.

4 MR. KOCHIS: I have nothing further.

5 THE COURT: Cross examination.

6

7

CROSS EXAMINATION

8 BY MR. NEGUS:

9 Q. Going back to Exhibit 521.

10 Just to the right of where you found the hatchet
11 there's a large pasture for horses; is that right??

12 A. He correct.

13 Q. And you could sort of see horses who are just sort
14 of just back behind the fence in the picture; is that right?

15 A. They're on the other fence, sir. That is a cross
16 fence you are looking at, then the horses are behind the cross
17 fence.

18 Q. And the pasture that's right here, it would be
19 right next to the hatchet, were there any horses in that pasture
20 as well?

21 A. Yes.

22 Q. And are they able -- are the horses able to get up
23 right to that fence?

24 A. Yes.

25 MR. NEGUS: That's all I have.

26 MR. KOCHIS: No redirect.

27 THE COURT: Thank you very much.

28 MR. KOCHIS: Sergeant Roper would be next.

1 Sergeant, you have been sworn to tell the truth.
2 Just return to the stand, and please state your name again for
3 the record.

4 THE WITNESS: Rick Roper. R-o-p-e-r.

5
6 RICK ROPER,
7 Called as a witness on behalf of the People, having been
8 previously duly sworn, testified further as follows:

9
10 FURTHER DIRECT EXAMINATION

11 BY MR. KOCHIS:

12 Q. Mr. Roper, on Sunday, June the 5th of 1983, did you
13 become involved in the investigation of the Ryen-Hughes
14 homicides?

15 A. Yes, I did.

16 Q. And on that afternoon, sometime between 3:00 and
17 3:30, were you on Old English Road?

18 A. Yes, I was.

19 Q. Were you flagged down or contacted by a civilian at
20 that location?

21 A. Yes. I was.

22 Q. Did he direct your attention to a certain location?

23 A. Yes, he did.

24 Q. And did you find any object at that location?

25 A. Yes, I did.

26 Q. What was it?

27 A. That hatchet.

28 Q. Directing your attention to a series of exhibits,

1 first of which is a color photograph marked as 521 for
2 identification.

3 Did you take that picture?

4 A. Yes, I did.

5 Q. And did you have a purpose in mind in taking that
6 particular picture.

7 A. Yes, I did.

8 Q. What was your purpose?

9 MR. NEGUS: Objection, that's irrelevant the mental
10 processing of the officers.

11 MR. KOCHIS: That's probably a good objection, I will
12 reframe another question.

13 THE COURT: Sustained.

14 BY MR. KOCHIS:

15 Q. Depicted in Exhibit 521, does that show the
16 approximate location at which you first saw the hatchet?

17 A. Yes, it does.

18 Q. And do you recall what surface the hatchet was
19 laying on when you first saw it?

20 A. Yes, I do.

21 Q. What type of surface?

22 A. It was on a dirt and grass shoulder of the roadway.

23 Q. Was there any vehicle located in close proximity to
24 the hatchet when you first saw it?

25 A. Yes.

26 Q. Is that also shown in 521?

27 A. Yes, it is.

28 Q. Exhibit 83, do you recognize that particular eight

017348

1 by ten color photograph?

2 A. Yes, I do.

3 Q. Did you likewise take it?

4 A. Yes, I did.

5 Q. And does it show the condition of the hatchet when
6 you first saw it on that Sunday?

7 A. Yes, it does.

8 Q. Did there appear to be any substances on the
9 hatchet when you saw it on that Sunday?

10 A. Yes.

11 Q. What type?

12 A. There was -- the hatchet was basically covered with
13 blood, dried blood, and there was hairs attached to the hatchet
14 head by the dried blood.

15 Q. Directing your attention to the exhibit we have
16 taken out of a bag which we have marked for identification as I
17 believe Exhibit 42.

18 Do you recognize this particular Estwing hatchet?

19 A. Yes, I do.

20 Q. Is that the hatchet that you saw on the roadside on
21 Sunday, June the 5th?

22 A. Yes, it is.

23 Q. Is the color of the hatchet in court today the same
24 color that you saw on the hatchet back on that Sunday?

25 A. No, it is not.

26 Q. Do you know what caused the color on the hatchet to
27 be changed?

28 A. Yes, I do.

0-1-7-3-4-9

1 Q. What?

2 A. It was processed for latent prints by using a
3 Dura-Print substance to develop the latent print, plus it was
4 also taken to Texas Tech University and processed with dyes and
5 other chemicals in an attempt to raise latent prints.

6 Q. Did you do the Dura-Print processing on that
7 hatchet, Exhibit 42?

8 A. Yes, I did.

9 Q. Were you able to find any latent fingerprints on
10 the hatchet?

11 A. No, I was not.

12 Q. Directing your attention to Exhibit 517. Did you
13 take that particular photograph as well?

14 A. Yes, I did.

15 Q. And does it show Old English Road looking toward
16 Peyton Road?

17 A. Yes.

18 Q. And can you see in the photograph, can you see the
19 roadblock that was started at the intersection of Peyton and Old
20 English Road?

21 A. Yes.

22 Q. Directing your attention to Exhibit 516, another
23 eight by ten color photograph.

24 Did you take that picture as well?

25 A. Yes, I did.

26 Q. Is it a photograph of the hatchet as you found it
27 laying in the grass on that Sunday?

28 A. Yes.

0177350

1 Q. And does it accurately depict a dried reddish-brown
2 substance that you saw on portions of the hatchet on that
3 particular Sunday back in June?

4 A. Yes, it does.

5 Q. When you seized the hatchet, where did you take it?

6 A. I placed it in a paper bag and put it in the unit I
7 was driving, and I then proceeded to the Ryen residence.

8 After I left the Ryen residence I proceeded back to
9 the Identification Bureau in San Bernadino.

10 Q. Was there a fence located in close proximity to
11 where you found the hatchet?

12 A. Yes, there was.

13 Q. Did you examine the fence itself?

14 A. A pole -- one of the poles of the fence I did
15 examine, yes.

16 Q. Did you see anything on that portion of the pole
17 that caught your attention?

18 A. Yes, I did.

19 Q. Could you tell the jury what it was?

20 A. There was a small indentation that looked like
21 something had struck one edge of the pole. And whatever had
22 struck it, it was a sharp instrument, it had somewhat made an
23 indentation into the pole.

24 Q. Did you photograph that damage to the fence?

25 A. Yes, I did.

26 Q. And directing your attention to Exhibit 523, is
27 that the photograph that you took of the nick in the fence?

28 A. Yes, it is.

1 Q. Could you estimate for the jury in terms of feet or
2 inches how close that particular fence post was to the hatchet
3 when you photographed the fence post?

4 A. It was the very first fence poll west of where the
5 hatchet was located. I'd say approximately three feet,
6 three-and-a-half feet away from the hatchet.

7 MR. KOCHIS: If I could have another exhibit marked, your
8 Honor.

9 THE COURT: Certainly.

10 BY MR. KOCHIS:

11 Q. Sergeant Roper, showing you Exhibit 524, is that
12 another photograph that you took?

13 A. Yes, it was.

14 Q. And does that show the relationship of the pole
15 that had the nick on it to the pickup truck which appears in the
16 other photographs?

17 A. Yes, it is.

18 Q. Directing your attention to a photograph which has
19 been marked for identification as Exhibit 196, do you recognize
20 the item depicted in that particular photograph?

21 A. Yes, I do.

22 Q. And could you tell the jury, who may have trouble
23 seeing the item from where they're positioned, what the
24 photograph shows you a picture of?

25 A. It was an Oly beer can that was found in a plowed
26 riding arena, horse training arena, and that arena is located
27 approximately midway between the Ryen and the Lease residence.

28 Q. Do you know who took that particular photograph?

1 A. Yes. I did.

2 Q. And do you know when you took it?

3 A. It would have been on June the 5th, 1983, and I
4 believe sometime approximately 8:00 p.m., 8:30 p.m.

5 Q. Was there anything on the can when you saw it?

6 A. No, there was not.

7 Q. Was the can full or empty?

8 A. It was -- there was a small amount of what appeared
9 to be beer left in the can.

10 Q. Directing your attention to a photograph which has
11 been marked for identification as Exhibit 195, appears to be an
12 eight by ten color photograph of the contents of the inside of a
13 refrigerator, specifically directing your attention to some beer
14 cans which appear in the photograph.

15 Was the beer can which appears in Exhibit 196 the
16 same type of beer can that appears in Exhibit 195?

17 A. Yes, it was.

18 Q. Were they both 12 ounce cans?

19 A. Yes, they were.

20 Q. Were the cans of the same color?

21 A. Yes, they were.

22 Q. Same manufacture?

23 A. Yes.

24 Q. After you took the photograph of the beer can
25 depicted in Exhibit 196, did anyone take possession of that beer
26 can?

27 A. Yes.

28 Q. Who?

1 A. I did.

2 Q. And where did you eventually take it?

3 A. To the Identification Division Office in San
4 Bernadino.

5 Q. Would that have been the same location to which you
6 took the hatchet?

7 A. Yes, it was.

8 Q. Sergeant Roper, I wonder if you could join me for a
9 moment and assist me in lifting this up on the chalk board.

10 Directing your attention to Exhibit 2, a three by
11 five foot color photograph over which we've placed a piece of
12 clear plastic which we've marked for identification as 2-B; do
13 you recognize what that is a photograph of?

14 A. Yes, I do.

15 Q. Is it an aerial photograph of a portion of the
16 Chino Hills area?

17 A. Yes, it is.

18 Q. And on that photograph do you see the approximate
19 location at which you found both the Oly Gold beer can and the
20 hatchet?

21 A. Yes, I do.

22 Q. In the upper right-hand corner on the diagram could
23 you place your name and to date date?

24 A. (Witness complied.)

25 Q. Could you then, with a black fine tip pen, first
26 could you locate for the jury with an "H" the approximate
27 location on 2-B at which you first saw the hatchet which you
28 later seized?

1 A. It would be approximately right here (indicating).

2 Q. Now the road adjacent to this location, Old English
3 Road or English Road, is that the only paved road that leads
4 from the Ryen home out to Peyton?

5 A. Yes. That's paved up to this portion here, in
6 here, and then it's paved up to the Ryen residence.

7 Q. Could you also indicate with perhaps the initials
8 "B.C." the approximate location of the beer can, the Oly Gold
9 beer can, when you first saw it prior to photographing it?

10 A. It would be right here. In this little brown area
11 is the riding arena.

12 Q. Do you see the Ryen home on the photograph?

13 A. Yes, I do.

14 Q. Could you place perhaps just and "R" on that
15 location?

16 A. (Witness complied.)

17 Q. And do you see the home on this diagram that has
18 the address of 2991 English Road?

19 A. Yes, I do.

20 Q. And could you place the "2991" above that location?

21 A. (Witness complied.)

22 Q. In terms of those two homes, approximately where
23 was the beer can located when you first saw it?

24 A. Well, approximately midway right where I indicated
25 the "B.C.".

26 Q. Between the two homes?

27 A. Yes.

28 Q. Could you assist me in taking this down. Mr.

1 Roper.

2 On Sunday, June the 5th, of 1983, did you lift some

3 latent fingerprints from the Ryen home?

4 A. Yes, I did.

5 Q. And directing your attention to Exhibit 6, the

6 diagram, do you recognize that as a floor plan of the Ryen home?

7 A. Yes, I do.

8 Q. Over that we've placed a piece of clear plastic

9 which we've marked as 6-G. Did you make some markings on that

10 exhibit over the recess?

11 A. Yes, I did.

12 Q. For example, did you place your name and today's

13 date on the exhibit?

14 A. Yes, I did.

15 Q. And did you also locate on the diagram itself the

16 approximate location of the fingerprints, the latent

17 fingerprints that you lifted from the Ryen scene?

18 A. Yes, I did.

19 Q. Did you also then place certain information

20 underneath each one of the print locations, specifically the

21 date on which the print was lifted and the time the print was

22 lifted?

23 A. Yes, I did.

24 Q. Directing your attention to Exhibit 518, did you

25 have a chance to examine that over the recess as well?

26 A. Yes, I did.

27 Q. And does that appear to be a Xerox copy of the

28 actual latent print cards that you used to make the lift back on

- 1 that Sunday in June?
- 2 A. Yes, it is.
- 3 Q. Front and back side?
- 4 A. Yes.
- 5 Q. And did you use that to locate the prints on 6-G?
- 6 A. Yes, I did.
- 7 Q. Directing your attention Exhibit 5, do you
- 8 recognize that as a diagram of the 2991 residence?
- 9 A. Yes, I do.
- 10 Q. And did you do some work on that diagram during the
- 11 recess as well?
- 12 A. Yes, I did.
- 13 Q. Did you place certain marks on the clear plastic
- 14 which we've marked for identification as 5-A -- 5-F, I'm sorry?
- 15 A. Yes.
- 16 Q. Did that include your name and today's date in the
- 17 upper right-hand corner?
- 18 A. Yes.
- 19 Q. And a notation identifying the home?
- 20 A. Yes.
- 21 Q. Did you make certain lifts from the Lease home,
- 22 certain fingerprint lifts on June the 8th, which would have been
- 23 I believe a Wednesday of 1983?
- 24 A. Yes, I did.
- 25 Q. And did you likewise indicate on 5-F the
- 26 approximate location of those particular lifts?
- 27 A. Yes, I did.
- 28 Q. And did you do that by placing the initials "F.P."

1 for fingerprints and an arrow pointing to the approximate
2 location of the lift?

3 A. Yes.

4 Q. Did you likewise record on 5-F the date and the
5 time at which the lifts were made?

6 A. Yes, I did.

7 Q. You may resume your seat for a moment.

8 Directing your attention to Exhibit 519, do you
9 recognize what that is a Xerox copy of?

10 A. Yes, I do.

11 Q. Is that a Xerox copy of the print cards that you
12 used to lift the fingerprints from the Lease home on June the
13 8th of 1983?

14 A. Yes.

15 Q. And did you use that in preparing the locations on
16 5-F?

17 A. Yes, I did.

18 Q. Directing your attention to Exhibit 46, which
19 appears to be an eight by ten color photograph of a car; do you
20 recognize the car that's shown in that particular photograph?

21 A. Yes, I do.

22 Q. And do you know the location at which the car is
23 parked at in the picture?

24 A. It was a parking lot in Long Beach.

25 Q. Did you go to that location on approximately
26 Saturday, June the 11th of 1983?

27 A. Yes, I did.

28 Q. And did you learn that the car in that particular

0-1-7-3-5-8

1 photograph was the station wagon that at one time belonged to
2 the Ryen family?

3 A. Yes; yes, it was.

4 Q. Is there any member of your department pictured in
5 the photograph?

6 A. Yes, there is.

7 Q. Who is that?

8 A. That is Deputy Gale Duffy.

9 Q. Were you and Deputy Duffy involved in photographing
10 and lifting latent prints from the Ryen car on that particular
11 Saturday?

12 A. Yes.

13 Q. Did you actually lift some prints from the car as
14 well?

15 A. Yes, I did.

16 Q. Directing your attention to Exhibit 520, do you
17 recognize what that is a photograph of?

18 A. Yes, I do.

19 Q. Is that a Xerox cone of the print cards that you
20 used to take the lifts off the Ryen car in Long Beach on
21 Saturday, June the 11th?

22 A. Yes, it is.

23 Q. Do you remember what type of lot the car was in
24 when you first saw it?

25 A. It was a parking lot located next to, I believe
26 it's a Catholic church.

27 Q. Directing your attention to a photograph which has
28 been marked for identification as Exhibit 224, appears to be a

017359

1 black and white photograph of the bottom of somebody's shoes; do
2 you know who took the picture?

3 A. Yes. I did.

4 Q. And when did you take it?

5 A. On August the 11th, 1983.

6 Q. And do you know where you were when you took it?

7 A. At the Identification Office in San Bernadino.

8 Q. Were you one of the persons assigned to photograph
9 the bottoms of persons feet who had been inside the Ryen home on
10 June the 5th and June the 6th?

11 A. Yes, I was.

12 Q. And did that include photographing Mr. Barker's
13 shoes, a person who was the parmedic?

14 A. Yes.

15 Q. And did you take that picture of his shoes in
16 August?

17 A. Yes, I did.

18 MR. KOCHIS: I have no additional questions.

19 THE COURT: Would you rather -- Go ahead if you can for
20 five minutes.

21 MR. NEGUS: Well, I have no problem. I was -- I didn't
22 see what time it was.

23

24

FURTHER CROSS EXAMINATION

25 BY MR. NEGUS:

26 Q. Did you also take Mr. Coronado's shoes?

27 A. I'm not sure. I'd have to see the photograph.

28 Q. I can probably arrange that. Here's Mr. Coronado's

1 shoes would, be 511.

2 A. No, I don't believe so. I don't believe that's my
3 writing.

4 Q. Okay. Does that appear to be taken -- did you take
5 Mr. Stockwell's shoes, Exhibit 490?

6 A. Yes, I did.

7 Q. Does that appear to be taken approximately the same
8 time and place as Mr. Coronado's?

9 A. Yes.

10 Q. Could the "Coronado" have been done by somebody
11 else and you took the picture?

12 A. The name may have been written by somebody else
13 and, yes, I could have taken the picture.

14 Q. The -- Were all the pictures taken on a stand that
15 you have there in the -- in the I.D. Bureau?

16 A. Well, it's -- the camera is an MP-3 copy camera
17 which does slide up and down a vertical rack; but the shoes
18 weren't on a stand, they were on a table.

19 Q. Okay. The way it would work would be the camera
20 would be up here and there would be a table down here where the
21 shoes are; right?

22 A. Yes, that's correct.

23 Q. And basically did you leave the camera in the same
24 positions for all the different pairs of shoes that you took,
25 that is, you didn't move it up and down for each different pair,
26 right?

27 A. Well, it may have been moved because the shoes --
28 all of the shoes came in over probably a two, three-week period

1 Q. 60?

2 A. No one six.

3 Q. Oh, 16.

4 Q. Were -- To your knowledge were there other people
5 in your department though in the I.D. Division at that point in
6 time taking pictures of shoes as well?

7 A. Yes, there was.

8 Q. On the date, June the 5th, 1983, you were -- were
9 you in a Sheriff's Department vehicle?

10 A. Yes, I was.

11 Q. What was that?

12 A. It was a Ford pickup truck.

13 Q. Showing you Exhibit 517, does that appear to be the
14 Ford pickup truck there parked, the white vehicle?

15 A. Yes, it is.

16 Q. On that same date that you were -- you were seizing
17 the hatchet, did you sees any other particular, other evidence
18 from Old English Road here or English Road here?

19 A. Yes, I did.

20 Q. What was that?

21 A. There was three six packs of beer, empty beer
22 bottles I believe, and two or three larger empty bottles of
23 wine.

24 Q. And they were -- were they in a, sort of spilling
25 out of a bag as it were?

26 A. Yes.

27 Q. Could you put an arrow with the beer on this
28 Exhibit 517 for the spot that you picked up those items?

017367

1 A. (Witness complied.)
2 Q. Approximately in distance, if you could estimate,
3 how far were those beer --
4 They were bottles?
5 A. I believe so, yes.
6 Q. Miller?
7 A. Yes.
8 Q. How far were the Miller beer bottles from the axe?
9 A. Approximately a tenth of a mile.
10 Q. They would not have been -- it doesn't show too
11 well, I guess on this picture, but they would have been a little
12 bit towards the Dunn's residence from the actual intersection
13 there; is that right?
14 A. Yes.
15 Q. But within just a couple hundred feet of the
16 intersection?
17 A. Closer than that.
18 Q. How close?
19 A. Oh, I'd say maybe 75 to a hundred feet.
20 Q. Okay. They were definitely on Old English as
21 opposed to Peyton?
22 A. Yes, they were.
23 THE COURT: Mr. Kochis?
24 MR. NEGUS: No, I just meant it was noon. I didn't -- I
25 probably have a few more questions.
26 THE COURT: We will take the noon recess.
27 Remember the admonition, please. Return at 130.
28 Thank you.
29 (Noon recess taken.)

1 1 SAN DIEGO, CALIFORNIA, MONDAY, NOVEMBER 26, 1984 1:35 P.M..

2 --o0o--

3
4 THE COURT: Mr. Negus.

