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SUPREME COURT - STATE OF CALIFORNIA

THE PEOPLE OF THE
STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

KEVIN COOPER,

Defendant-Appellant.

^{CRIM}
SUPREME COURT NO. 24552

FROM SAN DIEGO COUNTY

HON. RICHARD C. GARNER,
JUDGE

San Diego County Superior Court Case No. CR 72787

REPORTERS' TRANSCRIPT

VOLUME 92

December 3, 1984, Pages 4133 through 4259

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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
December 3, 1984

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1 1 SAN DIEGO, CALIFORNIA, MONDAY, DECEMBER 3, 1984 9:35 A.M..

2 --oo0oo--

3
4 THE COURT: Good morning, everybody.

5 Mr. Negus. Doctor, you are still under oath.

6
7 IRVING ROOT,

8 called as a witness by the People, having been previously duly
9 sworn, resumed the stand and testified further as follows:

10
11 CROSS EXAMINATION (Resumed)

12 BY MR. NEGUS:

13 Q. Dr. Root, just returning to a couple of wounds for
14 just a second.

15 The wound that has been labeled as Wound 1 and 2 to
16 Peggy Ryan. Is there -- did that, of necessity, had to be
17 caused by a chopping instrument, such as a hatchet, or a
18 machete, or something of that nature?

19 A. Excuse me one moment, please.

20 Certainly the most likely situation would be some
21 type of a chopping motion. By Necessity? No, not necessarily.

22 Q. Well, let's put it this way. Would the type of
23 knife which I showed you last week, that Case knife, have been
24 able to produce that particular type of injury?

25 A. I don't believe there's enough mass, I don't
26 believe enough force there to produce the bone injury into the
27 bone.

28 Q. If in fact it wasn't a chopping instrument that

1 caused that particular wound, that would -- would that suggest
2 to you that there was one -- more than one instrument involved
3 in that there was no black paint on the hatchet Mr. Kottmeier
4 showed you, a transfer?

5 A. Not necessarily. I don't know what that pigment
6 was. Simply a black pigment, a couple of very tiny dots of
7 black pigment. I don't have any idea what it was, where it came
8 from.

9 Q. Was it sort of like a line along the edge of the
10 margin of the wound then?

11 A. Yes, but it was a very small amount. What it was,
12 whether it was a paint or some other pigment, I have know idea.
13 It was black.

14 Q. There was no such, no such thing on the hatchet
15 though, right, when you examined it?

16 A. Well, I didn't really examine it that closely for
17 that purpose in mind.

18 Q. Showing you the hatchet.

19 Does there appear to be any black pigment-type
20 stuff on that there that you can see?

21 A. Well, there was certainly no black paint, but there
22 are some areas containing black material, black oxidized iron,
23 or whatever.

24 Q. Would those areas -- would those areas that you see
25 on this, would that be consistent with where you found the
26 transfer on the face of Peggy Ryen?

27 A. I don't think I can relate what is there on the
28 location on the bone. I could see some very tiny black pigment

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1 on the cutting edge, a couple of spots, coupled on the edge
2 here. Whether they were -- originally if they came from this
3 instrument, I have no idea. I wouldn't even attempt to relate
4 them.

5 Q. Did the Wound No. 4 to the face of Jessica, could
6 that have been caused by a Buck or a Case knife?

7 A. Well, again No. 4 has gone into the bone, this
8 would require an injury with a considerable amount of force
9 behind it.

10 I suppose there are extremely heavy duty, heavy
11 massive Cases or Buck knives, I haven't seen one here, that
12 might produce an injury similar to that. But this would take a
13 chopping action, again, the kind of thing that one would get
14 from a hatchet.

15 Q. Directing your attention to Exhibits 548 through
16 554, which have been placed on the board, which would be this
17 series of Buck and one Explorer hunting and filleting knives.

18 Assuming that these little squares are each quarter
19 inch, any of those knives that you would think would be likely
20 to have caused that Wound No. 4 to Jessica?

21 A. Well, again, I -- looking at the picture, I don't
22 see sufficient mass in those knives. But I'm reluctant to make
23 a definitive statement just based on just pictures alone.

24 Q. Well, do you think that the same weapon that, for
25 example, caused the say thirteen centimeter stab wounds to the
26 various victims, could that have been used to cause Wound No. 4
27 on Jessica?

28 A. My impression is no. Again -- well, I -- it is my

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1 opinion that No. 4 is most likely a result of a chopping injury,
2 and I think it is possible with some knives to produce a
3 chopping injury to bone. I don't know.

4 Q. Well, at the preliminary hearing do you recall
5 testifying that the same knife, for example, that caused Wound
6 32 to Peggy, could well have also have resulted in the injury
7 No. 4 to Jessica?

8 Wound No. 32 to Peggy was a nine to eleven
9 centimeter deep stab wound.

10 A. Well, I don't recall whether I so testified or not.
11 But I would have no hesitation in saying that a similar
12 instrument could have caused those two injuries.

13 Q. At the preliminary hearing did you refer to that
14 particular instrument as a Buck or a Case-type knife?

15 A. Well, again, I don't recall whether I did or did
16 not. But if this was a knife that caused these injuries, an
17 instrument such as a Buck or Case, a hunting knife, and I'm
18 using those -- I am sure there are many other knives that would
19 fit into that type of category, hunting knives that have a heavy
20 mass might possibly be weapons that might be used.

21 I -- again, I have to reiterate that I cannot look
22 at a given cutting injury and do more than give you some general
23 characteristics of it. It is really difficult, well, in many
24 cases it is impossible to state that a given injury was caused
25 by a specific knife or a specific hatchet or specific axe. I
26 can talk about these things in generalities, but not -- I can't
27 fingerprint them.

28 Q. Well, when you -- at the the preliminary hearing

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1 when you were discussing Wound 4 with Jessica, as you discussed
2 the various injuries, did you have in mind the existence of Buck
3 or Case-type knives?

4 A. Only as a generic type of a instrument of a very
5 heavy type knife, as a possibility, and I don't -- again, I'm
6 not going to say whether No. 4 -- I don't believe I ever said
7 that No. 4 was a result of a knife wound. I think I said in my
8 report I have indicated it is a chop injury, chop fracture, and
9 my impression is that it ought to be something of heavier mass.

10 All I'm saying is I couldn't rule out the
11 possibility of a knife with a heavy mass that could be used
12 almost in machete-like fashion that could produce an injury like
13 that.

14 If I've used the word "Buck" and "Case" it is only
15 a generic type, not to imply those specific brands at all.

16 Q. Just using -- showing you Exhibit 531, which
17 appears to be a folder put out by the Buck Knife Corporation of
18 their line of knives.

19 Just using that again as a generic type, are
20 there -- which of those knives displayed in that brochure would
21 you have had in mind when you were making that statement?

22 A. Well, they describe No. 1 as a heavy duty use
23 blade. That I suppose is a possibility.

24 I do have a knife similar to that, or at least as
25 best I can tell from that photograph, which was issued to me
26 when I was in the military service. It has a very heavy mass
27 and it might be used in this fashion.

28 Q. Any of the others than No. 1?

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1 A. Obviously No. 11.

2 Q. No. 1 would be a -- the Frontiersman model on the
3 diagram; is that right?

4 A. Yes, that's correct.

5 Q. And the No. 11 is in fact an axe?

6 A. They call it a Hunter's axe. I think even though
7 they used that term "axe", my definition is that that would be
8 more of a hatchet; short handled.

9 Q. Axe is a generic term, is it not, which includes
10 hatchet.

11 A. I don't know, I am not familiar with -- to me the
12 word "hatchet" implies a short-handled instrument. I haven't
13 looked at the dictionary definition.

14 Q. Any of the others that you see displayed in the --

15 A. Well --

16 Q. -- hunting knives section there?

17 A. Possibly No. 2. Again, they classify No. 2
18 "general heavy duty". I don't know. To me the mass doesn't
19 appear quite as great.

20 The other instruments appear to have smaller mass.

21 I simply don't know.

22 Q. Well, when you were discussing those injuries to
23 Jessica, did you have in mind those general knife shapes and
24 types that are displayed in the hunting knife section there?

25 A. Well, No. 1, the Frontiersman model is a general
26 type. I'm trying to think of things that might be, might have
27 the mass. But did I have a specific knife in mind? No.

28 Q. Well, you did have some familiarity with -- at

1 least you knew the brand names of Buck and Case at that
2 particular time; is that right?

3 A. Well, they have been used very frequently. I
4 wasn't even aware that, you know, in all honesty, until -- I
5 really never paid that much the attention to whether they were
6 brand names or not. I had never bought one, I had never owned
7 one.

8 Q. Well, at the preliminary hearing you used it, as it
9 were, to spontaneously describe knives causing those particular
10 words, is that right, Buck or Case-type knife?

11 A. Well, I suppose in that generic type.

12 To me, they're generic-type knives. I did not then
13 and do not now have the familiarity with the wide range of
14 knives shown in this brochure, which are Buck knives, as a
15 brand.

16 I certainly have no idea what the wide range of
17 knives -- Case knives would be as a brand. I suspect there must
18 be a whole host of other manufactures of heavy duty knives.

19 MR. NEGUS: I would like to read, your Honor, from
20 page -- let's see. I think it is Volume VI, page 45 Line 21,
21 through 46, Line 10, where Dr. Root is discussing Wound 4 to
22 Jessica.

23 MR. KOTTMEIER: I have the location of that.

24 MR. NEGUS: Start with the answer. (Reading)

25 "Answer: There is another weapon that could have
26 caused this.

27 "Question: What's that?

28 "Answer: Some of these -- this is why I have some

1 problems with some of these. This is a chop
2 injury, there is no question about that. But this
3 could have been caused by the same weapon that
4 resulted in -- I don't know the -- let me -- let
5 me double-check my notes please.
6 32 on Peggy.
7 As I said, with that wound I think with a number
8 of these, the knife is a very heavy knife, a Buck
9 or Case-type knife.
10 Now, that's a brand name, and I don't imply that
11 it was made by that company. But those knives are
12 very heavy, and with a good swing, slashing motion
13 you can cut bone with them. You can cut facial
14 bone of a child with them."
15 Dr. Root, back to Wounds 25 and 26 on Peggy Ryen.
16 Just thinking of the dimensions of those particular
17 wounds, how would you describe the knife that could -- the type
18 of knife that could have caused those wounds?
19 A. Sharp point, sharp-edged, probably. Well -- and
20 possibly tapered towards the end.
21 But I think -- let me just double-check myself,
22 please.
23 What were those numbers again, please?
24 Q. 25, 26.
25 A. On Peggy. Caused by a sharp-edged instrument,
26 stabbing instrument, a knife.
27 MR. NEGUS: If I could, your Honor, where Dr. Root is
28 discussing Wound 25, on Volume VI, Page 22, Line 23, through 23,

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1 Line 15.

2 MR. KOTTMEIER: I would object as not being inconsistent
3 with anything Dr. Root has stated on the stand.

4 MR. NEGUS: I believe it is. He indicates it was a
5 different knife than the knife that caused the other wounds, and
6 he described it as a small -- consistent with a small pocket
7 knife.

8 THE COURT: I think it is argumentative. I will permit
9 it. Go ahead.

10 MR. KOTTMEIER: Your Honor, in this particular case Mr.
11 Negus asked a hypothetical question based upon a knife
12 description that he developed, Mr. Negus, and then Dr. Root says
13 it is not consistent with that knife, and now Mr. Negus suggests
14 that maybe because his hypothetical was wrong that it is
15 impeachment of the witness' testimony today.

16 MR. NEGUS: At the preliminary Dr. Root developed a
17 description of the knife, and he indicated that it was a
18 different knife.

19 THE COURT: Yes, I will overrule the objection. Proceed.

20 MR. NEGUS: (Reading)

21 "Question: Does that appear to be the same knife
22 that caused -- well, if I can call it the classic
23 knife, with the 3.5 centimeters by 13 --

24 "Answer: No, no, it appears to be something
25 different.

26 "Question: Could it be the axe?

27 "Answer: No.

28 "Question: So it is another knife other than the

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1 original --

2 "Answer: Yes, I realize it would have to be. Yes,
3 there's another one.

4 "Question: What would that knife look like?

5 "Answer: Well, this would be a narrow-bladed
6 knife, somewhere, possibly seven millimeters --
7 well, the incision on the surface is about
8 seven millimeters, a fourth -- quarter of an inch,
9 something of that sort.

10 I doubt -- I don't -- I think that that instrument
11 is smaller than most of the other incisions --
12 stab wounds that we've talked about.

13 "Question: Would it be couldn't consistent with a
14 small pocket knife?

15 "Answer: Yes.

16 Dr. Root, with respect to Wound 28 to Jessica and
17 Wounds 8 and 24 to Christopher. At one point in time --

18 A. I'm sorry, just a moment, please.

19 28 to Jessica? I'm sorry, I want to get your
20 numbers again, please.

21 Q. 28 to Jessica and 8 and 24 to Christoher.

22 THE COURT: Let's get those in mind before you continue
23 the question.

24 THE WITNESS: All right, I have those in mind.

25 BY MR. NEGUS:

26 Q. At one point in time did you believe that those
27 injuries had to be caused by an instrument different than any of
28 the other wounds on the bodies of the victims?

1 A. Certainly I considered that possibility.

2 However -- may I read from my report? Specifically in reference
3 to 24.

4 Q. Well, did you at some point in time believe that
5 those wounds were different than any other wounds on the body?

6 A. The wounds are different, yes, that is precisely
7 what I stated in my report.

8 Q. And did you at some point in time believe that they
9 were caused by a different instrument than any other wounds of
10 the body?

11 A. I think I did consider that possibility, yes.

12 Q. Did you so testify at one point in time?

13 A. I don't recall exactly how I worded it, but I am
14 sure that I testified it might have been a different knife, or
15 suggested a different knife.

16 Q. That was because the wounds appeared to have been
17 made by -- not to have been made by a razor or sharp-incising
18 edge. Is that one of the reasons that you did?

19 A. At that time or today?

20 Q. At that time.

21 A. Not my opinion today. You want what I thought
22 then, not what I think --

23 Q. I'm asking what you thought then as a foundation
24 to --

25 A. They did not have the typical razor-sharp edge,
26 that's correct.

27 Q. Now, last week you believed that on further
28 reflection you have come up with a theory as to how the same

2 1 knife that, say, caused Wound 32 to Peggy could have caused 8
2 and 24 to Christopher; is that correct?

3 A. 32 to Peggy? I'm sorry. We're bouncing around on
4 numbers. Oh, yes. Yes.

5 Q. Now, was that idea something you developed since
6 the preliminary, or was it suggested to you by Mr. Kottmeier
7 during the preliminary?

8 A. No, sir, it is something I have considered since
9 the preliminary, and was not suggested to me by Mr. Kottmeier,
10 no.

11 Q. Well, during the preliminary hearing, between the
12 time that you discussed those wounds on cross-examination with
13 myself, did Mr. Kottmeier ask you if Wound 8 and 24 to
14 Christopher could have been caused by the back side of the
15 knife?

16 A. I believe he did. Again, I'd have to go back, and
17 I don't recall. There was many volumes in the preliminary.

18 Q. Well, is that why you changed your mind at the
19 preliminary hearing?

20 A. I am sort of confused as to your question now.

21 Q. You changed your mind, did you not, at the
22 preliminary hearing as to whether or not the same knife that
23 caused Wound 32 to Peggy could have caused Wounds 8 and 24 to
24 Christopher?

25 A. I believe I did consider that as another
26 alternative, yes, at the preliminary. I don't remember my exact
27 wording or exact questions.

28 Q. And that was after, at a break Mr. Kottmeier came

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1 up to you and asked you a question, well, could it have been the
2 back side of the knife?

3 A. Well, again, the sequence of events I don't recall.
4 I think that certainly was raised, could it have been the back
5 side of the knife that could have caused it. That's certainly
6 an alternative.

7 Again, I certainly don't recall the sequence of
8 events in that particular exchange.

9 MR. NEGUS: If I could read, your Honor, Page 69 of the
10 last Volume of Dr. Root's testimony at the preliminary hearing.
11 I don't have that number written down, but it was the November
12 22nd date.

13 MR. KOTTMEIER: Did you say Page 69?

14 MR. NEGUS: Yes.

15 MR. KOTTMEIER: And lines?

16 MR. NEGUS: Lines 8 through 22.

17 MR. KOTTMEIER: I have the location, your Honor.

18 THE COURT: Go ahead.

19 BY MR. NEGUS:

20 Q. (Reading)

21 "Question: Yesterday you said it wasn't the knife?

22 "Answer: I may have. I don't recall the exact
23 wording of my answer, but --

24 "Question: Is your answer today arrived at after a
25 conference with Mr. Kottmeier about that subject?

26 "Answer: Conference? I'm not sure that is the
27 exact term. I was asked a question, as I have
28 been asked by you, and no different, no less, no

1 more, is it possible it could have occurred in
2 this fashion?

3 And thinking about it in that way I have come to
4 the conclusion, yes, it could have occurred in
5 this fashion.

6 "Question: Did you -- were you asked that question
7 by Mr. Kottmeier outside of court?

8 "Answer: Yes, I was asked that question outside
9 the courtroom."

10 During the course of the autopsy, did you -- that
11 you performed, Dr. Root, did you express the opinion that
12 probably there was more than one person responsible for this
13 particular series of murders?

14 A. I don't know that I specifically stated that. I
15 certainly don't have an opinion about that today. I'm certain
16 that I never put anything like that in writing. I haven't seen
17 it in my reports, and I don't have any evidence into my
18 knowledge to make a statement like that, one way or the other.

19 MR. NEGUS: If I could read, your Honor, same Volume,
20 page 60, Lines 23 through 26.

21 MR. KOTTMEIER: Again, I do not see how this is
22 inconsistent with what the Doctor has said. I have the
23 location.

24 MR. NEGUS: I will be glad to show it to you.

25 THE COURT: Mr. Negus, go ahead, sir. If it is
26 consistent then there is no harm done. I will accept the offer
27 of proof, proceed.

28 MR. NEGUS: (Reading)

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1 "Question: Did you ever express an opinion during
2 the course of your autopsies that more than one
3 person was involved in these attacks?

4 "Answer: Yes, I did."

5 MR. NEGUS: I have nothing further.

6 THE COURT: Mr. Kottmeier.

7

8 REDIRECT EXAMINATION

9 BY MR. KOTTMEIER:

10 Q. Dr. Root, in regard to the injuries to Peggy Ryen,
11 we talked about Wound 33, and in cross examination I think you
12 used the term "back" to refer to that particular wound.

13 A. I'm sorry, I didn't hear you. Use the word --

14 Q. Back.

15 A. Back.

16 Q. 33 is really a wound on Peggy that is in this
17 general location? And I'm indicating towards the back but
18 almost on the side.

19 A. Well, my specific description of that wound, 33, is
20 posterolateral, which is on the back side towards the -- not the
21 front side, but the back side.

22 I've used the term "posterolateral."

23 Q. As far as the description, do you normally try to
24 have your wound locations described in terms of the front side
25 versus the back side, or do you also include sides as well.
26 That's not a very good question, I guess. Let me strike the
27 question and start off.

28 Do you use the term "side" or do you talk in items

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1 of how close it is to the front or how close it is to the back?

2 A. I'm sure I interchange my terminology, but
3 anatomically I try to confine myself, and I realize I
4 intersperse them from time to time, back is posterior, front,
5 anterior, side would tend to be lateral, and midline medial.

6 That is, my arm is on the lateral aspect of my
7 body. My spine is midline or medial. But I do intersperse.
8 There's a right side of the body and a left side of the body.
9 So these terms are probably a little confusing, or I'm sure I've
10 used them interchangeably.

11 Q. In cross-examination you were asked a question
12 regarding the pattern of blood on Jessica's face as well as the
13 pattern of blood on her mother Peggy Ryen.

14 Based upon your experience as an autopsy surgeon,
15 do you have any thoughts in regard to the distribution of blood
16 on Jessica Ryen and the distribution of blood on Peggy?

17 A. Well, --

18 MR. NEGUS: I object. I think that that question is
19 vague, at least I don't understand it.

20 THE COURT: Do you understand it, doctor?

21 THE WITNESS: I believe so.

22 THE COURT: Let's proceed. Go ahead. Overruled.

23 THE WITNESS: The blood on Jessica's face is definitely
24 smeared, that is, not the pattern of blood that would drain into
25 that position. It's the pattern of a large amount of blood on
26 her face that is wiped across her face by some -- in some
27 fashion. There is nothing in the position in which -- there is
28 no place in the position in which she is lying where that blood

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1 could be wiped across her -- smeared across her face. It's
2 possible in some other position. The blood --

3 May I get up and look at the photo? The photograph
4 of Peggy unfortunately doesn't show the smear pattern in as much
5 detail as would be helpful, but my impression at the time of the
6 examination was that there was smearing of blood on Peggy's
7 chest -- No. Let me just stop for a moment.

8 I noted that the possibility -- well, about her
9 chest, her arm, axilla area, certainly the blood on Jessica's
10 face could have been smeared by wiping against Peggy's breast,
11 chest, arm area. I don't have an explanation.

12 I was concerned about the fact that I found unusual
13 hairs on Peggy's axilla that I removed and submitted to the
14 criminalists. They were longer in my impression to my opinion
15 than the head hair of Peggy herself. I don't know where they
16 came from.

17 Q. I was most concerned or more concerned with the
18 pattern as far as the blood on the two victims. As far as the
19 pattern, for example, that is pictured in Exhibit 174, there are
20 a number of what appear to be smears, and I'm indicating along
21 the right leg and even on the left leg of Jessica.

22 Have you seen similar type smears to those in your
23 experience?

24 A. Yes. Those also are smears and -- well, to
25 contrast, there are a couple of drops of blood, drain patterns
26 on Jessica's right -- right thigh. There is one runs up and
27 down that appears to be a drop of -- some blood draining on the
28 left ankle. There seems to be a couple of drops of blood

1 running down. And those contrast quite strikingly with what
2 appears to be a difuse wiping or smearing pattern on both legs
3 and thighs.

4 Q. That particular drop of blood with the running that
5 virtually goes opposite the direction of the right leg on
6 Jessica, are there any wounds in effect in this area from say
7 starting at the hip down that might have caused that kind of a
8 drop of blood?

9 A. No.

10 Q. Is that kind of a blood pattern an indication that
11 someone who was bleeding was standing over here or in a position
12 over here?

13 A. That's possible, quite possible.

14 Q. Dr. Root, you've given us some categories, you have
15 talked in terms of stab wounds, incision, and a term "defensive
16 wound".

17 Does a classification of a wound as a defensive
18 wound mean that the person had some defensive movement in order
19 to get that wound?

20 A. Not necessarily. The term "defensive" indicates an
21 injury in a location where it might be a result of a defensive
22 action, but the injury itself does not have any particular
23 characteristic that says this is a different kind of an injury
24 than an injury that occurred on the face or the chest.

25 Q. So, a defensive wound could occur to a person when
26 they are in a position of unconsciousness?

27 A. Yes.

28 Q. Could occur as they are in the process of dying?

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1 A. Yes.

2 Q. And even in the positions that we've seen some of
3 the victims portrayed here in court?

4 A. Well, some of them could I think, not all of them,
5 yes.

6 Q. We have had marked four three by five photographs
7 as Exhibits 565 through 568. If you would take a look at these
8 for just a moment, please.

9 A. All right. Yes, sir.

10 Q. Those particular photographs deal with superficial
11 type wounds; is that correct?

12 A. Well, let me look at them quite individually if I
13 may.

14 20 -- I'm sorry, 566, its Peggy's left hand, wounds
15 23 and 24.

16 23 is quite shallow, superficial, yes.

17 24, this is more of a tearing or laceration,
18 epidermal evulsion and shallow, superficial, yes.

19 Q. Both of those are to Peggy's left hand?

20 A. Peggy's left hand.

21 No. 565 is Douglas Ryen, to his left arm. It
22 portrays No. 18. 18 is very shallow, very superficial,
23 penetrating one millimeter, one to two millimeters. You can get
24 a cut that deep with a paper cut, the edge of paper.
25 Superficial, yes.

26 Jessica, 568 portrays Jessica's right forearm,
27 wounds 24 and 25.

28 Q. That is not superficial, is it?

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1 A. I don't believe so. You are confining your
2 question to 24?

3 Q. Yes.

4 A. And 568 is Jessica's right hand, wound 23. So 23
5 and 24.

6 23 is -- well, more of an abrasion than anything
7 else of, quite superficial.

8 Let me doublecheck 24. 24 was an incision and
9 quite shallow, superficial.

10 Q. There were other shallow or superficial wounds that
11 we went through, but these are four photographs that show
12 nothing else by way of autopsy procedures other than these
13 superficial or shallow wounds; is that correct?

14 A. Yes.

15 Q. So, these would be an illustration of what we are
16 talking about in regard to very shallow or superficial type
17 wounds that have the dimensions similar to what you've just
18 mentioned?

19 A. Yes.

20 Q. You talked about some pigment to the bone of Peggy
21 Ryen in the attack that resulted in her facial wounds. This
22 particular pigment that you're talking is just a small, when you
23 were describing its area, of about what size?

24 A. Unfortunately I did not actually measure it, but I
25 did go back and looked at the photograph of the wound edge and I
26 can't really make -- I can't really state that I can see it in
27 the photograph. This tells me that it's extremely small, dot
28 like.

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1 Q. When you say "small", is that smaller than a
2 centimeter?

3 A. Oh, yes, much smaller than a centimeter. Maybe a
4 millimeter, maybe less than one or two millimeters, something of
5 that nature.

6 Q. It appears --

7 A. It was obviously -- it was a dark black, for better
8 color, black pigment. This was very ^{apparent} ~~a~~ parents because of its
9 contrast, but not very much.

10 Q. To the white skull?

11 A. Yes, on the skull, on the bone.

12 Q. Did it also have appearance consistent, for
13 example, with charcoal?

14 A. Could have been charcoal. I don't know what it
15 was. My description is black pigment. I could not go beyond
16 that. I did remove it with the hopes that maybe other
17 procedures could be used to determine what it was. I couldn't.

18 Q. You discussed in your testimony that a person could
19 have lived possibly five minutes, or one to three minutes after
20 receiving the first injury in these attacks.

21 When you say after receiving the first injury, does
22 that by implication mean after the first deadly injury?

23 A. In most cases yes, yes, although --

24 Q. For example --

25 A. Yes.

26 Q. Obviously, the superficial type wounds, even some
27 of the stab wounds and incision are not a deadly type of wound,
28 that is, would have caused death if they had been the only ones

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1 inflicted on the victim?