5
6 RICK ROPER,

7 The witness on the stand at the noon recess, resumed the stand
8 and testified further as follows:

9
10 CROSS EXAMINATION (Resumed)

11 BY MR. NEGUS:

12 Q. Mr. Roper, what time did you get to the Ryen house
13 on June the 5th, 1983?

14 A. I'd say between 4:00 and 4:30 p.m..

15 Q. Okay. When you got to the house did you go right
16 into the master bedroom?

17 A. Not initially, no.

18 Q. How long was it before you went to the master
19 bedroom?

20 A. Oh, maybe as long as 10 or 15 minutes.

21 Q. So, probably you would have been in the master
22 bedroom by 4:30 in the afternoon, is that fair?

23 A. Yes, that's right.

24 Q. Okay. Do you still have black there.

25 Could you put circa 1630 after the master bedroom.

26 A. (Witness complied).

27 Q. A little "c" in there to indicate that it is
28 approximate.

1 A. C?

2 Q. We're using Latin here.

3 Okay. When you were in the -- when you went into

4 the master bedroom, was there anybody else in there?

5 A. Yes, there was.

6 Q. Who?

7 A. I believe Detective O'Campo was in there, Detective

8 Hall, and I believe that may have been all.

9 Q. What about John Clifford. Did you see him in the

10 master bedroom on that particular day?

11 A. Later on in that particular day I recall it, yes.

12 Q. Could you put 6-5 then for John Clifford there.

13 A. (Witness complied).

14 Q. And did you see both Mr. O'Campo and Mr. Clifford

15 in other parts of the house besides the master bedroom, master

16 bathroom and hall near Jessica on that particular day?

17 A. I am sure I would have. I don't recall where

18 though. Possibly in the kitchen area.

19 Q. Okay. But you are sure they were beyond, they were

20 in the rest of the house at least some part of the rest of the

21 house.

22 A. Yes.

23 Q. Could you put little check marks under "Rest of the

24 House" for both of them.

25 A. (Witness complied).

26 Q. Um, how about -- you know Captain Don Meyers; is

27 that right?

28 A. Yes, I do.

1 Q. Okay. Did you see Captain Meyers in the hall
2 outside the master bedroom on that particular day?
3 A. Yep.
4 Q. Could you then put 6-5 for Captain Meyers.
5 Were you present -- did you ever see Captain Meyers
6 on the patio outside the master bedroom?
7 A. Yes.
8 Q. Did you -- in fact did you have a talk with him out
9 there?
10 A. Yes.
11 Q. Okay. Could you put a check mark for there.
12 A. (Witness complied).
13 Q. How about Dr. Root. Did you ever see Dr. Root in
14 any part of the house other than the master bedroom, master
15 bathroom or hall near Jessica?
16 A. No. I only saw him while he was in the master
17 bedroom.
18 Q. Did you ever see Phil Danna come in the house that
19 night?
20 A. No, but I spoke to Detective Danna outside of the
21 house.
22 Q. Where would that have been?
23 A. In the front, front yard area.
24 Q. Okay. On that particular day, were you present
25 when the Coronor's office removed the bodies of the various
26 victims from the house?
27 A. Yes, I was.
28 Q. Do you know the name of the persons who are

0
1
7
3
6
7

1 involved in that transportation service?

2 A. No, I do not.

3 Q. Did you see both of them in the Ryen master
4 bedroom?

5 A. I saw two, yes.

6 Q. Okay. Let's just -- on this next we have been
7 marking on diagram 226, on 227 could you put just sort of
8 "Southwest Transport" over here on the left-hand column under
9 No. 40.

10 A. (Witness complied).

11 MR. KOCHIS: Your Honor, the objection I have to that is
12 that it is a duplication. I believe they're names were on
13 another part of the chart.

14 MR. NEGUS: Only one of the names are that's why I'm
15 doing it. The person -- nobody knows the name yet of the second
16 person.

17 THE COURT: Go ahead.

18 BY MR. NEGUS:

19 Q. Okay. And you saw that person, you saw both
20 persons in the master bedroom. Could you put 6-5 there for
21 "Master Bedroom".

22 Do you recall the race of those two people?

23 A. One was a black male the other a white male.

24 Q. Okay. Could you put underneath this particular No.
25 40 in parenthesis "Black".

26 A. (Witness complied).

27 Q. Now, are you familiar with Assistant Sheriff
28 Follett?

017358

1 A. Yes, I am.

2 Q. Did you see him at the house on June the 5th?

3 A. Yes, I did.

4 Q. Okay. Could you put Charles Follett on No. 41. I

5 think it is spelled without an "e" at the end.

6 A. (Witness complied).

7 Q. I think it is two "t's".

8 Where did you see Assistant Sheriff Follett?

9 A. Well, I spoke with him in the training arena where

10 the beer can was found and he accompanied me down to 2991 that

11 evening to walk around that house.

12 Q. Okay. Did you ever see him inside the Ryen house?

13 A. Not any place specifically that I can recall, no.

14 Q. Could you just put 6-5 over here, for the Ryen

15 general area there.

16 A. (Witness complied).

17 Q. Was there -- let me think. Did you see the Sheriff

18 that night in the master bedroom?

19 A. No, I did not.

20 Q. How about, do you know Deputy Chief Majors?

21 A. Yes.

22 Q. Did you see him in the master bedroom that night?

23 A. Yes.

24 Q. How about Jimmy Bradford who was then head of

25 homicide. Did you see him in the master bedroom that night?

26 A. No, I don't recall seeing him.

27 Q. Were you back there on June the 6th?

28 A. No, I was not, not at the Ryen residence.

1 Q. What about Tim Wilson did you see Tim Wilson inside
2 the Ryen house that particular night?

3 A. No, I don't recall seeing him.

4 Q. When you swing up here to -- when did you start
5 taking fingerprints inside the house?

6 A. It would have been right around 6:00 in the
7 evening. 6:00 p.m..

8 Q. Well, some of these were actually 5:30, 5:25.

9 A. Yep 5:30, 6:00 o'clock.

10 Q. Okay. Before you took those fingerprints, did you
11 take any photographs?

12 A. Yes, I did.

13 Q. What did you do with those photographs?

14 A. Developed them.

15 Q. Are they -- are they part of the "A" series of
16 photographs that we have in this particular case?

17 A. I'm sure they are, yes.

18 Q. At this point in time would you be able to tell the
19 photographs as to which you took as opposed to which Mr. Duffy
20 took?

21 A. I could try. It may be kind of difficult.

22 Q. Do you know what kind of a camera you used?

23 A. Yes. A Pentax .35 milimeter.

24 Q. The purpose of your taking photographs was as a
25 back-up?

26 A. Yes.

27 Q. Now, on the date that you did the lifts of the
28 Lease residence, that was the -- that was the next day; is that

1 correct? Or excuse me. That was three days later on the 8th of
2 June.

3 A. Yes.

4 Q. Okay. And was that the only day that you were
5 actually at the 2991 residence like inside as opposed to walking
6 around?

7 A. Yes, I believe it was.

8 Q. At that point in time had you already or was there
9 evidence that the particular areas in that house had already
10 been dusted for prints?

11 A. Yes, there was.

12 Q. Okay.

13 A. I was actually at that residence on the evening of
14 the 7th for a short time while it was being examined.

15 Q. Okay. But you, yourself, weren't processing any
16 prints at that time point in time.

17 A. No. I was not.

18 Q. Now, one of these particular, one of these
19 particular sets of prints that you lifted from the Lease
20 residence, you have a identified as "See Duffy Photo No. 32".

21 Is that so you can identify from marking lifts by
22 Mr. Duffy on the, on the wall which one of these particular
23 fingerprints you are talking?

24 A. Yes. On the the closet door.

25 Q. Okay. Now that particular print was lifted at
26 1833; is that right?

27 A. Yep.

28 Q. On your chart here you don't actually have that

0
1
7
3
7
1

1 particular fingerprint drawn in; is that right?

2 A. That's correct.

3 Q. Okay. The photograph that I'm showing you,
4 Photograph 151, does that indicate the markings by Deputy Duffy
5 that you were referring to?

6 A. Yes.

7 Q. Now, we have been through this before; is that
8 right?

9 A. I believe so.

10 Q. Showing you Exhibit 49, a photograph. Does that
11 appear to one of the closets there?

12 A. Yes, it does.

13 Q. And the little orange letters "RR", were those
14 placed there by yourself at a previous hearing?

15 A. Yes, it was.

16 Q. And did they indicate the location of the door
17 where fingerprints below that No. 32 were taken?

18 A. No. I would -- there was another double set of
19 doors that's not in the photograph here. I believe it was on
20 that other door, the other set of double doors.

21 Q. The photograph that you have in your hand, is there
22 a yellow "S-28" on the back of that?

23 A. Yes, it is.

24 Q. I would like to read, your Honor -- by the way the
25 photograph for Mr. Duffy, the Exhibit 32, does that have the
26 yellow H-268 underneath the --

27 A. Yes, it does.

28 Q. Are those the two photographs that you were shown

1 at a previous hearing --

2 A. Yes.

3 Q. -- that we have been talking? 3247.

4 THE COURT: Volume?

5 MR. NEGUS: The motions. I'm sorry, I don't have that
6 volume, just --

7 MR. KOCHIS: It is not necessary we have a volume for
8 that.

9 MR. NEGUS: 3247, Line 23 through 3248, Line 23.

10 THE COURT: Go ahead.

11 BY MR. NEGUS:

12 Q. (Reading)

13 "Question: Showing you H-268. Is that a
14 photograph of the closet door to which you are
15 referring?

16 "Answer: Yes, it is.

17 "Question: Could you put a number '1' and a
18 number '2' if it appears for the latents that you
19 have lifted for the spot that they were lifted
20 from.

21 "Answer: No. This says '32' but it appears they
22 were even further down than that in it and the
23 area I believe I lifted them from does not even
24 show in this photograph.

25 "Question: So they would be toward the bottom of
26 the photograph there?

27 "Answer: More toward the carpet, yes.

28 "Question: How far up from the carpet were

1 they?

2 "Answer: The exact measurements were marked on the
3 latent card but I believe one was about six to
4 eight inches, the other approximately maybe a
5 foot.

6 "Question: Showing you S-28. Does that appear to
7 be a photograph of a closet that you developed it
8 from?

9 "Answer: Yes, it does.

10 "Question: There appears to be four different
11 closet doors that appear on that. Can you tell
12 which is the one?

13 "Answer: Yes, I can.

14 "Question: Can you mark that.

15 "Answer: It was inside of this door here with just
16 the edges showing.

17 "Question. Could you put 'RR' on the photograph on
18 that door.

19 "Answer: (Witness complied).

20 When you were in the, going to the Ryen scene on
21 June the 5th, did you have a particular call number designation
22 that you used on the radio?

23 A. Yes, I did.

24 Q. And what was that?

25 A. 43-David, it was either "1" or "3". It was -- I
26 originally had "3", it was subsequently changed to "1". But I
27 can't recall when that --

28 Q. You would have been the only person on that

0
1
7
3
7
4

1 particular date, that particular scene, broadcasting with a
2 "43-David" number though; is that right?

3 A. On the 5th of June?

4 Q. Yes.

5 A. No

6 Q. Who else would have been?

7 A. Deputy Duffy.

8 Q. So it was either "1" or "3" though.

9 A. For mine, yes.

10 MR. NEGUS: Nothing further.

11

12 FURTHER REDIRECT EXAMINATION

13 BY MR. KOCHIS:

14 Q. Sergeant Roper, did you determine over the lunch
15 hour that you did not mark on the diagram of the Lease house all
16 of the lifts that you had in fact made on the 8th of June?

17 A. Yes, I did.

18 Q. Could you step to Exhibit 5-F and could you add the
19 lift that you left off.

20 A. (Witness complied).

21 Q. Did you indicate a date and a time on that as well?

22 A. Yes, I did.

23 MR. KOCHIS: Thank you.

24 Your Honor, I have no further questions.

25 THE COURT: Anything else?

26

27 FURTHER RECROSS EXAMINATION

28 BY MR. NEGUS:

1 Q. Do you have an independent recollection of that
2 lift being from the closet door which you have indicated rather
3 than your previous testimony?

4 A. I know that it was from the closet door that was
5 marked 32. When I lifted it I was still lying down in the
6 closet and I didn't have -- in the way I was doing it, I didn't
7 want to try and write, but I knew No. 32 was there.

8 But recalling now it appears to me that it was the
9 first double set of doors as you walked in the room to your
10 right. It would be the closet doors closest to the doorway.

11 Q. Are you basing that on information that you have
12 received from the prosecutor or from Mr. Duffy?

13 A. No, it is what I recall now.

14 Q. Do you -- was your recollection better last June
15 when you testified to the contrary at the previous hearing?

16 A. It should have been.

17 Q. Do you have any explanation as to why you marked
18 the other set of doors at that time?

19 A. No, I do not.

20 MR. NEGUS: Thank you. That's all I have.

21 MR. KOCHIS: I have no further questions.

22 THE COURT: Thank you again.

23 MR. KOCHIS: Dr. Root is not available until tomorrow. I
24 didn't anticipate we would be this expedient with the witnesses
25 today.

26 THE COURT: Nobody else, Mr. Kochis?

27 MR. KOCHIS: No.

28 THE COURT: Well, this comes as somewhat of a surprise to

0
1
7
3
7
6

1 me. It seemed like we could have forseen this before lunch and
2 could have have even had him drive down.

3 MR. KOTTMEIER: Your Honor, Dr. Root was in the process
4 of an autopsy over the noon hour and was still in the autopsy at
5 1:30 when I called him.

6 THE COURT: You have established a bad precedent, Mr.
7 Kochis, having everybody in line.

8 We will have to break for today, having exhausted
9 the present witnesses. Remember the admonition, return tomorrow
10 at 9:30. In the meantime, don't talk about the case with one
11 another, or discuss it, nor express or form an opinion on the
12 matter.

13 We will see you tomorrow morning at 9:30.

14 --oo0oo--

15 (Adjournment)

16

17

18

19

20

21

22

23

24

25

26

27

28

0
1
7
3
7
7

Copy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

DEPARTMENT NO. 30

HON. RICHARD C. GARNER, JUDGE

THE PEOPLE OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

KEVIN COOPER,

Defendant.

NO. OCR-9319

REPORTERS' TRANSCRIPT
November 27, 1984

APPEARANCES:

For the People:

DENNIS KOTTMEIER
District Attorney
WITH: JOHN P. KOCHIS
Deputy District Attorney
1540 Mountain Avenue
Ontario, California 91762

For the Defendant:

DAVID L. MCKENNA
Public Defender
BY: DAVID E. NEGUS
Deputy Public Defender
1060 West Sixth Street
Ontario, California 91762

ROBERT L. ROACH, CSR #1727
DONNA D. BEARD, CSR #1874
Official Reporters

CCMPUTERIZED TRANSCRIPT

INDEX OF WITNESSES

FOR THE PEOPLE:

Direct Cross Redirect Recross

ROOT, Irving
 (Mr. Kottmeier)

3826

7
1 SAN DIEGO, CALIFORNIA. TUESDAY, NOVEMBER 27, 1984, 9:38 A.M.

2 --ooOoo--

3
4 THE COURT: Good morning.

5 Mr. Kottmeier.

6 MR. KOTTMEIER: Morning, your Honor.

7 The first witness will be Dr. Irving Root.

8 And as Dr. Root takes the stand, I would request
9 leave of the Court to give Court and counsel a paper ruler that
10 has a centimeter conversion on it. Dr. Root will be testifying
11 strictly in centimeters, and to most of us that's kind of a
12 foreign measurement.

13 THE COURT: Come forward, doctor, please.

14
15 IRVING ROOT,

16 called as a witness on behalf of the People, having been first
17 sworn, testified as follows:

18 THE CLERK: Thank you. Would you state your full name
19 for the record, please.

20 THE WITNESS: Irving Root.

21 THE CLERK: Spell your last name.

22 THE WITNESS: R-o-o-t.

23 THE CLERK: Thank you.

24
25 DIRECT EXAMINATION

26 BY MR. KOTTMEIER:

27 Q. Mr. Root, what is your occupation, please.

28 A. I am a doctor, medical doctor. I specialize in the

INDEX OF EXHIBITS

		<u>Iden.</u>	<u>In Eyd.</u>
525	Plastic Model - Doug Ryen	3824	
526	Plastic Model - Peggy Ryen	3871	
527	Plastic Model - Jessica Ryen	3896	
528	Plastic Model - Christopher Hughes	3923	

017380

1 practice of pathology.

2 I am board certified in three areas: Anatomic
3 Pathology, Clinical Pathology, and Forensic Pathology.

4 My practice is today primarily forensic pathology.
5 I am in private practice, but the bulk of my time in practice is
6 in conjunction with my contract with the County of San Bernadino
7 as the pathologist for the Coroner's Office of San Bernadino
8 County.

9 Q. As a pathologist have you been trained as a medical
10 doctor?

11 A. Oh, yes, that's the primary requirement.

12 Q. And generally, can you tell us what your
13 educational background consists of?

14 A. I received my Undergraduate Bachelor's Degree from
15 the University of California at Berkeley; entered medical
16 school, University of California School of Medicine four year
17 curriculum, 1949 through 1953; received the M.D. degree from the
18 University of California School of Medicine San Francisco in
19 1953.

20 I had a one year internship, general clinical
21 internship, rotating internship. I was licensed to practice
22 medicine in the State of California in 1954.

23 I began a specialty training program, a residency
24 in pathology, anatomic and clinical pathology, in 1954.

25 That was interrupted by a tour of duty in the Navy.
26 I was in the Navy as a doctor, a flight surgeon, for two and a
27 half years. And upon release from active duty, I resumed my
28 training, my specialty training residency in pathology, anatomic

1 and clinical pathology, at the University of California School
2 of Medicine, San Francisco.

3 Let me interrupt for just a moment. My internship
4 in the first few months of the residency were in Connecticut
5 Hartford Hospital, Hartford, Connecticut. I completed my
6 residency, four year residency training program, anatomic and
7 clinical pathology, 1961.

8 I took the board examination given by the American
9 Board of Pathology for specialty certification for anatomic and
10 clinical pathology in 1962. That was a three-day written
11 practical exam, which I passed, and was then certified as having
12 achieved specialty status in anatomic and clinical pathology.

13 Upon completion of my formal residency training
14 program in 1961 in anatomic and clinical pathology, I began in
15 private practice in pathology. And about half of my time in
16 the -- for a number of years was spent involved in the field of
17 forensic pathology, which was just beginning to evolve as a
18 separately recognized area of specialty expertise.

19 Based upon years of experience and some additional
20 postgraduate courses I became eligible for board examination,
21 again the American Board of Pathology, in forensic pathology in
22 1970. I took that exam, an one-day written practical
23 examination, passed that and was then certified as having
24 achieved specialty status in forensic pathology also.

25 Q. You've used three terms. First of all "anatomic
26 pathology", can you just give us a brief description of what
27 that particular field encompasses?

28 A. Well, let me start with the term "pathology" first

017307

1 in general. Pathology is that specialty practice of medicine
2 dealing with the evaluation, interpretation, analysis, the
3 understanding of the cause of abnormality in the human body.
4 It's not a treatment area. We do not generally treat patients.
5 It's more in the diagnostic area.

6 In the case of anatomic pathology, these
7 evaluations, studies are done through examination of the tissues
8 of the human body, either examination biopsies, specimens of
9 tissue removed during surgery from a living patient, either a
10 biopsy or an excision of a portion of tissue. These are
11 examined in vary various ways. A diagnosis is made,
12 interpretation.

13 The anatomic pathologist also does do autopsies,
14 the examination of the body after death to evaluate the disease
15 process.

16 Anatomic pathology is primarily concerned with
17 those disease processes, those abnormalities, those changes that
18 are a result of other than natural disease process -- I'm
19 sorry -- with natural disease process, I correct myself, with
20 natural disease process, aging processes, infections,
21 degenerative diseases, cancer, all of the ails and ills that the
22 human body is heir to.

23 Clinical pathology, if I might jump on, is very
24 similar in that it also deals with the understanding,
25 interpretation, evaluation of those changes that are a result of
26 natural disease process; but this is done through various types
27 of laboratory studies, tests, and analysis that might be done in
28 a laboratory, chemistry studies, serologic studies,

1 bacteriologic studies, the kinds of things that are done in a
2 medical laboratory, but again primarily confining itself to
3 those areas of change that are a result of the natural disease
4 processes.

5 Q. Forensic pathologist, the last area that you're
6 board certified in, what does that particular area --

7 A. Well, again, pathology I've already defined, and
8 forensic pathology then is more concerned with the analysis, the
9 evaluation, the interpretation of those changes that are a
10 result of other than natural disease process; the effects of
11 trauma of all kinds on the human body, blunt injuries, cutting
12 injuries, stabbing injuries, gunshot wounds, the effects of
13 poisons, drugs, chemicals of all types on the human body; the
14 evaluation, the nature, the interpretation of these in terms of
15 function, physiology, the effects on the human body.

16 Q. Are you a member of any professional organizations?

17 A. Yes.

18 Q. Can you give us an example of some of them?

19 A. Well, I'm a member of my county medical society,
20 which is San Bernadino County Medical Society; a subsidiary
21 group of that, the Foundation for Medical Care, I'm past
22 president of that; a member of the California Medical
23 Association; just recent past chairman of the committee of the
24 CMA, California Medical Association, on Automobile and Highway
25 Traffic Safety.

26 I'm a member of the American Medical Association,
27 the College of American Pathologists, American Society of
28 Clinical Pathologists, American Academy of Forensic Sciences,

017385

1 National Association of Medical Examiners.

2 Q. Have you been published in the past?

3 A. Yes, I've had several articles in the field of
4 forensic pathology and toxicology published.

5 Q. Have you done any teaching in the area of
6 pathology?

7 A. Yes.

8 Q. And for what university or schools?

9 A. Well, currently I have an appointment as Associate
10 Clinical Professor of Pathology at Loma Linda University Medical
11 Center, and basically this is in the area of forensic pathology.
12 I have lectured for a number of years at the University on
13 various topics of forensic pathology.

14 In the last few years there have been a
15 change in the requirements, the national requirements for board
16 certification in anatomic pathology for the residents in
17 anatomic pathology, that requires that the applicants, the
18 residents, have some actual on-hands experience, actual time
19 involved in forensic pathology. And to that extent the
20 residents, the pathology residents at Loma Linda, all spend
21 sometime, at least one month with me. Some of them have been
22 back for two or three additional months as part of their
23 training program.

24 In addition to that and independent of Loma Linda,
25 I have my own residency training program in forensic pathology.
26 There are 32 such training programs in the United States in
27 forensic pathology. Most of these are in forensic pathology are
28 really outside of the University, only a handful of them are

1 actually associated with the University. The -- I have one of
2 those.

3 I currently do have two residents, young doctors in
4 training. This is an one-year training program. And so I have
5 the teaching responsibilities in that regard, in that area also.

6 Q. Pathology is a relatively limited field, isn't it?

7 A. Yes.

8 Q. In fact, about how many board certified
9 pathologists are there in the United States?

10 A. Well, in practice there are perhaps about 250, and
11 this contrasts with maybe 10,000, 11,000 pathologists with board
12 certification in anatomic pathology and clinical pathology, the
13 areas of pathology as practiced in most hospitals.

14 Q. Dr. Root, in your experience approximately how many
15 autopsies have you performed?

16 A. Well, perhaps 15,000.

17 Q. And during the period of time that we're talking
18 about, have you ever been called to testify as an expert witness
19 as a result of your findings from those autopsies?

20 A. Yes.

21 Q. About how many times?

22 A. Oh, I've testified, 400, 500 times.

23 Q. In both the Municipal Court, Superior Courts, and
24 Federal Courts?

25 A. Yes.

26 Q. And in a variety of counties, states and
27 jurisdictions?

28 A. Yes. Also in criminal as well as civil

0117387

1 proceedings.

2 Q. On June the 5th, 1983, a Sunday, were you called to
3 a scene of a homicide in the Chino Hills area?

4 A. Yes, I was.

5 Q. And do you recall about what time you arrived
6 there?

7 A. I don't recall the precise time. I made no records
8 of that examination. It was late afternoon. It was still
9 sunlight. But I don't recall the precise time. I think it -- I
10 recall receiving the phone call, I think we were having supper,
11 so it was late that afternoon.

12 Q. And about how long did you spend there at the
13 homicide scene?

14 A. I don't recall precisely, an hour or two. I don't
15 have an independent recollection and I made no note.

16 Q. And what was your purpose in going to that scene?

17 A. They -- my presence was requested basically, I
18 believe, to allow me to get some better impression, overall view
19 of the circumstances, to enable me to put the scene's
20 circumstances in perspective with my autopsy findings, more of
21 an overall impression than to look for specific -- anything
22 specific. I made no specific notes of my visit.

23 I do go to the scene on some occasions and I
24 usually do not make specific notes as to my observations at the
25 scene, only my observations at the autopsy examination.

26 Q. At this particular scene did you observe four
27 victims that you later performed autopsies on?

28 A. Yes.

1 MR. KOTTMEIER: Your Honor, may approach the board?
2 We're going to be using some models and it will be easier to
3 work with the witness.

4 THE COURT: Yes.

5 BY MR. KOTTMEIER:

6 Q. Now, first of all, Dr. Root, showing you Exhibit
7 176, do you recognize the person in this picture?

8 A. Yes.

9 Q. Did you perform an autopsy on this particular
10 decedent?

11 A. Yes, I did.

12 Q. For our purposes here we've identified the person
13 in 176 as Douglas Ryen.

14 And I would direct your attention for the record to
15 a plastic model that has been labeled 525. It is an approximate
16 one foot high plastic model.

17 You've had an opportunity to look at 525 before
18 today, haven't you, Dr. Root?

19 A. Yes, I have.

20 Q. Now the purpose of 525 specifically is to show the
21 location of various wounds and types of wounds on the model in
22 approximate locations similar to those that you discovered on
23 Douglas Ryen; is that correct?

24 A. Yes.

25 Q. The model itself is not necessarily an accurate
26 representation of his size, weight, and so on, is it?

27 A. No, sir.

28 Q. Can you give the jury an approximate idea of

1 Douglas Ryen's height and weight?

2 A. Measured height 74 and a half inches, weight
3 measured 176 pounds.

4 Q. In regard to the Exhibit 525, you've had an
5 opportunity to verify generally the location of the various
6 wounds; is that correct?

7 A. Yes.

8 Q. Within this particular model we have used the color
9 brown to represent, for lack of a better term, chop wounds.

10 Can you explain to the jury what a chop wound means
11 to you as far as a forensic pathologist?

12 A. A chop wound is an injury produced by a chopping
13 mechanism, a relatively sharp-edged instrument such as a hatchet
14 or axe striking against some relatively resistant surface so
15 that the edge -- there is incizing or cutting injury caused in
16 part by the relatively sharp edge of the instrument, but in part
17 by compression against a somewhat non-giving object.

18 Certainly the impact is in part a result of the
19 weight, the mass of the instrument, plus the speed, the
20 velocity, the force then applied against a resisting object,
21 such as bone, or certainly a much more common object, wood, when
22 one chops wood for a fireplace.

23 The injuries that are produced to be identified as
24 a chop injury will have a pattern somewhat similar to that that
25 appears in a piece of wood, a log, that one chops with an axe or
26 a hatchet. There's a wedge-shaped deformity in the bone.

27 About the only way normally that I can distinguish
28 an injury as a chop injury from, say, produced by a sharp-edged

1 instrument such as a hatchet or an axe from an incised injury
2 caused by a knife is that the injury must produce some injury
3 into the bone also.

4 Q. So, you need that solid bone surface from which to
5 get that finalized information that it was a chop as opposed to
6 an incision?

7 A. Yes. From my point of view I have to do that. I
8 think it is possible to produce injuries with, say, a hatchet
9 into soft tissue without impacting into bone, but I don't think
10 I would -- at least in a number of those cases, I don't think I
11 would be able to call that a chop injury. I wouldn't be able to
12 distinguish it.

13 Q. This is going to be somewhat difficult because I
14 need to also refer to these models, but, doctor, as you perform
15 your autopsy do you assign numbers to the various injuries that
16 you see on the body?

17 A. Yes.

18 Q. Those numbers don't mean anything as far as the
19 order in which the wounds were received, does it or do they?

20 A. No. The numbers are strictly for my convenience to
21 refer to a particular injury. They are strictly random.

22 Q. Let me direct your attention first of all to a
23 series of chop-type injuries that also had with them some
24 fracturing of bone material.

25 Did you notice any of those kinds of injuries on
26 Douglas Ryen?

27 A. Yes; yes.

28 Q. Directing your attention first of all to Wound No.

0-1-7-3-6-1

1 7, which on 525 would correspond to the upper portion of the
2 right forearm.

3 A. Yes, sir.

4 THE COURT: All the jurors can't see that.

5 MR. KOTTMEIER: I'm not sure what we can do.

6 Q. If you can possibly indicate on your own body.

7 A. First of all, there is a brown line just beyond the
8 elbow on the inside of the right forearm on the model. On my
9 case that would be -- well, it would be on the elbow on the
10 little finger side of the forearm.

11 Q. And that is consistent with a chop wound that you
12 discovered in Doug Ryen; is that correct?

13 A. Yes.

14 Q. And that particular chop wound also cut the bone
15 underneath?

16 A. Yes. Well, in this case it went clear through the
17 bone. The particular bone involved was the ulna.

18 There are two bones in the forearm. This is the
19 ulna and the radius.

20 And this particular injury chopped, went clear
21 through the ulna, as well as, of course, the skin.

22 Q. Moving down the arm just a little bit, that same
23 arm, did you find another chop wound that you labeled Wound No.
24 8?

25 A. Yes. That's shown -- well, it's above the wrist on
26 the right forearm on the little finger side. There is a black
27 or brown line, right forearm, and that would be about, well, let
28 me doublecheck myself, eight centimeters above the wrist, which

011773077

1 would be about here.

2 Mr. Kottmeier, let me go back to that ruler that
3 you gave out. May I see one? All right, yes. Never mind,
4 that's fine. I see exactly what I need.

5 That particular ruler, for reference purposes, has
6 both a centimeter and an inch rule on it, and it -- the -- it
7 might make it easier to compare. For instance, eight
8 centimeters is equivalent to just a little over three inches.
9 So you might use the ruler from that point of view to compare,
10 to put it into terms that you might be more familiar with so.

11 Q. Wound No. 8 also cut the ulna; is that correct?

12 A. Yes, it did.

13 Q. In fact, that literally took almost a wedge or a
14 pie-shaped section out of the forearm when it struck?

15 A. Yes. It -- it produced -- well, yes, it produced
16 actual fragmenting of the ulna also.

17 Q. Now, directing your attention to the head area, in
18 particular a series of wounds that you have labeled 19, which
19 would correspond on the model or diagram to the top wound on the
20 left-hand side, it's the longer one.

21 A. There are in your -- on the model here a series of
22 brown lines on the left side of the head one of which does go
23 through the left ear.

24 Q. The one, 19 is the topmost on that particular
25 model; is that correct?

26 A. Yes.

27 Q. Now, 19 when you examined it, did you form an
28 opinion as to how many blows were struck to cause the resulting

0-17393

1 damage to the left side of Doug Ryen's head?

2 A. Although on first impression there seems to be a
3 single cut or incision, chop incision, actually on closer
4 examination there appear to be two separate lines; and,
5 therefore, my impression is that that represented, No. 19
6 actually represented two separate chop incision injuries.

7 Can I interrupt myself for a moment? Let me define
8 another word that I have been using several times here,
9 "incision". As a pathologist I'm going to use certain terms in
10 describing wounds in a, I hope, somewhat reproducible precise
11 fashion. It may not always be so.

12 The term "incision" is an injury that is produced
13 in the body by a sharp-edged instrument, a knife, a razor blade,
14 a piece of sharp-edged glass, a scalpel. The wound edges are
15 cleanly cut. There is no tearing of the skin.

16 I will also use the term "laceration". And that is
17 an injury caused by tearing. The edges of the skin are somewhat
18 rough and ragged.

19 Now the term "cut" is used, not very precisely by
20 most people, to imply either an incision or a laceration. And
21 from the term "cut" I can't tell you how the injury was caused,
22 so I try to avoid that term. I may even lapse into using it
23 myself occasionally, but I try to avoid it because it is not a
24 very precise injury -- I'm sorry precise description.

25 Q. In regard to No. 19 though, that particular wound
26 itself did cause fracturing of the skull, didn't it?

27 A. Yes, it did.

28 Q. Directly under 19 there is a wound that you labeled

1 No. 20 which goes through the left ear?

2 A. That's correct; yes, sir.

3 Q. Is that also a similar type of chop with fracture
4 wound as in the case of the two wounds or two motions in 19?

5 A. Yes, it is.

6 Q. Moving then to an area that corresponds to just
7 behind the left ear, at kind of a diagonal angle between 19 and
8 20 -- yes, between 19 and 20; is that wound 22?

9 A. Wait a minute. 20, well, 21 is the vertical up and
10 down one. Let's see. Let me go back over these.

11 19 goes from front to back and it's the uppermost
12 of the wounds, of the lines. 20 goes through the left ear from
13 front to back. 21 is more or less up and down from head to foot
14 toward the back end of 19 and 20.

15 Q. 22 is --

16 A. 22 is --

17 Q. -- right at that point?

18 A. That's correct. 22 runs from front to back, if you
19 will, or at least in the same general direction as 19 and 20.

20 And then 23 is the lowermost of that group of brown
21 wounds over the left side, the lower part of the skull, and it
22 also runs from front to back.

23 Q. Of those five marked locations on 525, four of
24 them, that would be 19, 20, 22, and 23, are all chop wounds with
25 fractures; is that correct?

26 A. Yes.

27 Q. Now, you also mentioned that vertical wound or
28 diagonal wound which is right in this area here between 19 and

01773955

1 20, the one that's almost diagonal --

2 A. Yes.

3 Q. -- from the others that you labeled as Wound 21; is
4 that correct?

5 A. That's correct.

6 Q. Now, Wound 21 did not have any fracture with it,
7 did it?

8 A. No. It did not go into the bone.

9 Q. And as a result, as far as your earlier description
10 of wounds, that could have been caused by either the hatchet or
11 some other kind of cutting instrument in an incision-type
12 fashion?

13 A. Yes.

14 Q. And that's because there is no injury to the bone
15 underneath?

16 A. That's correct. That's correct.

17 Q. Now, in these wounds, 19, 20, 21, 22, and 23, could
18 those have been delivered to Douglas Ryen in the position that
19 he is in as pictured in Exhibit 176?

20 A. They could have been, yes.

21 Q. Could they have been done in very rapid succession,
22 within just a matter of a second or two?

23 A. Yes, they could have.

24 Q. In fact, the way in which those wounds are laid out
25 on the skull tend to indicate that the skull was not moving at
26 the time the blows were delivered, doesn't it?

27 A. Yes. They are -- that is what I would call a tight
28 pattern.

1 Q. In your examination of Douglas Ryen, did you form
2 any opinion in particular about Wounds 19, 20, and 22 as to
3 whether he was dead or alive at the time he received the wounds?

4 A. I can't be sure on those three. My -- my
5 determination as to whether an injury is inflicted before or
6 after death depends upon the finding of bleeding with the wound.
7 And basically I have to find bleeding into the tissues, not just
8 bleeding from the surface of the wound, because there can be
9 some oozing or loss of blood from the surface of a cut injury
10 after death, a small amount. But basically I have to have
11 evidence that the hurt was pumping and, therefore, there was
12 bleeding that has occurred, and that will -- for my findings has
13 to be bleeding into the tissues where I can see an accumulation
14 of blood.

15 I simply was unable to make up my mind on those
16 three whether there was bleeding into the tissue. I thought
17 there might have been in particular with 20 -- Oh, dear.

18 Q. We will get to that one in just a moment.

19 A. You --

20 Q. 23?

21 A. No, 22. Well, those three I had hesitations on,
22 but 22 I was thinking a little more likelihood that bleeding,
23 but again, it was -- I was -- I am equivocal on that. I simply
24 do not have a good opinion.

25 Q. As and individual goes into shock, can that
26 individual have a corresponding loss of blood pressure as the
27 shock progresses worse and worse?

28 A. Yes, certainly. I really have to expand on my

1 terminology.

2 I've said my distinction between whether a person
3 was alive or whether the injury occurred before or after death,
4 really also applies to a person in shock. A person in shock is
5 alive, but if the blood pressure is too low there may not be any
6 bleeding and so really I guess what I'd have to do is say that
7 there was bleeding or there was not bleeding and I'm not
8 absolutely certain then whether they are alive or not.

9 Q. So it is possible that when you find very little
10 bleeding that person was in shock or close to dying although not
11 fully dead or deceased.

12 A. That's a possibility that I can't distinguish.

13 Q. In regard again to Wound No. 23, that's the wound
14 that arose mostly behind the left ear.

15 A. Yes, sir.

16 Q. Did you find bleeding in that wound?

17 A. Yes, this one definitely had bleeding.

18 Q. And in regard to 23, is that the kind of injury
19 that would normally knock a person unconscious?

20 A. It certainly could. No. 23 has resulted in injury
21 to the bone, and I think any, any blow that causes damage to the
22 skull bone is a blow of sufficient magnitude that it could cause
23 loss of consciousness. Whether it did of course I can't say.
24 But it certainly could.

25 Q. At least as far as this group of wounds that we
26 have been discussing, would it be your opinion that 23 came
27 before the other chop wounds to the left side of the head
28 because of the presence of bleeding?

1 A. Well, certainly that is a possibility, yes. Based
2 on that finding alone, yes.

3 Q. Are there other considerations that would effect
4 your decision in that regard?

5 A. Possibly. Let's see. There was one of these in
6 particular -- yes. 21. This is purely an incisional wound,
7 that is, it did not go into the bone, and it is possible that
8 one might have less obvious bleeding from that kind of a wound
9 than the wound that causes damage to the bone, where it would
10 have bleeding to the tissue more likely.

11 So that's a variable that I can't completely deal
12 with.

13 Q. Directing your attention now to the right side of
14 the head. You have marked on that, or there is marked to the
15 right side above the right ear and a little bit to the back, a
16 group of three separate marks.

17 A. Yes, sir.

18 Q. First of all, directing your attention to the two
19 that are more to the back of the head than the other one.

20 Are those Wounds 26 and 27?

21 A. Yes, sir.

22 Q. And those what you would call chop incisions?

23 A. Yes. let me double-check this out. 26 is
24 definitely a chop incision -- no. 27, I don't know.

25 27 is more of a laceration or tearing of the scalp.
26 It could have been caused by a chopping action, I simply don't
27 know. Yeah, 27, I did not in my original report describe that
28 as "chop".

1 Q. In 27 the thing that is different than the wounds
2 that we've talked about thus far is the fact that some of the
3 edges of that particular wound are irregular or abraded; is
4 that correct?

5 A. Yes, sir.

6 Q. When you talk about irregular or an abrasion around
7 the wound margins or edges, can you give us a more detailed
8 explanation as to what kind of abrasions or lacerations you're
9 talking about?

10 A. Well, this is scraping of the wound margins and
11 this is something that is caused by a rough, not clean cutting
12 edge, not clean incising knife edge.

13 Now, it might be caused by a relatively sharp-edged
14 object, but unless it is an edge that has the configuration of a
15 knife, razor blade, the injury will be slightly -- will have the
16 appearance of being slightly torn rather than very cleanly
17 incised through.

18 For instance, a sharp-edged piece of metal, right
19 angle, is a fairly sharp edge but it is not truly a cutting
20 edge. The impact with that kind of object, that kind of edge
21 could produce something that's quite sharp, but it is not
22 perfectly sharp and therefore it has to be defined as a
23 laceration.

24 Q. Let me direct your attention for a moment to the
25 right hand of Douglas Ryen.

26 In your examination of him during the autopsy, did
27 you find what you numbered Wounds 1, or excuse me, Wounds 9 and
28 10 to the right hand, which would be the right middle finger,

1 and then the finger next to it, which would go towards the
2 little finger?

3 A. Yes. The ring middle would be No. 3 and the ring
4 finger No. 4. And, yes, I did.

5 Q. In fact, as far as those particular hands were
6 concerned, the middle finger of Douglas Ryen was missing just
7 below the knuckle.

8 A. Yes.

9 Q. Did you find a finger or was a finger delivered to
10 you that fit that particular location?

11 A. Yes. It was -- the finger was amputated. The
12 finger was found at the scene and was brought in with the body.

13 Q. In addition --

14 A. Well, let me -- and, yes, it fit. It was his
15 finger.

16 Q. In addition in the ring finger on that right hand
17 there was a wound that was towards the amputated middle finger;
18 is that correct?

19 A. That is correct.

20 Q. Did you form an opinion as to the same blow may
21 have caused the injury that amputated the finger as well as the
22 injury to the ring finger?

23 A. Yes. I think it is in such position and such a
24 direction that one motion could have caused both injuries 9 and
25 10. 9 being the injury where the finger has been amputated and
26 10 the chopping injury, but not completely an amputational.

27 Q. The chopping injury then to the ring finger?

28 A. Ring finger.

1 Q. Without amputation.

2 A. Without amputation.

3 Q. The reason you can use the term "chopping" is
4 because you have an injury to the bone in the finger itself; is
5 that correct?