2 A. That's quite correct.

3 Q. You've discussed a couple of wounds on Peggy's arm
4 as 25 and 26 corresponding to the left arm, and you noted during
5 your description that there was some abrasion around the edges
6 of those wounds?

7 A. Yes.

8 Q. Could those abrasions have occurred before the
9 wounds themselves, the knife wounds were inflicted?

10 A. Yes.

11 Q. In other words, the abrasion could have been there
12 and then have a knife wound into it?

13 A. Yes.

14 Q. And the reason we ask this is that the left arm of
15 Peggy Ryan had a number of bruises on it?

16 A. Yes, there was -- Yes, yes.

17 Q. And abrasions?

18 A. Yes, both.

19 Q. Is it also possible, for example, that once you
20 have had a stab wound or an incision that later action can cause
21 an abrasion to those edges, that is, the abrasion is then
22 applied on top of the wound margin itself?

23 A. Yes.

24 Q. In regard to wounds 25 and 26, you were asked in
25 regard to the testimony you gave at the preliminary hearing, at
26 the time you were originally discussing 25 and 26 had you
27 considered a knife such as pictured in 165 that has a scooped
28 out portion of the blade?

1 A. Well, when I originally considered 25 and 26 I did
2 not consider that shape. I think after I considered that shape
3 I said, well, a shape like that could cause wounds 25 and 26.

4 Q. You were shown a knife last Thursday by Mr. Negus,
5 a Case type knife or similar in appearance to a Buck Knife.

6 Is it more probable that a knife that is a little
7 bit wider than that and maybe even a little bit longer would be
8 more likely to have caused all the wounds that we have seen in
9 the four victims hear?

10 A. Yes.

11 Q. You can conceive that that knife potentially could
12 have caused the wounds, but that would require some cutting
13 action in regard to some of the stab wounds in addition to just
14 the penetration into the body?

15 A. Yes. The knife -- yeah.

16 Well, many of the wounds are three centimeters or a
17 little over that on the surface dimension, and the knife that
18 was shown to me was less than that in width. I don't recall
19 exactly what it was.

20 Certainly a knife with a three centimeter width or
21 a little over three centimeter width certainly could account for
22 and might be a more likely type of an instrument to cause these
23 injuries.

24 Q. In your discussions at times you have used the term
25 a Case or Buck type knife, and what is it that is unique about
26 Case or Buck type knives that you would use that brand name
27 terminology?

28 A. Well, I don't consider myself to be any kind of an

1 authority on cutlery. I've had various investigators come in
2 and use the word Case Knife or Buck Knife from time to time in
3 talking about knives without showing me knives, and I have
4 always assumed, obviously incorrectly, that that was type and I
5 have just kind of thought in terms of a heavy-duty hunting knife
6 in terms of a Case or Buck Knife. I have never tried to be
7 specific about them.

8 Q. The type of knife that would have hardened steel as
9 opposed to just ordinary steel?

10 A. Well, I've often thought not only that, but a
11 fairly stout blade unlike the flexible blade of a boning knife,
12 a fillet knife, which is a very flexible steel.

13 Some of these injuries, for instance the one --
14 there was at least one that went through the sternum and I'm
15 sure was a knife rather than a chop, a very flexible knife
16 blade, a boning fillet knife might break off. It's possible it
17 could go through, but I think not. Whereas a heavy-duty stout
18 knife, something of a hunting knife type Case Knife, Buck Knife,
19 or whatever of that category, assuming it had all the other
20 necessary characteristics, could do that. It would be stout
21 enough to go through without breaking off.

22 Q. You were shown Exhibit 532. That's the picture
23 that you were shown at the preliminary hearing which has five
24 folding-type knives laid out with some diagrams.

25 When you were asked in regard to this picture about
26 the blades, was your opinion limited strictly to the shape or
27 the scooping out portion of the blade as opposed to the relative
28 length and width of the blade?

1 A. My concern is primarily the scooping out. I think
2 that the length of these knives, of these blades, is really
3 quite short and would not fit many of the wounds at all.

4 Q. You told us on Thursday that you had a problem in
5 regard to the machete picture that you were shown due to the
6 mass, width, and flaring of that blade.

7 You've used the term "mass" a number of times. Can
8 you tell us specifically what you mean by "mass"?

9 A. I suppose weight. A force in terms of physics that
10 is applied depends on the velocity in which an instrument is
11 traveling at, its mass or size or weight, mass or weight, I
12 guess. I suppose we use the term "weight," but properly the
13 term "mass" is more proper. And so when I keep using the term
14 "mass," I suppose it's really synonymous with "weight".

15 Q. In regard to that term, mass or weight, some of the
16 wounds, particularly to Peggy Ryen, penetrated right into the
17 skull itself, as far as the wounds to the head and associated
18 with the chopping motion.

19 A. Yes.

20 Q. And also in the case of Jessica you had wounds to
21 the skull that penetrated into the bone?

22 A. Yes.

23 Q. We're not talking in this regard about little
24 slicing actions or cuts in the bone, are we?

25 A. No.

26 Q. We've got some, for example, in Peggy and Jessica,
27 where literally the skull has been peeled back in almost a
28 chipping type of motion from the rest of the skull itself?

1 A. Yes; yes, that's quite right.

2 Q. And in one of those wounds to Peggy you have
3 virtually a triangular hole left in the skull itself from the
4 hatchet blade striking into the skull?

5 A. I think -- I think it was Peggy that had that
6 pattern, yes.

7 Q. So that when you talk in terms of the possibility
8 of a knife making the wounds, a knife could not have made all of
9 the chop wounds that we have seen and discussed here in this
10 case in regard to the four victims?

11 A. No, I can't really conceive of a knife producing
12 the chop wounds to the skulls of these people.

13 Q. As far as the hatchet, Exhibit 42, that we've shown
14 you in court heretofore, from all the measurements that you can
15 see on the hatchet or all the measurements you've taken in
16 connection with the case, are all of the chop wounds consistent
17 with having been made by that particular hatchet?

18 A. Yes.

19 MR. KOTTMEIER: Your Honor, I would request leave of the
20 court to open direct again to cover one area that I neglected to
21 cover originally.

22 THE COURT: All right.

23

24 BY MR. KOTTMEIER:

25 Q. Dr. Root, referring your attention to Exhibits 478
26 through 481, did you have a chance to take a look at these four
27 pictures?

28 A. Those are pictures of Joshua?

1 Q. Yes.

2 A. Yes, I did.

3 Q. Did you also have a chance to look at the medical
4 records from Loma Linda Hospital?

5 A. Yes, I did.

6 Q. Based upon the photographs and your review of the
7 medical records, do you have an opinion as to what caused the
8 four injuries that are depicted in these four photographs?
9 Maybe you ought to start with first of all 478.

10 A. Well, yes, I do. 478 is an injury to the back of
11 the head, and very well -- no, I'm sorry, the top of the head
12 would be better, top left.

13 I believe that's a chopping injury.

14 Q. And based upon the medical records was there
15 fracturing of the skull underneath that particular injury?

16 A. Yes; yes. My opinion is based primarily on review
17 of the medical records, and they are consistent with the
18 photographs.

19 Q. Is it also consistent with the hatchet, Exhibit 42
20 that we have had displayed here in court, being the cause of the
21 injury to the head?

22 A. Yes.

23 Q. Showing you now Exhibit 480, based upon your
24 examination of the hospital records and the photograph, 480, do
25 you have an opinion as to the cause of that particular injury?

26 A. I'm not quite certain about this one. I think that
27 this is more likely an incision, a knife wound, but it could be
28 a chop injury.

1 Q. Was there some reference in the medical records as
2 to underlying fracture in the area under the wound?

3 A. Well, that was -- there was no true fracture, but
4 there was an injury into the bone, the mastoid process, and I
5 simply could not tell from the records the depth or the nature
6 of that injury into the mastoid process and that's why I have
7 some hesitation about saying -- about making a definitive
8 statement of cutting versus chopping, slicing.

9 Q. Incision versus chopping?

10 A. Incision versus chopping, yes.

11 Q. And Exhibit 479?

12 A. 479 is -- shows the healing injury, area of healing
13 that was to the neck and the right side of the chest over the
14 collar bone, the sternoclavicular area, the clavicle.

15 This is in all probability a result of an incision,
16 a knife injury. It did -- Yes, knife injury.

17 Q. And it caused damage to the underlying structure
18 underneath the wound as well as just the surface?

19 A. Oh, yes; yes. It went into the windpipe, the
20 trachea.

21 Q. And Exhibit 481.

22 A. 481 represents again an area of healing but on the
23 back, posterior. This probably is a stab wound. It's certainly
24 a knife-sharp instrument as best I can tell from the report, and
25 its does seem to be more of a stab than an incision, but that's
26 not quite that clear.

27 Q. Part of the reason you think that it's more a stab
28 instead of an incision is that there was damage that caused the

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1 pleural cavity to be open to air and then the lung collapsed?

2 A. Yes. The incision actually went into the pleural
3 cavity. I can't tell from the report whether it went into the
4 lung, but apparently if it did it didn't create any major damage
5 to the lung.

6 MR. KOTTMEIER: I have no further questions, your Honor.

7 THE COURT: Mr. Negus, again.

8

9 RECROSS-EXAMINATION

10 BY MR. NEGUS:

11 Q. Dr. Root, when did you submit your report to the
12 Coroner, do you remember?

13 A. No, I don't. It would have been within 30 days of
14 the time I actually performed the autopsies.

15 Are you referring to the four reports on the four
16 fatal victims?

17 Q. Yeah.

18 A. Within 30 days.

19 Q. Okay. It would not have been till after the -- the
20 lab report got back, right?

21 A. No. That's correct -- Well, the toxicology
22 reports, my lab reports, that's correct.

23 Q. So, if the toxicology report were, for example,
24 dated 6-22-83 on Peggy Ryen, it would have been after 6-22 --
25 6-22 or thereafter, is that right?

26 A. Probably, yes.

27 Q. And the toxicology report for Peggy Ryen is in fact
28 dated 6-22; is that right?

1 A. Well, Christopher is 6-22. Let me see.

2 Yes, Peggy is 6-22 also.

3 Q. The taken up and down photos -- These particular
4 knives in the photograph there that you never considered before
5 Mr. Kottmeier showed them to you at the break, now the knife
6 that you hadn't considered, was that necessarily a folding knife
7 or was that just -- you were just talking about the blade shape?

8 A. My only consideration there was blade shape,
9 certainly not whether it was folding or not folding.

10 Q. Have you ever seen a buck type folding knife that's
11 long enough to have caused this second group of injuries down
12 hear, the 12, 13 or longer?

13 A. Well, in the half a dozen Buck Knives that I've
14 seen, no. I've seen photographs here, but I don't know. I know
15 that there are thousands of them. I simply don't -- I have not
16 seen them.

17 Q. Now, as to a knife that would have been -- let
18 me -- this knife up here, Exhibit 537, do you recall the
19 investigators bringing out a knife of that brand and model and
20 showing it to you during the course of the autopsy?

21 A. No, I don't.

22 Q. Is it possible they did?

23 A. It's possible. I have no idea. I don't recall.

24 Q. If -- if the knife blade were wider than that
25 particular blade and somewhat longer, does that make it less
26 likely that a bigger knife could have caused Wounds 25 and 26?

27 A. No.

28 Q. Is there -- if such a knife is going through bone

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1 like the sternum, if you get a narrow-tipped one where the tip
2 is three-quarters of an inch long and maybe only three-eighths
3 of an inch wide or less, such as the dimensions of wounds 1 and
4 2, does that increase the chance of its breaking off just the
5 tip when it goes through the sternum?

6 A. Well, it depends on how long and how narrow. There
7 is a huge number of variations.

8 Q. Well, the dimensions of wounds 25 and 26 to Peggy
9 were three times -- three times longer than they were wide; is
10 that correct?

11 A. Yes.

12 Q. Any of the -- any of the -- any of the tips that
13 you've seen on these Buck type knives that have that sharp a
14 point to them?

15 A. Well, again, as I've had tried to say over and
16 over, I really don't know how the wounds were inflicted. I can
17 conceive of a manner in which 25 and 26 were inflicted with
18 using many of these potential knives, and that is simply that as
19 I've stated, you can compress tissue and therefore produce a
20 stab penetrating wound as a result of that compression that when
21 the tissue is stretched or relaxes back to normal shape will
22 appear to be a great deal longer.

23 Now again, I think I've said that if I compress
24 tissue between my fingers and stab through that, the surface
25 dimension -- well, the total penetration maybe three to eight
26 millimeters, and yet when that tissue stretches back it may have
27 a wound that's a centimeter or two centimeters in depth. That
28 the possible mechanism that occurred with 25, 26, it's possible.

1 I don't know.

2 Q. So, you mean that it could have been done when
3 Peggy was pinching her skin?

4 A. No. I'm saying when the knife went in it could
5 have pushed ahead of it and compressed skin, undermined.

6 Q. Did that possibility escape you at the time that
7 you wrote on your notes at the preliminary hearing "different
8 knife" over 25 and 26?

9 A. I hadn't considered that possibility in regards to
10 25, 26 at the preliminary hearing. I simply hadn't thought
11 about it.

12 Q. The type of knife that has a long sharp point, the
13 fillet knife that's Buck Lake Mate No. 123, shown in Exhibit
14 552, that would be the long-type skinny point that would be
15 consistent perhaps with having just gone a little bit for wounds
16 25 and 26 to Peggy; is that right?

17 A. It's possible that could have done it, among many
18 others that have been shown.

19 Q. But that particular type of fillet -- a fillet
20 knife couldn't have caused the wound through the sternum of
21 Douglas Ryen, right, it would have broken off?

22 A. Well, I can't answer that because I don't know how
23 sturdy that knife is. If I'm going to be told that that's a
24 very flexible knife blade, then I would be inclined to say it's
25 not likely, but I can't tell from the photograph.

26 Q. Want me to let me just show you a side view of
27 the -- which is Exhibit 553, a side view showing the thinness of
28 a typical fillet knife?

1 A. That is not too likely. I think it's more
2 likely -- I think it's more likely that this knife would have
3 broken going through the sternum, but it's possible that it
4 might not.

5 MR. NEGUS: Your Honor, I have a few more questions. Let
6 me, just one area I didn't cover on my original cross.

7 Q. Did you see any signs that any of the victims were
8 in any way bound, that is, any rope marks or anything of that
9 nature?

10 A. No, sir.

11 THE COURT: Counsel, I'd like to conclude if you are
12 close at all.

13 MR. NEGUS: Okay. Well, I have to fish out some
14 exhibits.

15 THE COURT: Go ahead.

16

17 BY MR. NEGUS;

18 Q. Showing you Exhibits 290, 288, and 273, would you
19 show -- could you -- if you can find on those pictures -- I'd
20 like you to mark the area where you saw Peggy's blood smeared on
21 her upper chest.

22 A. Well, at risk of appearing to split words, I can't
23 show you from a photograph any blood that's Peggy's blood. I
24 can show you blood that's smeared, but I don't know whether it's
25 hers or somebody else's.

26 Q. I think that's what I asked for. If I didn't --

27 A. You said, "her blood," and I can't identify
28 specifically her blood on the photograph.

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1 Q. Let's just get the smears then. I will give you a
2 green Sharpie to circle it on Exhibit -- if I can see what you
3 are holding there --

4 A. This is --

5 Q. 290?

6 A. 290. It shows in the left arm -- upper chest and
7 breast a smear area. I simply can't tell from this photograph
8 about the right side.

9 Q. Okay. Showing you a little more closeup
10 photograph, 263; could you circle in that area where you see the
11 smear on that?

12 A. There is smearing of blood on the right arm off the
13 shoulder. Certainly on the left arm one sees some of that
14 smearing also.

15 A. The --

16 Q. Did you --

17 A. Well, 288 really shows the smearing on the left arm
18 also, but it's not as good as 290.

19 Q. Um, well, did you suspect that that might be
20 Jessica's blood?

21 A. No, I simply know it is blood that's on her body
22 and it smeared. I am sure of the blood draining from wounds is
23 her blood.

24 Q. But as far as the smeared blood is concerned, did
25 you, at the autopsy, did you like take any of that blood off her
26 body and submit it to the criminalists so that they could type
27 it to see whose blood it was?

28 A. Not to my recollection, no, sir.

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1 Q. What about any of the blood on Jessica. Did you
2 take any of that off her and submit it to the criminalists so
3 they could type it?

4 A. I don't believe we did, no, sir.

5 Q. There was a large, what appears to be smear on
6 Peggy's left knee.

7 A. That is correct.

8 Q. Did you -- is that correct?

9 A. Yes, sir, there is.

10 Q. Did you take any of that off and submit it to the
11 criminalists so they could type it and determine whose blood it
12 was?

13 A. I don't believe so.

14 Q. That particular carpet that Peggy was lying on, did
15 that appear to be very, very dirty and covered with debri?

16 A. Debri?

17 Q. Dust. Hair.

18 A. I didn't look at it from that point of view at all.

19 Q. With respect to chopping instruments, the force at
20 which I believe you testified last week, with Mr. Kottmeier or
21 myself, you said that the force is the -- I think you said --
22 the product of a mass times the velocity squared.

23 A. Yes, sir.

24 Q. Well, putting that -- it is hard to get exactly,
25 but, okay.

26 When you are talking about a particular object, if
27 the object is going by wrist, by arm and wrist action down, the
28 same arm movement will produce quite different velocities

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1 depending on where your hand is on the particular object; is
2 that right?

3 A. There will be difference in the speed of velocity
4 but it will -- whether it is quite a bit different or not will
5 depend on the radius.

6 Q. Well, if you had a radius that is 1.4 approximately
7 times greater than another radius, the speed will be doubled,
8 right?

9 A. Oh, I am not enough of a mathematician to be able
10 to figure that one out.

11 Q. The square root of 2 is 1.4, and if you square that
12 it is about 2.

13 A. I am not a mathematician so --

14 I am just talking generalities. I simply am not
15 comfortable with the mathematics to that degree, no, sir.

16 Q. Well, if you -- just as a basic proposition, if you
17 had a object with a weight twice as much as another object, and
18 the second object was 1.4 times longer, would the force at which
19 those objects hit a particular surface be equal?

20 A. I'm sorry, was there a question? I didn't hear a
21 question.

22 Q. The question was, would the force -- the question
23 was, would the force at which those two objects hit the surface
24 be equal, the same movement?

25 A. Be what?

26 Q. Equal.

27 A. Oh, I didn't hear the word "equal".

28 Q. Well, the idea is that --

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1 A. The weights are greater than the -- the angle of
2 travel of the length, the radius is greater.

3 Q. The speed affects the force more than the weight,
4 right?

5 A. Yes, that's correct.

6 Q. Because of the squared version.

7 A. That's right.

8 MR. NEGUS: We'll leave it at that.

9 Nothing further.

10 MR. KOTTMEIER: Nothing further.

11 THE COURT: Thank you very much, Doctor. That's all.

12 THE WITNESS: May I go home?

13 THE COURT: You may.

14 We will take the morning recess. Remember the
15 admonition, please.

16 (Recess).

17

18 THE COURT: Everybody is present.

19 MR. KOTTMEIER: Your Honor, at this time the People would
20 request the introduction into evidence of Exhibits 525, 526,
21 527, 528, the four dolls that were marked on by Dr. Root, and to
22 request the opportunity for the jury at least take a look at
23 these dolls due to the fact of the distance there of the witness
24 stand, it may have been difficult for them to see the location
25 of each of the wounds.

26 (Exhibits No. 525, 526,
27 527 & 528, received
28 in evidence)

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2

THE COURT: All right. Any objection?

3

MR. NEGUS: No.

4

THE COURT: They will be received in evidence. Go ahead.

5

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MR. KOTTMEIER: Additionally, your Honor, we would request the introduction into evidence of Photos 565 through 568, these are four of the superficial-type wounds that were described on the witness stand.

9

MR. NEGUS: No objection.

10

11

THE COURT: Likewise received. Part of them in the back row and part in the front row then.

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(Exhibits No. 565, 566, 567 & 568, received in evidence)

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MR. KOTTMEIER: While these are being examined, we would request the introduction into evidence and the requisite acknowledgement from the Court that in effect these are public records, the Exhibits 533, 534, 535 and 536, each of them being the death certificates of the people involved.

21

22

MR. NEGUS: I am not sure what is meant by acknowledgement by the Court, but I have no objection to --

23

24

MR. KOTTMEIER: Just these are certified public records of the death certificates.

25

26

THE COURT: There is no objection in any event. They will be received.

27

28

(Exhibits No. 533, 534, 535 & 536, received

in evidence)

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THE COURT: Ladies and gentlemen, you will be given an opportunity later when you retire to deliberate to examine all these exhibits very carefully. At this time, just a more perfunctory examination, if you would.

Don't worry about the stand. We will put that back on later if it comes off.

All right, Mr. Kottmeier.

MR. KOCHIS: Sister Joseph Ann James would be our next witness.

THE COURT: Come forward, Sister. Raise your right hand for the oath.

SISTER JOSEPH ANN JAMES,
called as a witness by the People, having been previously duly sworn, resumed the stand and testified further as follows:

THE CLERK: Thank you. Would you have a seat there at the witness stand.

Would you state your full name for the record and spell your last name.

THE WITNESS: Sister Joseph Ann James.

THE COURT: Let's see, Sister, if we can get this a little closer. Can you relax? You look --

THE WITNESS: I'm a little --

THE CLERK: Does "Ann" have an "e" on the end?

THE WITNESS: No.

THE COURT: Mr. Kochis, please.

017779

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2

DIRECT EXAMINATION

3

BY MR. KOCHIS:

4

Q. Sister, are you a school teacher?

5

A. Yes, I am.

6

Q. Were you teaching at that time as a school teacher

7

back in June of 1983?

8

A. Yes.

9

Q. Where?

10

A. At St. Anthony's, Long Beach.

11

Q. And do you know which streets that's located on?

12

A. Yes, I do. Olive and 6th.

13

Q. Now, was Saturday, June the 11th of 1983, a special

14

day for the school in any way?

15

A. Yes, it was. It was graduation day.

16

Q. Did you attend --

17

A. At the high school.

18

Q. Did you attend the graduation?

19

A. Yes, I did.

20

Q. On that day were there likewise some TV camera

21

personnel that showed up?

22

A. Yes.

23

Q. Were there some law enforcement people that showed

24

up?

25

A. Correct, there were.

26

Q. Were the TV people there to film the graduation?

27

A. No.

28

Q. Were they there because of some other event?

017740

1 A. Yes.

2 Q. Did that involve the location of a particular car?

3 A. Yes, it did.

4 Q. Did you have a conversation with some Sheriff's

5 deputies on that Saturday about a particular car?

6 A. Yes, I did.

7 Q. Do you recall what type of car it was?

8 A. It was a Buick Estate station wagon, white, and it

9 had a handle on the side.

10 Q. Did you see that car in the parking lot by the

11 church on that particular Saturday?

12 A. Yes.

13 Q. Had you seen the car earlier that week?

14 A. Yes, I did.

15 Q. Do you remember which day it was when you first saw

16 the car?

17 A. Tuesday. I was coming home from school late in the

18 afternoon, around 4:20.

19 Q. Would that have been Tuesday, June the 7th of 1983?

20 A. Yes.

21 Q. Were you with anyone when you first saw the car?

22 A. No.

23 Q. And about what time in the afternoon was it?

24 A. About 4:20.

25 Q. Did you see the car again later on that same

26 Tuesday?

27 A. Yes. Coming home from a ballgame.

28 Q. Was that an Angel game?

017741

1 A. Yes.

2 Q. Were you alone at that time?

3 A. No. I was with Sister Mary Harold.

4 Q. Were there any remarks made about the car at that
5 time?

6 A. Yes. Coming through the parking lot Sister Mary
7 Harold said, "That looks like the car they're looking for", but
8 no one picked up on it. It was just a passing statement.

9 Q. Other than that Tuesday, June the 7th, and
10 Saturday, June the 11th, did you see the car in the parking lot
11 at that time any other time?

12 A. Yes, I did.

13 Q. Which days?

14 A. It had to be Wednesday, Thursday, Friday and
15 Saturday.

16 Q. Did it appear to be parked in approximately the
17 same location as it was when the police arrived on Saturday,
18 graduation day?

19 A. I would say it, yes.

20 Q. Directing your attention, Sister, to an exhibit
21 which has been marked for identification as Exhibit 181, which
22 appears to be an eight by ten color photograph of a car.
23 Do you recognize the station wagon in that
24 particular photograph?

25 A. Yes, I do.

26 Q. Is that the car we have been talking about here
27 this morning?

28 A. Yes, it is.

1 Q. Do you recognize the parking lot that the station
2 wagon was parked in?

3 A. It is the St. Anthony's parking lot for the
4 teachers in high school.

5 Q. Now, does the high school employ both lay teachers,
6 civilians and Brothers?

7 A. Yes.

8 Q. And the areas that is depicted in that photograph,
9 Exhibit 181, which part of the faculty parks there: The
10 Brothers or the lay people?

11 A. The lay people.

12 Q. And is that the approximate location that you
13 recall seeing the car at first on that Saturday the 11th?

14 A. Yes.

15 Q. It is likewise the approximate location that you
16 saw the car in on Tuesday, June the 7th?

17 A. Yes.

18 Q. Sister, I wonder if you could join me at the board
19 here for a moment.

20 I am going to show you an exhibit which we have
21 marked for identification identified as Exhibit 569. It is an
22 eight by ten color photograph.

23 Do you recognize what that is a photograph of?

24 A. Yes, it is the St. Anthony's Church, the compound.
25 This is 6th street, and church is here, the rectory here.

26 Q. Rather than explain it, what I would like --
27 because I don't think the jurors can't see it from they are, ca
28 you take the red grease pen and perhaps on the exhibit itself

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1 can you place a "6, t-h" for where 6th Street is on the diagram.
2 A. Whoops. Okay. (Witness complied).
3 Q. And could you write -- do you see Olive Street?
4 A. Yes. Right here.
5 Q. Could you put "Olive Street".
6 A. (Witness complied).
7 Q. Could you place perhaps "C.O." for where the
8 convent is located.
9 A. Right here. (Witness complied).
10 Q. And does the facility have a gymnasium?
11 A. Yes.
12 Q. Could you cut "G" for where the gym is located.
13 A. (Witness complied).
14 Q. And could you put "E.S." for the elementary school
15 is.
16 A. "S"?
17 Q. Yes.
18 A. (Witness complied).
19 Q. Do you see a portion of the high school on the
20 photograph itself?
21 A. Yes.
22 Q. Could you put "H.S.". 0177744
23 A. (Witness complied).
24 Q. Then could you place a "C" on top of the building
25 that is the church.
26 A. Right here. (Witness complied).
27 Q. Does the church have a rectory?
28 A. Yes, it does.