6 A. Yes. That's --

7 Q. Based upon your experience, is it possible or
8 consistent with what you saw in Douglas Ryen that the injury to
9 the fingers, 9 and 10, were a result of the blow to the head of
10 Wound 27 that had abraded margins, that is, in a form where
11 Doug Ryen had put his right hand up to protect his head, and a
12 hatchet blow came through the middle finger and continued onto
13 cause the abraded wound or laceration that you've referred to
14 as Wound 27.

15 A. Certainly it can be caused in that way, and that
16 the injuries to the hands are commonly referred to as, well, by
17 pathologists, as defense injuries, particularly when they're
18 present with numerous other injuries about the body.

19 That word "defense" implies that the hands were not
20 the primary target of the attack, that the hands, or it may
21 certainly be other parts of the body, too, but that the hands
22 were used in an attempt to protect one's self, hence the term
23 "defense wounds".

24 But there is nothing characteristic about the
25 injury beyond the location that would enable me to say this is a
26 defense wound.

27 Q. In fact, we're going to see later on in some of
28 your observations other defense wounds to the hands of the other

0-1-7-4-0-2

1 victims.

2 A. Yes, that's quite correct.

3 Q. However, there is something unique, isn't there,
4 about the finger being amputated in that it is very difficult or
5 a problem to have a finger held in the hand, held in the air and
6 take a chopping wound and chopping that finger off.

7 A. Yes. For a chop to be effective, the object that's
8 also being chopped has to be supported. If it gives -- the
9 force of the blow is going to be dissipated.

10 On the other hand, if that hand is held against the
11 head, the finger, as in this case, is supported, the hand can't
12 move away, the finger can't move away and you have in effect a
13 chopping action just as you would in using a hatchet or an axe
14 to chop a small piece of wood.

15 Q. But supported on a stump or something.

16 A. Supported on a stump.

17 Q. As opposed to trying to hold the piece in the hand
18 and hit it with a hatchet to try and cut it in half.

19 A. That is a very good example of how it works.

20 Q. Just forward of Wounds 26 and 27, we have a brown
21 kind of "X" that is marked.

22 Does that correspond to the location on Doug Ryen
23 of Wound 25?

24 A. Yes.

25 Q. And what description did you find when you examined
26 Wound 25?

27 A. Wound 25 is a laceration. Not only is the skin
28 torn or lacerated, but the margins are somewhat compressed,

0117403

1 scraped, washed, contused, is the term I used. Contused.

2 So, it is a contused laceration and it is slightly
3 irregular, almost star-like, the arms of the star radiating
4 outward in different directions. I'm sorry.

5 Q. Did you examine the scalp or, excuse me, the skull
6 underneath the scalp of Wound 25?

7 A. Yes.

8 Q. And did you find any fracturing underneath that
9 wound?

10 A. Yes, there was a depressed skull fracture. The
11 bone was actually pushed into the inside of the head.

12 Q. However, in the total examination of that wound
13 area, did you find very much bleeding?

14 A. Let's see. A little bit. Not extensively, no.

15 Q. Would that be consistent with him being in shock at
16 the time he received that particular wound?

17 A. Yes.

18 Q. In regard to that particular wound, that would be
19 what you would call a blunt end type of fracture?

20 A. Well,

21 Q. Blunt instrument?

22 A. Blunt instrument injury, yes.

23 Q. Could that be consistent with a hatchet head as
24 opposed to the cutting side of a hatchet?

25 A. The head? Well, let me use the term the
26 non-cutting side. If that's what you mean by the head, yes.
27 The non-cutting surface, the back end of the hatchet could
28 certainly cause this kind, could certainly cause Injury No. 25.

017404

1 Q. You also discovered a couple of injuries that you
2 weren't sure were caused by a hatchet or a knife that were an
3 incision, or I am going to use this term and you could use it or
4 not use it, or a slash-type of injury that caused a very
5 relatively long wound into the back of Douglas Ryen just about
6 shoulder high on the right side, and I'm pointing now to a wound
7 right on the shoulder area that you marked as being Wound No.
8 30. Is that correct?

9 A. No. 30 is on the left side. The one you are
10 pointing to is either 33 or -- well, no you have a double color
11 there, and that one is 33.

12 Q. All right.

13 A. Yes. Here is the diagram that corresponds with
14 that.

15 Q. Right. Okay. 33 is about how long?

16 A. It is eight centimeters long.

17 Q. Did you have a depth for that wound?

18 A. It penetrates at least eight centimeters into the
19 tissues.

20 Q. In fact it strikes the bone, doesn't it?

21 A. Oh, yes. Yes.

22 Q. Did it do any --

23 A. The shoulder blade. The scapula.

24 Q. Did it do any damage to that particular bone?

25 A. Yes. Actually it incised, cut, chopped through the
26 bone.

27 Q. Would that make 33 more consistent with a
28 hatchet-type wound as to opposed to a knife incision?

017405

1 A. Yes, I believe so.

2 Q. This is a kind of an oval shaped wound when you
3 looked at it during your examination, isn't that correct, but
4 with pointed ends?

5 A. I'm sorry, I don't recall, I have to review the --

6 Q. -- photograph?

7 A. Yeah. An oval.

8 Q. Is that --

9 A. An elliptical.

10 THE COURT: Are you going to mark that?

11 MR. KOTTMEIER: No, your Honor, I'm just going -- trying
12 to refresh his recollection with the photograph. I do not think
13 it will be introduced unless there is other --

14 THE COURT: Well, the practice is to mark whatever you
15 are showing.

16 MR. NEGUS: I have no problems with using whatever
17 numbering system we have. I don't see that as a big problem.

18 THE COURT: Go ahead.

19 THE WITNESS: No. 33 is elliptical, if you will, and
20 basically the nature of that appearance is simply a result of
21 the ends, I'm sorry, the sides of the wound gaping open.

22 BY MR. KOTTMEIER:

23 Q. You have that same picture in your slides; isn't
24 that correct?

25 A. Yes.

26 Q. In fact, that is a picture from the slides that you
27 took during the autopsy examination.

28 A. I believe so, yes.

1 Q. I may have asked this, but to make sure, your
2 opinion then is that 33 is more consistent with a hatchet-type
3 of incision or hatchet chop than it is with a knife.

4 A. Yes.

5 Q. Now, returning to the other side for a moment, and
6 that would be Wound 30, the other one that we have talked that I
7 mentioned before which was on the left side.

8 A. Yes, sir.

9 Q. Do you see the approximate location of that wound?

10 A. Yes. Let's see. Yes. 30. I believe this -- yes,
11 this is 30. It is red, on the back of the left shoulder, is a
12 grouping, if you will, of three, and No. 30 is the highest or
13 the upper most of that grouping of three.

14 Q. Now, in No. 30 you called that what kind of a
15 wound?

16 A. An incision. An incised -- well, actually it is an
17 incision.

18 Q. And do you have any dimensions for Wound 30?

19 A. Eight centimeters long, an undermining cut into the
20 tissue or incising into the tissue about three centimeters.

21 Q. Did that do any injury to the bone?

22 A. No. Not that I noted, no. I described this as
23 involving the skin, primarily.

24 Q. Are both of those injuries before death? Were they
25 received with some bleeding, or did you note bleeding?

26 A. 30 had some bleeding. 33 had bleeding, yes.

27 Q. So those would be received before death.

28 A. Yes.

017407

1 Q. Now, I would like to direct your attention to a
2 series of stab-type wounds.

3 Can you first of all define for us the term "stab".

4 A. A stab wound is a penetrating injury that
5 penetrates deeper into the body into the tissues by dimension
6 than the surface dimension of that wound.

7 As an example, if a wound, if the surface of the
8 wound is -- the surface dimension is one centimeter, a stab
9 wound would have to penetrate deeper than one centimeter to be
10 defined as a stab wound.

11 Q. Referring your attention to the wound that is
12 almost in the center of the chest, nearer the left nipple.

13 Did you identify that in your autopsy as Wound No.
14 3?

15 A. Yes, sir.

16 Q. And can you describe for the jury what kind of an
17 injury you saw associated with the tissue in the area that is
18 depicted on 525 and labeled by you as Wound 3?

19 A. Well, 3 is a stab injury, it is an incised injury.
20 That is, the edges are sharply, cleanly incised and it is a stab
21 injury. It is 3.5 centimeters long on the surface.

22 Q. That refers to the cut?

23 A. On the skin.

24 Q. All right. It is -- yes.

25 Now, I'm sorry, did you -- and the depth.

26 A. The depth, yes. Between nine centimeters to ten
27 centimeters into the body.

28 Q. How do you tell the depth of a wound like that?

0011774008

1 A. Well, that is done on the internal examination, in
2 most cases. Certainly in this case it was.

3 Q. Do you dissect the wound itself?

4 A. Well, not the wound as such. During the course of
5 the actual autopsy examination I am able to follow the path of
6 this wound, and come to its final resting point.

7 Now, I can only give an approximation of the depth
8 of penetration of a wound into the body, I cannot give precise
9 measurements because there is potential for a considerable
10 amount of give.

11 A stab wound into the soft tissue compresses the
12 tissue, and so in this case a knife, a knife blade could
13 actually be buried, if you will, three centimeters and yet
14 produce a wound, when the tissue is relaxed, that is penetrated
15 five centimeters. I can push into my abdomen three, four, five
16 centimeters, I can actually compress my abdomen at least in
17 half, half the normal width of it, and one can do that with a
18 knife so much, and that is why when I give a depth of
19 penetration into soft tissue, it has to be accepted as an
20 approximation.

21 Q. And in this particular case, Wound No. 3 didn't
22 strike any bone or hard material that stopped the wound that
23 allows you to say what the specific depth was.

24 A. That's correct. It did strike bone but it went
25 through the bone; it went through the sternum or breast plate,
26 but that's on the outside.

27 The -- I'm sorry. The wound continued through, it
28 actually went into the heart and, again, one of the problems

017409

1 here in estimating a depth of penetration is that many of the
2 organs of the body and the heart, certainly, is no exception,
3 can move around to the extent their position is not fixed. The
4 position in which I find the heart at the time of autopsy may
5 not be the precise position that the heart was in when the
6 injury was inflicted. So, that's another variable.

7 Q. Now, with a cut through the sternum, does that tell
8 you, through your experience, anything about the instrument that
9 may have caused Wound No. 3?

10 A. Something. It does -- it does tell me that it has
11 to be a fairly sturdy knife. This is a knife wound, this is an
12 incision caused by a sharp-edged instrument.

13 Q. Maybe as an illustration, would a steak knife be
14 capable of doing that kind of an injury?

15 A. I am a little reluctant. I have seen very stout
16 steak knives. No, steak knives are a little too flexible and I
17 would expect that the blade would actually break off striking
18 the bone. Even the sternum is certainly not as hard a bone as,
19 say, the hipbone, the femur. But even so, it is a fairly solid
20 object and most flexible. Many flexible knives would break off.

21 I can make one other statement about the knife.
22 The measurement on the surface of the sternum, the bone, is
23 about four centimeters long. So, it is unlikely that the width
24 of the knife is greater than four centimeters; it could be quite
25 a bit less. It could be three centimeters and there could be
26 some cutting action of that instrument. But it can't be very
27 much more than four centimeters where it went through the bone.

28 Q. Because the bone holds the width of the wound.

1 A. That's right. Bone will not change shape as will
2 skin or other soft tissue.

3 Q. Referring to the wound that is down towards the
4 center near the navel. Is that Wound No. 4?

5 A. Yes, sir.

6 Q. And that is also a stab wound.

7 A. Yes.

8 Q. And the surface dimension or length of that wound?

9 A. 2.5 centimeters long.

10 Q. And the depth being approximately?

11 A. I don't see that I actually measured that one how
12 far it -- in it went. Just one moment.

13 Q. That would have been done on the internal
14 examination?

15 A. I don't see that. I'm sorry, I can't find my
16 record of the depth of that one and I may be missing --

17 THE COURT: Counsel, perhaps we can take the recess that
18 would give you more time.

19 Let's take the morning recess, ladies and
20 gentlemen. Remember the admonition please.

21 (Recess)

22

23

24 THE COURT: Go ahead, counsel.

25 BY MR. KOTTMEIER:

26 Q. Dr. Root, before the break we had talked about
27 Wounds 3 and 4 to the front chest and stomach area of Douglas
28 Ryen.

1 Just at the break I had asked you in regard to
2 Wound No. 4 whether you had any opinion as to the depth of that
3 particular wound with the surface or skin length of about
4 two-and-a-half centimeters.

5 A. Yes, sir.

6 Q. Have you had a chance to review your information
7 and refresh your recollection as to an opinion?

8 A. Yes. I did not actually put down an actual depth
9 of penetration. I did not actually measure it. However, I have
10 used the term in my description of a stab wound, diagonal stab
11 incision, so that in and of itself implies by definition that
12 the penetration is deeper than the surface dimension.

13 This particular wound did not penetrate into a body
14 cavity, so all I can do is give an approximation of the depth of
15 penetration, but possibly three centimeters, conceivably four
16 centimeters; but based on the location in the anatomy I can only
17 given an estimate.

18 Q. Those two wounds that we've just discussed would
19 not be consistent with having been received by Mr. Ryen in the
20 position that he is depicted in photo 176; --

21 A. Just one moment.

22 Q. -- is that correct?

23 A. Well, just a moment.

24 Q. We are talking about 3 and 4 to the chest and
25 stomach.

26 A. I want to look at it on my diagram.

27 I think not, no.

28 Q. Directing your attention to the left side of

1 Douglas Ryen, to the area just below the jaw line on the neck
2 there is a red mark on 525; does that correspond to your stab
3 wound No. 24?

4 A. Yes, sir.

5 Q. And can you give us a description of the length and
6 depth of that wound?

7 A. 24 is a stab wound, stab incision, at the surface
8 dimension approximately five centimeters long. It is just below
9 the angle of the jaw on the left side in the -- into the left
10 neck. The wound penetrates from above, down. It is a wound
11 that is hemorrhagic, that is, it has bled. It was inflicted
12 prior to death. And it has penetrated, and this is based upon
13 the internal examination, perhaps eight centimeters to nine
14 centimeters into the body. It has penetrated some vital
15 structures. It is completely cut, transected the left common
16 carotid artery, and it has produced an incision into the
17 trachea. There is some bleeding around the esophagus in the
18 neck. It has not actually penetrated into the esophagus.

19 The left common carotid artery is one of the two
20 major arterial supplies, blood supplies to the brain, so that
21 essentially half of the blood supply to the brain was cut off by
22 injury No. 24.

23 Q. That then would have affected the bleeding, for
24 example, on the left side in wounds 19, 20, 21 and --

25 A. Oh, yes, yes.

26 Q. -- that particular wound is shown in Exhibit 176.

27 And could that have been delivered in the position
28 that Mr. Ryen is in in that photograph?

0174

1 A. Well, it -- it could have been, certainly it could
2 have been. I'm inclined to say it didn't.

3 Q. For what reason?

4 A. This particular one is quite a bloody wound. It
5 should have bled very massively, and I simply don't see that
6 much blood on his body in this location. It suggests to me that
7 No. 24 actually occurred someplace else.

8 Q. Is it possible that 24 occurred at a point in time
9 when he was dying and did not have much blood pressure?

10 A. No, no, because my description of No. 24 is that
11 there is a lot of bleeding with this wound, so --

12 Q. Is that -- Go ahead.

13 A. I'm sorry. Specifically extensive hemorrhage
14 around the left carotid sheath. No, this occurred somewhat
15 early in the game, and I am --

16 Q. Is that -- When you say, "early in the game", is
17 that the kind of a wound that would cause spurting of blood out
18 of the wound and maybe even up on the wall above the head of the
19 bed?

20 A. Yes, it could; yes, it could.

21 Q. This is an area that, as far as the carotid artery
22 is concerned, is at least blood that is under some pressure;
23 isn't that correct?

24 A. Yes; yes, considerable pressure.

25 Q. And the depth from the artery to the surface is
26 approximately what?

27 A. Well, I can't answer that completely because I
28 don't know. I did not measure how far down the wound traveled

1 before it hit the artery.

2 This is not straight in. If one goes straight in,
3 transverse, the depth of penetration to the skin is perhaps two
4 centimeters, maybe three centimeters. But in this case the
5 wound did go from above, down. And I simply did not measure the
6 distance from the skin surface to the point where it finally did
7 hit the artery.

8 Now, as far as arterial spurting, with this
9 particular wound it would not spurt all the time because there
10 is a flap of skin, flap of tissue rather, because of the fact
11 that this wound is inflicted from above, down, so there is a
12 flap of tissue that would tend to close the wound off to the
13 outside. The bleeding would continue but it would tend to close
14 it off to the outside and dampen down the spurting to the
15 surface. However, one could certainly move the body by bending
16 the neck in various positions to allow spurting occasionally.

17 Q. And the wound itself to the carotid artery was
18 virtually a severing across the artery and into the trachea as
19 opposed to just a puncture?

20 A. That's correct, the artery was completely severed.

21 Q. Directing your attention now to an area on the left
22 rear shoulder, a wound that you have indicated is Wound No. 28,
23 a stab wound.

24 A. Yes, sir.

25 Q. Probably lowest on the shoulder that comes off on
26 the arm?

27 A. Yes, sir, it does. There's a group of three lines,
28 red lines, crosswise, side to side over the left shoulder, and

0-174-5

1 the lowest of that grouping is No. 28.

2 Q. And can you describe for us the measurements of 28?

3 A. 28 is a stab incision. The surface dimension is
4 3.2 centimeters. It does go towards the left scapular spine,
5 the shoulder blade, and it is a bleeding wound, a hemorrhagic
6 wound which I could measure penetrating between ten to eleven
7 centimeters.

8 Q. Additionally just below that particular wound on
9 the back itself we have a marked wound on 525 that corresponds
10 to your No. 32?

11 A. That's correct.

12 Q. Can you give us a description of that particular
13 wound?

14 A. 32 is again on the back chest of an incision four
15 centimeters in length on the surface, but it does penetrate as a
16 stab wound into the body, and the total depth of penetration
17 estimated between nine centimeters to eleven centimeters. It
18 actually went into the chest cage, into the lung, and --

19 Q. As it did --

20 A. -- it is a bleeding wound, hemorrhagic wound.

21 Q. And as it did that it cut the fifth and sixth rib
22 and went above the sixth?

23 A. Let's see?

24 A. Well, it cut into, it didn't completely cut, it cut
25 into the fifth rib, yes.

26 Q. And there was bleeding associated with that wound
27 in the back inside the body cavity?

28 A. Yes.

1 Q. Which would indicate that that was an earlier as
2 opposed to a later wound in the series that Doug Ryen received?

3 A. Yes.

4 Q. Is it possible for those two wounds that we have
5 just discussed to have been delivered to Mr. Ryen in the
6 position that he is in here?

7 A. Yes, yes.

8 Q. And when I say, "here", I'm indicating Exhibit 176.

9 A. Actually if I might comment, these two wounds, let
10 me see, 32 and 28 are both wounds that I've described as having
11 occurred before death, bleeding.

12 I believe they are actually shown, if I might point
13 to the photograph, on the left arm deltoid area, is a vertical
14 oriented incision in this photograph, and a trail of blood
15 trailing down the left arm. That drainage pattern is what I
16 would expect if that wound bled in the position in which his
17 body is found. I think that this actually was bleeding. He was
18 actually alive when he was in this position.

19 Now I can't say that he actually got the wound in
20 that position, but certainly this drainage pattern suggests that
21 he was still alive when he was in this position.

22 And in a similar fashion, because of the drain
23 pattern of blood I would expect that 33 -- no, 32, I'm sorry,
24 32, which is on the chest on the left side, has a drain pattern,
25 a dark streak of blood trailing away from that also was
26 bleeding, he was also alive in that position.

27 Q. But there are other wounds in that photograph that
28 literally have no similar type of drain pattern even though they

017417

1 are very serious wounds similar to 28 and 32; is that correct?

2 A. Yes, that is correct.

3 Q. Which would tend to lead you to believe that these
4 are much earlier and probably even in existence before he
5 reached that position?

6 A. That's quite possible, yes.

7 Q. Directing your attention now to the right back
8 area. We have two marks that correspond to these two locations.

9 A. Yes, sir.

10 Q. Are those 34 and 35?

11 A. Yes, sir. 34 would be higher, towards the head; 35
12 away from the head.

13 Q. Can you give us the general surface dimensions of
14 those two wounds?

15 A. 34 is an incision, five centimeters long on the
16 surface.

17 Q. 34 is five centimeters?

18 A. Yes, five centimeters in length on the surface of
19 it.

20 Let's see 35 is 3.5 centimeters long.

21 There is communication between wound 34 and wound
22 35, a path under the skin of about ten centimeters.

23 However, 35 also has a depth -- a wound of
24 penetration actually into the chest itself. It has gone between
25 two ribs, between the sixth rib and the seventh rib in toward
26 the lung. And I measured that wound as penetrating, estimate 12
27 centimeters to 13 centimeters.

28 Q. So, that this is not an entrance and an exit wound,

1 it just so happens that one of the wounds intersects with the
2 other wound?

3 A. Yes; yes.

4 Q. Now, I'd like to direct your attention to a series
5 of wounds that you have related as incisional wounds or wounds
6 that are different than stab wounds.

7 How would you describe the difference between an
8 incision and a stab?

9 A. Again, an incision is an injury caused by a
10 sharp-edged instrument, a knife as the typical type of injury,
11 clean sharp-edged penetrating wound. An incision by definition
12 is an injury that is longer, the surface dimension is greater
13 than the depth of penetration of that wound.

14 Now sometimes we have the possibility of a mix of
15 things. For instance, it is possible to have an incision that
16 cuts or incises deeply into the tissue but still ought to be
17 classified as an incision rather than an stab.

18 Q. Incision tends to carry with it almost a medical
19 connotation of certain care. Is that meant to go along with
20 that particular term when you use it?

21 A. No, not at all. The term "incision" as I use it
22 simply implies the type of instrument that causes the injury,
23 that is, a sharp-edged instrument. Certainly a scalpel as a
24 surgeon uses it causes an incision; a razor blade causes an
25 incision; a steak knife or any other kind of knife, sharp edged,
26 causes an incision. That's the definition of that type of
27 injury.

28 Q. And basically for our purposes, to maybe put it

017419

1 another way, the surface injury or the surface cut incision is
2 longer than the depth of the wound itself?

3 A. Generally that's the definition, yes.

4 Q. First of all, to Doug Ryen's right face we have two
5 injuries, the topmost being injury No. 1.

6 A. Yes, sir.

7 Q. Can you give us a description as far as size of No.
8 1?

9 A. No. 1 is -- Well, is an injury to the surface of
10 the skin which the skin is, has actually been sliced away,
11 almost like you would peel an apple skin, slicing. It is an
12 incision. It's caused by a sharp-edged instrument. It is an
13 oval outline approximately 1.3 centimeters by three centimeters.
14 And it is located on the right side of the cheek.

15 Q. And would you give us the dimension of Wound No. 2,
16 that would be the injury to the right cheek underneath it?

17 A. Right. Yes. No. 2 is an incision through the
18 right side of the cheek. It is 5.5 centimeters long. Actually
19 it penetrates into the body, into the mouth. It actually
20 communicates with the mouth. And there's a depth of penetration
21 of Wound No. 2 about three centimeters long -- I'm sorry, three
22 centimeters in depth as it goes into the mouth.

23 Q. Neither 1 or 2 could have been done in the position
24 he was in because in effect his cheek was laying on his arm in
25 that position?

26 A. That's correct.

27 Q. On the right leg, upper thigh area there is a
28 wound, an incisional-type wound which you labeled as No. 5.

1 A. Yes, sir.

2 Q. And the description of that wound?

3 A. No. 5 is also an incision. It is seven, about
4 seven centimeters long. And it penetrates about three
5 centimeters into the tissue, into the skin, muscle. It is a
6 wound that bled. It occurred before death.

7 Q. No. 6, referring to the left leg just above the
8 knee, is that also an incision?

9 A. Yes. Number 6 is 8.5 centimeters long. It
10 actually penetrated about six centimeters into the underlying
11 tissue towards the bone. And No. 6 is a hemorrhagic wound that
12 occurred before death.

13 Q. On the back of the left hand in this area just
14 about near the wrist, just below the wrist itself, is that Wound
15 No. 12?

16 A. Yes. No. 12, yes, sir.

17 Q. And the dimensions of that wound?

18 A. Well, No. 12 is an incision and it is about three
19 centimeters long. It's quite shallow. It penetrates only three
20 to four millimeters. There was a little bit of bleeding with
21 that. My impression then is that that did occur before death.

22 Q. Those three wounds in particular, 5, 6, and 12,
23 could they have been done with the hatchet, Exhibit 42, being
24 used as a slicing-type of instrument as opposed to the chop-type
25 wound?

26 A. Yes; yes, certainly if the hatchet is sharp enough.
27 It has a cutting incising edge and it can cause an incised
28 wound. And if used in that fashion there's no way that I could

017421

1 tell whether it -- whether the wound was -- what kind of an
2 incisional instrument, whether knife or hatchet, was used.

3 This has a relatively sharp edge. It's somewhat
4 blunted, but has the potential of being quite sharp.

5 Q. As far as Exhibit 42, could it have been
6 responsible for 5, 6, and 12?

7 A. It could have, yes.

8 Q. Oh, in the -- I don't know if you refer to it as
9 the shoulder or the neck, on the left-hand side towards the
10 back.

11 Q. Probably closer to the shoulder.

12 A. Yes, sir.

13 Q. That's Wound No. 31?

14 A. Yes, sir.

15 Q. And the descriptions of 31?

16 A. Is a stab incision. This is one that's kind of
17 borderline. It is about 2.5 centimeters long and it penetrates
18 about two centimeters. So this is one of those that I am kind
19 of on the borderline as to whether it should be a stab or an
20 incision.

21 Q. You didn't find much bleeding with that wound, did
22 you?

23 A. No. And I don't know whether -- no, I didn't --
24 did not find a significant bleeding. Well, no, whether or not
25 bleeding is present, I simply can't answer.

26 Q. In regard to that Wound 31, could that have been
27 received in the position that Mr. Ryen was in?

28 A. Well, I believe so. The left side is -- the left

1 side of the neck is exposed. Yes, it certainly could have
2 occurred there.

3 Q. And the left side buttocks area just below the
4 buttocks, is that Wound No. 36?

5 A. Yes.

6 Q. And that incision is what dimension?

7 A. It is eight centimeters long. It penetrates into
8 the muscle skin, anus fat muscle, about seven centimeters and
9 there was bleeding with the wound. Even though the surface
10 dimension is almost the same as the penetration, I think this
11 properly is more of an incision than a stab.

12 Q. Now, that particular wound you can see just a
13 portion of in Exhibit 36 in the lower buttocks area or you can
14 see it in Exhibit 176 in the lower buttocks or the left upper
15 thigh area.

16 A. Yes.

17 Q. And 37 is a wound to the upper right shoulder in
18 this area.

19 A. Yes.

20 Q. On the model it is -- sorry about that -- it is the
21 furthest one out towards the tip of the shoulder. Is that a
22 somewhat superficial-type wound?

23 A. Yes. I have measured that about five centimeters
24 in length. Quite superficial.

25 Q. When you use the term "superficial", what does that
26 mean to you as a forensic pathologist?

27 A. Depth of penetration into possibly just through the
28 skin. Depth of penetration one millimeter, two millimeters,

1 possibly three millimeters.

2 Q. Relatively minor type wound.

3 A. Yes.

4 Q. We have in Exhibit 527 a series of superficial

5 wounds to the fingers on the left hand.

6 A. Yes, sir.

7 Q. Those are labeled 11, 13, 14, 15, 16, and 17; is

8 that correct?

9 A. Now, 11 is on the right hand.

10 Q. All right.

11 A. The others are on the left hand.

12 Q. And are all of those -- excuse me -- what you would

13 classify as superficial type injuries?

14 A. Yes. They -- yes.

15 Q. We have also No. 18, which is a scratch to the left

16 forearm area. Is that superficial?

17 A. Yes. In minimal depth of penetration, one or two

18 millimeters.

19 Q. You don't know necessarily how that was caused

20 based upon the wound itself.

21 A. No, other than -- well, it is -- my description is

22 incision, therefore it is a sharp-edged instrument.

23 Q. You also show, in regard to that particular wound,

24 if you would, that the depth of penetration is only one to two

25 millimeters.

26 A. Yes, that's correct.

27 Q. And we also have Wound 29 to the back area which is

28 also an scratch.

0117424

1 A. Yes. That is -- well --

2 Q. Superficial.

3 A. An abrasion. I don't know 29 is an abrasion. The
4 only hesitation is the word "also", because this really truly is
5 a scrape, and it is not made by a cutting edge. 29 itself is
6 made by a scraping edge.

7 Now, let me just double-check myself one moment,
8 please. Yes, it is the one -- I think it is the middle one of
9 the three in a row over the left deltoid area. It is a scrape,
10 a superficial abrasion, line-like. It is about two cent -- no,
11 I'm sorry, it is 2.3 centimeters long, three millimeters wide.
12 It is simply a scrape.

13 Q. Are all of the chop wounds to Douglas Ryen
14 consistent with having been caused by Exhibit 42?

15 A. I believe so, yes.

16 Q. Yes.

17 Q. Referring your attention to Exhibit 165 here, and
18 not necessarily to scale but just the shape of the knife that is
19 drawn in this particular picture, assuming that kind of shape
20 165.

21 Could all of the stab and incision wounds that you
22 have described have been caused by that knife if they were not
23 caused by Exhibit 42, the hatchet?

24 A. Assuming not to scale, yes.

25 Q. Just shape.

26 A. The shape, yes.

27 Q. The general shape.

28 A. Yes. My -- part of the problem here is you have

0177455

1 two diagrams here, and the lower one is small and it seems to be
2 relatively short, and that one, the length of it bothers me.

3 Q. The only one that I'm really concerned with is the
4 uppermost.

5 A. All right.

6 Q. What appears to be a hunting knife configuration or
7 shape.

8 Is that consistent with the incisions and stab
9 wounds that you saw on Doug Ryen?

10 A. Yes, that certainly is, and that length is a
11 reasonable approximation.

12 Q. Maybe one or two centimeters off?

13 A. Oh, yes, that is quite possible. There are
14 tremendous variations in shapes of knives that can cause similar
15 injuries.

16 Q. Having gone over, and we have just previously
17 described Exhibit 525, is that a fair and accurate
18 representation of the general areas of where the wounds that we
19 have described were received to Douglas Ryen?

20 A. Yes.

21 Q. We have had marked as Exhibit 526, for the record,
22 a plastic model of a female.

23 A. Yes, sir.

24 Q. Have you had a chance to examine Exhibit 526 before
25 today?

26 A. Yes, I have.

27 Q. And we have laid out on Exhibit 526 a number of
28 marks in brown and red, and I believe one green to indicate

1 wounds similar in effect to those that we did with Doug Ryen as
2 far as brown being "chop", red being "stab" or "incision", and
3 the green being "post-mortem" injuries.

4 A. All right. Yes, sir.

5 Q. First of all referring your attention to chop-type
6 injuries with fracture.

7 In Peggy Ryen, there is almost an upside down "V"
8 in her forehead area.

9 A. Yes, sir.

10 Q. Is that Wounds 1 and 2?

11 A. Yes, sir.

12 Q. And that particular wound is really the result of
13 potentially one blow with a hatchet.

14 A. Yes, that would be the most likely mechanism.

15 Q. And that wound caused fracturing under the
16 forehead?

17 A. Yes, it did.

18 Q. Wound No. 3 is to the upper right side.

19 A. Yes.

20 Q. Above the forehead area in the hairline; is that
21 correct?

22 A. Yes, it is.

23 Q. Is that a chop wound that also has fracturing?

24 A. Yes.

25 Q. Did you notice any bruising around that wound?

26 A. Yes. There was some bleeding and bruising around
27 Wound No. 3.

28 Q. Would that indicate to you that it was an early

1 wound?

2 A. Relatively early in that there was bleeding, yes.

3 Q. Early as opposed to close to death or dying?

4 A. Yes.

5 Q. Could a wound such as No. 3 cause unconsciousness?

6 A. Yes. And, again, for the same reason that I gave
7 in referring to chop I believe on Douglas, any kind of impact
8 with enough force to cause cutting, chopping, fracturing of the
9 skull, carries with it enough force to render a person
10 unconscious. Whether it did, I can't say, of course.

11 Q. Wound No. 5 is present on the left cheek in an area
12 near the nose and descending away from the nose towards the left
13 ear; is that correct?

14 A. That's correct.

15 Q. And that particular chop wound had bruising with it
16 near the nose on the left side.

17 A. Yes, it did.

18 Q. In fact, that particular wound, Wound No. 5 you
19 have been able to give us some estimate of time as far as how
20 long Peggy Ryan would have been alive to cause the bruising near
21 the nose.

22 A. I think it would take a few minutes to produce that
23 amount of bleeding that I found there.

24 Q. One to three minutes?

25 A. Certainly well within the realm of possibility.

26 Q. But, as in 1, 2 and 3 there is fracture of bone
27 underneath the cheek area associated with Wound No. 5; is that
28 correct?

017428

1 A. Yes, it does. Facial bones.

2 Q. Wound No. 8 is a somewhat vertical up and down as
3 the body is standing upright type of wound to the right side of
4 the head; is that correct?

5 A. Yes, sir. There are a series of wounds in the
6 right side of the head in brown.

7 I wonder if it might help to number those first or
8 would that be more confusing?

9 Q. Well, we can if you like, No. 8, 9 and 10.

10 A. All right. 8 is a vertical -- well, let me take
11 the transverse wound first as a contrast, that's No. 7. All
12 right.

13 Then coming up over the middle of No. 7 a vertical
14 wound is 8. The one behind that is 9, and in that group of
15 three the furthest towards the back of the head would be 10.

16 Q. Let's start then with No. 8 first. That one had
17 fracturing associated with it.

18 A. Yes. This was a chop wound.

19 Q. In fact that wound No. 8 literally put a triangular
20 type of cut into Peggy Ryen; is that correct?

21 A. Triangular defect in the skull, yes, sir.

22 Q. Which would be consistent with the point of the
23 hatchet, Exhibit 42.

24 A. Well, that word "point" bothers me.

25 Q. Okay. Consistent with the application being more
26 in the fashion that I'm showing here as opposed to the --

27 A. That's correct.

28 Q. -- flush side of the blade.

1 A. That's correct. Either -- actually it could be
2 either the bottom of that, the bottom or the top either one as
3 far as I am concerned. But, yes, rather than the full cutting
4 surface, the edge of the cutting surface; the point.

5 Q. And No. 8 was received prior to death and had
6 bleeding associated with it?

7 A. I don't -- I believe so. Let me double-check
8 myself. My recollection, from the previous photograph, my notes
9 don't reflect it but my recollection from the photograph is that
10 there was a small amount of bleeding with No. 8.

11 Q. No. 9, the next wound back towards the back of the
12 head is a chop wound.

13 A. Yes.

14 Q. With fracturing.

15 A. Yes.

16 Q. This one had minimal bleeding associated with it.

17 A. Yes.

18 Q. And could have been done when Peggy Ryen was in
19 shock or close to death.

20 A. Yes.

21 Q. Is No. 10, the wound next in order towards the back
22 of the head, a chop with fracture?

23 A. Yes.

24 Q. Now, you also mentioned in your discussion the
25 wound that was horizontal that is just below No. 8.

26 A. Yes.

27 Q. And that was wound No. --

28 A. 7.

1 Q. Now that particular wound you related as being a
2 chop?

3 A. Well, that particular one did not --

4 Q. Fracture the bone.

5 A. -- did not fracture the bone. I'm inclined to
6 think that No. 7 may have been a chop wound, because the hair
7 was actually cut in association with Wound No. 7.

8 In order to cut the hair with a sharp-edged
9 instrument you have to stabilize it at least in part with a pair
10 scissors. You stabilize it with the blade while you come down
11 chopping it with the other.

12 A knife blade, by itself, will tend to move the
13 hair out of the way, it is possible, whereas a chopping tends to
14 fix the hair against the side of the head, in this case,
15 permitted to be cut.

16 I use the word "cut" because that's I guess what
17 you do to hair.

18 Q. Additionally, moving on around towards the back of
19 the head we have another chop fracture in No. 12.

20 A. Yes. No. 12 is the brown mark on the almost
21 midline of the back of the head.

22 Q. There was fracture under No. 12?

23 A. Yes.

24 Q. This group of wounds that we have just discussed,
25 chop wounds, could those have been delivered in rapid
26 succession?

27 A. Yep.

28 Q. For example, just a matter of a few seconds?

017431

1 A. Yes, they do tend to be grouped in an oriented
2 pattern. I'm sorry, they tend to be grouped in a pattern. I
3 shouldn't use the word "oriented".

4 Q. Returning to the face for a moment on the left-hand
5 side. The wound that is towards the chin on the left side, is
6 that Wound No. 6?

7 A. Yes, sir.

8 Q. And that is a chopped incision without fracturing?

9 A. Yes. It does -- well, it actually goes into the
10 bone, into the mandible, makes a defect in the mandible and most
11 technically, any injury to the bone can be classified as a
12 fracture. I am not sure that that's -- that may be an equivocal
13 use of the term.

14 Q. Anyway, as far as that particular wound is
15 concerned, No. 6, that is consistent with Exhibit 42, the
16 hatchet.

17 A. Yes, sir.

18 Q. We also have Wound No. 11, which is a chop incision
19 just above No. 3.

20 A. Well, to the right side of the head, yes. I --
21 well, let me go back for a moment. There is a mark that is
22 transverse, front to back mark that we previously identified as
23 No. 7 on the right side of the head. No. 11 is shown in front
24 of the -- in front of No. 7 as a vertical mark.

25 Q. It should be really in back of --

26 A. No, 11 is correctly positioned, I'm just orienting
27 it from my previous remarks.

28 Q. Just your tone of voice was as though we ought to

0
1
7
4
3
2

1 move No. 11 back.

2 A. No, just orienting it in numbers.

3 Q. Can you describe No. 11, please.

4 A. It is an incision, fourteen millimeters long, 1.4
5 centimeters or 14 millimeters are the same, and it goes through
6 the scalp. It does not actually go into the bone.

7 Q. In Peggy Ryen, similar to the situation with Doug
8 Ryen, do we have an injury to the hand, in particular, Wound No.
9 22?

10 A. Well,

11 Q. Which corresponds to the right thumb?

12 A. Yes, but certainly Doug did have injuries to the
13 hand, but he had several different kinds. He had an amputation
14 as well as incisions. I think this -- this is not an
15 amputation.

16 Q. Right. But the question that I wanted to bring out
17 as possible similar between Doug and Peggy, is Wound No. 22 a
18 possible result of having placed her right hand up in the area
19 where all of these chop wounds were received around her head
20 causing the defensive incision to her right thumb?

21 A. Oh, yes, that's quite possible. It does actually
22 go into the cartilage of the finger, 22.

23 MR. KOTTMEIER: This would be a convenient time, your
24 Honor.

25 THE COURT: All right, let's return at 1:30. Remember
26 the admonition, ladies and gentlemen.

27 --oo0oo--

28 (Noon recess)

0
1
7
4
3
3

1 SAN DIEGO, CALIFORNIA, TUESDAY, NOVEMBER 27, 1984, 1:35 P.M.

2

3 THE COURT: Everybody is assembled, Mr. Kottmeier.

4 MR. KOTTMEIER: Thank you, your Honor.

5

6 IRVING ROOT,

7 called as a witness on behalf of the People, having been
8 previously duly sworn, testified as follows:

9

10 DIRECT EXAMINATION (Resumed)

11 BY MR. KOTTMEIER:

12 Q. Dr. Root, you recall before the noon hour we had
13 just discussed the injury to the thumb on the right hand of
14 Peggy Ryen, which was No. 22?

15 A. Yes, sir.

16 Q. And we had just discussed the possibility of that
17 injury having been received in a defensive movement during the
18 time of the chop wounds to the right side of Peggy Ryen's head?

19 A. Yes, sir.

20 Q. Directing your attention now to the area of the
21 forehead just above the hairline and a wound that you numbered
22 No. 4.

23 A. Yes, sir.

24 Q. That's just above the hairline on the left side?

25 A. Yes, sir.

26 Q. That particular wound was what kind of a wound?

27 A. A chop injury, chop incision.

28 Q. Was there a skull fracture with that wound?

1 A. Slight, very slight.

2 Q. And that particular wound had abraded margins?

3 A. Yes.

4 Q. In that particular wound did you check on the
5 internal examination as far as bleeding?

6 A. Yes. I think there was some evidence of bleeding
7 in No. 4.

8 Q. In fact, there was bleeding into the brain itself?

9 A. Now that I will check. There was some area of
10 bleeding in the brain.

11 Let me go back and correct one statement, please.
12 I think I said in reference to skull fracture "slight", but
13 actually it was really a rather significant skull fracture on
14 No. 4 as I look over the remainder of the report.