1 Q. Could you put a "R" on top of the building that's a
2 rectory.
3 A. (Witness complied).
4 Q. Now, what I would like you to do is could you take
5 a red circle and circle the approximate area in the parking lot
6 that's set aside for the lay faculty to park in.
7 A. With the high school or the elementary?
8 Q. The elementary school.
9 A. Right here. (Witness complied).
10 Q. Could you circle that.
11 Could you also circle -- could you perhaps put a
12 no. "1" inside that circle.
13 A. Uh-huh. (Witness complied).
14 Q. Can you then circle the area that is set aside for
15 elementary school teachers, the high school teachers to park at.
16 A. Right in here. Right in here, too. (Witness
17 complied).
18 Q. Could you put a no. "2" and no. "3" inside those.
19 A. (Witness complied).
20 Q. Now, do you see in the photograph itself the
21 station wagon we have been talking about?
22 A. Yes.
23 Q. And can you simply put a small "s" on top of that.
24 A. (Witness complied).
25 Q. And does that appear to be the approximate location
26 ,that the car was in when you saw it on the days we have been
27 talking about?
28 A. Yes.

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1 Q. Now, is it fair to say when you saw the car you
2 never got down and counted the number of spaces on either side
3 of the car?

4 A. No, but it seemed to be in the same position.

5 Q. You may resume your seat for a moment.

6 Sister, directing your attention to two additional
7 photographs, both of which are eight by ten black and white, the
8 first of which has been marked for identification as 571, it is
9 an eight by ten black and white photograph.

10 Do you recognize what this photograph shows as
11 well?

12 A. Yes.

13 Q. Is it likewise a photograph that appears to have
14 been taken from the area of a portion of St. Anthony's in Long
15 Beach?

16 A. That's correct.

17 Q. And does it likewise show the approximate location
18 that the station wagon was parked in when you saw it?

19 A. It does.

20 Q. Directing your attention to Exhibit 570, another
21 eight by ten black and white photograph.

22 Is this likewise a picture which appears to have
23 been taken from the air, from a different angle, of a portion of
24 the parking lot we're talking about at St. Anthony's?

25 A. Yes, it does.

26 Q. On Saturday, June the 11th, were you interviewed
27 about your observations about the car by someone who appeared to
28 be a police officer?

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1 A. Yes.

2 MR. KOCHIS: Thank you. I have no further questions.

3 THE COURT: Cross examination, please.

4

5

CROSS EXAMINATION

6 BY MR. NEGUS:

7 Q. Looking at the pictures, Sister, which of the
8 schools did you teach in?

9 A. I taught in the elementary school.

10 Q. Did Sister Mary Harold teach at the same place?

11 A. No, she taught in the high school where -- she's
12 presently teaching there now.

13 Q. The rectory, is there a garage for the rectory?

14 A. Yes, there is.

15 Q. Let's see. If you could take the red marker and
16 put a "G.A." for garage.

17 A. (Witness complied).

18 Q. Okay. And how many different vehicles are kept in
19 that garage? You can sit down.

20 A. In the garage? Let me see. There are three
21 priests, and sometimes one of our cars is kept over there, and
22 on this particular day we couldn't park the car on 6th Street
23 because they clean the streets on Wednesday morning, so we
24 parked over in the rectory area where we would pass the car in
25 question.

26 Q. So that was an unusual thing to park the car in the
27 garage. You didn't do that everyday anyway.

28 A. No, no not everyday.

1 Q. Did Monsignor keep his car in the garage?
2 A. Yes, he did. Uh-huh.
3 Q. In this area "2" here, outside of school hours, did
4 anybody else park their car in that area, over like overnight?
5 A. There was one car there that had something like a
6 flat tire, something was wrong with it. Parked next to that
7 would be -- to the right of the car in question.
8 Q. You can just barely see it behind there in the
9 photograph?
10 A. Yeah.
11 Q. That car, had that been --
12 A. That was there a few days. But we're used to
13 seeing cars coming in and out, yes.
14 Q. Well, the car that had the flat tire, whatever, had
15 that been there before this, before you saw the white car?
16 A. Yes.
17 Q. Did there -- was there also people that had special
18 permission, that is, little stickers they could put in their car
19 to just park over there after school until 7:00 o'clock the next
20 morning?
21 A. Not that I know of. Unless -- the high school must
22 have had some kind of recognition. But I -- I can't say for
23 sure.
24 Q. On -- in this particular photograph, was this taken
25 after graduation had been completed?
26 A. Yes.
27 Q. During graduation, was the parking lot
28 considerably more filled than that.

017748

1 A. Yeah. There were a lot of people. I mean, we had
2 over six hundred people at the graduation, so I would say it was
3 filled.

4 Q. What about on Sunday Mass. Is the parking lot
5 normally filled?

6 A. Yes, very filled.

7 Q. What time, what times do you have Mass on Sunday
8 morning?

9 A. They have an 8:00, a 10:30, and an 11:00, a 12:10,
10 or noon Mass, and then one in the evening at 5:30. Then there's
11 an 5:30 Saturday night Mass besides.

12 Q. Are all the Masses, the Sunday morning Masses, do
13 they tend to fill the parking lot?

14 A. Yes. And some park on the street besides.

15 Q. Now, did you ever -- did you ever see the car that
16 you thought was the white car parked over on the other side of
17 the parking lot over near the gym?

18 A. No.

19 Q. Do you remember Mr. Forbush, the gentleman with the
20 gray hair seated at counsel table, coming up to your present
21 school and talking to you a couple of weeks ago?

22 A. Yes, I do.

23 Q. Showing you Exhibit 581. Is that a little sketch
24 that you did for Mr. Forbush when he came up to see you?

25 A. Yes.

26 Q. On this little sketch you indicated the area on the
27 sketch, the corner 6th and Olive, that to be where the church
28 is; is that right?

017749

1 A. Correct.

2 Q. Then you also have indicated with a little circle
3 in it the area where the statute of --

4 A. St. Joseph.

5 Q. -- St. Joseph is.

6 A. Uh-huh.

7 Q. Then on this particular chart at least you have the
8 car drawn in on the opposite side of the parking lot near the
9 gymnasium; is that correct?

10 A. No. I told him it was against the wall.

11 Q. Well, did you draw that sketch or did he?

12 A. Well, we talked about it, and he -- I think he may
13 have -- we talked about the area and where the car was parked,
14 and he asked me some questions about 6th Street, and the
15 relationship of the car. The car was always facing the wall to
16 the rectory garden.

17 Q. When you saw the car on all of those particular
18 days, are you sure that it was always in the same place?

19 A. It seemed to be.

20 Q. Like on the days between Tuesday and Saturday that
21 you saw it, was that just when you were walking over to school?

22 A. Yes, in the morning and going home at night.

23 Q. Did you particularly notice it?

24 A. I did because it was similar to my sister-in-law's
25 car and I took note of that.

26 Q. Was there ever any remark made that -- that the car
27 which had been seen there the night, Tuesday night, that that
28 car belonged to one of the faculty members?

017750

1 A. Yes. There was mention of that from one of our
2 other sisters, saying that they thought it was Mr. Sorazano's
3 car.

4 THE REPORTER: Would you spell that, please?

5 THE WITNESS: S-o-r --

6 BY MR. NEGUS:

7 Q. On Tuesday night when you and Sister Mary Harold
8 were passing by, you were going to the because ballgame; is that
9 right?

10 A. That's right.

11 Q. Were there any other people with you besides
12 yourself and Sister Mary Harold?

13 A. There were a few other sisters, but I'm not sure
14 who came through the parking lot. There -- some of the sisters
15 went on ahead and we were behind.

16 Q. Well, did you all go in the same cars?

17 A. There were two cars.

18 Q. How many people went in the car that you went in?

19 A. I'm trying to think. At least five of us went in
20 the -- there were at least five that went to the game, and some
21 parked another place and we went to the rectory parking lot.

22 Q. Well, do you remember whether there was anybody
23 besides yourself and Sister Mary Harold who went to the rectory
24 parking lot?

25 A. Sister -- I think Sister Merriam Joseph was with us
26 that night.

27 Q. Well, can you recall for sure whether or not the
28 car was ever -- was ever missing during that period of time?

017751

1 A. During the times I came through the parking lot the
2 car seemed to be in the same place.

3 Q. Okay. But what I'm asking you is: Did you ever --
4 can you say for sure during the times that you came to the
5 parking lot that it might not have been there one of those
6 times?

7 A. No, I can't.

8 Q. Other than the first time when the comment was
9 made, did you particularly pay much attention to it after that?

10 A. No. It was a busy time of year and we were -- I
11 was busy with permanent record cards and report cards and
12 getting my room in order, and we heard things on the news but I
13 really, I hadn't been following anything.

14 Q. Thank you.

15 I have nothing further.

16 THE COURT: Anything further?

17 MR. KOCHIS: Yes.

18

19 REDIRECT EXAMINATION

20 BY MR. KOCHIS:

21 Q. Sister, first of all did you get a chance to finish
22 spelling for the court reporter the last name of the school
23 teacher, Mr. Soratino, or whatever it was?

24 A. Sorazano. S-o-r-a-z-a-n-o.

25 Q. Sister, again could you join me just for a moment
26 at the diagram with Exhibit 569, the black and white photograph.
27 Could you indicate perhaps with a "P" where the car
28 was parked when you got home from the Angel's game?

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1 A. (Witness complied.)
2 Q. I'm sorry where --
3 A. Where our car?
4 Q. Put a "1" under that "P".
5 A. Okay.
6 Q. Put a "P-2" for the location of the car that you
7 went to the game in. Where was that parked?
8 A. (Witness complied.)
9 Q. Could you trace with a dotted line then the path
10 you would have taken from that car back to the convent?
11 A. Yeah, like this. (Witness complied.)
12 Q. And could you put a No. 1 on that dotted line
13 anywhere?
14 A. (Witness complied.)
15 Q. And could you indicate with another dotted line and
16 the No. "2" the approximate path you would take to go from the
17 convent to the elementary school?
18 A. Okay. I would come out the side door. I would
19 cross Sixth Street, come through the parking lot and all the way
20 across and come in this door right here (indicating).
21 Q. Would you put a No. 2 at that location?
22 A. Uh-huh. (Witness complied.)
23 Q. Thank you.
24 MR. KOCHIS: I have nothing further, your Honor.
25 THE COURT: Anything further, Mr. Negus?
26 MR. NEGUS: No.
27 THE COURT: Sister, thank you very much. You may leave.
28 THE WITNESS: Thank you.

1 MR. KOCHIS: Sister Mary Harold would be my next witness.

2

3 SISTER MARY HAROLD BRAUNINGART,

4 called as a witness by the People, having been duly sworn,
5 testified as follows:

6 THE CLERK: Thank you. Would you have a seat on the
7 witness stand.

8 Would you state your full name for the record and
9 spell your last name.

10 THE WITNESS: My name is Sister Mary Harold Brauningart.

11 THE CLERK: Spell your last name.

12 THE WITNESS: B-r-a-u-n-i-n-g-a-r-t.

13 THE CLERK: Thank you.

14

15 DIRECT EXAMINATION

16 BY MR. KOCHIS:

17 Q. Sister, are you currently a teacher?

18 A. Yes, I am.

19 Q. Where do you teach?

20 A. I teach in St. Anthony High School in Long Beach.

21 Q. Is that located near the corner of Sixth and Olive
22 Streets in Long Beach?

23 A. Yes, it is.

24 Q. Were you teaching at that location back in June,
25 1983?

26 A. Yes.

27 Q. Were you teaching at the same part of the
28 institution that Sister Joseph Ann James taught at at that time?

017754

1 A. Well, I was across the street. She's in the
2 elementary, I'm in the high school.

3 Q. During the first week in June, on about Tuesday,
4 June the 7th of 1983, did the sisters go to an Angel baseball
5 game.

6 A. Yes, a few of us did.

7 Q. Was Sister Joseph Ann James one of those people?

8 A. Yes.

9 Q. On that day did you see any car in the parking lot
10 that was set aside for the lay faculty at the high school that
11 caught your attention?

12 A. I saw a car, yes.

13 Q. Do you recall what type of car it was?

14 A. It was a station wagon. I don't know the make, a
15 white station wagon with wood panneling.

16 Q. Directing your attention to a photograph which
17 we've marked for identification as Exhibit 181; do you recognize
18 the station wagon in that picture?

19 A. Yes.

20 Q. Does that appear to be the car that you saw on
21 that day?

22 A. Yes, it does.

23 Q. Do you remember what time you first saw the car on
24 that Tuesday?

25 A. I had seen it in the afternoon, late afternoon.
26 I'm not sure of the time.

27 Q. Did you see it on more than one occasion on that
28 Tuesday?

1 A. Yes.

2 Q. When was the second time?

3 A. That was after the Angel's game. That was after

4 11:00 o'clock at night.

5 Q. Would Sister Joseph Ann James have been with you at

6 that time?

7 A. Which time?

8 Q. The time after the Angel's game when you saw --

9 A. Yes.

10 Q. And would that have been after you had -- the car

11 had been parked that was driven to the Angel's game by the

12 church and you all walked back across the street to the convent?

13 A. Right.

14 Q. Other than that Tuesday, June the 7th, did you ever

15 see the car?

16 A. Graduation day, the day that it was identified.

17 Q. That Saturday?

18 A. Yes.

19 Q. Did it appear to be in the same location as it was

20 on Tuesday?

21 A. Yes.

22 Q. Now you taught at the high school at that time?

23 A. Yes.

24 Q. Is the high school located on the same side of the

25 street that the convent is located on?

26 A. Yes.

27 Q. To get to your classes you don't have to cross

28 Sixth Street, do you?

017756

1 A. No, I don't.

2 Q. Do you recall coming over to the elementary school
3 at all between Tuesday the 7th and Saturday the 11th?

4 A. No, I don't.

5 Q. Thank you.

6 I have no further questions.

7

8 CROSS-EXAMINATION

9 BY MR. NEGUS:

10 Q. Sister, did you and Sister Joseph Ann go up to the
11 police officers when they -- when they had the hullabaloo about
12 the car being discovered and tell them that you had seen it
13 earlier?

14 A. No, I didn't go up to them.

15 Q. Did they come and ask --

16 A. Yes, they came to me.

17 Q. And did they -- did they talk to you there in the
18 parking lot?

19 A. No, I didn't see them in the parking lot.

20 Q. Was that over at the convent?

21 A. Yes, it was, uh-huh.

22 Q. And -- were they basically coming through looking
23 for anybody that happened to have seen the vehicle before that
24 particular day?

25 A. Yes, I believe so.

26 Q. Were there any other -- were there any other people
27 with you and Sister Joseph Ann on your way back from the Angel's
28 game?

017757

1 A. Yes, there were.
2 Q. Who was that?
3 A. I don't even recall which sisters they were.
4 Q. Other sisters?
5 A. That was more than a year ago.
6 Q. Other sisters, however, from your -- from your
7 order?
8 A. Yes.
9 Q. Thank you.
10 I have nothing further.
11 MR. KOCHIS: Nor do I, your Honor.
12 THE COURT: Sister, we thank you very much.
13 THE WITNESS: Your welcome.
14 MR. KOCHIS: Mr. Gordon James.
15 THE COURT: Could it be James Gordon?
16 MR. KOCHIS: It's the same person, your Honor. I often
17 confuse which name is first.
18 THE COURT: Raise your right hand, please, sir.
19 THE CLERK: Raise your right hand.
20
21 GORDON KEITH JAMES, JR.
22 called as a witness by the People, having been duly sworn,
23 testified as follows:
24 THE CLERK: Thank you. Would you have a seat on the
25 witness stand, please. Would you state your full name for the
26 record and spell your last name?
27 THE WITNESS: Gordon Keith James, comma, Junior.
28 J-a-m-e-s.

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DIRECT EXAMINATION

3 BY MR. KOCHIS:

4 Q. Mr. James, do you know where St. Anthony's church
5 is located in Long Beach?

6 A. Yes, sir.

7 Q. And do you know where the Casa Blanca Barber Shop
8 is likewise located in Long Beach?

9 A. Yes, sir.

10 Q. Now back in June of 1983, on Sunday, June the 5th,
11 were you handing out flyers, advertisements, for the barber
12 shop?

13 A. Yes.

14 Q. Directing your attention to an exhibit which we've
15 marked for identification as Exhibit 572, which appears to be a
16 photograph of an inside of a car; do you recognize the
17 advertisements in that photograph?

18 A. Yes.

19 Q. Is that the type of advertisements that you were
20 handing out on that Sunday?

21 A. Yes.

22 Q. Did you go to St. Anthony's church and pass out the
23 advertisements in the church parking lot?

24 A. Yes.

25 Q. Did you put them on various cars?

26 A. Yes.

27 Q. Do you know what time it was that you arrived at
28 St. Anthony's and passed the flyers out?

017759

1 A. About 10:00 to 11:00 o'clock give or take 30
2 minutes on each side that I can remember.

3 Q. Directing your attention to a photograph which
4 we've marked for identification as Exhibit 181. It's a color
5 photograph of a station wagon.

6 Do you recall putting flyers on that car?

7 A. Yes.

8 Q. Do you remember how many you put on the car?

9 A. Okay. I remember the window was down about a
10 quart -- about one inch, the driver's window was down, and I
11 just put one in the window and I may have put one on the
12 windshield, too.

13 Q. On the driver's side on the outside?

14 A. Correct.

15 Q. Did you likewise talk to the police about a week
16 later on a Saturday about that car?

17 A. Yes.

18 Q. Did they take you back to the parking lot at the
19 church and show you the car?

20 A. Yes, sir. Gary R. Woods.

21 Q. And did they show you a car that you had the
22 previous Sunday put some flyers on?

23 A. Correct.

24 MR. KOCHIS: I have nothing further.

25 THE COURT: Just a moment, please.

26 CROSS-EXAMINATION.

27 BY MR. NEGUS:

28 Q. Mr. James, you say that Gary R. Woods was the

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1 officer that you talked to?

2 A. Yes, sir.

3 Q. Could you describe Mr. Woods for us?

4 A. It's hard -- he had -- it's hard to say. I

5 couldn't -- never thought about it.

6 I think he's about as -- dark hair maybe like about

7 that gentleman's hair there (indicating).

8 Q. Mr. Kottmeier, the man I'm pointing to?

9 A. The other person.

10 Q. Mr. Kochis?

11 A. Correct.

12 Q. Okay.

13 A. He is a little bit dark hair, about my height and

14 size, but when I seen them they had just shirts tucked in with

15 tennis shoes on.

16 Q. Have you seen -- talked to Mr. Woods since that

17 date?

18 A. No, sir. But they -- that day when they took me

19 over to, no, sir.

20 Q. The -- Gary R, woods did he appear to wear like

21 blue jeans or was he wearing a suit-type thing?

22 A. Well, slacks and a shirt tucked in a trousers,

23 pants type, normal wear, without a coat on.

24 Q. Didn't have a tie?

25 A. That -- no, sir.

26 Q. How do you happen to remember his name after all

27 this time?

28 A. I still have his business card that he handed it to

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1 me.

2 Q. When -- when the sheriff's officer came -- was it
3 Mr. Woods that came down to your barber shop?

4 A. Correct.

5 Q. When Mr. Woods came down there, at that point in
6 time when you were just talking in the barber shop, at that
7 point in time did you remember this putting the handbill on the
8 white car?

9 A. Not exactly on the white car, but that area, yes,
10 just a parking lot there.

11 Q. Well, when -- when the -- when the sheriff's
12 officer brought you back to the -- to the parking lot, at that
13 point in time were there -- were there television cameras there?

14 A. Yes, sir.

15 Q. And did they -- did you see them pointing the
16 camera at you when you and Mr. Woods were coming into the
17 parking lot?

18 A. No, sir. We walked under the -- one officer went
19 under the rope, went over the rope -- I went over the rope. And
20 the camera was set up with the truck there. And they didn't
21 start taking, filming with the video tape the car yet. I looked
22 around it, recognized it, recognized the car next to it.

23 The reason I remember that the window was down, the
24 window was down, and the one next to it had a cross and a chain
25 in it, but the cross was separated, jammed down between the
26 window and the dashboard. That's how I remember that car next
27 to it or the car over.

28 Q. The car that was next to the station wagon, did

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1 that have -- did that have a flyer in it?

2 A. I believe so.

3 Q. During the time that you were working for the
4 barber shop, how many different flyers did you personally pass
5 out?

6 A. On that day?

7 Q. No. During the whole time.

8 A. About a thousand.

9 Q. And on how many different days was that?

10 A. About four or five days all together. About five
11 to eight days.

12 Q. Were there some days before Sunday, whatever, you
13 know, day it was?

14 A. About three days that week.

15 MR. NEGUS: Could we take the -- I seem to be unraveling,
16 your Honor. Could we take the recess? I'm not going to be
17 finished.

18 THE COURT: Sorry we have to have you back at 1:30 this
19 afternoon, sir, okay?

20 We will take the noon recess. Please, remember the
21 admonition. 1:30, please.

22 (Noon recess taken.)

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1 1 SAN DIEGO, CALIFORNIA, MONDAY, DECEMBER 3, 1984 1:30 P.M..

2 --oo0oo--

3
4 THE COURT: Mr. Negus.

5
6 GORDON KEITH JAMES, JR.,

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

9
10 CROSS EXAMINATION (Resumed)

11 BY MR. NEGUS:

12 Q. Mr. James, I would like to show you Exhibits 580-A
13 and 580-B, which appear to be, let's see, different parts of a
14 map of Long Beach.

15 Can you sort of try and orient yourself on those
16 maps, and what I'd like you to do first is using this green
17 marker, to put a "B" for barber shop, if you can find out where
18 the barber shop would be located.

19 A. What, do want me to mark an "X"?

20 Q. Put a "B" there. Just a green "B", if you would,
21 right where the barber shop is. And you are doing that on
22 Exhibit 580-A.

23 A. Correct. (Witness complied).

24 Q. Now, switching colors what I would like to do is
25 then give you a red marker and ask that you outline the area
26 where you distributed flyers on all the different days that you
27 distributed flyers. That is, the total, the boundaries of the
28 areas for all the different days that you were distributing

1 flyers.

2 A. (Witness complied). Okay.

3 Q. Okay. That is about it. These --

4 A. A couple more streets right here.

5 Q. So what you have done is you put red lines down the
6 streets where you distributed flyers.

7 Is that basically how you have done it?

8 A. Correct. Both sides of the street. Most of them I
9 would come up one side and then came back up the other side of
10 the street.

11 Q. That is on Exhibit 580-A, right?

12 A. Correct.

13 Q. Now, did you ever overlap any of the areas, like
14 hit the same street more than one day?

15 A. No, not overlap. Maybe the same street, but down
16 three or four other blocks, east or west, on the other side. I
17 wouldn't overlap the -- what do you mean exactly? Like overlap
18 the same, do it again?

19 Q. Yeah. Like on this -- like, for example, you did
20 Hermosa Way. Did you ever do like Hermosa Way maybe on a
21 Sunday, and then on Tuesday, and then like -- or was that all
22 one day per street?

23 A. One day per street.

24 Q. And how many different days was it?

25 A. I mean, I crossed the street maybe like a street
26 here and say, like as an example, this was 2nd Street or 2nd
27 Street, say, and go down this street, I might come back about
28 three blocks and do -- cut down the side street and cross over.

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1 But I wouldn't go over it.

2 Q. Are there a bunch of different parking lots in that
3 area as well as just streets?

4 A. About one other one I remember doing. Like the
5 same type of thing but not a church parking lot.

6 Q. Did you go through the parking lots on more than
7 one day?

8 A. No, no.

9 Q. Before you, before you talked to the police, were
10 you absolutely sure that it was Sunday that you did the church
11 parking lot?

12 A. Correct.

13 Q. You were?

14 A. Correct. Yes.

15 Q. Was the, was the lot about -- what time of the
16 morning were you doing this work? Was it all day or just did
17 you just park, or work part of the day?

18 A. It was around 9:30 to about -- that morning, 9:30
19 to 11:30.

20 Q. That was Sunday morning, 9:00 to 12:00?

21 A. Yes, sir.

22 Q. How about other days that you worked. Was it
23 always the same time?

24 A. In the morning about 9:00 to 11:00, and then about
25 2:00 to 4:00 on the average. About eight days there all
26 together.

27 Q. Was the, was the church parking lot right in the
28 middle of when you were passing out the bills?

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1 In other words, you had already done some days,
2 then you did some other days, and then you did that particular
3 parking lot?

4 A. I think it was about 70 or 80 percent through the
5 whole, full-time of delivering the flyers. About 70 percent
6 through the eight days of the time.

7 Q. The particular day that you did that parking lot,
8 was it about half full?

9 A. Well, if I remember correctly, where the car is
10 located at, it was off on the one side, then the regular parking
11 lot was about half full; the other square parking lot south of
12 6th street.

13 Q. So the whole thing would have been about half full?

14 A. Yeah. Yes.

15 Q. So, it wasn't like if somebody were to drive in
16 there at that particular point in time, it wasn't like they
17 couldn't find a parking place somewhere in that big parking lot.

18 A. Yes, somewhere. Say it once more, sir. Yeah.
19 Yeah.

20 A. Correct. Somebody could go in there, correct?
21 There was a lot of empty places.

22 A. About 50 percent. About 30 -- say about 30 percent
23 empty.

24 Q. Empty spaces. So other cars could park there.

25 How many, how many, how many cars would you say
26 were in there total in all that whole parking lot around the
27 church?

28 A. I guess about 50 to 60, maybe a little more.

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1 Q. The particular car that you remember putting a
2 flyer, was that a blue Ford station wagon, four-door?

3 A. As much as I can remember.

4 Q. It was a blue Ford station wagon?

5 A. Yeah.

6 Q. Last week you talked to Mr. Forbush here about it,
7 about what you remembered; is that right?

8 A. Correct.

9 Q. And at that point in time, did you tell Mr. Forbush
10 that it was a blue Ford station wagon?

11 A. Correct.

12 Q. Was that before Mr. Kochis had shown you any
13 photographs of the vehicle?

14 A. Um, no, I seen him one -- one time before the
15 photographs of the vehicle. That was all.

16 Q. When was that that you saw the photograph of the
17 vehicle before you came to court today?

18 A. Long Beach when Mr. Arthur, and Mr. -- the two
19 gentlemen sitting -- the second gentleman and third gentleman
20 delivered a subpoena seeing the station wagon. I vaguely
21 remember the station wagon, remember it.

22 Yes, I remember exactly, because there was 40 cars.
23 Like I said, the window, it was in a seat, that particular car
24 the window was down, about an inch, and a couple of them were
25 down an inch. So, instead of walking in front I walked it there
26 so I wouldn't have to walk all around the car to the front; save
27 a few steps, one or two.