15 I believe there is a contusion -- Well, there is
16 bruising of the brain on the left side, and I believe it is
17 related to No. 4, yes, sir.

18 Q. In fact, as far as the upper portion of the head is
19 concerned, Wound 4 is really the only one that we have on the
20 left side that would correspond to an injury to the brain; is
21 that correct?

22 A. On the left side, yes. Let me just doublecheck
23 myself one moment, please.

24 Yes, sir. That's correct.

25 Q. The wound in No. 4, is that also consistent with
26 having been deflected at the time it was received?

27 A. Well, by a hand?

28 Q. It's hard to say, deflected by almost anything.

1 A. Well, possibly. No. 4 has a depressed skull
2 fracture. It's -- That's why I corrected myself.

3 My initial comment on the external just indicated
4 some damage to the overlying portion of the bone, but there is a
5 true depressed fracture with No. 4, so there couldn't be
6 terribly significant deflection from No. 4.

7 Q. When you talk in terms of the fracturing though,
8 what portion of Exhibit 42 would the fracturing be most
9 consistent with as far as the cause?

10 A. Well, it would tend to suggest that it's hit on
11 edge towards the, well, the point, I guess is the term we are
12 using. It's certainly not an impact with the full face, the
13 full cutting face of the hatchet. The injury itself is
14 relatively sharply incised, and it suggests perhaps more of an
15 impact here. I guess it would be possibly with the back edge.
16 I think not. I think it's more likely with the edge here, but
17 there are some possible variations. It's not quite as easy to
18 answer.

19 Q. Directing your attention now to Wound No. 13, a
20 wound that you have labeled as a laceration towards the middle
21 of the back of Peggy Ryen's head.

22 A. Yes, sir.

23 Q. Wound 13 did not have a fracture under it, did it?

24 A. It did not, no.

25 Q. And in 13 the margins around the wound were abraded
26 or lacerated?

27 A. More lacerated. Actually Wound 13 probably is more
28 of a laceration than an incision, although it is very

1 sharp-edged. There is actually tearing of the skin margin. So
2 probably 13 really ought to be classified more as a laceration.

3 Q. There are even tissue bridges in the wound itself,
4 or pieces that connect across the wound; is that correct?

5 A. Yes, and that's why I think that should be
6 classified as a laceration even though the edges are fairly
7 sharp. Sometimes we find wounds on -- that kind are very
8 difficult to distinguish laceration from incision, an extremely
9 sharp-edged laceration is at that point why I, a pathologist,
10 have some trouble saying which is which.

11 Q. What portion, if any, of Exhibit 42, the hatchet
12 could have caused the wound?

13 A. If the hatchet were used it would more likely than
14 not have been this squared-off end, the right angle of the
15 non-cutting edge, and it could be the top, I suppose, or the
16 bottom, it could. I think from the striking force it might be
17 easier if it were on the bottom side because you get more force
18 than with the top, but it's possible.

19 Q. In that particular wound did you notice bleeding so
20 that it was before death?

21 A. Let's see. I didn't comment there. One moment
22 please. I don't comment here. See if I can figure that out.

23 No, sir, I simply don't -- I don't note any
24 hemorrhage of that, of 13.

25 Q. You don't note one way or the other?

26 A. That's correct.

27 Q. Now, I'd like to direct your attention to some stab
28 wounds, primarily beginning with No. 18, which is in the chest

1 or lower chest, maybe stomach area. The wound on what would
2 correspond to the right side just above the navel.

3 A. Yes, sir.

4 Q. Would you describe the dimensions of Wound 18?

5 A. It is 3.5 centimeters long and it is associated
6 with some bleeding. It does penetrate under the skin towards
7 the -- well, from right to left.

8 Q. Did it go into the stomach wall?

9 A. Well, let me check that.

10 It did not actually penetrate into the abdominal
11 cavity. I think it may have incised the peritoneal surface in
12 one area. No, it did not actually penetrate the peritoneal
13 cavity or membrane itself. My estimate of depth of penetration
14 was about 13 centimeters.

15 Q. Directing your attention to No. 19, it is an area
16 that is below the navel on the right side in the stomach area,
17 lower abdomen?

18 A. Yes, sir.

19 Q. What were the dimensions of that wound?

20 A. 19 is an incision, 2.5 centimeters in length,
21 penetrating, is a stab wound -- well, I know it's at least five
22 centimeters long. It is actually gone into the abdominal
23 cavity, however, it does not strike any object or -- I'm sorry,
24 any structure inside the abdominal cavity. It can go in and
25 pass between loops of intestine. Since there is no internal
26 point of injury I simply can't say how far.

27 Q. Can't tell the maximum?

28 A. I can't tell the maximum. It's got to be at least

1 five centimeters, but it could be more.

2 Q. Referring your attention then to Wound No. 20.
3 That's higher on the right side towards the right breast area.

4 What were the dimensions of Wound 20?

5 A. Oh, yes. Excuse me one second, please.

6 Q. You have it on your diagram. It's on the -

7 A. Yes, it is -- It's a side view, yes, I have it.

8 No. 20 is an incision three centimeters long.

9 Q. Excuse me. Incision or stab?

10 A. Well, it is a stab wound as it turns out. The
11 surface dimensions is three centimeters in length.

12 Q. Then when you did the internal examination you
13 found it to be how long?

14 A. It penetrated at least ten centimeters. And again
15 my comment is the same. The, let's see, No. 20. Well, minimum
16 depth of ten centimeters because I don't find a point at which I
17 can say the knife blade has come to rest. So it's gone ten
18 centimeters, but maybe more.

19 Q. In that particular wound, No. 20, did that
20 penetrate into the lung itself?

21 A. Yes, it did.

22 Q. In fact, there was blood that was recovered during
23 your examination from the lung associated with that wound?

24 A. Yes.

25 Q. About how much?

26 A. There was about 100 cc's of blood in the right
27 chest cavity. This went into the right chest cavity. That's a
28 minimum amount.

1 Q. That bleeding then would tend to tell you that No.
2 20 to the area just below the right breast was one of the
3 earlier wounds as opposed to a later wound?

4 A. Yes, that's correct.

5 Q. And earlier/later obviously are relative terms.
6 There are a lot of wounds you just can't place anywhere in the
7 spectrum?

8 A. Well, that's correct, yes.

9 Q. The next wound down on the right-hand side was
10 Wound 21?

11 A. Yes.

12 Q. And what were the --

13 A. Let's see, I don't know if the jury can see those.
14 No. 20 to and 21 are in the right side of the chest
15 wall. This one is No. 20 and this is No. 21, the lower one.

16 21 is three centimeters long on the surface, and it
17 penetrated into the body perhaps nine to ten centimeters between
18 two ribs, through the diaphragm, into the liver, but again it
19 went out of the liver and I can't tell how far it went beyond
20 that because it didn't leave a final point. Again between
21 structures basically. So I would say it's a minimum depth of
22 nine centimeters to ten centimeters, possibly a little more.

23 Q. So, this is a stab-type wound?

24 A. Yes, this is a stab wound.

25 Q. And that particular wound itself, did it fracture
26 any of the ribs?

27 A. Well, yes. The eighth rib on the right.

28 Q. Shifting from the trunk area of the body to an area

0
1
7
4
4
0

- 1 on the left arm just above the elbow, in this position, does
2 that correspond to the stab wound that you labeled 27?
- 3 A. Yes, sir. Yes, sir.
- 4 Q. And the dimensions of that stab wound?
- 5 A. This is 16 millimeters in length on the surface.
6 It is a stab wound, and it can be probed about two to three
7 centimeters and it is a hemorrhagic wound.
- 8 Q. A bleeding wound?
- 9 A. Yes, bleeding wound.
- 10 Q. Indicating before death?
- 11 A. Before death.
- 12 Q. Directing your attention to Wound 33, which appears
13 to be a wound in the side on the left side. It may actually be
14 listed closer to the back area.
- 15 A. Yes. Well, no, I show it on the left chest area.
16 Yes, sir.
- 17 Q. Is that consistent with the green mark on Exhibit
18 526?
- 19 A. Yes, sir.
- 20 Q. It's actually maybe a a little bit more towards
21 under the arm than is depicted on 526; is that correct?
- 22 A. Yes. I think it would be down a little lower and
23 perhaps in a little more, but that's an approximation.
- 24 Q. That particular wound, at least when you looked at
25 it, on the surface appeared to be an incision, that is, that the
26 wound was fairly long and wide; is that correct?
- 27 A. Yes.
- 28 Q. And what were the approximate surface dimensions of

017441

1 Wound 33?

2 A. Nine centimeters in length. As far as the
3 penetrating portion, there was a tailing of superficial scrape
4 or abrasion an additional one centimeter long on the lower
5 margin. That tailing or abrasion or whatever epidermal
6 incision, I guess very shallow, was not a penetrating wound.

7 Q. During your internal examination did you also
8 discover that that wound contained a stab as well as that longer
9 incision?

10 A. Yes, it did. That penetrates a minimum depth of
11 ten centimeters. It went -- Well, let's see, incised the tip of
12 the rib, twelfth rib on the left side, between the eleventh and
13 twelfth rib, the muscle between the eleventh and twelfth. It
14 went through the diaphragm on the left, actually into the spleen
15 and probably struck the tail of the pancreas where there was
16 very slight bleeding.

17 So 33 really is an injury that occurred before
18 death, not very much bleeding, but very slight.

19 Q. Is this a wound, though, that as far as the
20 bleeding for the severity of the wound itself, leads you to
21 believe that it was very close to the end, that is, that of all
22 the wounds that you've seen thus far, or that you examined, is
23 the wound closest to point of death of any of the others?

24 A. Yes. It certainly is a wound that is associated
25 with very little hemorrhage, but just a very slight amount, so
26 it's very close to death.

27 Q. And yet this is a very serious wound, as far as the
28 damage that's done to the surrounding tissue, so that you would

017442

1 expect to see more bleeding; is that correct?

2 A. Yes; yes.

3 Q. Now, that particular wound in its location, showing
4 you Exhibit 217, would be inconsistent, in other words, would
5 not have been done while Peggy Ryen was laying in the position
6 that she is in this photograph?

7 A. That's correct, could not.

8 Q. Which would tend to indicate at least based upon
9 the time of the wound that her physical position was changed
10 after she had received the wounds?

11 A. Yes. May I see this for a minute, please. Yes.

12 Q. I guess to take maybe that one step further, what
13 we're getting to is since this is towards the end it would not
14 be right to say that any of these other wounds on Peggy Ryen
15 were delivered to her in the position she is in because the last
16 wound is one that she could not have received in that position?

17 A. That's true. Certainly -- Well, of course the
18 other thing that one can state from that photograph is that the
19 pattern of blood smears on her body is not consistent, the blood
20 smears on the front of her body are really not consistent with
21 having drained into that position with the wounds being
22 inflicted in that position. They had to have been in some other
23 position.

24 Q. For example, we have a series of wounds that we
25 have yet to discuss, some in the lower abdomen on the left-hand
26 side which have it appears to be drain patterns that would be
27 down towards the feet even though in her position you would
28 expect it to drain towards the side?

017443

1 A. That's correct. Also that smudge pattern on the
2 knee, simply all this drainage towards the ground in a normal
3 fashion, that smudge pattern could not have occurred in that
4 position.

5 Q. That's on the left knee?

6 A. On the left knee. She had to have been elsewhere
7 for a period of time at least.

8 Q. Now, I'd like to refer you to a series of
9 incisional or incision-type wounds beginning with Wound 15.

10 Does Wound 15 appears to be just under the
11 left-hand breast or actually on the breast itself?

12 A. No, it's actually on the breast on the under
13 surface of the breast on the left.

14 Q. What were the dimensions of wound 15?

15 A. About 3.5 centimeters long, although around that
16 there was some scraping and bruising or contusions over an
17 additional, about two centimeter area. I was able to probe into
18 the breast tissue.

19 I did not actually measure the maximum depth of
20 penetration with No. 15, but there was some penetration towards
21 the upper outer part of the breast on the left side.

22 Q. Was there bleeding associated with that wound?

23 A. Yes.

24 Q. So that would have been before death?

25 A. Yes.

26 Q. Referring you to No. 17, that -- in fact that was
27 the wound we just referred to in the picture, this large wound
28 to the left side of the abdomen area.

017444

1 A. Yes, sir.

2 Q. Can you describe that for us as far as dimensions?

3 A. That is an incision, it is ten and a half
4 centimeters, 10.5 centimeters long, penetrating about two
5 centimeters into the tissue.

6 Q. That's the incision part of it?

7 A. The incision part of it.

8 There's a tailing running off towards the side,
9 superficial scraping or superficial, very shallow perhaps
10 incision just through the epidermis. Let me double-check one
11 other thing please.

12 Actually 17 was incised into the abdominal cavity
13 and there was an incision, stab incision going into the stomach.

14 Q. So that its depth is somewhat more?

15 A. Well, yes. The measurement that I gave you was
16 that which I was able to measure just from the external alone.

17 So, it actually penetrated into the abdominal
18 cavity and my estimate is, that it is perhaps nine centimeters
19 into the abdominal cavity, or total length, maximum penetration,
20 nine centimeters.

21 Q. Was there bleeding associated with that wound?

22 A. Yes.

23 Q. So it was before death?

24 A. Yes.

25 Q. That, like the wound in green on her back, was a
26 very serious wound as far as the type of damage that it did.

27 A. It can be, yes.

28 Q. Referring you now to No. 28, an incisional wound or

1 incision to the back of the neck almost right in the midline.

2 A. Yes.

3 Q. What were the dimensions of Wound 28?

4 A. About 7.5 centimeters.

5 Q. And the depth?

6 A. But a part of the wound penetrated approximately
7 4.5 centimeters. Not the entire wound, part of the wound was
8 quite shallow.

9 Well, the penetrating portion was at the upper part
10 of the wound, and the shallow part, the lower part of the wound.

11 Q. Is No. 28 consistent with having been made with
12 either a knife or, for example, the hatchet?

13 A. It could be made with either. 28 has resulted in
14 cutting of the hair and, again, what I said about cutting of the
15 hair before would apply here. That is, the -- really you need
16 to support, fix the hair, support it to cut it with a knife,
17 whereas a chopping action could cut the hair.

18 Q. Back over the right shoulder area is a wound. Does
19 that correspond to Wound 30?

20 A. Yes.

21 Q. And can you tell us about the dimensions of Wound
22 30.

23 A. Wound 30 is an incision, it is 8.5 centimeters in
24 length, penetrated relatively deeply -- let me check that. It
25 did not actually penetrate into the chest cavity, I was able to
26 probe that about six centimeters penetration.

27 Q. Was there bleeding associated with Wound 30?

28 A. Yes.

1 Q. Minimal or large?

2 A. Slight, as best I can tell. I just don't have a
3 good description.

4 Q. The two wounds towards the center of the back near
5 the backbone. There was a vertical one and then one kind of
6 intersects, those that you classified as two separate incisions;
7 is that correct?

8 A. Yes.

9 Q. As far as your estimation Wound 32 was, that is the
10 vertical one, the up and down, came before the Wound 31, the one
11 that's at an angle?

12 A. More likely than not, yes.

13 Q. Can you give us the reason for the one being before
14 the other as far as your opinion?

15 A. I think it would be extremely fortuitous --

16 Well, let me go back. The margin that -- the left
17 side of the diagonal Wound 31 just touches a vertical up and
18 down portion of No. 32. If 31, the diagonal one, was the first
19 injury, it would be extremely coincidental for the, for the
20 vertical wound to hit just the tip.

21 On the other, hand if the the vertical Wound 32 had
22 existed first, it would be relatively easy for 32 to end where
23 the skin is gaping, rather than going across, a knife going
24 across an open space what with the dimensions of Wounds 31 and
25 32.

26 31 is the diagonal wound, it is a sharply-edged
27 incision about four centimeters long. 32 is the vertibral --
28 I'm sorry, the vertical injury, 8.5 centimeters in length.

017447

1 32 has penetrated quite deeply, at least eight
2 centimeters, but it is actually going into the lung. It is a
3 slightly hemorrhagic wound.

4 Q. That meaning it was before death?

5 A. Let's see. I'm sorry, just a moment. Excuse me.
6 I want to stand corrected on that.

7 Yes, it was before death. But the eight
8 centimeters is incorrect. That eight centimeters refers to an
9 incision on the pleural membrane, lining of the chest wall,
10 where it actually entered the chest cavity.

11 So, 32 might have penetrated six, eight
12 centimeters. I did not give a specific measurement in depth.

13 Q. Referring your attention to those particular
14 wounds. Because of the minimal bleeding did you form an opinion
15 that they occurred during shock or deep shock?

16 A. Well, I can't really state. There is some
17 hemorrhage associated both with 31 and 32. There was a heart
18 action, that is all I can state.

19 Q. Now, directing your attention to some superficial
20 wounds. For example, a wound that is just above the breasts and
21 almost in between closer to the right breast.

22 Is that a superficial wound that you numbered 14?

23 A. Yes.

24 Q. Just --

25 A. Five centimeters long.

26 Q. Just generally broke the skin?

27 A. Well, in most areas just broke the skin, but in one
28 area it has gone as deep as eight millimeters, still quite

1 shallow, and it is associated with very slight bleeding;
2 minimal.

3 Q. Also, referring your attention to the left side,
4 this small wound here, indicating on the left side below the
5 breast. Is that No. 16?

6 A. No. 16.

7 Q. And that's an abrasion?

8 A. Yes. Quite a fine line; a linear abrasion, 2.3
9 centimeters long, and non-penetrating.

10 Q. We have on the left hand towards the back, a little
11 difficult to see there, under the fingers, the margin near the
12 knuckle area, two wounds, 23 and 24, both of which are
13 abrasions. You may have actually listed 23 as an incision.

14 A. 24 is a tearing away of skin, probably an abrasion
15 is the best -- it is the epidermis torn away.

16 23 actually is a an incision, eight millimeters
17 long, five to seven millimeters penetration.

18 Q. These are millimeters not centimeters?

19 A. These are millimeters.

20 Q. 25, on that same left side, is a forearm type of
21 scratch, an abrasion.

22 A. Yes.

23 Q. Incision.

24 A. Yes. It is a combination, actually.

25 Q. Shallow and superficial.

26 A. Yes. It is, however, a penetrating wound.

27 The surface dimension of 25 -- well, the
28 penetrating portion is seven millimeters long, but there is some

1 abrasions both on either end of it, which extends an additional
2 three millimeters to four millimeters, through the penetrating
3 portion.

4 The penetrating portion is an incision of 25. I
5 can probe a defect about two centimeters depth.

6 Q. 26, moving up the left forearm, is also an
7 abrasion, shallow and superficial or incision.

8 A. No, it is an incision, is a better description
9 of -- let's see. 26.

10 26 is an incision, it is about seven millimeters
11 long on the surface and it also can be probed with a shallow
12 subcutaneous penetrating wound about two centimeters.

13 Q. And finally on Peg Ryen we have a scratch to the
14 back of the neck, just beyond the -- on the right-hand side of
15 the neck. No. 29.

16 A. Okay. That is a very -- is an incision, and it is
17 ten millimeters in length.

18 Now, in reviewing this report I don't know when I
19 made this correction, I note that my original report describes
20 that as ten centimeters and that is quite incorrect. I have
21 changed that on my report, it is ten millimeters, and I don't
22 know whether your report, whether I have indicated, I changed
23 you previously or not. But it should be ten millimeters long.

24 Q. It is superficial?

25 A. Well, it is a tearing -- relatively superficial, an
26 epidermal. I have "incision", but there was an area of abrasion
27 and contusion surrounding it. But the incision part is
28 relatively superficial.

017450

1 There is one other correction I would like to make
2 on 29. Again, I don't know that I have made that to you
3 previously or not. I show that as to the left midline and it is
4 on the right side of the midline of the neck.

5 Q. That is the way we have it portrayed.

6 A. All right. Yes, it is portrayed correctly. It is
7 just that my report was incorrect.

8 Well, actually, no. I have 29 going -- I can probe
9 it about a centimeter in depth so it is more than a superficial
10 penetration. Sorry. Yes, one centimeter deep.

11 Q. Directing your attention to 527, for the record, a
12 plastic model about a foot high.

13 Did you perform an autopsy on the little girl that
14 is pictured in Exhibit 174?

15 A. Yes.

16 Q. For these purposes we will refer to her as Jessica
17 Ryen, having been previously identified.

18 A. Excuse me one moment, please. Yes, sir.

19 Q. First of all, referring you to chop wounds with
20 fractures.

21 Wound No. 1 and 2, the almost "V" similar to Peggy
22 Ryen in the upper forehead. Did you find those to be one blow?

23 A. Probably, yes, I believe they are one blow --

24 Q. In fact --

25 A. -- causing two different arms of the injury, but
26 one blow.

27 Q. Coming down towards the nose and in effect cutting
28 into the scalp as well as the skull itself?

1 A. Yes, that's correct.

2 Q. Directing your attention to the area by the right
3 side of the nose and cheek section.

4 Does that correspond to Wound No. 4?

5 A. Yes.

6 Q. And did you find that to be a chop with fracturing?

7 A. Yes.

8 Q. Did you find much bleeding in connection with Wound
9 4, the one by the nose across the right cheek?

10 A. No.

11 Q. Which would tend to mean that the person was in
12 shock or that it was a later type of wound?

13 A. Yep. That is --

14 Q. No. 5 is the wound to the right side mouth and
15 cheek area.

16 A. Yes.

17 Q. Is that a chop wound with fracturing of the jaw as
18 well knocking out a number of teeth?

19 A. Yes.

20 Q. That in effect took out the teeth in Jessica Ryen
21 all the way into the front teeth; is that correct?

22 A. Yes.

23 Q. That particular, that particular wound did not have
24 much bleeding either similar to No. 4.

25 A. That's correct.

26 Q. Which would tend to mean that she was in shock or
27 that it was received later?

28 A. That's right.

0
1
7
4
5
2

1 Q. No. 40 refers to a wound that is virtually right on
2 the top of Jessica's head.

3 A. Yes, sir. Wait a minute, let me see if I can see
4 it here.

5 Oh, yes. Yes. Yes. It is partially hidden by
6 some Scotch tape up there.

7 Q. That particular chop wound -- well, strike that.
8 That was a chop with fracture.

9 A. Yes, sir.

10 Q. And, again, you didn't find much bleeding with that
11 particular wound?

12 A. Not very much. But I thought that there -- let me
13 double-check myself.

14 I think there was -- my note previously was that
15 there was a very slight amount of bleeding; not much, not
16 significant.

17 Q. Referring you then to the right side towards the
18 back of the head, we have two wounds and I am indicating upper
19 wounds that are closer to the front of the face.

20 A. All right.

21 Q. The ones in brown.

22 A. Yes, sir.

23 Q. The further ones to the front, would that
24 correspond to 41?

25 A. Yes.

26 Q. And 41 did not have fracturing underneath it.

27 A. No, it did not.

28 Q. So in effect that could be a chop or an incision,

017457

1 whichever way you want to describe it.

2 A. Yes.

3 Q. Is that consistent with having been made by either
4 the hatchet or the knife?

5 A. Yes. As long as -- recognizing that the hatchet
6 injury, if it was a hatchet, it was shallow, it did not produce
7 chop injuries, but it could have caused this injury.

8 Q. The length of No. 41 was what?

9 A. Twelve millimeters long.

10 Q. Millimeters or centimeters?

11 A. Millimeters.

12 Q. Relatively small then.

13 A. Yes.

14 Q. 41 is the wound moving just back of that in brown?

15 A. Yes.

16 Q. And that particular wound is a chop with a
17 fracture; is that correct?

18 A. 41 is a chop injury, yes.

19 Q. With a fracture.

20 A. Yes.

21 Q. Excuse me. We're at 42. We just did 41.

22 A. I'm sorry, did we -- I'm sorry. Excuse me. Wait a
23 minute. No, I have to go back. I'm sorry.

24 I note here that 41 is associated with a fracture.
25 41 now becomes a chop wound.

26 Q. Okay.

27 A. The outer dimension doesn't change.

28 Q. Is 42 a chop wound with a fracture?

1 A. That's what I'm -- I don't see a note to that
2 effect. 42 is -- I have described only as an incision ten
3 millimeters in length, full thickness through the skull, but I
4 don't describe skull. I'm sorry, fracture with 42.

5 Q. You mean full thickness of the scalp?

6 A. Full thickness of the scalp. But I don't show,
7 comment skull fracture with 42.

8 Q. You may have 41 and 42 reversed.

9 A. Reversed. That's quite possible.

10 Q. Referring you then to 44, which is a wound to the
11 back of the head.

12 A. Yes, sir.

13 Q. Is there a fracture of the skull associated with
14 44?

15 A. No, this is 45.

16 Q. All right. 44 would be a little further around.

17 A. 44 should be this -- well, I think it is a mixture
18 of green and brown that you have on the lower part of the skull
19 on the right side. There was another one forward of that is
20 just the tip of the ear, green and brown, which is 43 for
21 orientation.

22 Q. Let's go to the forward most one, 43.

23 A. All right.

24 Q. That's a relatively minor, in fact classified as a
25 superficial cut above the right ear or incision.

26 A. Yes. Yes. I have that measuring 2.3 centimeters
27 long, and relatively superficial. It did cut the hair but it
28 didn't go full thickness through the scalp.

0-1-7-4-5-5

1 Q. Then the next one you indicated was 44.

2 A. Yes.

3 Q. And that was what kind of a wound?

4 A. Well, I can't tell. It is either an incision or a
5 chop. I can't distinguish in this case. It is an incisional
6 wound, four centimeters long, itself full thickness through the
7 scalp, it does expose the skull, but it does not produce injury
8 to the bone.

9 Q. Was there bleeding associated with both 41 and 44?
10 Or excuse me, 43 and 44?

11 A. I can't tell on those, on either one of those. I
12 simply don't know. I didn't note it.

13 Q. Referring your attention to the forehead again, the
14 one that is down in the middle from the "V" that we talked about
15 earlier as being 1 and 2.

16 Is that Wound No. 3?

17 A. Yes, sir.

18 Q. And Wound No. 3, did it cause a fracture?

19 A. I think not. However, there is some injury to the
20 bone associated with 1 and 2. I think it is the injury from 1
21 and 2 that caused the bone injury and not 3, but they are so
22 closely -- they are so close together that I can't be absolutely
23 positive.

24 Q. Well, there is some additional problems that
25 injuries 1 and 2 creates when it hurts the bone, in that as far
26 as your opinion No. 3 actually came first before 1 and 2; is
27 that correct?

28 A. I think it would have to, yes. I think No. 1 had

017456

1 to be there first.

2 Q. So that --

3 A. What happened is with -- I'm sorry. 1 and 2 is a
4 result of a chop injury causing a flap of skin that is no longer
5 attached to the skull. It would be very difficult to make an
6 incision into a loose flapping flap of skin. It would be quite
7 easy to make that incision No. 3 if the skin were still
8 attached.

9 So, for that reason I think it is more likely that
10 3 came first.

11 Q. Would you have expected if it was a chop wound that
12 came second that you could get some underlying damage to the
13 bone that would show up?

14 A. I don't think I followed you on that, I'm sorry.

15 Q. If No. 3 came after No. 1 and 2 --

16 A. Oh I see what you mean.

17 Q. -- and it is a chop wound as opposed to the
18 straight incision, would you have expected that in addition to
19 splitting that flap of skin that it would also have done bone
20 damage or skull damage?

21 A. Oh, yes. Yes.

22 Q. That is, that that flap would have been braced back
23 against the skull and then cut.

24 A. That's correct. No, I think that it is more likely
25 that the bone damage is a result of the chop injury producing 1
26 and 2, the "V" shaped injury rather than the bone injury from
27 No. -- associated with 3.

28 Q. So No. 3 could have been done by either the

1 hatchet, Exhibit 42, or a knife?

2 A. That's correct.

3 Q. And there was bleeding with it.

4 A. Yes, yes, there is.

5 Q. Referring you now to some stab injuries, beginning
6 with one of the more severe stab injuries, indicating to the
7 right side of the neck a wound which you marked as No. 6.

8 A. Yes.

9 Q. Can you describe No. 6 to us.

10 A. 6 is a stab wound. The surface dimension three
11 centimeters. It penetrates into the neck, penetrates about six
12 centimeters. It incises, completely cuts across the right
13 internal jugular vein. It cuts into but is not completely cut
14 in two, it does not completely incise the right interim carotid
15 artery. And it goes posterior to the hypopharynx -- that is the
16 upper part of esophagus between the esophagus and the mouth --
17 does not actually penetrate into the back of the mouth, the
18 esophagus or the trachea.

19 This is an extremely hemorrhagic wound. This
20 certainly occurred early in the game and resulted in massive
21 bleeding.

22 Q. With a wound like that, how long would a person at
23 least hold consciousness before, assuming no other wounds were
24 inflicted, before they would go under, submit to
25 unconsciousness?

26 A. A person could lose consciousness in as little as
27 30 to 60 seconds with that wound, although they could -- they
28 might go as much as a couple of minutes. I don't think they

017458

1 could live or retain consciousness with that wound where the
2 bleeding was not controlled for much more than a couple of
3 minutes.

4 Q. Based upon the amount of blood that you found
5 associated with that particular wound, can you formulate any
6 opinion as to how long that wound was in place before Jessica
7 Ryen died?

8 A. Oh, I think she died within a period of a few
9 minutes after.

10 Q. Few minutes meaning?

11 A. After the wound -- after No. 6 was inflicted.

12 Q. Two to three, five to six?

13 A. I would be -- it's very difficult. I would say
14 five to six is certainly an outside limit. I would say two to
15 three is much more likely.

16 Q. Referring you then to Wound No. 8, 9, and 10, which
17 is a series of three wounds that cannot really be shown
18 effectively on the dolls because of their location, the area of
19 the right arm. Actually underneath the right arm, we've placed
20 them just forward of the right arm in this fashion, and I'm
21 indicating on the right side just in front of the right arm.

22 A. Yes, sir.

23 Q. 8, 9, and 10, with 8 being the top wound, 9 the
24 middle wound, and then 10 the lower wound.

25 A. That's correct.

26 Q. Are all of those stab wounds?

27 A. They are all stab wounds. They are all associated
28 with bleeding, hemorrhage. Two of them, and I can't tell which

0-1-7-4-5-07

1 of the two, have actually gone into the right chest cavity
2 through the seventh intercostal space, the space between the
3 seventh and eighth rib. Let me doublecheck.

4 One of them actually does go into the right lung,
5 and I -- the maximum depth of penetration in that group is about
6 ten centimeters.

7 Q. And the surface --

8 A. The surface --

9 Q. -- dimensions?

10 A. -- is 7 -- I'm sorry 8, 9, and 10.

11 8 is 3.5 centimeters long.

12 9 -- Let's see. 10 is three centimeters in length.

13 I don't know why, but I did not put down the measurement of No.

14 9. My recollection is that it's very similar to the surface
15 dimension of 8 and 10, but the precise measurement is not here
16 and I do not have it. Let me doublecheck one other source,,
17 please.

18 Now I think it's about 2.5 centimeters in length.

19 Yes. That was based actually on a -- on my review of the
20 photographs showing scale in place.

21 Q. So, that's just an effort to reconstruct as opposed
22 to a measurement taken at the time of the autopsy?

23 A. That's correct. I just simply did not put it down
24 on my report. And that 2.5 centimeters is based upon
25 reconstruction from the photograph of the scale.

26 Q. Showing you 174 again, could those wounds have been
27 delivered to Jessica when she was in the position she was in in
28 that photograph?

017460

1 A. Well, they are in the right place where they could
2 have, yes.

3 Q. The areas exposed from the arm, and that is the
4 side that is up as opposed to the side that is down?

5 A. That's correct, yes.

6 Q. In fact, 8, 9, and 10 by their location, would that
7 indicate that they were delivered in a rapid fashion?

8 A. It would suggest that, yes.

9 Q. Referring you to 11 and 14, which are really
10 difficult to show. You can't show 11 because it's under the
11 arm, and 14 is more on the right arm itself. 14 would be the --

12 A. Okay, yes.

13 Q. -- in this area here?

14 A. Yes. It's actually -- 11 and 14 are on the inside
15 of the right arm, which if the right arm were down to the side,
16 would be completely protected, would not be exposed.

17 Q. Do 11 and 14 have the same path, that is, can you
18 tell if 11 and 14 are caused by one single motion, that is, one
19 stab wound?

20 A. Yes. There is a communication between 11 and 14.
21 11, let's see, is 3.1 centimeters in length on the
22 surface. 14 -- 14 is three centimeters length on the surface,
23 and the path of the wound under the skin I would -- is about
24 five centimeters.

25 Q. You don't know which one is the entrance wound and
26 which one is the exit wound?

27 A. No.

28 Q. Referring you to 12 and 13, which are in the same

0
1
7
4
6
1

1 general area, 12 also is under the arm and can't be shown. 13
2 is in the uppermost portion on the right arm.

3 Are those stab wounds that communicate or can be
4 caused by one blow?

5 A. 11 and 13, yeah, they do communicate. 13 is an
6 incision about 1.6 centimeters in length. 12 is about -- well,
7 it is more of a tearing injury, and it's about four millimeters
8 in length.

9 And this indicates that the injury occurred from 13
10 as the point -- as the area of entry, 12, towards the exit, not
11 completely penetrating, producing slight tearing of the skin but
12 did not completely get out.

13 Q. Did you measure the distance from the entry, 13, to
14 the tearing exit of 12?

15 A. I did not. It can't be more than two centimeters.
16 Well, let's see. No, about 1.5 centimeters a separation, so
17 that would be about the maximum depth of penetration.

18 Q. On that same arm down towards the interior portion
19 of the forearm just below the bend in the elbow, do you have
20 wound, stab wound 25?

21 A. 25, I'm trying to find where I put it. Yes. 25 is
22 on the thumb side. Wait a minute, no. 25, that would be the
23 red mark I believe that you have on the right forearm.

24 Q. Yes.

25 A. Yes.

26 Q. That's a stab?

27 A. Yes. It is an -- the surface dimension is about 23
28 millimeters, 2.33 centimeters. It can be probed about three

017462

1 centimeters. It is a hemorrhagic wound.

2 Q. Before death?

3 A. Before death.

4 Q. Referring your attention to Wound No. 35. That

5 would be the wound that is to the lower portion of the left side

6 of the back.

7 A. Yes, sir.

8 Q. That is a stab wound?

9 A. Yes.

10 Q. It also, though, has a long tail to it?

11 A. Yes.

12 Q. Towards the back or towards the backbone?

13 A. Yes; yes. There is a tailing off from 35. The

14 stab penetrating injury is about two centimeters in length, and

15 the remainder of the injury is a tailing, superficial injury.

16 Q. And the depth?

17 A. I did not measure the depth and I do not have it.

18 Q. In fact, this particular wound exhibits the blade

19 being drawn across the back and then finally inserted into the

20 stabbing portion of the wound?

21 A. That's as best I recall, but I -- just a moment.

22 Yes, that's correct.

23 Q. And there is bruising around that particular wound,

24 isn't there?

25 A. Yes, there is.

26 Q. Which would indicate that that was one of the

27 earlier wounds?

28 A. Yes.

017453

1 Q. Because the tissue being damaged, then the blood
2 bled into the injured tissue causing the bruising?

3 A. That's correct.

4 Q. The final stab wound is No. 37, which occurs
5 virtually to the right side of the back just below what we have
6 here as a green line at something of an angle?

7 A. 37? Yes.

8 Q. And what were the dimensions of 37?

9 A. 30 -- I'm sorry. 37.

10 Q. Excuse me, I'm sorry.

11 A. We are on 37, aren't we?

12 Q. Yes.

13 A. 37 is 2.3 centimeters long, and it penetrates at,
14 well, minimum depth of two centimeters.

15 Q. And is that wound before or after death?

16 A. I don't know. I can't say.

17 Q. But it is a stab-type wound?

18 A. Yes.

19 MR. KOTTMEIER: This might be a convenient place, your
20 Honor.

21 THE COURT: All right. Thank you. Take the afternoon
22 recess.

23 (Recess taken.)

24

25 THE COURT: Please continue.

26 MR. KOTTMEIER: Thank you, your Honor.

27 Q. Dr. Root, just before we left we finished with the
28 last stab wound on Jessica Ryen, which was in the back, Wound

1 No. 37.

2 Now turning to incision wounds to Jessica, I'd like
3 to direct your attention to an area that cannot be shown on this
4 particular doll, 527, that occurs under the right arm in effect
5 and you labeled it as No. 16.

6 A. Yes, sir.

7 Q. This is a relatively superficial, borderline
8 superficial incision-type wound. Can you give us the dimensions
9 of it, please?

10 A. 16. It was about three millimeters in length.
11 It's an incision, almost small enough to be classified as a
12 puncture, punctate incision. That's it. It didn't -- minimal
13 penetration.

14 Q. Was there bleeding with that wound?

15 A. I did not note any. However, I did note a separate
16 area of bruising close by which indicated some bleeding under
17 the skin, but I did not note any bleeding as such with 16.

18 Q. Before we go on to some of the other stab wounds,
19 I'd like to refer your attention to the chest area of Jessica
20 which you grouped together in a series of wounds as under an
21 item No. 7.

22 A. Oh, yes.

23 Q. Could you briefly, without giving us the
24 measurements and so on associated with those wounds, describe to
25 us what those represent, those green marks on the chest area.

26 A. Well, I grouped those as a grouping of injuries
27 that I called No. 7. They -- Actually, I guess there were at
28 least 20 such separate injuries, but I didn't try to separately

017455

1 identify them.

2 They are injuries that apparently have occurred for
3 the most part after bleeding has stopped. Some of them are
4 associated with slight bleeding. They appear to be caused by
5 some kind of a puncture instrument such as, well, as an example,
6 an ice pick, a nail, an awl.

7 Q. When you say an awl --

8 A. A-w-l, a carpenter's tool.

9 Most of them have penetrated into the skin, maybe
10 through the skin, not very deep, and then are associated with a
11 scrape, a line drawing across the chest. These are all in the
12 chest area as you can see from the green markings.

13 It would appear as if what had happened, as an
14 example, a puncture and then drawing across (indicating).

15 Now these did appear to have occurred as a puncture
16 through the nightgown or whatever -- I think it was a nightgown
17 that she was wearing -- drawing the material with it.

18 Q. You checked the nightgown itself?

19 A. There was a puncture or a couple puncture marks
20 that would fit in the nightgown.

21 Some of them did penetrate a little deeper. Some
22 of the puncture marks penetrated a little deeper, on subsequent
23 internal examination, and were associated with very slight
24 bleeding, but the lines themselves that were drawn across the
25 skin were really quite shallow, penetrating only just through
26 the thickness of the skin. They did cause an abrasion but the
27 abrasion is an injury that was not associated with bleeding.

28 Q. As far as the puncture wounds in this group of

017466

1 wounds that you labeled 7, were they similar to the -- what we
2 called a stab wound, No. 16?

3 A. Well, it could have been caused by the same
4 instrument, yes.

5 Q. That's the gist of my question.

6 A. Yes; yes.

7 Q. Now, in regard to that particular series of wounds
8 to Jessica's chest and side, could they have been given to her
9 in the position that she is portrayed in Exhibit 174?

10 A. Yes, they could, yes.

11 Q. And as far as your opinion, these were all
12 post-mortem type injuries?

13 A. Well, most of them are post-mortem. However, on
14 internal examination I did find a very slight amount of bleeding
15 with a couple of the deeper puncture wounds. And as I said,
16 these are a mix of a puncture mark and a scraping, as if
17 scraping with the point of that ice pick or whatever, that kind
18 of an instrument, sharp point, but not a cutting instrument.

19 But some of the penetrating, some of the puncture
20 marks themselves had gone as deep as one-and-a-half centimeters,
21 and that was evident only after I did the internal examination.

22 But, again, the linear marks that you have
23 indicated -- or indicated here as the line-like things really
24 are quite shallow.

25 Q. Did you have an opportunity to check the general
26 configuration, the layout of those green marks with the
27 photographs that you had of the wounds.

28 A. Yes, and that's a reasonable approximation.

1 Q. Now obviously Jessica didn't have the development
2 of breasts, but other than the female portion of the body that
3 protrudes in the model, at least as far as linear portrayal they
4 are fairly accurate?

5 A. Yes. You've shown a goodly number of these
6 injuries tend to be across the body, side to side, and then a
7 few tend to be diagonal, and that's precisely what the pattern
8 was.

9 Q. Returning now to the incisional wounds,
10 particularly Wound 28, which is to the right thigh area on the
11 outside, could you describe that wound for us?

12 A. 28 is an incision about seven centimeters in
13 length. Well, this goes somewhat side to side. It's on the
14 right thigh. One part of it, the more anterior part of two
15 centimeters in length penetrated a maximum depth of one
16 centimeter into the underlying tissue. The remainder of Wound
17 28 towards the back here was a superficial abrasion, a line-like
18 abrasion or scrape.