28 If a car were -- the car was farther, I would put

1 one or two on the windshield because then I walked around to the
2 front of the next car, the shortest distance of walking. That's
3 the only way I can explain that.

4 Q. Well, the blue Ford station wagon, was that parked
5 out from the wall a little bit so you could walk around it?

6 A. No. But since recalling this thing and everything
7 I remember the window was down, the flyer was in there, so
8 obviously that brings it back to my memory that it was down; the
9 window was down a little bit. I did put them in about three or
10 four cars, a whole row of cars, dropped them in the window and
11 slipped them through the window.

12 Q. When the -- on that Saturday in June when the
13 police officers took you all out there when all the television
14 cameras were out there, did they -- they showed you that there
15 was one of your flyers sitting on the front seat of a particular
16 car that they were interested in.

17 A. Yes.

18 Q. And did they show you a flyer in the windshield as
19 well?

20 A. It's hard to remember now. I think so. I may be
21 wrong though. I can't say yes or no. I don't know on that one.

22 Q. When you talked to Mr. Forbush, did you tell him
23 that you remembered putting the flyer inside so you wouldn't
24 have to walk around and put it on the windshield?

25 A. Yes, I did say that.

26 Q. Did you use a different color flyer for the
27 different days that you passed out, or were they all the same
28 color?

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1 A. Different colors. I think one picture was blue
2 ones, green ones, and pink ones, and beige ones.

3 Q. Do you remember which order you passed them out as
4 far as colors?

5 A. That day I had a stack of about three different
6 colors; three or four different colors.

7 Q. The owner of the barber shop is named Louis
8 Rogokos; is that correct?

9 A. Rogokos.

10 Q. Louis George Rogokos. R-o-g-o-k-o-s?

11 A. I believe so.

12 Q. Was he, you know, standing alongside of you as you
13 were passing out flyers in that particular parking lot?

14 A. We parked the car in front of the church, just
15 south of 6th Street on Olive. I don't remember -- then we both
16 went in the parking lot. He did the parking lot and he took off
17 on that side of the street, I then did the parking lot and took
18 off on that side of the street.

19 Q. Well, when the car that you remember putting a
20 flyer in was done, was he there with you at that point in time?

21 A. No.

22 Q. Did you have any problems getting a parking place
23 there on Olive?

24 A. No.

25 Q. Other than the occasion when you were passing out
26 flyers, did you ever have occasion to go to that church during
27 Mass.

28 A. No, never have been there.

1 Q. Well --
2 A. Inside the church, excuse me.
3 Q. Excuse me?
4 A. Inside the church.
5 Q. How about outside?
6 A. In the parking lot during the Sunday.
7 Q. Other than the time that you were passing out the
8 flyers.
9 A. No other time being there. No, never.
10 Q. So that the only day that you were there was the
11 day you were passing out flyers?
12 A. Correct. That's when the -- the only time I have
13 ever been through that church parking lot. I mean, it was
14 during -- let me -- Sunday, but I wasn't inside. I was there
15 during Mass but not inside the church building. I don't mean to
16 make it so --
17 Q. I don't want to confuse you.
18 I'm not so much concerned about inside the church
19 or in the parking lot, but I guess what I should have said, have
20 you ever been like through that parking lot on any other Sunday?
21 A. No, sir.
22 Q. When you were talking to the officers on that
23 Saturday, when they came and got you and took you down to the
24 parking lot, did you give them your correct name?
25 A. Yes. Yes.
26 Q. And you remember that that Ford station wagon that
27 you particularly remember had a blue vinyl interior to it?
28 A. Well, since I seen the picture, yes.

4203

1 Q. Well, the picture is not blue, right?

2 A. The interior I think is, isn't it? I thought it
3 was.

4 Q. Did you tell Mr. Forbush that you particularly
5 remembered a blue vinyl interior?

6 A. No, I don't think so. I just vaguely remember -- I
7 remember the car because -- well, the car was there. Most of my
8 ability to remember that day delivering the flyers is like that.

9 Q. Do you particularly remember any other cars that
10 you happened to put flyers in that particular day?

11 A. Just the one car that was right next to it or next
12 to it. It had a cross without the cross on the chain where you
13 couldn't -- it was between the dashboard and windshield jammed
14 down there. I put it on the windshield. I looked at it. I
15 remember that car and it was there, I think. It is hard to
16 remember, next to that car. Somewhere around that, you know,
17 that day.

18 Another car was -- that was how come I remember it
19 was next to it, or the other one. I can't remember exactly
20 which one it was, but I remember it was right next to that car,
21 the exact same position. There was about seven different cars
22 or there's about 30 of them on the street, I think.

23 Q. Asking you to look at Photograph 181. There's sort
24 of -- you can sort of see what looks like a beat up old car
25 behind that white station. That's the second car to which
26 you're referring?

27 A. It could be that one or the one next to it.

28 Q. The other car that you can now remember, was that

COMPUTERIZED TRANSCRIPT

1 car likewise present when the policemen took you back there on
2 Saturday afternoon?

3 A. I can't -- what I do remember I told two officers,
4 one didn't have it next to it. I remember the sort of spacing
5 about that car right next to it or -- I can't exactly remember
6 where that car is right next to it.

7 And the other space on the other side of that, of
8 the Ford, two spaces from the Buick, was one of the two I told
9 the two officers. I was a little familiar of that area because
10 the cross wasn't on the chain, it was between the dashboard and
11 the windshield. I noted that to them. If it was, they would
12 remember it. I mean --

13 THE COURT: Wait for the next question, please.

14 BY MR. NEGUS:

15 Q. Giving you Exhibit 570, and -- let's see. I am
16 marking one car in red with a "S.W.", another car with an arrow
17 pointing to it "O.C.", meaning other car.

18 Showing you that exhibit with those marks on it.

19 Now, the "S.W.", is that the station wagon that the
20 officer took you back to see?

21 A. Correct.

22 Q. And the one that's marked "O.C.", is that the only
23 other car that was near that station wagon when the officer took
24 you back?

25 A. Yes.

26 Q. When you talked to the police officers, did they
27 tape record what you had to say?

28 A. Excuse me? No, sir.

4205

1 Q. When you talked to Mr. Forbush, did he tape record
2 what you had to say?

3 A. Yes, sir.

4 MR. NEGUS: Nothing further.

5 MR. KOCHIS: I have no redirect.

6 THE COURT: Thank you, Mr. James. You may be excused.

7 MR. KOCHIS: Gale Duffy would be my next witness, your
8 Honor.

9 THE COURT: Just resume the stand, your still under oath.
10 State your name again, please.

11 THE WITNESS: Gale Duffy. D-u-f-f-y.

12

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GALE DEWEY DUFFY,

14 called as a witness by the People, having been previously duly
15 sworn, resumed the stand and testified further as follows:

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FURTHER DIRECT EXAMINATION

18 BY MR. KOCHIS:

19 Q. Mr. Duffy, can you remember -- did your duties in
20 regards to the Ryan-Hughes homicide continue on to Saturday,
21 June the 11th, of 1983 and Sunday the June of 12th of 1983?

22 A. Yes, sir, they did.

23 Q. On that particular Saturday, the 11th, did you go
24 to a parking lot which appeared to be behind a church somewhere
25 in the Long Beach area?

26 A. Yes, sir, I did.

27 Q. And did you assist in processing the car on that
28 day in the Long Beach area?

COMPUTERIZED TRANSCRIPT

1 A. Yes, sir.

2 Q. Did you take photographs of the car?

3 A. Yes, sir, I did.

4 Q. Did you also dust certain areas on the car and
5 attempt to lift latent fingerprints from the car?

6 A. Yes, sir.

7 Q. Did you take some latent lifts yourself?

8 A. Yes, sir.

9 Q. Directing your your attention to an exhibit which
10 we have marked for identification as 579.

11 Does that appear to be a Xeroxed copy of the latent
12 lifts you took from the car in Long Beach on the 11th of the
13 June?

14 A. Yes, sir, they are.

15 Q. Does that exhibit indicate, in terms of date, time
16 and location, the particular lifts that were latents that were
17 lifted?

18 A. Yes, sir.

19 Q. Directing your attention to Exhibit 180 -- 181,
20 which appears to be a colored photograph of a station wagon.

21 Does that appear to be a picture of the car that
22 you dusted for prints on Saturday, June the 11th?

23 A. Yes, sir, it is.

24 Q. In fact, does that picture show you in the process
25 of dusting a particular area of the car on the driver's side for
26 latent prints?

27 A. Yes, sir.

28 Q. Is there a member of the homicide team in that

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1 photograph as well?

2 A. Yes, there is.

3 Q. And do you know who that person is?

4 A. Detective Mike Hall.

5 Q. Directing your attention to a photograph which

6 appears to have been marked for identification as Exhibit 569.

7 Do you recognize what that is an aerial photograph

8 of?

9 A. Yes, sir, I do.

10 Q. And could you tell the jury what it is an aerial

11 photograph.

12 A. It is an aerial photograph of a Catholic church or

13 school where the vehicle was found parked.

14 Q. And does it indicate the approximate location of

15 the car when you first got there?

16 A. Yes, sir, it is.

17 Q. Is there a mark over one of the cars that indicates

18 that?

19 A. Yes, sir.

20 Q. Now, directing your attention to Exhibit 572, which

21 appears to be an eight by ten color photograph of the inside of

22 a car. Do you know who took that picture?

23 A. Yes, sir.

24 Q. Was that yourself?

25 A. Yes, I did.

26 Q. Was that on Saturday or Sunday that you took the

27 picture?

28 A. It was on Saturday.

1 Q. And what is that a picture of, looking inside to
2 the driver's seat of the car?

3 A. Yes, sir, it is.

4 Q. There appears to be a flyer on the driver's seat in
5 the photograph that has Casa Blanca, hair styles on it.

6 Did you see that photograph inside the car in
7 approximately that position when you first arrived at the scene?

8 A. Yes, sir.

9 Q. Directing your attention next to a photograph which
10 we have marked for identification as Exhibit 573.

11 Did you likewise take that particular color
12 photograph?

13 A. Yes, sir, I did.

14 Q. And is that a closer view of the driver's seat as
15 it faced the driver door.

16 A. Yes, it is.

17 Q. Did there appear to be on the seat itself any marks
18 in the vinyl on the seat?

19 A. Yes, sir, there did.

20 Q. Can you see those marks in the photograph?

21 A. Yes, sir, I can.

22 Q. Was there any coloring on the seat that caught your
23 attention?

24 A. Yes, sir.

25 Q. What type of coloring?

26 A. It was a darkish red or brown.

27 Q. And do what did it appear to be?

28 A. Blood.

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1 Q. Directing your attention to two photographs,
2 Exhibits 574 and beneath that Exhibit 577. Are those both
3 photographs which you took?

4 A. One of them is, yes.

5 Q. Which one?

6 A. The top one.

7 Q. 574?

8 A. Yes.

9 Q. And does that show the area that we have been
10 talking about, the driver's seat, where the marks and the
11 reddish brown substance was?

12 A. Yes, sir.

13 Q. Directing your attention to Exhibit 575.

14 Do you recognize the area of the car that that
15 photograph depicts?

16 A. Yes, sir, I do.

17 Q. Which area of the car?

18 A. The passenger side of the vehicle,

19 Q. Front or back?

20 A. Front seat.

21 Q. And did you see what appeared to be tobacco type
22 substances at that location?

23 A. Yes, sir.

24 Q. Are those likewise depicted in the photographs?

25 A. Yes, they are.

26 Q. Is Exhibit 576 a photograph which you took?

27 A. No, sir. it isn't.

28 Q. Was someone else using your ruler on that

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1 particular day?

2 A. Yes, sir.

3 Q. Do you recall the position of the back seat, the
4 seat directly behind the front seat, when you arrived at the
5 scene?

6 A. Yes, sir, I do.

7 Q. What condition was it in?

8 A. It was flat, folded down.

9 Q. And showing you a small color photograph of three
10 by five, which has been marked for identification as 578.

11 Does that picture accurately reflect the position
12 of the back seat when you arrived on that particular day?

13 A. Yes, sir, it does.

14 Q. Did you have a chance to look at the ignition in
15 the car on Saturday, June the 11th?

16 A. Yes, sir, I did.

17 Q. Did the ignition appear to have been hot-wired?

18 A. No, sir.

19 MR. KOCHIS: I have no further questions.

20 THE COURT: Cross examination.

21

22 FURTHER CROSS EXAMINATION

23 BY MR. NEGUS:

24 Q. Were there any keys to the car in the ignition?

25 A. No, sir.

26 Q. As you looked over the automobile, did you see any
27 keys to it anywhere?

28 A. No, sir.

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1 Q. Was the back of this station wagon, is that the
2 sort of a door, a thing that you can open it like a door in the
3 back there?

4 A. Yes, sir.

5 Q. Was that unlocked?

6 A. I believe so, yes.

7 Q. How much distance separated the front of the
8 station wagon from the the brick wall that those young ladies
9 are standing?

10 A. I'd have to say approximately probably a foot.

11 Q. You could have walked -- you could walk between
12 the -- between the front of the car and the wall there?

13 A. I believe so, yes, sideways.

14 Q. Was there a flyer on the windshield of that
15 automobile?

16 A. I don't recall.

17 Q. You never took a photograph of any flyer on any
18 windshield; is that right?

19 A. I don't believe I did, no.

20 Q. Did you see any flyers on the vehicle next to the
21 station wagon?

22 A. I don't recall, no.

23 Q. You never took any pictures of it no matter what?

24 A. No, sir.

25 Q. While you were out there working, did you see a --
26 Mr. Gordon James come out to the car?

27 A. No, sir, I didn't.

28 Q. Do you recall whether there was a detective there

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1 on that particular day by the name of Gary R. Woods?
2 A. No, I do not.
3 Q. Do you know a Career Criminal Division deputy by
4 the name of Gerritt Tesselaar?
5 A. Yes, sir, I do.
6 Q. Was Mr. Tesselaar out at Long Beach on the 11th of
7 June, 1983?
8 A. Was he in Long Beach or was he at the vehicle?
9 Q. Was he at the vehicle?
10 A. I believe so, yes.
11 Q. When did you start processing the car, that is,
12 taking pictures of it and doing prints?
13 A. About 1630 hours, 4:30 p.m..
14 Q. When you started was the -- was the news media
15 already there?
16 A. Not that I can recall, no.
17 Q. The -- in -- putting black circles around two
18 vehicles that are parked on the street in Exhibit 570, were
19 those television transmitting trucks?
20 A. I have no idea.
21 Q. Well, did you see television transmitting trucks?
22 A. I seen television crews later, yes.
23 Q. Well, the news -- the news media was out there in
24 fact before you started processing, were they not?
25 A. I don't believe so, no. If they were they were
26 kept away from the scene.
27 Q. Well, there was a -- at some point in time, I think
28 it's shown in this picture, there were a couple of police

1 vehicles with tape put around the cars; is that right?

2 A. Yes, sir.

3 Q. Had that occurred prior to your arrival?

4 A. No, sir.

5 Q. When you did arrive, was there a Long Beach
6 undercover vehicle parked next to the station wagon, what would
7 be the right side of that photograph, 570?

8 A. There was a vehicle parked there. I didn't know it
9 was undercover.

10 Q. The what time did you arrive in Long Beach that
11 day?

12 A. Approximately 1300 hours. 1:00 o'clock p.m..

13 Q. And did you go -- did you go immediately to the
14 area where the station wagon was or did you wait at a discreet
15 distance?

16 A. I waited at Long Beach Police Department.

17 Q. Prior to your -- to your going out to the scene,
18 did you hear broadcasts on the news media of the discovery of
19 that station wagon?

20 A. No, sir, I didn't.

21 Q. While you were working on the scene, during that
22 period of time, did a large crowd gather around the vehicle?

23 A. Yes, sir.

24 Q. The photographs with the little numbers in them,
25 were those photographs taken in Long Beach or San Bernadino?

26 A. They were in Long Beach.

27 Q. Like this photograph -- photograph 575, that was
28 taken in Long Beach?

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1 A. That was in Long Beach, yes.

2 Q. Did the photograph that's 574, was that likewise in
3 Long Beach?

4 A. Yes, sir.

5 Q. Did -- what about the photograph 578?

6 A. Yes, sir.

7 Q. Did you ever take any photographs back -- of the
8 vehicle back in San Bernadino?

9 A. I don't believe so, no.

10 MR. NEGUS: Nothing further.

11

12 FURTHER DIRECT EXAMINATION

13 BY MR. KOCHIS:

14 Q. Mr. Duffy, on Saturday the 11th, was the car
15 essentially processed at two different locations in Long Beach?

16 A. Yes, sir, it was.

17 Q. First in the parking lot behind the church?

18 A. Yes, sir.

19 Q. And then was it towed to another location located
20 within the police department in Long Beach?

21 A. Yes, sir, it was.

22 Q. In some type of garage or storage facility?

23 A. Long Beach City Yard.

24 Q. And was processing done at that location?

25 A. Yes, sir.

26 THE COURT: Anything else?

27 MR. NEGUS: No.

28 THE COURT: That you again.

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1 MR. KOCHIS: Detective Mike Hall.

2 THE CLERK: Will you raise your right hand, please.

3

4 MICHAEL D. HALL,

5 called as a witness by the People, having been duly sworn,

6 testified as follows:

7 THE CLERK: Thank you. You may be seated. Would you
8 state your full name for the record, please.

9 THE WITNESS: Michael D. Hall, H-a-l-l.

10 THE CLERK: What was your middle initial?

11 THE WITNESS: "D" as in David.

12 THE CLERK: Thank you.

13

14 DIRECT EXAMINATION

15 BY MR. KOCHIS:

16 Q. Mr. Hall, by whom are you presently employed?

17 A. San Bernadino County Sheriff's Department.

18 Q. How long have you been employed by that department?

19 A. Twelve years.

20 Q. What division are you currently assigned to?

21 A. Homicide.

22 Q. Were you so employed on Saturday day, June the 11th
23 of 1983?

24 A. Yes, sir, I was.

25 Q. And on that day did you go to a parking lot which
26 appeared to be located behind a church at Sixth and Olive
27 Streets in the City of Long Beach?

28 A. Yes, sir, I did.

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1 Q. Do you recall about what time that you arrived
2 there?
3 A. Approximately 4:06 in the afternoon.
4 Q. For us civilians, what time are we talking about?
5 I'm sorry did you say "hour"?
6 A. Yes, sir.
7 Q. That would be for us civilians, wouldn't it?
8 A. Yes, sir.
9 Q. Did you get in the Long Beach area earlier than
10 that?
11 A. Yes, sir, I did.
12 Q. About what time?
13 A. Approximately 10:50.
14 Q. And is there a reason you didn't get to the parking
15 lot until 4:00 o'clock?
16 A. Yes, sir.
17 Q. What was that?
18 A. The vehicle that was spotted was being surveilled.
19 Q. Did there come a time when the surveillance was
20 discontinued?
21 A. Yes, sir, it was.
22 Q. Did you then go to the parking lot in Long Beach
23 and examine a particular car?
24 A. Yes, sir.
25 Q. Do you recall what type of car it was?
26 A. Yes, sir, I do.
27 Q. What type?
28 A. A 1977 Buick Estate Wagon, California license

017785

1 2ALL731.

2 Q. There's a couple pictures behind you on the board,
3 Detective Hall. One of them has been marked for identification
4 as Exhibit 181, I will move that closer to you.

5 Is that the station wagon that we're talking about?

6 A. Yes, sir, it is.

7 Q. In fact, are you pictured in the photograph as
8 well?

9 A. Yes, sir, I am.

10 Q. Did you walk around the car and conduct a visual
11 examination of it when you got to the scene?

12 A. Yes, sir, I did.

13 Q. Did you notice anything -- any type of material on
14 the outside of the car?

15 A. Yes, sir.

16 Q. What?

17 A. There was an advertisement from the Casa Blanca
18 hair salon located at 420 Cherry in Long Beach.

19 Q. Where on the car was it?

20 A. On the front windshield.

21 Q. Driver's side?

22 A. Yes, sir.

23 Q. Was that inside or outside the car?

24 A. Outside.

25 Q. Did you make any observations as to whether the
26 outside of the car was clean or not?

27 A. Yes, sir, I did.

28 Q. What did you notice?

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- 1 A. There was a heavy layer of dust that was evenly
2 spread over the vehicle.
- 3 Q. Did that indicate anything to you?
- 4 A. To me it indicated that it had possibly been there
5 for some time.
- 6 Q. Did you then check the doors to the station wagon?
- 7 A. Yes, sir, I did.
- 8 Q. Did you find any door to the car unlocked?
- 9 A. Yes, sir.
- 10 Q. Which door?
- 11 A. The rear tailgate door.
- 12 Q. Were all other doors to the car locked?
- 13 A. Yes, sir.
- 14 Q. Did you check the windows to the car?
- 15 A. Yes, sir.
- 16 Q. Were -- What condition were the windows in or
17 positioned?
- 18 A. The driver door window was rolled down
19 approximately one inch; all other windows were in the up
20 position.
- 21 Q. Did there come a time when the doors to the car
22 were opened in your presence?
- 23 A. Yes, sir.
- 24 Q. Did you see anything inside the car, specifically
25 the front seat, on the front seat, that caught your attention?
- 26 A. Yes, sir.
- 27 Q. What was that?
- 28 A. There was an advertisement just like the one that

017787

1 was on the front windshield.

2 Q. The driver's or passenger's side?

3 A. I believe it was on the driver's side.

4 Q. And did you have a chance to look at the ignition

5 to the car on that day?

6 A. Yes, sir.

7 Q. Did the ignition appear to have been hot-wired?

8 A. It didn't appear to. I didn't see anything that

9 would indicate that, no.

10 Q. Were there any keys in the ignition when you got to

11 the scene?

12 A. No, sir.

13 Q. Did you notice any substance which appeared to you

14 to be tobacco in the car?

15 A. Yes, sir.

16 Q. Where in the car?

17 A. It was located on the front seat and floorboard

18 area.

19 Q. Near which side, driver's side or passenger's side?

20 A. I know there was some on the passenger side, but it

21 was pretty well scattered about.

22 Q. Did you observe the condition of the back seat, the

23 seat behind the driver's seat when you arrived?

24 A. Yes, sir.

25 Q. What condition was that?

26 A. It was folded down.

27 Q. And specifically directing your attention to a

28 small photograph, three by five color picture which has been

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1 marked for identification as 578, does that reflect the
2 condition of the back seat when you arrived?

3 A. Yes, sir, it does.

4 Q. And likewise Exhibit 572, does that indicate or
5 does that depict the condition of the front seat in terms of the
6 position of the flyer when you looked inside the car on the
7 11th?

8 A. Yes, sir.

9 Q. Did you notice within the vehicle any what appeared
10 to be reddish-brown substances?

11 A. Yes, sir.

12 Q. Where inside the car?

13 A. Be on the door, lower portion of the doorjamb.

14 Q. Which door?

15 A. Driver door.

16 Q. And directing your attention to a photograph which
17 has been marked for identification as Exhibit 576; does that
18 depict one of the locations at which you saw the reddish-brown
19 substance?

20 A. Yes, sir, it does.

21 Q. And directing your attention to an exhibit which
22 has been marked for identification as Exhibit 577; does that
23 depict another location at which you observed some reddish-brown
24 substance?

25 A. Yes, sir.

26 Q. Directing your attention to an exhibit which has
27 been marked for identification as 575; do you recognize which
28 portion of the car that is a picture of?

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1 A. It would be the passenger front seat area adjacent
2 to the door.

3 Q. Is that the area that's specifically between where
4 the seat, the passenger seat, and the front of the car ends and
5 where the running board to the passenger door starts?

6 A. Yes, sir.

7 Q. And do you see within that any of the debris that
8 visually appeared to you to be tobacco?

9 A. Yes, sir.

10 Q. And that is that its approximate location as you
11 saw it on that particular Saturday?

12 A. Yes.

13 Q. And that was Exhibit 575?

14 A. Yes, sir.

15 Q. At some point was the car towed from the church
16 parking lot to an area within the city yards of Long Beach?

17 A. Yes, sir, it was.

18 Q. And were you present when criminalists Ogino and
19 Stockwell collected certain items of evidence from the station
20 wagon Saturday, June the 11th, at the city yard in Long Beach?

21 A. Yes, sir, I was.

22 Q. Were you likewise present when some additional
23 processing was done by the crime lab on Sunday, June the 12th?

24 A. Yes, sir.

25 Q. And where did that processing take place?

26 A. It took place in San Bernadino at the automotive
27 section.

28 Q. Was that after your agency had had the car towed

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1 from Long Beach to San Bernadino?

2 A. Yes, sir, it was.

3 MR. KOCHIS: I have no further questions.

4 THE COURT: Mr. Negus.

5

6

CROSS-EXAMINATION

7 BY MR. NEGUS:

8 Q. Mr. Hall, was the front bumper of the Buick
9 approximately ten inches from the brick wall that's depicted
10 behind it there in the photograph with you in it?

11 A. Yes, sir, that's correct.

12 Q. And the front tire there on the other side that you
13 can't see in the picture, did that have any damage to it?

14 A. Yes, sir, it did.

15 Q. What was that?

16 A. There was a slice or a cut in the tire, the side
17 portion, approximately one inch from the rim. It was
18 approximately one-and-a-half inches in length, approximately one
19 inch in width.

20 Q. Had that slice resulted in any like -- had the tire
21 gone flat from it?

22 A. No, sir, it had not gone flat.

23 Q. Did you -- was there -- was there another older
24 vehicle parked next to the station wagon?

25 A. Yes, sir, there was.

26 Q. Did you conduct a search of that particular
27 vehicle?

28 A. No, sir, I did not.

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1 Q. Did you take any evidence from that particular
2 vehicle?

3 A. No, sir, I did not.

4 Q. Did you notice whether there was any flyers on the
5 windshield of that particular vehicle?

6 A. No.

7 Q. When you first got to the -- to the Long Beach
8 area, was there -- was there various radio communications
9 amongst various members of the Sheriff's Department about the
10 discovery of the car?

11 A. I can only assume. I don't know for sure.

12 Q. When the surveillance was called off, was that
13 because the broadcast media had broadcast news of the discovery
14 of the car?

15 A. I -- I really don't know. I was --

16 Q. That wasn't your decision?

17 A. No, that was made by somebody else.

18 Q. Were you actually involved in the surveillance
19 yourself or you were waiting at some other location?

20 A. No, sir, I was not.

21 Q. You were back at Long Beach Police Department?

22 A. Yes, sir, I was.

23 Q. When you arrived at the -- at the parking lot
24 there, were there television trucks there?

25 A. I believe they arrived after. Some came.

26 Q. Approximately how long after?

27 A. Momentarily.

28 Q. You arrived about -- a little after 4:00?

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1 A. Yes, sir.