19 Q. You found no bleeding in connection with incision
20 28?

21 A. No bleeding.

22 Q. It would have occurred after Jessica was dead?

23 A. Well, dead or at least no blood pressure.

24 Q. No. 33 is a wound, occurs across the shoulder area,
25 virtually across the midline in the fashion, almost horizontal
26 or parallel to the shoulders.

27 A. Yes, sir.

28 Q. In that particular incision only a portion of it is

001174688

1 of any depth; is that correct?

2 A. Well, with most of it is abrasion. I described the
3 remainder as a superficial incision.

4 Q. When you say most of it is abrasion --

5 A. Well, part of it's an abrasion.

6 Q. Scratch?

7 A. Yes, scratch, which doesn't penetrate at all, and
8 only a part of it penetrates and that only quite shallow. And I
9 have that measured -- let's see, 33 as about 11 centimeters
10 total length.

11 Q. Would this be more appropriate as a
12 superficial-type wound as opposed to an incision?

13 A. Yes.

14 Q. Do you know whether Jessica was alive or dead at
15 the time she received 33?

16 A. I found no bleeding with 33.

17 Q. You found no bleeding?

18 A. No bleeding that I can define.

19 Q. Which would indicate that she was dead?

20 A. Well, or in shock again.

21 Q. Dying?

22 A. Dead or dying.

23 Q. Referring you to 34, which is the larger incision
24 to the left side of the back in this general area.

25 A. Yes, sir.

26 Q. What were the dimensions of that incision?

27 A. 6.5 centimeters in length. This is an incision,
28 probes about seven centimeters. Even though I probe, it

0
1
7
4
6
9

1 penetrates deeper than the surface dimension. I think
2 technically this still should be just a deeply incised wound
3 rather than a stab.

4 Q. This is at least similar in appearance to that
5 wound to Doug Ryen that you told us about in the forearm,
6 somewhat elongates with points at either end?

7 A. Yes.

8 Q. And gaping almost in the middle?

9 A. Yes; yes.

10 Q. Did you find any bleeding associated that wound?

11 A. I made no note of it, no.

12 Q. Indicating that Jessica was dying or dead?

13 A. Well, I just -- on this one I simply did not make a
14 note, and I just don't have any -- I don't know.

15 Q. We've placed a small green line underneath the red
16 line to indicate the possibility of dying or death at the time.

17 A. Yes. That's -- I simply don't -- I can't answer
18 that one.

19 I've gone back to the photographs on that one, and
20 I still can't answer it. I simply cannot tell whether there was
21 bleeding at that or not.

22 Q. 36 is to the right side of the backbone in Jessica
23 and is laid out in green on Exhibit 527. What were the
24 dimensions of 36?

25 A. The length of that is an incision, five
26 centimeters. The -- Actually 36 is really quite shallow,
27 superficial, and part of it is an abrasion and a part of it may
28 be two-and-a-half centimeters of this, half of it, is I think

017470

1 maybe eight millimeters -- let's see, wait a minute, no. Yeah.
2 Well, actually it undermines about eight millimeters, kind of
3 side to side rather than -- it's not straight in eight
4 millimeters, it's kind of a slicing, undermined incision on one
5 part, but part of it is an abrasion.

6 Q. Did you find any bleeding with this wound?

7 A. No; no.

8 Q. So, Jessica would be dead or dying?

9 A. Yes, I believe so.

10 Q. We've kind of taken for granted as you have been
11 testifying the fact that you refer to reports, but basically
12 those documents that you are referring to are reports that you
13 dictated during the autopsy itself?

14 A. Yes, they are.

15 Q. Notes to yourself as to what you observed --

16 A. That's correct.

17 Q. -- observed dimensions and various information
18 relative to each of the injuries we have been discussing; is
19 that correct?

20 A. Well, yes, a little more than notes to myself.
21 These are the original of -- this is the official document, the
22 official autopsy report submitted to the Coroner's Office. I
23 have a carbon copy of that. So it's -- it is the report that I
24 dictated during the course of the examination, but I would say
25 it's a little more than just notes to myself.

26 Q. And with my grouping of wounds, in effect you have
27 to try and find, jumping from place to place, the various wounds
28 we are referring to as opposed to following them in the

0
1
7
4
7
1

1 numerical order that you set them out in your report?

2 A. Yes. I -- as far as the numerical order, I simply
3 grouped them in convenient areas to talk about as I went through
4 the examination and not, the sequence does not indicate a
5 sequence in which they were inflicted, does not tend to indicate
6 the type of injury. It's simply the numerical system that I
7 used to have something to refer to.

8 Q. Referring you to 38, which is the wound to in
9 effect the back of the right shoulder area. What were the
10 dimensions of that wound?

11 A. That's an incision. It's about five centimeters in
12 length, minimal bleeding with that. And I did not indicate the
13 depth, but I -- in that location the indication is that it would
14 not be much over one to two centimeters in depth.

15 Q. Earlier we had -- or I had pointed out mistakenly
16 the wound to the back of the head.

17 A. Yes.

18 Q. That's really 45, an incision?

19 A. Yes, I think that is 45. Yes, that's 45.

20 Q. And what were the dimensions of incision 45?

21 A. 45 is an incision. It is curved, and the skin is
22 undermined, producing a flap of skin, I guess a semicircular
23 flap of skin about 2.5 centimeters by five centimeters, a full
24 thickness of scalp, so that the underlying skull was exposed but
25 the -- there was no fracture. It did not actually go -- did not
26 produce fracture of the skull, but it did go down to the skull.

27 Q. Is 45 a wound that could have been delivered by the
28 hatchet, 42, or a knife?

017472

1 A. Either one. I'm sorry is -- I have lost you. 42,
2 is that --

3 Q. No, I'm referring to -- this is the Municipal Court
4 number.

5 A. Then I lost you when I used the 42.

6 Q. Referring 42 to our exhibit number here.

7 A. Okay. All right.

8 A. Yes.

9 Q. We have a lot numbers.

10 Now, referring you to a series of superficial-type
11 wounds on Jessica, starting with 15, which is really behind this
12 little yellow tag. It starts 15 going down the outside of the
13 right arm. You'll find it in that section.

14 A. That's right here. I have it.

15 All right. 15 is on the, again, the medial or
16 inside part of the arm, the right arm, and again, if the arm is
17 held to the side you can't see that part of the arm.

18 Q. And that was similar in appearance to a scratch or
19 a superficial type of an abrasion.

20 A. Yes, it is an abrasion, but it is associated with a
21 bruise or contusion so that this definitely, this injury did
22 occur -- well, actually there are a couple of little areas of
23 abrasion in this medial area.

24 So, let's say, these injuries are abrasions or
25 slight bruising occurred before death.

26 Q. 17 and 18 are grouped as two on the right arm.

27 A. Yes, sir, and that's -- that is on the outside of
28 the right arm, so they can be seen with the arm to the side.

0
1
7
4
7
3

1 Q. And those are scraping-type abrasions, both of
2 them?

3 A. No, no. Let's see. They're -- 17 is an incision
4 but there is some abrasion of the skin margin associated with
5 that incision. The incision is fifteen millimeters in length.
6 18 is an incision, seventeen millimeters in length,
7 neither of which have any bleeding, but there is also some
8 abrasions, drying of the skin margin with 17 and 18. So, it is
9 a mix of injury.

10 Q. There is no depth that you probed on either of
11 those injuries though, is there?

12 A. No.

13 Q. Which would indicate that they are surface-type
14 injuries as opposed to any penetration deep into the flesh
15 itself.

16 A. Yes, I believe so.

17 Q. No. 19, directing your attention to the right
18 forearm, in this area.

19 A. Yes. Well --

20 Q. I am going to get to 19. 20 is the one that is
21 just underneath towards the thumb.

22 A. This is a lacerative incision, it is a sharp-edged
23 injury but not quite sharp enough to be classified as a knife
24 cut. It is a combination of injury from a fairly sharp edge,
25 but not quite a knife edge and perhaps maybe a little bit of
26 cutting, I simply don't know. This is one of those borderline
27 areas.

28 It is about twelve millimeters in length, there is

017474

1 scraping or abrasion in both margins, there is some penetration.
2 However, No. 20 also is an incision. Let's see, 20 is further
3 down and towards the back. Let's see, this being 19, this being
4 20, there is a communication between 19 and 20 under the skin
5 for a depth of penetration of about 3.5 centimeters. This
6 appears to be an injury that occurred with no bleeding as well.
7 18 and 19 -- I'm sorry, 19 and 20, I think it probably is one
8 injury.

9 Q. With no bleeding?

10 A. With no bleeding.

11 Q. 21, moving on down that same right side, is an
12 injury to the wrist.

13 A. Yes, it is shown as the green line on the wrist.

14 This is an incision, it is 2.3 centimeters in
15 length, and it penetrates about ten millimeters and I detected
16 no bleeding. I don't know whether it is before or after death.
17 I simply saw no evidence of bleeding with No. 21.

18 Q. 22 is a cut or scratch to the base of the thumb on
19 the right hand.

20 A. 22 is a scrape and abrasion about two, maybe three
21 millimeters in length on the back of the right hand over the
22 fourth, well, fourth metacarpal, fourth finger side but the back
23 of the hand. That one is enough of a red color, No. 22 --

24 We are on 22, aren't we? Yes.

25 Q. Yes.

26 A. -- to suggest that that might have occurred before
27 death.

28 Q. But you are not sure.

0
1
7
4
7
5

1 A. I am not sure. There is -- well, it is a mix of
2 abrasion. I'm sorry, it is a mix of abrasion and incision, but
3 there's enough of a red color to suggest that that probably did
4 occur during life.

5 Q. However, moving forward then to the base of the
6 thumb, No. 23.

7 A. Well, 23 is an abrasion, a scrape, and it probably
8 occurred after death. It is about three millimeters by
9 seventeen millimeters and it is over the base of the thumb on
10 the right.

11 Q. As you rotate then the hand around on the right
12 side, still on the wrist, there's a little red dot.

13 Does that correspond to wound 24?

14 A. Yes. 24 is an incision, it is only six millimeters
15 in length.

16 Q. Millimeters as opposed to centimeters?

17 A. Yes, it is six millimeters. It is on the right
18 wrist, the front or the anterior part of the right wrist.

19 Q. And 27 is a wound, 26 and 27 to the little finger
20 of the left hand.

21 A. Left hand. 26 is on the fifth finger, little
22 finger side, incision, 2.5 centimeters long. It penetrates to
23 the bone. It does appear to be associated with some bleeding.
24 Let's see. I'm sorry, that was 26. And 27 --

25 Q. Yes.

26 A. -- is also on the left hand, the fifth finger or
27 little finger. It is an incision, twelve millimeters long. It
28 appears to be associated with bleeding. It is undermined so

0174776

1 that there is a flap of skin and fatty tissue, maybe four
2 millimeters in width. It is sliced off, if you will, a flap of
3 skin.

4 Q. If the little finger were crooked or bent, could
5 one blow have caused both of those injuries?

6 A. Yes.

7 Q. 29 refers to the right knee.

8 A. Yes. An incision 3.7 centimeters long, penetrates
9 eight millimeters, very slight hemorrhage.

10 Q. So that would have been dead or dying?

11 A. Yes.

12 Q. 30 refers to a scrape and bruise to the lower right
13 leg off to the side area of which, according to your notes,
14 appeared to be healing at the time?

15 A. More likely than not, yes. I can't be absolutely
16 certain about that, but I'm tempted to say that it is healing
17 because there are some bruises around it that are older, and by
18 the company it keeps, I think it is more likely this area of
19 abrasion is slightly healing. That is, it occurred before all
20 of the other injuries on this episode.

21 Q. Continuing with superficial wounds, we have one in
22 the left knee area which you labeled as 31.

23 A. Yes. Well, let's see. The incision itself is
24 eighteen millimeters. It does penetrate about 1.5 centimeters
25 and is associated with minimal hemorrhage.

26 Then there were some older bruises on the left leg
27 beyond this No. 31.

28 Q. That may have happened before this attack?

017477

1 A. Yes.

2 Q. 32 is a scrape or scratch to the neck above the
3 earlier longer injury.

4 A. Yes. 32 is a -- well, a scrape, linear abrasion.
5 It is about ten millimeters long, lower neck, back.

6 Q. 39 refers to a scrape in the right lower back.

7 A. 39 is a mix of things. There is an abrasion or
8 scrape at one end of it but there is also an incision -- well,
9 let's see. The abrasion part is about two centimeters in length
10 and, sort of a linear abrasion, and at the lower part of that
11 there is an incision, very shallow, three millimeters in length,
12 and penetrates maybe two or three millimeters into the skin.

13 Q. Millimeters as opposed to centimeters?

14 A. Millimeters as opposed to centimeters.

15 Q. Do you know if that was before or after death?

16 A. It was -- there was some bleeding with 39 before
17 death.

18 Q. And we have one blow that we may have mentioned
19 before to the upper right-hand scalp area of 46, which is a
20 small cut?

21 A. Wait a minute.

22 Q. 46.

23 A. 46? Oh. Okay, just a minute. Yes.

24 Q. Superficial-type injury?

25 A. Shallow incision, four millimeters long, two or
26 three millimeters in depth. Quite small an incision on the
27 right side of the scalp towards the back.

28 Q. Directing your attention to 528, an approximately

0
1
7
4
7
8

1 one foot high plastic model, with certain red and brown marks on
2 it.

3 Have you had an opportunity to examine the
4 placement of the marks in conjunction with wounds on the body of
5 the little boy portrayed in Exhibit 175?

6 A. Yes, I have.

7 Q. And the young man having been previously identified
8 as Chris Hughes, we have referred to him as Chris Hughes.

9 A. Yes, sir.

10 Q. As far as the wounds themselves portrayed on
11 Exhibit 528, do those appear to fairly approximate their
12 relationship one with another on that particular model?

13 A. Yes, sir.

14 Q. Now, obviously Chris Hughes was not an adult male
15 the same as Doug Ryen in Exhibit 525.

16 Can you give us the approximate size that you
17 measured of Chris Hughes.

18 A. Yes, sir. I measured 59 inches. Weight, 86
19 pounds.

20 Q. In fact I don't think we covered this. Jessica was
21 what height and weight?

22 A. Sorry, one moment please. Jessica was 59 inches.
23 Weight, 80 pounds.

24 Q. And Peggy Ryen?

25 A. Peggy was 68 inches. Weight, 140 pounds.

26 Q. As far as wounds that are chop-type wounds with
27 fracture, we have marked those in brown on Exhibit 528.

28 Before starting with the head, let's turn to the

017479

3 1 right wrist area.

2 Directing your attention to the right wrist. Did
3 you find that to be wound No. 12?

4 A. Yes.

5 Q. Now, that particular blow almost severed the entire
6 hand or decapitated the hand from the wrist; is that correct?

7 A. I'm sorry, one moment, please.

8 Yes. That was -- well, that is a chop wound, and
9 it went through both bones in the the forearm, both the radius
10 and the ulna.

11 Q. In that particular position, though, or in the
12 wrist where it was cut on the right hand, is that like the
13 fingers that would have to be braced, for example, on the head,
14 or could you hold your wrist up in a defensive manner stiff
15 enough to allow for the injury or the type that we see in No.
16 12?

17 A. Well, I can't really answer that. It would be
18 possible; it would be more likely that one could produce this
19 chop injury to the wrist unsupported than it would be to an
20 unsupported finger.

21 But with a tremendous amount of force that is
22 required to go through both bones, it still suggests that the
23 hand and wrist may have been supported.

24 Q. In a fashion similar to having the wrist up on the
25 head?

26 A. Yes, that would be --

27 Q. The blow being delivered in that position?

28 A. -- that would be a more likely possibility. But I

017480

1 can't say it could not occur as a free blow to a free
2 unsupported wrist.

3 Q. As we have discussed before in this right hand --
4 by "before" I mean we have other similar type injuries -- we
5 have a chop wound to the forefinger and the thumb which you
6 labeled 13 and 14.

7 A. Well, 14, we -- let me skip to that first. These
8 are both the right hand. Yes.

9 14 is almost an amputation of the right finger.
10 I'm sorry, right second finger. Actually the finger remained
11 attached only by a small portion of skin.

12 13 is an incised wound, an incision, fifteen
13 millimeters in length, hemorrhage, and it is shallow, two to
14 three millimeters.

15 However, 13 and 14 do appear to be lined up and I
16 can draw -- I could put a straight edge ruler across the two
17 wounds, 13 and 14, and this would suggest that one blow could
18 have caused both of those. I can't say that it did, but it
19 could have.

20 Q. You noted 13 and 14 as being chop wounds?

21 A. Well, 14 is the chop, 13 is an incision. And if in
22 fact 13 was caused by the same blow as 14, then it is a cutting,
23 an incised wound as the hatchet comes through on the
24 follow-through one way or the other. I suppose it could be
25 classified then as a chop wound, but technically it is not a
26 chop.

27 Q. And that again would be consistent with the right
28 hand being placed up to the right side of the head in some

017481

1 protective effort and --

2 A. Yes.

3 Q. That being the brace for the finger almost being
4 amputated?

5 A. Yes, that could certainly happen that way.

6 Q. Continuing with a series of chop wounds with
7 fractures.

8 And here it really isn't too necessary to identify,
9 I don't think, starting with 16 down through 17, 18, 19, 20, as
10 far as that series of chops that occurs down the side of the
11 head.

12 A. Yes.

13 Q. 21 also would be included in that series. 16
14 through 21.

15 Are all of those blows chops with fractures?

16 A. Yes.

17 Q. And are all of them in the general area that we
18 have portrayed with the brown pen on 528?

19 A. Yes. One can come a step further, not only in the
20 same area but the same direction. The orientation of the lines
21 is approximately the actual orientation of the injuries. That
22 is, they are parallel to each other, horizontal, if you will.
23 They did extend from the front to the back.

24 Q. All of these particular wounds, according to your
25 findings in regard to bleeding, would indicate that Chris Hughes
26 was dying or dead at the time they were delivered.

27 A. Yes. Little, if any, bleeding.

28 Q. All of those wounds could have been delivered in

017402

2 1 the position of the body as portrayed in 175.

2 A. Yes, they could have.

3 Q. There is one distinction though which occurs
4 towards the back of the head more almost a little bit to the
5 left of the midline in the position that I'm indicating right
6 there that would correspond to Wound 23.

7 A. Yes. Well -- well, I'm not -- I think you said
8 some exceptions.

9 Q. Well, we're about to get to the exception.

10 A. Oh, all right.

11 Q. But that is Wound 23.

12 A. Yes, that is Wound 23.

13 Q. Now the difference between 23 and 16 through 21 is
14 that you found some bleeding in connection with Wound 23; is
15 that correct?

16 A. Huh-uh. I indicated I thought possibly post-mortem
17 here, indicating little bleeding. My report doesn't indicate
18 that. I think my recollection from the photos is that minimal
19 bleeding.

20 Q. I guess what I am asking you is, was there more
21 bleeding in connection with 23 than there was with the other
22 wounds?

23 A. I can't say that, no. I simply don't know.

24 Q. No. 23 is a wound that is, as far as the position
25 of the body in 175, would be a little bit difficult if not
26 impossible to reach.

27 A. Yes. It is on the left side, and the left side is
28 down in this position in the position as shown there.

1 Q. In addition to the chop wounds that we have just
2 discussed to the side and the back of the head, Chris Hughes had
3 a chop wound or an incision to the front of his face that cut
4 from the upper nose, along the nose into the nasal passage and
5 across the right cheek that you identified as Wound No. 1.

6 A. Yes.

7 Q. Was there fracturing of the facial bones connected
8 with that wound?

9 A. Yes.

10 Q. So that that would be consistent with a chop wound?

11 A. Yes.

12 Q. Even though we've marked it as an incision or chop
13 wound?

14 A. Yes. There is cutting, incision, chopping into the
15 bone. Whether or not this however is caused by a hatchet or a
16 heavy knife, I simply can't -- slicing motion, I simply don't
17 know.

18 Q. Was there some abrasion associated with the edges
19 of that particular wound?

20 A. Yes. That would tend to point towards a chop wound
21 rather than a knife, but I simply don't have enough information
22 to be able to make that absolute statement one way or the other
23 on that one.

24 Q. Was there bleeding?

25 A. Yes.

26 Q. Which would mean it was before death?

27 A. Yes.

28 MR. KOTTMEIER: Your Honor, this would be a convenient

017484

1 place.

2 THE COURT: Thank you. Okay, we will take the evening
3 adjournment until 9:30 tomorrow. Remember the admonition at all
4 times, please.

5 You will have to return, Doctor.

6 --oo0oo--

7

8 (Adjournment)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

COMPUTERIZED TRANSCRIPT

0-1-7-4-00-5