2 Q. What was the condition of the parking lot when you
3 arrived as far as vehicles are concerned? Was it completely
4 full? Half full?

5 A. It was -- there was a large number of cars. They
6 had a graduation taking place at that particular time at the
7 church so there was several cars there.

8 Q. Well, was it -- were there -- just showing -- just,
9 for example, using this aerial photograph, 569, were there more
10 cars than is depicted in the photograph there now?

11 A. I would say so, yes. I remember the photographs
12 being taken and a lot of people had left if I recall correctly.

13 Q. Would -- would the parking lot have been completely
14 full at any time when you were there?

15 A. I couldn't say.

16 Q. The -- in the -- in the -- in this particular
17 photograph, 569, you can see if you look closely a little
18 sheriff's office tape that's been put up around the cars, strung
19 between the wall and a couple of, looks like Long Beach police
20 cars?

21 A. Yes, sir.

22 Q. What time was that put up, if you know?

23 A. As soon as we arrived.

24 Q. So, just a little after 4:00 then.

25 A. Yes, sir.

26 Q. At what time was the car towed back over to the
27 Long Beach Police Department?

28 A. Approximately 6:06.

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1 Q. What work was done on the car before it was towed
2 away?

3 A. Basically an exterior check for physical evidence.

4 Q. Did you go inside the car at all?

5 A. I did not, no, sir.

6 Q. Did anybody that you observed?

7 A. Detective Roper conducted a -- he attempted to
8 locate latent prints on the inside by placing swatches of gauze
9 with a chemical on it that would produce -- that would bring out
10 latent prints, and they were just merely laid in the vehicle.

11 Q. Directing your attention to Exhibit 572, there is
12 some little white pieces of gauze appear on the seat of that
13 vehicle; is that what you're talking about?

14 A. I believe so. I don't know exactly where he placed
15 them.

16 Q. Those particular little swatches, though, were not
17 present when you first saw the car; is that correct?

18 A. No.

19 Q. It's correct, that they weren't present?

20 A. Right.

21 Q. How did you get the door open?

22 A. Which door?

23 Q. The -- whatever doors you opened to get inside the
24 car.

25 A. I did not do that.

26 Q. Who did?

27 A. It would have been either Deputy Duffy or Detective
28 Roper.

1 Q. Was that with a jimmy of some sort?
2 A. I -- You'd have to ask them. I don't recall now.
3 Q. Could you tell whether or not the slash in the
4 tire, the slice in the tire was fresh or not?
5 A. No, sir.
6 Q. In the car was there some like a coke cup from
7 Burger King?
8 A. Yes, sir.
9 Q. Was that seized as evidence?
10 A. I don't know if it was or not, sir.
11 MR. NEGUS: I have nothing further.
12 MR. KOCHIS: Nor do I.
13 THE COURT: Thank you, Mr. Hall.
14 THE WITNESS: Thank you, sir.
15 MR. KOCHIS: Craig Ogino.
16 THE COURT: You were previously sworn, Mr. Ogino. Just
17 resume the chair.
18 THE WITNESS: Yes, your Honor.
19 THE COURT: State your name again for the record, please.
20 THE WITNESS: My name is Craig Ogino.
21
22 CRAIG OGINO,
23 called as a witness by the People, having been previously duly
24 sworn, resumed the stand and testified further as follows:
25
26 FURTHER DIRECT EXAMINATION
27 BY MR. KOCHIS:
28 Q. Mr. Ogino, at my request did you bring some boxes

1 containing tobacco which were seized from various locations in
2 this case?

3 A. Yes.

4 Q. Could you hand those to me so I could have the
5 clerk mark them while I question you on another area.

6 A. (Witness complied.)

7 Q. Mr. Ogino, on June the 8th, 1983, did you go to the
8 Identification Bureau in San Bernadino and remove some evidence
9 from what appeared to be some Olympia Gold Light beer cans and
10 then from the hatchet involved in this particular case?

11 A. Yes, I did.

12 Q. Starting first with the hatchet, which has been
13 marked for identification in this case as Exhibit 42, I believe.
14 Do you recognize this item?

15 A. Yes, I do.

16 Q. Did you remove from the item what appeared to you
17 to be possibly blood?

18 A. Yes.

19 Q. And did you assign that a laboratory identification
20 number?

21 A. Yes.

22 Q. Which number did you assign the blood?

23 A. L-1.

24 Q. And did you -- how did you get the blood off the
25 hatchet?

26 A. First of all I scraped it and then swabbed the
27 remaining stain from the the hatchet.

28 Q. When you're talking about swabbing, do you use a

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1 Q-tip or something?

2 A. No.

3 Q. What do you use?

4 A. What I do is I take a cotton string and soak that

5 in distilled water and remove the remaining traces of blood with

6 this particular swabbing technique.

7 Q. Were then the scrapes and the swab material placed

8 in some type of container?

9 A. Yes.

10 Q. What type?

11 A. A metal container.

12 Q. And did you place any identification on the

13 container itself?

14 A. Yes.

15 Q. What would that have consisted of?

16 A. The item number which was L-1, the laboratory

17 number, my initials and the date.

18 Q. Did you at the same time remove what appeared to

19 you to be some human hair --

20 A. Yes.

21 Q. -- from the hatchet?

22 What portion of the hatchet did you take the blood

23 off of?

24 A. It was just to the right of this identification

25 tag, right in this area here (indicating).

26 Q. To the area that you are pointing to the jury?

27 A. Yes.

28 Q. So, it was on the head of the hatchet not far back

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- 1 from the blades; is that correct?
- 2 A. Approximately halfway back from the the blade.
- 3 Q. About how many inches back do you think?
- 4 A. Approximately three, three or four.
- 5 Q. Where was the hair that you removed from the
- 6 hatchet when you first saw its?
- 7 A. It was also in this area. You could still see the
- 8 strands of hairs marking on the hatchet.
- 9 Q. And which identification number did you assign to
- 10 the hair?
- 11 A. That was assigned L-2.
- 12 Q. And did you place that then in a separate
- 13 container?
- 14 A. Yes.
- 15 Q. Did you at the same time approximately take what
- 16 appeared to be samples of a reddish-brown substance from some
- 17 beer cans?
- 18 A. Yes.
- 19 Q. Do you remember what type of beer cans?
- 20 A. Yes.
- 21 Q. What type?
- 22 A. They are Oly Gold beer cans.
- 23 Q. Directing your attention to an exhibit which has
- 24 been marked for identification as 195, appears to be an eight by
- 25 ten color photograph of the inside of a refrigerator.
- 26 Is that the type of beer can that you removed the
- 27 reddish-brown substance from?
- 28 A. Yes.

- 1 Q. Now, how many beer cans did you remove this
2 reddish-brown substance from?
- 3 A. Two.
- 4 Q. Did it appear to be dried blood?
- 5 A. Yes.
- 6 Q. Was one of the beer cans an empty can?
- 7 A. Yes, sir.
- 8 Q. What identification number did you assign to the
9 blood that you took off the empty Oly Gold beer can?
- 10 A. Item L-3.
- 11 Q. And how did you get it off the beer can?
- 12 A. The same technique I used on the hatchet. First of
13 all I scraped any major blood and then swabbed the trace blood.
- 14 Q. Did you likewise take what appeared to you to be a
15 reddish-brown portion of a stain off an Olympia Gold beer can
16 which was full?
- 17 A. Yes, sir.
- 18 Q. Did you use the same technique?
- 19 A. Yes.
- 20 Q. What identification number did you assign to that
21 bloodstain?
- 22 A. Item L-4.
- 23 Q. Were both L-3 and L-4 placed in separate
24 containers?
- 25 A. Yes.
- 26 Q. What type of container?
- 27 A. Again, metal pill containers.
- 28 Q. Did you place any identification -- any

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- 1 identification on either L-3 or L-4?
- 2 A. Yes.
- 3 Q. What type?
- 4 A. Again the laboratory number, the item number, L-3
- 5 and L-4 respectively, also my initials and the date I collected
- 6 these items.
- 7 Q. Did you then take the "L" series of items, L-1
- 8 through L-4, back with you to the crime lab in San Bernadino?
- 9 A. Yes.
- 10 Q. What did you do, if anything, with the three
- 11 containers that contained the samples of the bloodstains?
- 12 A. They were placed on our evidence counter.
- 13 Q. Were they logged in?
- 14 A. Yes.
- 15 Q. On June the 9th of 1983 did you return to the Ryen
- 16 home at 2943 Old English Road?
- 17 A. Yes.
- 18 Q. And did you collect any evidence from the home on
- 19 that day?
- 20 A. Yes.
- 21 Q. What did you collect?
- 22 A. Four bags of tobacco.
- 23 Q. Did you assign those bags of tobacco an
- 24 identification number?
- 25 A. Yes.
- 26 Q. What number did you assign?
- 27 A. Item "Q".
- 28 Q. And were those -- were those items -- excuse me --

1 those four bags of tobacco taken back with you to the crime lab
2 in San Bernadino?

3 A. Yes.

4 Q. On Saturday, June the 11th of 1983, did you go to
5 the Long Beach area with David Stockwell?

6 A. Yes, sir.

7 Q. And on that day were you involved in the removal of
8 certain items of evidence from a vehicle?

9 A. Yes.

10 Q. Do you remember which car it was?

11 A. Yes.

12 Q. Which car?

13 A. It was a 1977 Buick Estate Wagon, California
14 license No. 2ALL731.

15 Q. Mr. Ogino, the photograph which has been marked for
16 identification as Exhibit 181, does that appear to be a
17 photograph of the station wagon you took certain items of
18 evidence out of on Saturday, June the 11th?

19 A. Yes.

20 Q. When you first saw the station wagon, do you recall
21 where it was located on that Saturday?

22 A. Generally, yes.

23 Q. Where was it?

24 A. It was inside a church parking lot.

25 Q. Did the removal of items of evidence take place in
26 the church parking lot or in another location?

27 A. It was at another location.

28 Q. Was that a city yard located somewhere in Long

017801

1 Beach?

2 A. Yes.

3 Q. And did you and Mr. Stockwell both participate in

4 the removal of certain items of evidence from the car at that

5 location?

6 A. Yes, sir.

7 Q. Do you know about what time you and Mr. Stockwell

8 started taking items of evidence out of the station wagon?

9 A. Yes.

10 Q. What time?

11 A. It was after 5:30 that evening.

12 Q. Now, directing your attention to an exhibit which

13 we've marked for identification in the trial as Exhibit 500, and

14 specifically to Pages 1712 starting at the bottom under item

15 "V", V-1, and 1713 ending with item V-26; is that essentially a

16 typewritten list of 26 items of evidence which you removed from

17 the Ryen station wagon in the city yard at Long Beach on

18 Saturday, June the 11th?

19 A. Yes.

20 Q. Among the items that were removed from the car, did

21 they include the vacuum sweepings of the rear passenger seat?

22 A. Yes.

23 Q. And which laboratory identification number, if any,

24 did you assign to that particular item?

25 A. Item V-13.

26 Q. And did you -- What was the item that you assigned

27 the laboratory identification of V-3 to?

28 A. It was identified as vacuum sweepings from the rear

017802

1 passenger compartment.

2 Q. Did you use a special vacuum attachment for that?

3 A. Yes.

4 Q. Now, did you remove what appeared to be any
5 cigarette butts from the inside of that car?

6 A. Yes.

7 Q. And was one of those later assigned the number
8 V-12?

9 A. Yes, it was.

10 Q. Directing your attention to Exhibit 584, which is
11 an envelope which contains a small can which has been marked as
12 V-12, do you recognize the writing on that particular can?

13 A. Yes.

14 Q. Is that yours or Mr. Stockwell's?

15 A. It's Mr. Stockwell's.

16 Q. Do you recall where V-12 was located when you first
17 saw it?

18 A. It was located in a crevice in the front seat on
19 the passenger side.

20 Q. Now, in the area of the front seat between the
21 passenger's seat and the door to the car, did you see any type
22 of substance which attracted your attention?

23 A. Yes.

24 Q. What did it appear to be?

25 A. It looked like brown vegetable material.

26 Q. Consistent with being perhaps tobacco?

27 A. Yes.

28 Q. Was that material seized in your presence?

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1 A. I don't remember it actually being collected, no.
2 Q. Were you doing some of the collecting and Mr.
3 Stockwell doing some of the collecting?
4 A. Yes.
5 Q. Did you also see a cigarette butt in the car that
6 appeared to be a manufactured filtered cigarette, specifically
7 item V-17?
8 A. Yes.
9 Q. And are you aware between you and Mr. Stockwell who
10 actually seized that one?
11 A. Yes.
12 Q. Who?
13 A. Mr. Stockwell.
14 Q. Did you sieze a single, what appeared to be a black
15 curly hair from the inside of that station wagon?
16 A. Yes.
17 Q. Where was this hair when you first saw it?
18 A. It was on the floor in front of the -- on the
19 front -- in the front of the front seat passenger side on the
20 floor.
21 Q. Did you assign a laboratory identification number
22 to that?
23 A. Yes.
24 Q. Which number? V-19?
25 A. Yes, sir.
26 Q. Now, was that hair seized with your hands or did
27 you pick it up with a vacuum cleaner or what did you do?
28 A. Picked it up with forceps.

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1 Q. Was that before the -- was the front floorboard
2 ever vacuumed to your knowledge?

3 A. The front floor was vacuumed, yes.

4 Q. Did you pick the hair up before it was vacuumed?

5 A. Yes.

6 Q. Was it something then that you saw with your --
7 with your naked eye as you looked in the front of the car?

8 A. Yes.

9 Q. Did you package that separately?

10 A. Yes.

11 Q. Did you likewise locate inside the car what
12 appeared to be a piece of black electrical tape?

13 A. Yes.

14 Q. Where was it when you saw it?

15 A. It was on the floor in front of the passenger's
16 seat in the front.

17 Q. Did you -- was it seized?

18 A. Yes.

19 Q. Was a laboratory identification number assigned to
20 it?

21 A. Yes.

22 Q. Which one?

23 A. Item V-22.

24 Q. The following day, Sunday, June the 12th of 1983,
25 were you involved in the continuing processing of that
26 particular station wagon?

27 A. Yes.

28 Q. And did you go and take certain things out of the

- 1 car on that Sunday as well?
- 2 A. Yes.
- 3 Q. Where was the car located when you processed it on
- 4 Sunday, June the 12th?
- 5 A. At the sheriff's motor pool.
- 6 Q. And on that particular Sunday did you scrape or
- 7 remove from the inside of that car reddish-brown substances
- 8 which appeared to you visually to be consistent with dried
- 9 blood?
- 10 A. Yes.
- 11 Q. Returning your attention again to the exhibit which
- 12 has been marked for identification as Exhibit 500, on Page 1713
- 13 does there appear a list, W-1 through W-7, of certain locations
- 14 from which you removed possible bloodstains from that particular
- 15 car?
- 16 A. Yes.
- 17 Q. Directing your attention, Mr. Ogino, to a series of
- 18 photographs, the first one of which we have marked for
- 19 identification as Exhibit 576; does that particular photograph
- 20 accurately reflect one of the locations from which you removed a
- 21 sample of blood from the Ryen car on Sunday, June the 12th?
- 22 A. Yes, it does.
- 23 Q. And do you recall which location?
- 24 A. Yes.
- 25 Q. Which one?
- 26 A. It's this location which is right above the number
- 27 12 in the ruler in the picture.
- 28 Q. Could you perhaps circle that with a red felt pen?

1 A. (Witness complied.)

2 Q. Do you recall which laboratory identification
3 number between W-1 and W-7 you assigned that particular blood
4 scrape?

5 A. Yes.

6 Q. Which one?

7 A. W-1.

8 Q. And how get the blood off that portion of the car?

9 A. Again, I scraped first and then swabbed the
10 remaining stain.

11 Q. Which door to the car was that?

12 A. That was the driver's door.

13 THE COURT: Find a convenient point, Mr. Kochis.

14 MR. NEGUS: This would be a convenient point.

15 THE COURT: Let's take the afternoon recess

16 (Recess taken.)

17

18 THE COURT: Please, continue.

19

20 FURTHER DIRECT EXAMINATION

21 BY MR. KOCHIS:

22 Q. Mr. Ogino, directing your attention back to one of
23 the photographs, specifically Exhibit 576.

24 Could you join me at the board for a moment, with
25 the red Sharpie, and can you put a W-1 inside the circle that
26 indicates the location of that particular sample.

27 A. (Witness complied).

28 Q. Do you see in that Photograph 576 any other

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1 reddish-brown substance that you thought was blood that you
2 likewise collected on that particular Sunday, June the 12th?

3 A. Yes.

4 Q. Could you circle that as well.

5 A. (Witness complied).

6 Q. Which laboratory identification number, if any, did
7 you assign to that second group?

8 A. W-3.

9 Q. Can you place that inside the circle.

10 A. (Witness complied).

11 Q. Directing your attention to what has been marked
12 for identification as Exhibit 577, which is another eight by ten
13 color photograph.

14 Does that likewise appear to be a portion of the
15 Ryen car?

16 A. Yes.

17 Q. And does that exhibit depict the approximate
18 location from which you removed another reddish-brown substance
19 that you thought to be blood?

20 A. Yes.

21 Q. Could you circle that for the jury.

22 A. (Witness complied).

23 Q. And could you likewise indicate with the "W"
24 identification number which number was assigned to that
25 particular sample.

26 A. W-2. (Witness complied).

27 Q. You may return to your seat for a moment.

28 How many separate locations from the Ryen car, on

1 that Sunday, did you remove what appeared to you to be
2 reddish-brown stains consistent with blood?

3 A. Six.

4 Q. Did you remove an item that you assigned a
5 laboratory identification number as W-4?

6 A. Yes.

7 Q. What did that appear to be? Where was it located
8 when you seized it?

9 A. It was standard paint from the door of the Ryen
10 car.

11 Q. And for what purpose would that have been removed?

12 A. We use -- we need standards to compare unidentified
13 paint to known paints, so that we could actually do a comparison
14 of.

15 If we get say a questioned paint chip, we need a
16 standard or something to compare that to so we could come up
17 with our final opinion.

18 Q. Did you likewise remove a reddish-brown substance
19 from the seat belt housing unit itself?

20 A. Well, I actually collected the entire seat belt
21 housing. I didn't remove any blood from it.

22 Q. What number was that assigned?

23 A. W-5.

24 Q. And what was W-6?

25 A. W-6 is the front seat passenger side, the headrest.

26 Q. Did there appear to be reddish-brown stains at that
27 location as well?

28 A. Yes.

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1 Q. Was that seized by yourself?

2 A. Yes.

3 Q. And what was -- the number W-7, was that assigned
4 to?

5 A. It is identified as blood, possible blood collected
6 from the driver's side, rear door and running board.

7 Q. Were the "W" series of items, W-1 through 7, those
8 items which were seized on Sunday, June the 12th, were they
9 later taken back to the crime lab in San Bernardino?

10 A. Yes.

11 Q. Were they packaged separately, do you know?

12 A. Yes.

13 Q. Was the car also luminoled on Sunday, June the
14 12th?

15 A. Yes.

16 Q. Was that by yourself or by Mr. Stockwell?

17 A. We both luminoled the car together.

18 Q. And were certain portions of the car that reacted
19 to the luminol, were they also subjected to the ortho-tolidine
20 test?

21 A. Yes.

22 Q. Now, directing your attention back to an item which
23 has been marked for identification in the trial as Exhibit 582.
24 It bears your laboratory identification number of J-28.

25 Do you recognize the writing on the same side of
26 that small white box upon which J-28 appears?

27 A. Yes.

28 Q. And whose writing is it?

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1 A. That is my writing.

2 Q. And is there any notation on the box as to the
3 approximate time and date at which the item inside J-28 was
4 seized?

5 A. Yes.

6 Q. What time and date?

7 A. At 1:12 in the morning, the morning of June 8th,
8 1983.

9 Q. From what location was the item seized?

10 A. From a white box that was located in a closet.

11 Q. And have you had a chance to examine that exhibit
12 in court today?

13 A. Yes.

14 Q. What does it contain?

15 A. Tobacco.

16 Q. Is that the tobacco that was removed by yourself
17 from the white box which was found inside the closet in the
18 Lease home in which the bedding and pillows were found?

19 A. Yes.

20 Q. Was that likewise taken back with you to the crime
21 lab sometime on June the 8th of 1983?

22 A. Yes, it was.

23 MR. KOCHIS: I have no further questions, your Honor.
24

25 FURTHER CROSS EXAMINATION

26 BY MR. NEGUS:

27 Q. We may have gone through this before, this is the
28 white box, this Exhibit 163, from which you removed that tobacco

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1 at 1:12 in the evening.

2 A. Yes, sir.

3 Q. And was that white box still inside the closet at
4 that time?

5 A. Yes, sir.

6 Q. Did it have the fingerprint powder on it?

7 A. I don't recall.

8 Q. Is it possible that Mr. Duffy handed you the
9 tobacco in some container other than that white box, Exhibit
10 163?

11 A. Could you repeat that?

12 Q. Is it possible that Mr. Duffy, from the I.D.
13 bureau, Gale Duffy, handed you the tobacco inside J-28 in some
14 container other than handing you that box that is Exhibit 163?

15 A. No. I actually removed the tobacco myself.

16 Q. And as you removed it you wrote the exact time and
17 date that you removed it on that J-28 box?

18 A. Yes.

19 Q. Mr. Kochis had the picture on the wall.
20 The beer cans?

21 A. Here.

22 Q. Photograph 195, which is the picture of the type of
23 beer can from which you scraped off samples.

24 Did you see these beer cans in the Ryen
25 refrigerator on June the 6th, 1983?

26 A. Yes.

27 Q. Did you scrape any blood from them at that point in
28 time?

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1 A. No, sir.

2 Q. Did you -- when you saw the beer cans in the

3 refrigerator, did you likewise see the reddish-brown stains that

4 were on the side of the refrigerator?

5 A. Yes.

6 Q. Did you scrape those away on June the 6th?

7 A. No, sir.

8 Q. When you saw the beer cans inside the refrigerator,

9 was there any condensation on them?

10 A. Not immediately, no.

11 Q. Was there after a time?

12 A. Yes.

13 Q. Did you see any condensation on the wall of the

14 refrigerator?

15 A. No.

16 Q. Can moisture reduce the value of a blood stain as

17 far as typing is concerned?

18 A. Yes.

19 Q. If you have a moist bloodstain right next to a dry

20 bloodstain, is it best to take the best dry bloodstain as far as

21 typing is concerned?

22 A. Well, that depends. If your moist bloodstain is

23 fresher, you might be able to get more information out of that.

24 Say, for example, liquid blood versus bloodstain,

25 the stain is obviously older.

26 Q. You have two stains and you have no way of knowing

27 which is older, to you think its best to take the dry rather

28 than the moist?

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1 A. Again, what you want to do is take the stain which
2 will give you the most information.

3 Q. Wouldn't that be the dry stain in most
4 circumstances, all else being equal?

5 A. Not if it was liquid, actual whole blood, you would
6 want the whole blood.

7 Q. But, okay. Let me -- maybe I'm being sloppy in my
8 question.

9 If you had dry blood that has become moist versus
10 dry blood which had not, would it be best to take the dry blood
11 which had not become moist?

12 A. Yes.

13 Q. When you were examining Exhibit 42, the hatchet,
14 was there -- did you notice any black pigment on it?

15 A. Yes, sir.

16 Q. Where was that?

17 A. Over just about the entire hatchet.

18 Q. What kind of black pigment was that?

19 A. It appeared to be the fingerprint powder.

20 Q. And do traces of that black pigment still remain on
21 the hatchet?

22 A. Possibly, yes.

23 Q. Did you examine the hatchet before it was dusted
24 for prints?

25 A. No, sir, I did not.

26 Q. When you -- the first time that you examined the
27 hatchet then would have been June the 8th?

28 A. Yes, sir, that's correct.

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1 Q. Were you aware at that point in time that Mr.
2 Stockwell had collected from the autopsy a piece of Peggy Ryen's
3 skull which had a black pigment on it?

4 A. No.

5 Q. When you collected blood from this hatchet, that
6 was the area that's sort of cleared off right to the right of
7 the hatchet on the labeled side.

8 A. Right. To the right of the Plaintiff's exhibit
9 label, yes.

10 Q. Okay. And that would be then just towards the
11 handle end of the blade from where the little hairs were?

12 A. Yes. Just underneath and towards the handle.

13 Q. Did you collect all of the substance on the hatchet
14 that appeared to be blood?

15 A. No, sir.

16 Q. Did you collect the areas that appeared to be like
17 the thickest in blood?

18 A. Yes, sir.

19 Q. Directing your attention to what is now remaining,
20 a sort of semicircular type stain, that would be the stain
21 closest to the upper right point as we look at the hatchet on
22 the side with the Plaintiff's Exhibit 19-A label on it.

23 Was that thicker than that particular stain you
24 removed?

25 A. Yes, sir.

26 Q. Before you removed any stain from the hatchet, did
27 you test it with ortho-tolidine or any other screening device to
28 determine whether in fact what you had was presumptively blood?

1 A. I don't believe I did, no.

2 Q. Did you examine the handle of the hatchet to
3 determine whether or not there was anything that appeared to
4 look like blood on the handle at that point in time?

5 A. All I did was I collected the stain from the head
6 which had the most concentrated area of blood on it.

7 Q. Can you say whether there was blood or not on the
8 handle?

9 A. No.

10 Q. The handle at that point in time was not this
11 purplish color; is that right?

12 A. That's correct.

13 Q. On the side that doesn't have the plaintiff's
14 exhibit on it, but has the Estwing sticker on it, there's some
15 black -- well, now it is I guess gray substance that's along
16 there.

17 Did that appear, appear to you to be blood?

18 A. I don't recall.

19 Q. As you look at it now, is that consistent with
20 fingerprint powder?

21 A. Yes.

22 Q. The hairs that you pulled off of the hatchet, did
23 they appear to have blood on them when you pulled them off?

24 A. Yes.

25 Q. Did you freeze item L-1, the blood scraped off the
26 hatchet?

27 A. I personally did not place it in the freezer, no.

28 Q. Did you ask that somebody else in your lab place

1 L-1, L-3 and L-4 in the freezer?

2 A. It is usually done. I didn't ask anyone.

3 Q. L-1 and L-4.

4 A. Yeah.

5 Q. Also L-3; is that correct? But not L-2, right?

6 A. Right.

7 Q. Mr. Kochis mentioned something about, something of

8 bringing some bags of tobacco to court.

9 Did you -- the item "Q" bags, did you bring those

10 to court or are those --

11 A. He's talking about something else.

12 Q. The item "Q" bags that you, that you obtained, did

13 they all come from the same place in the Ryen house?

14 A. Yes.

15 MR. NEGUS: Counsel, do you have Exhibit 198 there?

16 MR. KOCHIS: I would have to know what it is.

17 MR. NEGUS: A photograph of the dining room.

18 MR. KOCHIS: No.

19 BY MR. NEGUS:

20 Q. Showing you Exhibit 198, and there appears to be

21 four -- well, there appears to be at least some pouches that are

22 shown just to the left of the green circle in that photograph.

23 Is that the area from which you obtained all your

24 pouches?

25 A. No.

26 Q. Where else did you get them?

27 A. They were in the trophy room.

28 Q. Were they already collected or, I mean, did you see

1 any -- well, let me back-up.

2 Did you see any pouches of tobacco in the spot
3 that's shown there in the photograph just to the right of the
4 dining room?

5 A. Excuse me, to the left of the green circle on
6 Photograph Exhibit 198? I didn't see any there, no.

7 Q. Did you undertake a search of the house to
8 determine where all there might be tobacco in the house?

9 A. Yes.

10 Q. What all areas did you look?

11 A. In the Ryen bedroom, the trophy room, the room --
12 the furthest room to the east of the house.

13 Q. What -- let's see. On the Exhibit 6-G, which room
14 would that be?

15 A. This one right here.

16 Q. The sunken room, the living room?

17 A. Yes.

18 Q. Did you see a pouch of tobacco in that particular
19 room?

20 A. I don't believe so, no.

21 Q. Did you see an ashtray in that room?

22 A. I don't remember.

23 Q. Do you remember what brands of tobacco you
24 collected?

25 A. Yes.

26 Q. What were they?

27 A. Don Pablo, Borkum Riff, Captain Black, and
28 Scandanavic.

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1 Q. Showing you Exhibit 461, a little photograph of the
2 living room.

3 Do you ever remember whether the areas circled in
4 red with pipes and ashtrays was still in that condition when you
5 looked in the house?

6 A. I don't recall.

7 Q. On June the 8th, all the furniture had been removed
8 from the Ryen master bedroom; is that right? Or what day was it
9 you got the tobacco?

10 A. June the 9th.

11 Q. Excuse me, on June the 9th all the furniture had
12 been removed from the Ryen master bedroom; is that right?

13 A. Yep, I believe so far.

14 Q. Did you go down to the I.D. loft to look through
15 the stuff they had there to see whether or not there was any
16 additional tobacco there?

17 A. No, I did not.

18 Q. On the -- on the car in your -- in your notes, you
19 have different terminology. You talk about a back compartment.

20 What area of the car would the back compartment be
21 according to how you all had it labeled?

22 A. Which item are you referring to?

23 Q. Which? Well, let's say V-3.

24 A. That would be the portion of the vehicle just to
25 the -- just behind the laid down seat portion.

26 Q. Okay. So that would be like between the back
27 doors, is that --

28 A. No, further back than that.

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1 Q. All the way -- all the way -- the very back of the
2 car?

3 A. Yes.

4 Q. Was the -- was the back seat laid down all the way
5 from -- from, you know, up to -- up to and including the area
6 between the two back doors?

7 A. I don't believe so.

8 Q. What was the terminology used between the area --
9 between the two back doors?

10 A. The midsection of the vehicle.

11 Q. As far as V-13 was concerned, you had that labeled
12 as back floor; where is that?

13 A. If you open the tailgate of the station wagon, that
14 seat was still up and the floor area in front of that seat.

15 Q. Well, which seat -- was there one of the seats that
16 was down?

17 A. Yes.

18 Q. Which one was that?

19 A. The midsection area.

20 Q. So then what, you had an area that was flat from
21 the driver's -- from where the driver and front passenger would
22 sit to where the back seats were?

23 A. Yes.

24 Q. Was that long enough for a -- for a human being to
25 sort of -- I mean adult-sized human being to stretch out and lie
26 down in it?

27 A. I don't recall how long that was.

28 Q. Did -- did you observe a Burger King coke cup with

1 a lid and a straw in the midsection of the car?

2 A. I believe so, yes.

3 Q. Did you sieze it?

4 A. I don't -- No, I did not.

5 Q. Did you all -- did you sieze a -- some paper

6 napkins from the front passenger floor and from the front

7 driver's floor?

8 A. Yes.

9 Q. And the ones on the passenger's side, did you give

10 the number V-18 and the ones in the the driver's side V-21?

11 A. Yes.

12 Q. Showing you Exhibit 585, does that appear to be the

13 same axe that we have here or Exhibit 42?

14 A. It appears to be, yes.

15 Q. Okay. The area which is somewhat scraped on this

16 axe that you indicated here in court was where you took your

17 sample, could you see that same area in the photograph?

18 A. It's a little difficult, but, yes I can see it.

19 Q. Does it appear to be essentially scraped clean in

20 the same way that it is here on the axe in the photograph?

21 A. No.

22 Q. Can you see the -- there's a little hair here that

23 looks like it's sort of a long vertical thing with a -- with

24 four little things coming out from it. Can you see that right

25 there in the middle of the area on the hatchet?

26 A. Yes.

27 Q. There's an area circled in purple on that

28 particular photograph; is that the area from which you took the

1 blood?

2 A. Yes.

3 Q. That would actually on this particular hatchet then

4 be underneath where the label is placed; is that correct?

5 A. Just slightly, yes.

6 Q. Not the -- not the area that's cleared on the

7 hatchet?

8 A. This area right here (indicating).

9 Q. So there's another area that's been cleared by some

10 force other than yourself; is that right?

11 A. Yes.

12 Q. When -- when you were in Long Beach, did you drive

13 back to San Bernadino approximately midnight?

14 A. It was very late. I don't know if it was

15 approximately midnight.

16 Q. Do you remember whether it was foggy at that point

17 in time?

18 A. No, I don't recall.

19 Q. On the -- the "W" series of things, was it you that

20 actually collected those, Stockwell well, or both?

21 A. No, I collected those items.

22 Q. As far as the W-5, the seatbelt housing, did you

23 package that?

24 A. Yes.

25 Q. Did you put it in a plastic bag?

26 A. Yes.

27 Q. Did you seal it?

28 A. No.

1 Q. Did you put it in a box with a bunch of other
2 items?

3 A. It might have been placed in another larger bag.

4 Q. Were you -- you were also removing some foam
5 cushions and other items of that nature at the time?

6 A. Yes.

7 Q. Did you take care of the freezing of the W-1
8 through 3 and 5 through 7 items when you got back to the lab or
9 was that again left for an assistant?

10 A. I believe I froze W -- W-1, W-2, W-3, and W-7.

11 Q. What about W-5?

12 A. That blood had to be actually removed from that
13 housing before it could be frozen.

14 Q. Did you do that or did somebody else?

15 A. I did not do that, no.

16 Q. Did you give it to somebody else like, for example,
17 Mr. Gregonis to remove?

18 A. I believe so, yes.

19 Q. The paint chip that you removed from the car, that
20 was just general practice, you didn't have any particular paint
21 transfer you intended to compare it with; is that correct?

22 A. Well, there were missing paint on that door, you
23 could actually see it in that photograph there, and that's why
24 we took that standard paint sample.

25 Q. All right. But it was because -- it was -- it was
26 a sort of just in case rather than you had something specific in
27 mind that you found somewhere else that you were going to
28 compare it to?

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2 1 A. Yes. Since that missing paint on the door was
2 right next to one of the blood stains we figured we might come
3 up with an item with not only blood but possibly a paint
4 transfer.

5 Q. But you never have as far as you are aware -- you
6 never made such a comparison after that particular day; is that
7 right?

8 A. That's correct.

9 Q. When the luminol test was performed on the vehicle,
10 that was in the automotive shed, I guess you might call it, or
11 whatever it is, in San Bernadino.

12 A. Yes.

13 Q. And the ortho-tolidine part of that, did you do
14 that or did Mr. Stockwell?

15 A. Mr. Stockwell did that.

16 Q. Did you all take any pictures of the reactions that
17 you got?

18 A. No, sir.

19 Q. Did you make any diagrams of them?

20 A. No.

21 Q. Did you spray the luminol before or after you had
22 taken the "W" samples?

23 A. After.

24 Q. Did you see any areas bigger than just a speck,
25 when you sprayed it with luminol, that glowed?

26 A. Yes.

27 Q. Where was that?

28 A. In the midsection of the seat in the crevice area.

1 Q. Any of those pictures that you've got up there show
2 where that was?

3 A. This seat was folded back up, the midsection of the
4 seat, and it was in the crevice there in the middle of that.

5 Q. You are referring to Exhibit 578; is that right?

6 A. Yes, sir.

7 Q. And in order -- well, as it was -- as the seat was
8 positioned when you discovered it, you couldn't have sprayed
9 luminol; is that right?

10 A. That's correct.

11 Q. When you got that reaction, how much -- how much
12 did you see, was it all, the whole crevice or just a portion of
13 it?

14 A. A portion of it.

15 Q. Were you able to scrape any out in order to test
16 and see whether or not it was human blood?

17 A. It wasn't visible to the naked eye.

18 Q. Did you -- did you see any shoe impressions on
19 the -- either of the floorboards, what appeared to be reactions
20 of the luminol consistent with being shoe impressions?

21 A. There was a reaction on the floor mat, however,
22 there wasn't anything definite I could call a shoe impression.

23 Q. Was it a fairly good -- I mean what was the
24 dimensions of it, if you can recall?

25 A. I don't recall.

26 Q. Voila. Referring to Exhibit 573 and 577, does --
27 on 573, does that show some of the -- some of the stuff that you
28 collected as suspected blood?

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1 A. No.

2 Q. Did you see those -- those particular nicks and
3 impressions when you were examining the car?

4 A. Well, this seat cover was removed.

5 Q. At what point in time?

6 A. Prior to collecting the bloodstains.

7 Q. After the seat cover was removed, was it
8 essentially carted off and given to the I.D. Bureau?

9 A. Yes.

10 Q. So, there was -- was there ever any testing done on
11 the two nicks and parallel lines that appear in both photograph
12 574 and 573?

13 A. I don't believe so.

14 Q. When you -- when you were processing the car at
15 Long Beach, did you in fact notice those?

16 A. I probably did, yes.

17 Q. Well, do you have any recollection now or is that
18 just a --

19 A. Well, if it did look like blood I would have
20 collected it. It probably didn't look like blood.

21 Q. Do you have any recollection of that right at the
22 present time or is that just a standard operating procedure type
23 thing?

24 A. Well, that's -- Now that's pretty obvious. I don't
25 recall -- I don't recall collecting it, and if it did look like
26 blood I know I would have collected it.

27 Q. The area from which you saw what you thought was
28 suspected blood on the seatbelt housing shown here in 574,

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1 that's that little nick that I am pointing to right there; is
2 that right?

3 A. Yes.

4 Q. And circle that in red so we know what we're
5 talking about. That -- Is that, the area that I circled in red
6 on 574, is that the only area on W-5 that you thought there was
7 blood?

8 A. Yes. Well, let me -- Yes, that's correct. There
9 are, there or probably very close to that area.

10 Q. The -- at some point in time did you try and take a
11 measurement from, I guess it's the -- the area of where -- well,
12 does W-2 and W-3, if you close the door of the car, would they
13 turn out to be adjacent to one another?

14 A. Very close, yes.

15 Q. At some point in time, in I think February of '84,
16 sometime in that general time frame, did you attempt to take a
17 measurement between that nick on the seatbelt housing right
18 there (indicating) and the nick in the door near W-2?

19 A. Yes.

20 Q. How far was that?

21 THE COURT: Perhaps he can find it during the recess and
22 take it up in the morning.

23 MR. NEGUS: Okay.

24 THE COURT: We will have you back tomorrow at 9:30, Mr.
25 Ogino.

26 THE WITNESS: Yes, your Honor.

27 THE COURT: Ladies and gentlemen, please, remember the
28 admonition over the evening adjournment. Return tomorrow

1 1 SAN DIEGO, CALIFORNIA, TUESDAY, DECEMBER 4, 1984, 9:30 A.M.

2 --ooOoo--

3
4 (Chambers conference reported.)

5 THE COURT: Good morning. The defendant and all counsel
6 are in chambers.

7 Gentlemen, you wanted something?

8 MR. NEGUS: Yes, I did. Mr. Cooper is sick, your Honor.
9 He was snuffling all day yesterday. And he went back to the
10 jail, requested that he be allowed to go see the doctor last
11 night. Because he was in court the jail has some rule that he
12 is not allowed to do that. He, therefore, requested to be put
13 on the 7:00 o'clock sick call this morning. Because he was
14 coming to court, the jail had some rule that he couldn't do
15 that.

16 He cannot concentrate without getting some
17 medication, so I would request that he be sent back to the jail
18 until such time as he can get some medication and be able to
19 concentrate and pay attention to the case against him.

20 THE COURT: Mr. Kottmeier, Mr. Kochis, have you done any
21 checking with the jail here?

22 MR. KOTTMEIER: No, your Honor. This is the first that
23 I've heard anything about Mr. Cooper's problem.

24 THE COURT: Do you know, bailiff, when we could get
25 medical attention for him?

26 THE BAILIFF: We can go down there and request it
27 immediately. It's going to probably take 45 minutes to an hour.

28 THE COURT: Would the doctor -- is it a doctor or a

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1 nurse, do you know?

2 THE BAILIFF: They have a nurse. They have a doctor that
3 comes in once a week or something like that, but it's generally
4 a nurse.

5 THE COURT: Could the nurse come here?

6 THE BAILIFF: That could be possible, yes. We can make
7 that request.

8 THE COURT: What seems to be the problem, Mr. Negus?

9 MR. NEGUS: I think he is coming down with the flu. He
10 has some sort of swelling that you can feel right in here
11 (indicating), plus he is all congested. He has a whole bunch of
12 other symptoms.

13 THE COURT: Well, it's going around right now.

14 Could I have the bailiff call, see if we can get a
15 nurse here and move on.

16 MR. NEGUS: However. However we can get attention to Mr.
17 Cooper, that's what we need. But he needs medication before he
18 goes into court, something to clear him up because he can't
19 concentrate.

20 THE COURT: Medication wouldn't work that fast.

21 MR. NEGUS: He can't concentrate as it is now, is my
22 understanding. He was having trouble yesterday.

23 When he called me on the phone last night he
24 indicated he thought he could get medication this morning or
25 else he wouldn't be able to come to court, and then he asked for
26 medication this morning and couldn't get it.

27 THE COURT: You're asking that we simply lie fallow for
28 awhile till we can get him recovered in some manner?

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1 MR. NEGUS: Yes. Mr. Cooper I think is an important
2 person to have understanding what's going on.

3 THE COURT: Well, he hasn't been coughing. He hasn't
4 exhibited any signs other than perhaps to yourself. Even though
5 he doesn't feel well, couldn't we go ahead and start and get a
6 nurse or medical attention for him as soon as possible?

7 MR. NEGUS: I would have liked to have done that. That's
8 why Mr. Cooper didn't mention anything yesterday because he
9 thought that -- as they have the sick call at 7:00 o'clock there
10 would be no problem, but I am reluctant to do that because, you
11 know, there's -- I'm -- I can see grave constitutional problems
12 in going ahead when Mr. Cooper can't pay attention to what's
13 going on around him.

14 MR. KOCHIS: Your Honor, I need some additional time to
15 mark some additional exhibits for Mr. Gregonis. Maybe the
16 bailiff can find out during that period of time if the nurse can
17 come over and give him an examination, give him some medication.

18 THE COURT: Let's see how quickly we can get a nurse
19 here. Tell the nurse probable flu, symptoms if he has anything
20 to bring them with him.

21 Tell the jurors to relax a few minutes.

22 Go ahead mark it.

23 Tell me when the ETA of the nurse will be, please.

24 THE BAILIFF: Sure will.

25 THE COURT: Okay. Let's go back outside for awhile.

26 (Chambers conference concluded.)

27

28 (Chambers conference reported.)

1 THE COURT: Again everybody is present and the nurse is
2 here.

3 Would you state your name, please

4 MS. BAKER: Lucille Baker.

5 THE COURT: Have you examined Mr. Cooper sitting behind
6 you?

7 MS. BAKER: Yes.

8 THE COURT: Can you tell us your findings?

9 MS. BAKER: Well, he appears to have symptoms of flu and
10 he has a sore throat, has an inflamed lymph node, which goes
11 with a sore throat.

12 THE COURT: And what can you do for him?

13 MS. BAKER: I have started him on our standard medication
14 which we give at the downtown jail which is a Tetracycline, one
15 capsule four times a day, Chlor-Trimeton, two tablets three
16 times a day, and Sudafed.

17 THE COURT: Have you already given him the medicine?

18 MS. BAKER: Yes. I give him one full dose.

19 THE COURT: And?

20 MS. BAKER: I also gave him some Tylenol because he said
21 he had a little bit of a headache. He thought he might have a
22 fever. I was not told to bring a thermometer so I couldn't test
23 him.

24 THE COURT: You didn't take his temperature?

25 MS. BAKER: No, I didn't have a thermometer with me. But
26 he doesn't appear to have a fever. He just has symptoms of flu
27 which we all go through. A lot of us don't treat ourselves, we
28 just keep going.

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1 THE COURT: Do you think he could keep going in trial
2 this morning?

3 MS. BAKER: Oh, definitely. He may get a little sleepy
4 because of the Chlor-Trimeton.

5 THE COURT: Do you think he can listen, evaluate,
6 concentrate, communicate with counsel?

7 MS. BAKER: Oh, definitely.

8 THE COURT: Mr. Negus, anything?

9 MR. NEGUS: No.

10 THE COURT: All right. We thank you very much. Is there
11 some way -- this trial as you may know is a particularly
12 extended one and it's a capital case so we've got a lot of
13 people involved in it at some great distance. So we'd we like
14 to keep Mr. Cooper healthy if at all possible.

15 Is there some way you can monitor him the next few
16 days, something like this, make a point of it, please?

17 MS. BAKER: Well, the only way we can do it is just to
18 check him. We really usually start the medication and they take
19 it on their own, most of the people over there do take it on
20 their own each day.

21 But are you asking that he be maintained in our
22 dispensary?

23 THE COURT: All I want to do is have some educated,
24 medically educated person such as yourself give him some extra
25 attention for a couple days if at all possible. So could you
26 check in with him perhaps tonight or tomorrow morning early and
27 see how he is doing, see if there is anything that we can do or
28 a prescription that needs to be changed or anything?

1 MS. BAKER: Okay. Well, I will put him down to see Dr.
2 Mathews, our doctor that will be coming in tonight for sick
3 call.

4 THE COURT: That's fine.

5 MS. BAKER: And he will be down on sick call. Then the
6 doctor will evaluate him at that time, and if he feels that he
7 should be in our medical ward, why, then he can be placed there
8 for a couple days.

9 THE COURT: I'm not trying to do that, you understand.
10 I'm trying to keep him well so he will not be isolated or in a
11 medical ward if at all possible.

12 MS. BAKER: Because this is the only way that we could
13 really watch him well enough so he could have some extra fluids,
14 like juice or something like that, and make sure that he took
15 his medication.

16 THE COURT: Well, have the doctor see him.

17 MS. BAKER: Okay.

18 THE COURT: Okay.

19 THE COURT: Thank you.

20 THE COURT: All right. Let's go back out in court.

21 Bring the jurors in.

22 (Chambers conference concluded.)

23

24 (The following proceedings were held in
25 open court in the presence of the jury:)

26 THE COURT: The delay was unavoidable this morning,
27 ladies and gentlemen, sorry.

28

1 CRAIG OGINO,
2 called as a witness by the People, having been previously duly
3 sworn, resumed the stand and testified further as follows:
4

5 FURTHER CROSS-EXAMINATION

6 BY MR. NEGUS:

7 Q. I've placed on the board Exhibits 573, 574, 576,
8 and 577.

9 Yesterday, Mr. Ogino, we were trying to remember
10 exactly what the measurements were, and I'd like to start with
11 the measurement between W-2 and the nick in the -- in the
12 housing which is a part of W-5.

13 Do you have the negatives of those particular
14 measurements that you took with you?

15 A. Yes.

16 Q. And could you -- would that refresh your
17 recollection as to what measurement was?

18 A. Yes.

19 Q. Could you do that, please?

20 A. It was three inches.

21 Q. Okay. And then did you also continue on to make a
22 measurement between the housing and the spot -- back up.

23 When you did the measurements, what they had was
24 this foam rubber cushion in place, they didn't actually have the
25 vinyl, right?

26 A. That's correct.

27 Q. But did you continue on along and make a straight
28 line measurement to approximately the spot on the seat with you

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1 sitting on it that those nicks would have been on?

2 A. We used the two points that you previously
3 described to draw a straight line. We didn't have any reference
4 on the seat to guide us.

5 Q. Okay. When you -- when you -- when you used the
6 two points then to draw a straight line, what was the distance
7 between W-2 and the place on the seat where the ruler came out?

8 A. I don't have that information.

9 Actually we used three points. There was the nick
10 on the actual door and the two nicks on the -- well, one nick on
11 the seatbelt housing and the other nick which is on the
12 curvature of the door.

13 Q. Okay. So the only -- the only measurement then you
14 know is between this spot here, the nick on the seatbelt housing
15 and the nick on the door?

16 A. That's where we placed the ruler, yes.

17 Q. So, you know that's three inches but you don't have
18 any other?

19 A. We couldn't. We didn't have any other reference
20 point to go by.

21 Q. Would it be a fair approximation that the distance
22 between that nick on the seatbelt housing and the nearest point
23 in a straight line on the seat was about seven inches?

24 A. Yes. I think you could say that.

25 Q. Now, just yesterday you said that -- that you
26 don't -- can you tell, for example, from either of these
27 photographs which we have here, 573 or 574, whether or not those
28 substances in the nicks and on the lines is in fact blood.

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1 A. The lines did not look like blood.
2 Q. Do you remember that now?
3 A. Yes.
4 Q. What about the nicks?
5 A. That could have possibly been blood, the side of
6 the nicks.
7 Q. Was Mr. Roper, was Mr. Roper there when -- when the
8 car was being examined?
9 A. In Long Beach?
10 Q. Yes.
11 A. Yes.
12 Q. Do you recall whether sometime seeing him actually
13 take measurements, while you were processing the car, between
14 those two spots?
15 A. No.
16 Q. Those spots in there, the rust -- the reddish-brown
17 colored spots, did they -- are -- could you tell us whether or
18 not they were blood?
19 A. They appeared to be, yes.
20 Q. But there's no -- but you didn't collect them or
21 test them?
22 A. That's correct.
23 Q. The particular alignment of all those particular
24 nicks and cuts, was it essentially a straight line from wherever
25 with it was collected through this up to where those particular
26 nicks are?
27 A. It was -- it was a straight line between the three
28 points we used. Again, we didn't have a reference on the seat

1 to determine where that nick was, the seat wasn't on the car.

2 Q. Do you remember at the scene having noticed this
3 was in a straight line?

4 A. No.

5 Q. Did the marks that you saw on the -- on the car
6 appear to be consistent with some sharp object such as a knife
7 having been caught in the door when the door was closed, gouged
8 into the seatbelt housing and made those nicks on the surface of
9 the vinyl?

10 A. The mark on the seatbelt housing wasn't a sharp
11 mark, it was more of like a scrape more like.

12 Q. Okay. Did it appear to be consistent with perhaps
13 the back end of a knife?

14 A. Again, it's hard to say without doing actual tests
15 on that seatbelt housing.

16 Q. What kind of test would you do?

17 A. Well, try to duplicate that type of mark.

18 Q. Did you see anything inconsistent with it being
19 a -- some sort of stabbing instrument approximately -- at least
20 ten -- with a blade at least ten-and-a-half inches long with
21 blood on it?

22 A. I couldn't say for sure.

23 Q. I mean, you saw nothing inconsistent?

24 A. That's correct.

25 Q. The marks on the door, though, definitely were
26 gouged here; were they actually gouged into the metal?

27 A. The marks on the -- the curvature of the car
28 actually went through paint and into metal.

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1 Q. Would that then have been consistent with some
2 metallic type object rather than say plastic or wood?

3 A. It would possibly be a hard object. I couldn't
4 necessarily say metallic.

5 Q. Did you examine it closely to see whether there was
6 any signs of scraping or anything?

7 A. Yes.

8 Q. Could you see any?

9 A. No.

10 Q. What has happened over the -- over the nighttime to
11 refresh your recollection about the -- about the nature of those
12 stains that are right below the No. 13 on Exhibit 574?

13 A. I remember them being, it looked like more of a
14 drink or soda type stain rather than blood. It wasn't the
15 reddish color blood like the one on the nick. It was a very
16 much more dark color.

17 Q. Well, what happened -- what happened over the --
18 over the -- over the break --

19 Yesterday you couldn't remember what it was at all;
20 is that correct?

21 A. Yes.

22 Q. What happened over the break to refresh your
23 recollection?

24 A. I just thought about it a little harder when you
25 asked me.

26 Q. The marks on -- on the seat there, did they appear
27 to be like drips?

28 A. Yes.

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1 Q. Like this was running down the side of the seat?

2 A. Yes.

3 Q. Did you see any sort of like impression marks such
4 as you saw on the -- on the round part of the vinyl, then did
5 you see impression marks on the seat?

6 A. No.

7 Q. Have you been back to -- have you been back to look
8 at that vinyl covering in the I.D. loft since June the 12th?

9 A. No.

10 Q. Did Mr. Roper suggest to you on either the 11th or
11 the 12th that that might have been blood?

12 A. I don't recall.

13 MR. NEGUS: I am finished with the cross-examination of
14 what Mr. Kochis did yesterday.

15 We had reserved cross-examination on some of Mr.
16 Kottmeier's redirect until I had a chance to examine the notes.
17 I am prepared to go into that now or to wait till when Mr. Ogino
18 next returns for us, whichever the Court and counsel desire.

19 THE COURT: I don't care one way or another.

20 MR. KOCHIS: We could proceed with that at this time.

21 THE COURT: Go ahead then, Mr. Negus.

22 BY MR. NEGUS:

23 Q. Okay. When you were here before talking to Mr.
24 Kottmeier you indicated that one explanation of how you might
25 have found footprints in blood in the particular locations that
26 you found them in would be that if the shoes had become dampened
27 by shower steam they might have started to rub off going in that
28 direction. Is that basically a restatement of what you said?

1 A. Yes

2 Q. Okay. Would that presuppose that the shoes had
3 been left at approximately the position of the suspected foot
4 impression at the bottom of the diagram there?

5 A. Near that area, yes.

6 Q. So that would presuppose that they were left in the
7 hallway; is that right?

8 A. Or just inside the entrance to the bathroom.

9 Q. The shower is all the way down over here, right?

10 A. Yes.

11 Q. And there is sort of a dressing area that exists
12 with a sink between that door and that door down there; is that
13 right?

14 A. Yes.

15 Q. This area here is carpeted, correct?

16 A. Yes.

17 Q. Would you expect to see impressions on that
18 carpeted area where the shoes presumably were sitting and put
19 on?

20 A. Not at the time that they were removed but after
21 the time the blood had a chance to reabsorb or get remoistened.

22 Q. Well, your theory was that somehow the steam from
23 the shower made it out through the bathroom, through the -- this
24 dressing area over to this spot and remoistened them. Is that
25 basically how it works?

26 A. Either steam from the shower or type of moisture,
27 possibly on the rug could have -- also have done it.

28 Q. Well, when you were there, did you see like any

1 damp spots to the rug or anything like that that might have
2 been --

3 A. No.

4 Q. Well, if the, if the shoes had actually been
5 removed on the tile -- well, this area inside the bathroom near
6 the toilet, that is tile; is that right?

7 A. Yes.

8 Q. If they had actually been removed on the tile over
9 here near the shower, you would expect to see foot impressions
10 coming through this carpet there, if that was, if your theory
11 was correct; is that right?

12 A. Assuming he put his shoes on in the shower or in
13 that area and then walked through there, yes.

14 Q. And have you -- you have done some experiments, you
15 know, to try and verify your -- have you done any experiments
16 with shoes to see whether shower steam will cause these kinds of
17 patterns that you have seen?

18 A. No.

19 Q. Between the Ryen house and 2991, you did go out and
20 make some observations, did you not, to attempt to answer
21 questions about how an assailant could have traveled from 2943
22 to 2991; is that correct?

23 A. You mean various pathways?

24 Q. Right.

25 A. Yes.

26 Q. And you looked for physical evidence along those
27 pathways?

28 A. Yes.

1 Q. And you even collected vegetation samples from
2 that, from that area betwix 2991 and 2994 (sic); is that right?

3 A. Yes.

4 Q. Basically in order to get from 2943 to 2991 you
5 have to cross grass.

6 A. Yes, I believe so.

7 Q. Were you out there doing that at night when you
8 were looking around, or was that in the daytime?

9 A. It was in the daytime.

10 Q. During the times that you were there at the scene
11 at night, did you ever happen to notice in the particular time
12 of year whether the grass was damp at night?

13 A. No.

14 Q. Did you ever do any experiments to determine
15 whether or not it was possible for someone who had stepped in
16 blood at the Ryen house, but who didn't have sufficient blood on
17 their shoes to leave visible impressions on any place other than
18 the sheet, could have left that sort of general quantity of,
19 amount of blood that it takes, whether or not it would have been
20 possible, traveling the distance from the Ryen house to the
21 Lease house still to have left bloody impressions such as
22 luminol can pick up? Did you ever do such an experiment?

23 A. No, sir.

24 Q. Did you ever do any experiments, just in general,
25 leaving aside that specific, that specific area, to determine
26 like how many, how many steps or how long blood will give an
27 impression off a shoe when you are walking on it?

28 A. No, sir.

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1 Q. When -- in the shower area at 2991, um, do you have
2 a clear recollection of what the pattern was that you saw when
3 you sprayed luminol on that area on I guess June the 8th?

4 A. It was a general banding pattern.

5 Q. Sort of a band around the middle?

6 A. Um, somewhat. More towards the corners.

7 Q. What do you mean by that, "more towards the
8 corners"?

9 A. Well, there was also a band in the back of the
10 middle portion of the shower and also where the corners meet.

11 Q. Well, was it just sort of an overall glow?

12 A. Yes.

13 Q. And didn't have any particular shape or size to it
14 that you can recall; is that right?

15 A. That's correct.

16 Q. When you -- when you went back out to the house a
17 few months ago, that was in September; is that right?

18 A. Yes.

19 Q. In Chino, are the months of July and August dry and
20 hot?

21 A. I remember it being very hot that night, yes.

22 Q. And the months before that throughout July and
23 August, those are dry months, that you know?

24 A. I believe so, yes.

25 Q. Whereas May and June in Chino tend to be damp,
26 foggy months; is that right?

27 A. I don't know that.

28 Q. Certainly wasn't hot when you were out there any of

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1 the days that you were processing the Ryen or Lease house; is
2 that correct?

3 A. It was moderately hot, yes, in June.

4 Q. How hot is moderately hot, would you say?

5 A. I'd say 80 to 85, possibly.

6 Q. Possibly it was -- was it possible that it was
7 actually in the 70's or not even 71, 72 max?

8 A. I don't recall.

9 Q. Will the amount of moisture in the air affect the
10 growth of algae and fungae on shower walls?

11 A. Probably, yes.

12 Q. Did you, before you sprayed any luminol, ever
13 attempt to say moisten the walls with water for a period of time
14 before your initial spraying when you did your experiments in
15 September?

16 A. No, sir.

17 Q. Did you ever attempt to get some blood, human or
18 animal, put it on yourself, or some other volunteer, and take a
19 shower and see if you -- what kind of reaction, if any, you got
20 after you sprayed it three days later with luminol?

21 A. No, sir.

22 Q. Did you ever try and see what kind of reaction you
23 would get at all if somebody were in a shower with blood on them
24 and you sprayed it with luminol?

25 A. No.

26 Q. After you got the reaction from the wall with
27 bleach, then you left the house for a period of time in
28 September?

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1 A. We left water running on the shower trying to wash
2 the bleach out, yes.

3 Q. Okay. And that was for 20 minutes or half an hour?

4 A. Approximately, yes.

5 Q. Did you ever try and see whether the bleach
6 remained there if you didn't wash it off?

7 A. No, sir.

8 Q. And when you got back after leaving the water
9 running for 20 minutes or so, did you then let it dry?

10 A. Yes.

11 Q. For how long?

12 A. Until it was completely dry. We had a fan blowing
13 on it.

14 Q. At that point in time you got no reaction at all?

15 A. No, we did get a reaction.

16 Q. Do you remember testifying before that you got no
17 reaction?

18 A. We got no reaction that stuck to the wall with the
19 bleach on it. What it was doing, it was reacting before it hit
20 the wall and it would react and we'd see a mist of bright mist
21 falling before it actually hit the wall.

22 Q. I'm talking about when you got back after you'd
23 washed the bleach off the wall and then air-dried it, at that
24 point in time when you sprayed, just sprayed the luminol on the
25 wall, did you get a reaction?

26 A. Yes.

27 Q. What was that?

28 A. I have a picture of it here.

1 Q. Can you describe it?

2 A. It was a very spotty reaction. It extended from an
3 area approximately from the top of where the bleach was sprayed
4 all the way down to the floor.

5 Q. What was the -- what was this experiment you did in
6 September? What question was it designed to answer?

7 A. Whether bleach would react with luminol, and also
8 give a positive ortho-tolidine test, as was done when we
9 luminoled the house back at or about the time of the murders.

10 Q. You didn't actually perform, however, the
11 ortho-tolidine test; is that right?

12 A. Yes, I did.

13 Q. Last time you testified, didn't you say that you
14 hadn't seen the ortho-tolidine performed?

15 A. I didn't perform the ortho-tolidine test, I saw Mr.
16 Stockwell perform it

17 MR. NEGUS: If I could read, your Honor, from Page 3083
18 of the transcript, Lines 6 through 12.

19 MR. KOCHIS: Well, your Honor, I have a problem. That is
20 vague. There were two luminol, two ortho-tolidine tests, one in
21 June, one in September. I am not sure which one Mr. Negus is
22 talking about.

23 Is he talking about the experiment in September
24 when Mr. Stockwell or Mr. Ogino were there, or the
25 ortho-tolidine as well as the luminol, the June one?

26 MR. NEGUS: Maybe I am confused.

27 Q. Did you see Mr. Stockwell do the ortho-tolidine
28 test in June?

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1 A. No.

2 Q. Was the reaction that you got in the shower in
3 September, after you let the shower dry, the same as it was when
4 you first sprayed it?

5 A. No.

6 MR. NEGUS: That is all I have.

7

8 FURTHER REDIRECT EXAMINATION

9 BY MR. KOCHIS:

10 Q. Mr. Ogino, if I could talk to you for a moment
11 about the luminol process.

12 Are you familiar with the term capillary diffusion?

13 A. Yes.

14 Q. Is that a term that applies to luminol?

15 A. Yes.

16 Q. Could you tell the jury what that consists of?

17 A. That consists of -- it is almost the same as if you
18 have a lot of say cloth fibers, you moisten these fibers and you
19 get the diffusion of the liquid down through the fibers, as in a
20 capillary action.

21 Q. Are you talking about -- when you are talking about
22 diffusion, are you talking about, for us layman, the pattern
23 perhaps spreading out on a substance?

24 A. Yes.

25 Q. Would shag carpeting, for example, be an example of
26 the type of surface that might allow this diffusion process with
27 luminol to take place?

28 A. Yes.

1 Q. For example, if you had a shoe that was perhaps,
2 let's say, ten inches long, and you had stepped in blood and
3 then you had placed the shoe on a piece of shag carpeting, and
4 the diffusion took place, could that result in a luminol pattern
5 that was in fact longer than ten inches?

6 A. Yes.

7 Q. Mr. Negus asked you some questions about your
8 examination of the area between the Ryen home and the 2991
9 residence, hideout residence. Do you recall that?

10 A. Yes.

11 Q. Did you actually get a chance to walk through the
12 field between the Ryen home and that Lease home?

13 A. Yes.

14 Q. Do you recall what type of vegetation was in the
15 field?

16 A. Yes.

17 Q. Were there weeds, for example?

18 A. Yes.

19 Q. Any type of stickers in there?

20 A. Yes.

21 Q. Now turning your attention back to the car, the
22 Ryen station wagon.

23 For example, were among the items removed from that
24 car that you testified to yesterday, some plant burrs that you
25 numbered as V-6?

26 A. Yes.

27 Q. Do you recall where in the Ryen station wagon that
28 the plant burrs were when they were removed when they were first

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1 seen?

2 A. Yes.

3 Q. Where?

4 A. In the midsection of the folded down middle seat.

5 Q. That would have been in the seat directly behind
6 the driver's seat?

7 A. Yes.

8 Q. When you observed the results of the ortho-tolidine
9 test in September, more specific test, the ortho-tolidine tests
10 that were performed on the shower walls, the reaction that you
11 saw in September, was that consistent or inconsistent with the
12 presence of blood?

13 A. In September?

14 Q. In September.

15 A. That was consistent with the presence of blood.

16 Q. In September.

17 A. Oh, I'm sorry. No, in June. In September it was
18 not.

19 Q. How did the ortho-tolidine react in September?

20 A. It it was a negative reaction for blood.

21 Q. Now, was the process that you employed in
22 September, during the experiment, did you and Mr. Stockwell
23 first spray the shower with luminol to see if there were any,
24 for example, material in the shower, tile itself, or in the
25 grouting or any micros that would cause the luminol to react?

26 A. Yep.

27 Q. Did you get, in fact, a negative reaction when you
28 just sprayed the shower?

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1 A. Yes.

2 Q. Did you then apply bleach to the shower wall and
3 spray the luminol right over the bleach without washing it off?

4 A. Yes.

5 Q. Did you get a reaction?

6 A. Yes.

7 Q. Now, was the reaction you got in September, when
8 you sprayed the luminol directly on to the bleach, was that the
9 same type of reaction in terms of pattern that you saw back in
10 June of 1983 when you were conducting the investigation about
11 the house?

12 MR. NEGUS: Objection, assumes a fact not in evidence, to
13 which he said there was no pattern that he can remember from
14 June.

15 THE COURT: Overruled. You may answer.

16 THE WITNESS: It was different.

17 BY MR. KOCHIS:

18 Q. How was it different?

19 A. It was different in the sense that in September
20 when we sprayed the bleach in the shower, the reaction went from
21 the top portion of where we sprayed the bleach continuing all
22 the way down to the floor area of the shower, and in June that
23 was not the case. There was a banding pattern but it did not
24 extend down to the floor.

25 Q. After you put the bleach on in September, put the
26 luminol on, were the shower walls then washed?

27 A. Yes.

28 Q. With water?

1 A. Yes.

2 Q. And did you then leave the residence for a period
3 of about 20 minutes and allow the shower to dry?

4 A. Yes.

5 Q. Then did you come back and perform some additional
6 experiments on the the shower?

7 A. Yes.

8 Q. Would that have included ortho-tolidine?

9 A. Yes.

10 MR. KOCHIS: I have nothing further.

11

12 FURTHER RECROSS EXAMINATION

13 BY MR. NEGUS:

14 Q. After you did the wall of the shower, was there a
15 difference in which areas of the wall were reacting than when
16 you first sprayed the bleach?

17 A. Only in intensity.

18 Q. Well, when you sprayed the bleach on directly, let
19 the bleach sit on the wall there, the reaction was primarily on
20 the surface of the tiles; is that right?

21 A. Well, it was so strong we were getting reactions
22 before it actually the hit the tile. It was very violent.

23 Q. You say you took some photographs of those, of that
24 particular --

25 A. Well, I personally did not. We -- Mr. Stockwell
26 and I did take photographs. He was the one taking the
27 photographs.

28 Q. And was Billy Arthur there taking photographs, too?

1 A. Yes.

2 Q. Do you remember when you were spraying in
3 September, actually seeing dark spots on the the wall where the
4 grouting was?

5 A. No. They were bright spots where the grouting was.

6 Q. When you were dealing with the bleach?

7 A. After the luminol was sprayed?

8 Q. Right. You put the bleach on -- first of all,
9 let's call it the first test, the bleach test and then the third
10 test. How's that.

11 So during the bleach test did you see dark spots or
12 dark lines where the grouting was?

13 A. No, they were bright.

14 Q. After the luminol -- after the luminol had been wet
15 for a period of time, and then when the shower was running for
16 20 minutes, and then had been allowed to dry, at that point in
17 time did you get brighter reactions from the grouting than you
18 did from the actual tile?

19 A. Yes.

20 Q. Was that in distinction to what you'd got when you
21 just sprayed the bleach on?

22 A. Yes.

23 Q. Did that suggest to you that there might have been
24 microorganisms in the grouting that wouldn't react with the
25 luminol unless they had been dampened?

26 A. I think the reaction there is the bleach actually
27 being absorbed in the grouting. I'm not necessarily convinced
28 that that's due to the microorganisms, since the first test was

1 negative.

2 Q. Would it be consistent with microorganisms that
3 don't react unless you dampen them? You didn't exclude that
4 possibility in the design of your particular test.

5 A. I don't know that of microorganisms like that. But
6 if that was the case, yes.

7 Q. How long does it take for the kind of algae and
8 fungus that you have in the showers to start reproducing?

9 A. I don't know that.

10 Q. Do you know they have very short life cycles?

11 A. I don't know that.

12 Q. When you took the test to try the ortho-tolidine
13 with for the third test in September, did you scrape that off
14 the tile or the grouting?

15 A. The tile.

16 Q. Did you try the grouting?

17 A. No, sir.

18 Q. Have you done any experiments to see whether in
19 shag carpet, if you just have a shoe with enough blood on it so
20 that it will leave an impression, but not a visible impression,
21 that through capillary action a ten inch shoe can grow to
22 thirteen inches?

23 A. No.

24 MR. NEGUS: I have nothing further.

25

26 FURTHER REDIRECT EXAMINATION

27 BY MR. KOCHIS:

28 Q. Mr. Ogino one minor point.

017857

1 When the shower wall was rinsed in September, was
2 it rinsed for an entire period of 20 minutes or was it rinsed,
3 and did you leave the residence for about 20 minutes to allow it
4 to dry?

5 A. It was rinsed and then we left the residence with
6 the fan on allowing the walls to dry.

7 Q. Did you leave the water on in the shower for 20
8 minutes?

9 A. I don't recall. It was turned on but I am not sure
10 for how long.

11 MR. KOCHIS: I have nothing further.

12 MR. NEGUS: Nothing further.

13 THE COURT: Thank you again.

14 MR. KOCHIS: David Stockwell.

15 THE COURT: Mr. Stockwell, you remain under oath.

16 Take the stand and state your name.

17 THE WITNESS: David C. Stockwell.

18
19 DAVID C. STOCKWELL,
20 called as a witness by the People, having been previously duly
21 sworn, resumed the stand and testified further as follows:

22
23 FURTHER DIRECT EXAMINATION

24 BY MR. KOCHIS:

25 Q. Mr. Stockwell, I would like to take you back in
26 time to Saturday, June the 11th of 1983.

27 On that particular day did you go to the Long Beach
28 area with Mr. Ogino to assist in the processing of the Ryen

017858

1 station wagon?

2 A. Yes, I did.

3 Q. And directing your attention to a photograph the
4 jury has seen many times, it is Exhibit 181.

5 Does this appear to be a picture of the car you
6 eventually processed?

7 A. Yes.

8 Q. During its processing, did you locate some items of
9 evidence that were removed from the car?

10 A. Yes, I did.

11 Q. Did you remove two cigarette butts from the Ryen
12 car, one of which appeared to be a manufactured cigarette, one
13 of which appeared to be hand-rolled?

14 A. Yes, I did.

15 Q. Did you assign the laboratory identification number
16 of V-12 to the cigarette butt which appeared to be hand-rolled?

17 A. Yep.

18 Q. Do you recall where the cigarette butt was when you
19 first saw it?

20 A. Yes. That particular cigarette butt was found in
21 the passenger side seat of the front seat of the vehicle,
22 pressed into the crevice as made by the vertical portion and the
23 horizontal portions of seat.

24 Q. I would direct your attention to a photograph,
25 small photograph which has been marked for identification as
26 Exhibit 586. It is only three by five inches.

27 Is that a picture of the portion of the front seat
28 of the Ryen car in which you first saw the hand-rolled cigarette

1 butt?

2 A. Yes.

3 Q. In fact, if you look closely at the photograph

4 itself, can you see the cigarette butt V-12 in the picture?

5 A. Yes.

6 Q. Could you circle on the photograph with the black

7 felt pen the location of the cigarette butt, V-12, in that

8 particular exhibit.

9 A. (Witness complied).

10 Q. Do you recall how you packaged V-12?

11 A. I believe I placed it in a metal container.

12 Q. Directing your attention to Exhibit 584, which is a

13 white envelope from which I am going to remove what appears to

14 be a brass or gold-colored cannister.

15 Does that appear to be the container that you

16 placed the hand-rolled cigarette butt, V-12, into on the 11th of

17 June?

18 A. Yes.

19 Q. Is there any writing on the can that allows you to

20 identify it?

21 A. Yes.

22 Q. What type?

23 A. In my handwriting it shows the item No. V-12, as

24 well as the case No. 42376 by our laboratory, and a short

25 description of what is inside, cigarette butt from passenger

26 seat, and the time that it was collected.

27 Q. What time did you collect V-12?

28 A. 2130 hours, or 9:30 in the evening.

017860

1 Q. Was the laboratory identification number which was
2 assigned to the cigarette butt which appeared to have been
3 manufactured V-17?

4 A. Yes.

5 Q. Do you recall where you found V-17?

6 A. Yes. Again, it was in the front passenger area.
7 This particular cigarette was found very close, if not
8 underneath the passenger seat area.

9 Q. Was the front seat of that station wagon a bench
10 seat arrangement or bucket seat?

11 A. It was a bench seat.

12 Q. And you found the manufactured cigarette butt,
13 V-17, in an area that was consistent with where a passenger may
14 have sat or someone may have sat in the passenger seat in the
15 front of the car?

16 A. In that general vicinity, yes.

17 Q. Did you have to reach under the seat to retrieve
18 it?

19 A. I don't recall.

20 Q. Did you likewise locate in the car what appeared to
21 you to be some brown vegetation that was consistent visually
22 with tobacco?

23 A. Yes.

24 Q. Directing your attention to Exhibit 575, which
25 appears to be an eight by ten color photograph; does that
26 picture show you the approximate area in the Ryen car at which
27 you saw this loose tobacco?

28 A. Yes.

017861

1 Q. What part of the car did you see the tobacco at?

2 A. Again, in the front passenger compartment on the
3 passenger side just off to the right side of the passenger's
4 seat on the floorboard.

5 Q. Was it the portion of the car essentially between
6 where the seat ended and where the running board to the door
7 started?

8 A. Yes, basically on that carpeted portion.

9 Q. Do you still have the black pen?

10 A. Yes.

11 Q. Could you step to the exhibit, which I believe is
12 575, and could you circle for the jury on the photograph the
13 loose tobacco that you're talking about?

14 A. (Witness complied.)

15 Q. Now, did you package the loose tobacco separate
16 from V-17 and V-12?

17 A. Yes, I did.

18 Q. Did you assign a separate laboratory identification
19 number to the loose tobacco?

20 A. Yes.

21 Q. Was that V-15?

22 A. Yes.

23 Q. Now, directing your attention to an exhibit which
24 we've marked for identification in the trial as Exhibit 583, do
25 you recognize that particular small rectangular white box?

26 A. Yes.

27 Q. Is that the box into which you placed the loose
28 tobacco, V-15?

017852

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
December 4, 1984

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Official Reporters

COMPUTERIZED TRANSCRIPT

01170707

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017831

- 1 A. Yes, it is.
- 2 Q. And could you open the box for a moment. Does that
3 appear to contain the loose tobacco that you removed from the
4 Ryen car on July the 11 in Long Beach?
- 5 A. Yes.
- 6 Q. And likewise, the inside of V-12 which has been
7 marked as 584, could you open that. Does that contain anything?
- 8 A. Yes, it does.
- 9 Q. And what does it contain?
- 10 A. It contains the tobacco, or what remains of the
11 tobacco from the hand-rolled cigarette as well as a portion of
12 the paper which was used to encircle the tobacco.
- 13 Q. The condition of those items today, the tobacco and
14 the paper in the canister marked V-12, is that the way it
15 appeared when you say it back in June in Long Beach?
- 16 A. No.
- 17 Q. Was it actually in cigarette butt form?
- 18 A. Yes.
- 19 Q. The following day, on Sunday the 12th of June, did
20 you likewise proceed to an area in San Bernadino to continue the
21 processing of the Ryen station wagon?
- 22 A. Yes.
- 23 Q. And would that have been at a storage yard
24 maintained by the San Bernadino County Sheriff's Office?
- 25 A. Yes.
- 26 Q. Were you involved in the luminoling of the Ryen
27 station wagon?
- 28 A. Yes, I was.

017867

1 Q. And did you also perform the more specific test,
2 the ortho-tolidine test on portions of the car as well?

3 A. Yes, I did.

4 Q. Did you get any luminol reactions that were
5 consistent with the presence of blood on the station wagon?

6 A. Yes.

7 Q. Directing your attention to the photograph of the
8 car, 181, Exhibit 181, does that depict any of the areas of the
9 car on which you got a positive luminol reaction?

10 A. Yes, it does.

11 Q. And can you step to that photograph on the board
12 and with the red grease pen can you perhaps mark with a small
13 circle the area in the photograph at which you received the
14 positive luminol reaction?

15 A. In this particular photograph on the passenger door
16 behind the driver's door towards the front area on the running
17 board there was a small area of activity.

18 Q. I'm going to show you a series of smaller
19 photographs, Mr. Stockwell, the first of which is Exhibit 588.

20 Do you recognize that as a photograph of a portion
21 of the Ryen car?

22 A. Yes.

23 Q. Perhaps because of the small size of the picture,
24 could you explain to the jury verbally what portion of the car
25 is in that picture?

26 A. Yes. This is the front passenger compartment
27 looking in from the passenger door. This is the passenger's
28 seat, and this is the floorboard area.

017864

1 Q. Did you get a positive luminol reaction consistent
2 with the presence of blood in that area of the car?

3 A. Yes.

4 Q. Could you again with the red felt pen perhaps in a
5 circle indicate the area of that portion of the car that you got
6 the reaction in?

7 A. On this floor mat there was luminol reactions.

8 Q. What did you see? What type of luminol reaction?

9 A. It was extremely light reactions. There was not
10 much material there reacting to the luminol, but it gave a
11 positive luminol as well as a positive ortho-tolidine test. It
12 appeared as very light smearing type patterns.

13 Q. So, on that portion of the car you performed two
14 tests, the general luminol test and the more specific
15 ortho-tolidine test; is that correct?

16 A. Yes.

17 Q. And both of them you got a positive reaction
18 consistent with the presence of blood?

19 A. Yes.

20 Q. Did you perform the ortho-tolidine test on the
21 portion of the car indicated in Exhibit 181?

22 A. Yes. Actually I believe the ortho-tolidine test
23 was carried out before the luminol test on this area.

24 Q. And did you get a positive reaction?

25 A. Yes.

26 Q. Directing your attention to another small
27 photograph that's been marked for identification as Exhibit 577;
28 does this appear likewise to be a picture of a portion of the

017865

1 inside of the Ryen car?

2 A. Yes.

3 Q. Could you tell the jury, describe for the jury
4 because of the small size of the photograph, which portion of
5 the Ryen car is depicted in that photograph?

6 A. This is the midsection of the car, the
7 midpassenger's seat. The station wagon was laid out so that
8 passengers could ride in this midsection as well as in the rear
9 section.

10 This picture was taken depicting the area on the
11 side opposite of the driver looking into the midsection with the
12 seat placed in the down position. So this is the actual
13 vertical portion of the midseat, and it's lying down and this is
14 depicting the floorboard area.

15 Q. Did you apply the luminol to that portion of the
16 car?

17 A. Yes.

18 Q. Did you get a positive reaction any where?

19 A. Yes.

20 Q. Where?

21 A. On the floorboard area, down in this area, some of
22 which is obstructed in this photograph by various letters and
23 other items that were in the car, also this vertical portion of
24 the seat had luminol reactions. These for the most part in the
25 crevice area where the seat folds down between the horizontal
26 portion and the vertical portion of that seat.

27 Q. Did you also test that area with the
28 ortho-tolidine?

017866

1 A. Yes. Both those areas were tested.

2 Q. What reaction did you get?

3 A. Positive.

4 Q. Consistent with the presence of blood?

5 A. Yes.

6 MR. KOCHIS: Your Honor, I have some trouble locating two
7 of the photographs Mr. Negus used.

8 THE COURT: Let's take the recess then. We will take the
9 morning recess, ladies and gentlemen.

10 (Recess taken.)

11

12 THE COURT: Go ahead, Mr. Kochis.

13

14 FURTHER DIRECT EXAMINATION (Resumed)

15 BY MR. KOCHIS:

16 Q. Mr. Stockwell, getting back to June the 12th, San
17 Bernardino, and the luminol of the Ryen car.

18 Exhibit 586, does that also depict a portion of the
19 Ryen car at which you performed the luminol test?

20 A. Yes.

21 Q. Is that also the approximate area at which you had
22 removed the hand-rolled cigarette butt, the V-12, the preceding
23 day, Saturday?

24 A. Yes.

25 Q. Could you step to the small photograph and indicate
26 for the jury where, on the front seat, you got the luminol
27 reaction.

28 A. On the vertical portion of the passenger side of

1 the front seat, there are very small and light patterns that
2 gave positive results with the luminol reaction.

3 (Witness complied).

4 Q. And you are indicating on the photograph. Is that
5 the red felt pen?

6 A. Yes.

7 Q. Did you also subject that portion of the car to the
8 the ortho-tolidine test?

9 A. Yes.

10 Q. And what type of a result did you get?

11 A. The result consistent with the presence of blood.

12 Q. Now, directing your attention to two larger
13 photographs, one which has been marked for identification as
14 576.

15 Did that depict a particular area of the Ryen car?

16 A. Yes.

17 Q. Which part of the Ryen car?

18 A. That is the lower portion of the driver's door.

19 Q. And did it show an area of the car at which you got
20 a positive luminol reaction consistent with the presence of
21 blood?

22 A. Yes.

23 Q. Could you circle for the jury the approximate areas
24 in that photograph where you got the positive luminol reaction.

25 A. (Witness complied).

26 Q. When you saw the picture today just now, did there
27 already appear to be red circles drawn on the picture in the
28 approximate area that you got the positive luminol reaction at

017868

1 on June the 12th?

2 A. Yes.

3 Q. And have you drawn an outline around the larger

4 circle and a portion of the smaller circle?

5 A. Yes.

6 Q. Did you also perform the ortho-tolidine, the more

7 specific test, to that part of the car?

8 A. Yes.

9 Q. What type of reaction did you get?

10 A. It indicated a positive reaction consistent with

11 the presence of blood.

12 Q. Directing your attention next to another eight by

13 ten photograph which has been marked for identification as 577.

14 Does that depict a portion of the Ryen car?

15 A. Yes.

16 Q. Which part of the car?

17 A. This is the driver's area. This is the driver's

18 seat in the upper left-hand corner. This is the entryway to the

19 door.

20 Q. Did you get a positive ortho -- excuse me --

21 luminol reaction at that portion of the car?

22 A. Yes.

23 Q. Could you indicate with a red felt pen where on the

24 car you got the reaction.

25 A. (Witness complied).

26 Q. And because there's two marks on the picture, could

27 you perhaps put "DS" for David Stockwell during or near the

28 circle you've drawn.

017869

1 A. (Witness complied).

2 Q. Did you also perform the more specific test, the
3 ortho-tolidine test on that part of the car?

4 A. Yes.

5 Q. And what type of reaction did you get?

6 A. It gave a positive result indicative of the
7 presence of the blood.

8 Q. Other than the area we have just talked about, did
9 you test any other areas on the Ryen vehicle, on the 12th of
10 June, with luminol, for which you got a positive reaction?

11 A. Those were all of the areas that gave positive
12 luminol results.

13 Q. I'd like to ask you perhaps a limited question or
14 two about luminol at another location.

15 Did you perform a luminol test on a shower and a
16 sink located at the 2991 residence, the Lease or hideout
17 residence, on approximately June the 8th of 1983?

18 A. Yes.

19 Q. Do you see on Exhibit 5, over which we have put
20 5-E, the bathroom at which you did the ortho-tolidine test on
21 the 8th of June in the Lease house?

22 A. Yes.

23 Q. Are there any -- there was a sink; is that correct?

24 A. Yes.

25 Q. Is there any mark on what appears to be 5-E that
26 indicates the sink that you performed the more specific test,
27 the ortho-tolidine test, on June the 8th?

28 A. Yes. HH-3.

017870

1 Q. And if I could indicate to the jury, are you
2 talking about the sink located at this particular location in
3 what appears to be, I believe, the southeast bedroom? Or
4 northeast bedroom?

5 A. The bathroom south of the northeast bedroom; what I
6 would call the southeast bathroom.

7 Q. When you performed the ortho-tolidine test, the
8 more specific test for blood in that sink, what type of reaction
9 did you get?

10 A. It gave a reaction indicative of the presence of
11 the blood.

12 Q. You got a positive reaction?

13 A. Yes.

14 Q. Now, was there a shower in that particular
15 bathroom?

16 A. Yes.

17 Q. And is the shower located in the same room and does
18 it have the marks on it, at least on 5-E, at the location of
19 HH-4 and T-2?

20 A. Yes.

21 Q. What type of result did you get when you performed
22 the more specific test, the ortho-tolidine test, on that
23 particular shower?

24 A. It was positive.

25 Q. Consistent with the presence of the blood?

26 A. Yes.

27 MR. KOCHIS: Your Honor, I have no further questions of
28 Mr. Stockwell.

1

2

FURTHER CROSS EXAMINATION

3

BY MR. NEGUS:

4

5

6

Q. Mr. Stockwell, indicative of the presence of blood phrase you just used for the ortho-tolidine test, that is an exaggeration?

7

A. I don't believe it is an exaggeration, no.

8

Q. It is also indicative of other things, is it not?

9

A. That is true. It is not a conclusive test.

10

11

12

Q. So when you say "indicative", what you really know, what you really mean to say, normally are saying is, it is consistent with.

13

A. Yes. That's another way of saying it.

14

15

16

17

Q. But there's nothing about that particular test that indicates it is blood versus microorganisms, versus horse manure, versus all those other things that we have talked about last time, right?

18

19

A. There's no difference in what I have said today over what we discussed before.

20

21

Q. With the car, did you photograph the reactions you got with the luminol?

22

A. No.

23

Q. Did you draw sketches of them?

24

A. No.

25

26

27

Q. Other than just general areas of the car, like the floorboard, that sort of thing, did you make any notes as to, as to where you got them?

28

A. Just general notes indicating general areas. I did

0-17872

1 not make specific locational diagrams, no.

2 Q. Didn't make any notes as to the, you know,
3 approximate area covered where there was a microscopic little
4 glow or the whole floorboard?

5 A. That's correct.

6 Q. On September 4th, 1984, excuse me, September 5th,
7 1984, did you take photographs of the luminol reaction?

8 A. Yes.

9 Q. Did they come out?

10 A. Yes.

11 Q. In the car, it was significant, was it not, both
12 that there was something there reacting with the luminol and
13 also potentially what the pattern might have been; is that
14 correct?

15 A. I would say the order of importance would be first
16 that there was a reaction with luminol and, secondly, with a
17 pattern.

18 Q. A car used in a farm situation, would you expect to
19 find luminol reactions even if it hadn't been used in a crime?

20 A. I would say it is not unexpected to find positive
21 luminol reactions in just about any type of car. The amount of
22 the reaction and over what areas they cover is more important.

23 Q. Okay. Example, light glows over the floorboard, is
24 that unexpected in a farm type vehicle?

25 A. I can't say that it is unexpected, no.

26 Q. When you -- when you sprayed the car with luminol,
27 this vinyl seat cover that is in Exhibit 573 here had been
28 removed, correct?

1 A. Yes

2 Q. Did you see it being removed?

3 A. I don't recall actually seeing it being removed,
4 no.

5 Q. Did you see a Mr. Roper, from the I.D. bureau
6 removing the various items of seat covers and what have you from
7 the front of the car?

8 A. I recall seeing Mr. Roper there at the car search,
9 but I don't recall exactly seeing him removing those items.

10 Q. The items were all removed before you left Long
11 Beach; is that right? That is, the vinyl items.

12 A. There were certain vinyl items removed at that
13 time, yes.

14 Q. Okay. Seat covers, headrests, steering wheel,
15 those items?

16 A. I recall the vinyl seat cover in the driver's area,
17 the headrest in the front passenger area. The others I don't
18 independently recall.

19 Q. Did there appear to be some stains on the side of
20 the seat there? Did you happen to see those on June the 11th?

21 A. I don't recall having seen them on that day.

22 Q. Did you ever test any of these stains, either the
23 nicks on the rounded part of the seat or the streaks that are
24 going down the side, did you ever test those with any screening
25 device, or like ortho-tolidine, or anything of that nature?

26 A. Not to my knowledge.

27 Q. Did you and Mr. Ogino, when you were back at the --
28 when you were back at the crime -- excuse me, when you were

017874

1 spraying with the luminol back at the automotive division in San
2 Bernardino, did you get the seat covers out and spray them?

3 A. I don't believe so.

4 Q. When you were spraying with luminol at the Lease
5 house, were you looking for both patterns and just the reaction
6 itself?

7 A. Yes

8 Q. The patterns that you saw in the shower when you
9 sprayed that with luminol, what does it look like?

10 A. The best I can recall it is nondescript. I can
11 give general ideas. It was not extremely small speckles or
12 anything of that nature, they were small smearing-type patterns,
13 due to the nature of the luminol, which is a wet reaction when
14 sprayed. When the spray hit the walls of the shower, due to
15 gravity, it began to run, and so these patterns appear to start
16 flowing down the walls.

17 Q. So what you saw were patterns of luminol draining
18 down the wall.

19 A. Yes, basically.

20 Q. Well, when the luminol was draining down the wall,
21 did it stop draining at a certain spot?

22 A. Eventually, yes.

23 Q. When was that?

24 A. Some of it stopped when it hit the bottom of the
25 shower, the floor of the shower, if you will. Some of it
26 stopped before then.

27 Q. And in June, then, did it tend to stop right
28 approximately the level, height from the floor that my knee

017875

1 would be?

2 A. Some luminol would flow below that point, some of
3 it stopped before that point.

4 Q. So you saw patterns below the, below the knee of a
5 six foot tall person when you were spraying in June?

6 A. Eventually at some point there were reactions lower
7 than knee height, but due to the fact that the luminol was
8 flowing down due to gravity.

9 Q. Did you -- did you and Mr. Ogino attempt to
10 interpret those patterns that you saw on the shower wall back in
11 June?

12 A. Interpret in which way?

13 Q. Anyway. Did you try -- did you try and interpret
14 them, analyze them, figure out what they meant?

15 A. To the extent of saying that it was consistent with
16 a person having washed off in the shower, that is an
17 interpretation, although a very limited one.

18 MR. NEGUS: If I could read from the preliminary hearing
19 transcript, I believe it's Volume II, Page 136, Lines 12 through
20 20.

21 MR. KOCHIS: I've seen that.

22 THE COURT: Go ahead.

23 MR. NEGUS: (Reading)

24 "Question: At the time did you take any
25 notes about the patterns?

26 "Answer: The note that we took basically
27 recorded whether -- whether or not we saw
28 reaction, did not describe any the patterns we saw

017876

1 there.

2 "Question: Why not?

3 "Answer: I didn't see any beneficial use to
4 it for the patterns were not able to be
5 interpreted by myself and Mr. Ogino, at least
6 other than the fact that there was something there
7 reacting with the luminol."

8 At the time that you testified first, the first day
9 at the preliminary hearing, were you under the impression at
10 that point in time that if somebody had blood on them and they
11 were approximately six foot high and they took a shower and
12 washed the blood off them, that you would expect to see on the
13 walls of the shower a pattern between their shoulder height and
14 their knees?

15 A. I believe that is what I stated that I saw on that
16 particular occasion. I don't think that at that time I was
17 thinking that that was the only possible possibility within a
18 shower of a person having washed off blood.

19 Q. Is that what you -- is that what you would have
20 expected when you were testifying at the prelim?

21 A. I can't say I would expect it, but I cannot say
22 that I would not expect it either.

23 Q. Well, during the -- during the prelim you
24 testified, did you not, that all the blood you saw was between
25 the knee and shoulders of a six foot person on the walls; is
26 that right?

27 A. I believe so, yes.

28 Q. And then during the prelim we had an extended

1 discussion about if you were taking a shower washing blood off
2 you wouldn't you expect to see it going all the way down the
3 walls and on the floors. Remember that discussion?

4 A. We had that discussion.

5 Q. Then you -- the next time you testified about the
6 showers after -- after the prelim was up in Department 2,
7 Superior Court, Ontario, in the early spring; is that right?

8 A. Yes.

9 Q. At that point in time did your -- was your
10 testimony then that you'd seen the majority of the reaction
11 above the knee but you'd also seen some going all the way down
12 to the floor?

13 A. I believe my statement was the majority was between
14 knee and shoulder height.

15 Q. And there was some below?

16 A. I don't specifically recall saying that it was
17 below the knee.

18 Q. You certainly said it wasn't above the shoulder,
19 right?

20 A. I don't recall saying that.

21 Q. Page 753, 14 to 21.

22 MR. KOCHIS: I've seen that.

23 MR. NEGUS: (Reading)

24 "Question: Over what area of the shower did they
25 appear to be flowing down?

26 "Answer: I would say there were no stains above my
27 shoulder height, which would be approximately five
28 foot six to eight inches, and all those that I

1 observed were below that point.

2 "Question: Were they all above the knee, too?

3 "Answer: The majority, yes."

4 Did you change your testimony as a result of the
5 discussion we'd had about what sort of patterns you would expect
6 to see as a result of blood being washed off a person when they
7 were taking a shower?

8 A. No.

9 Q. The only actual experiment that you've done in
10 trying to interpret patterns on showers was not with blood but
11 was with bleach; is that right?

12 A. Yes.

13 Q. And after you had let -- you put some bleach on
14 some shower walls and you let the shower spray on it, the
15 pattern of reaction that you saw went all the way down the walls
16 of the shower and on to the floor and as it were down the drain;
17 is that correct?

18 A. I recall the reactions flowing all the way to the
19 shower floor, yes.

20 Q. And then down as it were sort of across the floor
21 and then down the drain?

22 A. I don't recall looking specifically at the floor
23 all the way to the drain.

24 Q. Well let's -- let's for consistency sake, you did
25 three different luminol spraying tests on the -- September 5th,
26 1984, right?

27 A. Yes.

28 Q. Okay. Let's see call them Test 1, the test where

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1 you used bleach, and then Test 2 after you air-dried the -- what
2 you had done before after letting the shower run.

3 On Test 3 after the shower had been running for a
4 time on the -- are -- on the bleach, was the reaction stronger
5 on the floor of the shower than it was on the wall?

6 A. Not to my recollection.

7 Q. Billy Arthur was there taking pictures of the
8 reaction; is that right?

9 A. Yes.

10 Q. Did you ever look at his pictures?

11 A. Briefly, yes.

12 Q. When you -- when you did the sink in the -- in the
13 bathroom there, did you see any -- did you see any stains going
14 down the drain there?

15 MR. KOCHIS: Objection. Vague as to time, September or
16 June?

17 MR. NEGUS: I thought we only did the sink once, but
18 maybe I'm mistaken.

19 THE COURT: Do you understand the question?

20 THE WITNESS: I'm wondering which sink he's talking
21 about, your Honor.

22 MR. NEGUS: We've only the sink in the Lease house, the
23 one that you testified about.

24 THE COURT: Go ahead.

25 BY MR. NEGUS:

26 Q. Did you test that in September as well?

27 A. I don't recall testing it in September of this
28 year, no.

1 Q. So the only time that you actually sprayed the sink
2 in the Lease house would have been June; is that right?

3 A. June of '83, yes.

4 Q. Okay. June of '83, the sink in the Lease house,
5 did you see anything going down the drain?

6 A. After the luminol had been sprayed on it, due to
7 gravity the luminol solution flowed towards the drain, yes.

8 Q. Before that when you first sprayed it on did it
9 appear to be like a smear around the -- around the edge of the
10 sink?

11 A. I don't believe I could categorize it as a smear
12 around the sink.

13 Q. How would you categorize it then?

14 A. I would say there were a multitude of smearing
15 patterns around the sink, some small, some a little bit larger,
16 nothing of any great size. When the luminol had been sprayed on
17 is they began to run towards the drain.

18 Q. Did you take note as to how many different smears
19 there were?

20 A. No.

21 Q. The way that Mr. Ogino has it done here on the
22 Exhibit 5-E, it appears that the red indicates a luminol
23 reaction would appear to be a band around the edge of the sink;
24 was that inconsistent with what you saw?

25 A. I can't say from looking at the diagram. It may be
26 a very diagrammatic type of drawing. That's not consistent
27 exactly with what I saw, nor does that show anything down near
28 the drain itself. It's only around the periphery of the sink.

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1 Q. Well, when -- when you were trying to, I guess,
2 remember rather than take notes, but remember what you -- what
3 was significant about what you saw, did you attempt to
4 distinguish between the reaction that you got when you first
5 sprayed the luminol on when it was reacting to whatever it was
6 reacting with and the reaction you got after the luminol started
7 going down the drain?

8 A. I don't recall making any distinction between
9 those.

10 Q. So, you're just -- well, as far as -- as far as
11 patterns is concerned, is it significant what luminol does after
12 it starts running down the drain rather than the initial
13 reaction you get when you spray the mist on?

14 A. As far as the chemical reaction, no, it does not
15 make any difference.

16 If you're talking about the patterns on the sides
17 of the sink or the sides of the shower, yes, it's going to
18 distort them.

19 Q. Is that your expectations at the preliminary
20 hearing when you testified was that if blood was being washed by
21 water down the drain that you would expect -- you would have
22 expected to see at that point in time higher concentrations of
23 luminol reactions towards the top and towards the bottom; is
24 that correct?

25 A. Yes.

26 Q. And at that point in time then you testified
27 consistently; is that correct?

28 A. Yes.

1 Q. Having watched the -- having watched the bleach in
2 your test in September, have you changed your opinion as to what
3 you would expect to see?

4 A. Not greatly, no.

5 Q. Still expect to see higher concentrations towards
6 the top if it were blood being washed down than towards the
7 bottom?

8 A. I would still say that is consistent with blood
9 being washed down.

10 Q. Well, is that what you would expect to see?

11 A. It could be.

12 Q. When you were spraying there in the bathroom, were
13 the shower and the sink the only areas that you sprayed?

14 MR. KOCHIS: Well, your Honor, that's beyond the scope of
15 the direct. I asked him limited questions about ortho-tolidine
16 results in two locations in the Lease house, the sink and
17 showers, I didn't go into any other area of the house or any
18 other tests in the other area of the house.

19 MR. NEGUS: Mr. Kochis said, "I'm going to ask limited
20 questions," but then he went on to ask: "Did you spray the
21 bathroom areas with luminol?" So I think that despite his maybe
22 attempts to limit the scope of his direct examination and the
23 facts, he opened up at least the bathroom area.

24 THE COURT: You are going the whole bathroom, Mr. Negus?
25 No, I will sustain the objection counsel.

26 MR. NEGUS: Your Honor, could we be heard on that at the
27 break? Could we take the break and be heard on that?

28 THE COURT: Yes, you may. We will take the noon recess

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1 and return at 1:30, please. We will remain in session.

2 Remember the admonition, ladies and gentlemen.

3

4 (The following proceedings were held in
5 open court out of the presence of the jury:)

6 THE COURT: Mr. Negus.

7 MR. NEGUS: I take it that the only relevant purpose for
8 Mr. Kochis asking Mr. Stockwell's testimony on that area is to
9 attempt to prove that an assailant took a shower washing off
10 blood in the -- in the shower and then washed their hands
11 washing off blood in the sink.

12 On cross-examination you get wide latitude,
13 anything which tends in reason to overcome that is -- is within
14 the scope of cross-examination.

15 Mr. Kochis saying I'm asking a question for a
16 limited purpose doesn't change the general rules of
17 cross-examination. And we've had testimony from Mr. Ogino, for
18 example, about this shower steaming, these situations that he
19 has, so I think that anything which tends to refute or deny that
20 general thing is subject to cross-examination.

21 THE COURT: I've forgotten your specific question which
22 was objected to. What was it?

23 MR. NEGUS: I was asking him about luminol in the
24 bathroom.

25 THE COURT: Where in the bathroom?

26 MR. NEGUS: On the floor was what I was getting to, and
27 that's certainly -- Mr. -- their theory as to how this shower
28 took place that the steam from the shower somehow got loosened

1 on the shoes, and I think that if that's the general thesis,
2 then the lack of reaction on the floors in the bathroom where
3 this steaming up is supposed to have taken place --

4 THE COURT: Mr. Kochis, I'm becoming persuaded. Do you
5 have anything else?

6 MR. KOCHIS: Well, if we stop in the bathroom, I don't
7 think that's what my objection was to. He asked a general
8 question: "Did you luminol other areas of the house?" I didn't
9 ask any question about luminol of any area of that house, the
10 sink or the shower. I asked questions about ortho-tolidine
11 results in the sink and in the shower. I didn't ask this
12 witness one question about luminol inside that house or any
13 particular area, the results, the reactions, or his opinion. I
14 haven't gone into that with him.

15 And my objection was that is beyond the scope of
16 the direct. I asked about ortho-tolidine in two places and that
17 was it.

18 MR. NEGUS: Mr. Kochis forgets he -- we've gone through
19 this problem with the other counsel at the prelim, but Mr.
20 Kochis asked the general -- his lead-in question was: "Did you
21 participate in a luminol testing at the Lease house of the
22 bathroom?" And we can go back on the record and find it. I
23 remembered it at this time because I checked it off thinking
24 that Mr. Kochis may not have intended to ask the question, but
25 he certainly did.

26 THE COURT: You're going to stick to the bathroom?

27 MR. NEGUS: Well, I think I'm going to have to get -- if
28 you tie it all together -- I mean, Mr. Kochis is trying to

1 divide up the cross-examination.

2 THE COURT: Don't get into that, counsel, just speak to
3 that, you don't have to attribute motives to him.

4 MR. NEGUS: We've got several different areas all of
5 which are relevant to the same general proposition about taking
6 the shower in there. We've got these footprints going up here
7 and we've got some what have been at various times described as
8 footprints in other areas, in this general area, so this whole
9 thing is part of one particular pattern. You can't sort of,
10 just sort of segment it off and not allow cross-examination on
11 the whole pattern by just trying to pick and chose little parts
12 that help him.

13 THE COURT: I agree. I will overrule the objection.
14 Come back at 1:30, please.

15 (Noon recess taken.)
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1 1 SAN DIEGO, CALIFORNIA, TUESDAY, DECEMBER 4, 1984 1:35 P.M..

2 --oo0oo--

3
4 THE COURT: Go ahead, counsel.

5
6 DAVID C. STOCKWELL,
7 the witness on the stand at the noon recess, having been
8 previously sworn, resumed the stand and testified further as
9 follows:

10
11 FURTHER RECROSS EXAMINATION (Resumed)

12 BY MR. NEGUS:

13 Q. The bathroom. Did you spray the floors in the
14 carpeting in here and the tile floor in there?

15 A. Those reflect that all of the floors inside the
16 restrooms were sprayed.

17 Q. So, you did. Did you get any reaction off of any
18 of these floors in here?

19 A. No.

20 Q. There's a circle that's there in front of the
21 closet.

22 Again, I take it you didn't make a note of that
23 particular -- what that particular circle looked like right at
24 the time?

25 A. I did not draw any diagram of it, no.

26 Q. At the -- at the preliminary, did you then at a
27 later time attempt to try and make a diagram of what that
28 particular pattern looked like?

1 A. I did make that diagram at the preliminary. That
2 diagram does not show what's in that large circular area that
3 you have pointed just now.

4 Q. What I was -- on Exhibit 499, what I have referred
5 to as looks to me like a rabbit. Anyway, that rabbit-type
6 shape, what does that refer to?

7 A. It refers to the smaller pattern that I saw which
8 is to the right of the large pattern on your diagram.

9 Q. Okay. Let's see. If I could get you another
10 color.

11 MR. KOCHIS: Your Honor, there is no need to use another
12 color, that's a clear plastic overlay, the one that faces Mr.
13 Negus hasn't been -- no one has written on it yet, so we can use
14 that providing Mr. Stockwell could perhaps put his name and date
15 underneath what happens to be Mr. Ogino's. But there's a clear
16 one under that.

17 MR. NEGUS: Take a blue pen here so we have got
18 another -- let's see what we got. It looks like we have --
19 well --

20 MR. KOCHIS: It hasn't been marked yet. It needs a tag.
21 It would be the next in order, I believe, would be the 5 or the
22 6 series.

23 MR. NEGUS: So it would be 5 something or other.

24 THE COURT: It can be marked later. Go ahead.

25 MR. NEGUS: On whatever this number is going to be, which
26 I have written in blue in the upper right-hand corner
27 "Stockwell", could you draw the rabbit on the diagram 5,
28 whatever it is, at the appropriate place.

1 THE CLERK: That exhibit will be 5-F.

2 BY MR. NEGUS:

3 Q. 5-F.

4 A. (Witness complied).

5 Q. Okay. And what did this larger circle look like?

6 A. There was no discernible pattern to it, anything I
7 could put a name to it. It was a much larger area than what
8 I've drawn here.

9 Q. How big was this rabbit, more or less life-sized on
10 the diagram?

11 A. What is marked 499 was not a scale drawing that I
12 prepared at the preliminary.

13 Q. I'm asking you though, realizing, you know, you
14 didn't have any measurement.

15 Did you do it -- was it more or less the same size
16 when you saw it as the rabbit on 499, or is that bigger or
17 smaller than it was?

18 A. This is about the general size.

19 Q. Okay. And what were the dimensions of this larger
20 circle which is to the left of 97 J-6 on Mr. Ogino's drawing,
21 5-E?

22 A. All I could say is it was quite a bit larger than
23 499.

24 Q. Well, at the time did you all think it was a
25 footprint?

26 A. No.

27 Q. Who prepared the notes of the luminol?

28 A. I believe I did.

1 Q. Do you have -- do you have them there in the file?

2 A. It looks like most of it is in Mr. Ogino's
3 handwriting.

4 Q. Is -- on the notes, does it indicate shoeprints in
5 that big circle there?

6 MR. KOCHIS: I would object, that calls for hearsay.

7 THE COURT: I thought he said he prepared the notes.

8 MR. KOCHIS: He said most of the writing looks like it is
9 Mr. Ogino's.

10 THE COURT: Oh, authenticate the writing first.

11 Otherwise the objection is good.

12 BY MR. NEGUS:

13 Q. Is the area -- there's somewhat looks to be blue
14 printing on there.

15 Is that yours or Mr. Ogino's?

16 A. That is Mr. Ogino's.

17 Q. Other than this diagram that's prepared by Mr.
18 Ogino, any other notes that you have of that of what you saw on
19 the night of June the 8th?

20 A. These are the only notes reflecting that.

21 Q. Looking at the notes, does that make you think that
22 maybe they were what you thought to be shoeprints in that
23 particular circle?

24 A. I don't recall on that evening making any
25 interpretation like that myself.

26 Q. These, these four little marks that are leading
27 into the Bilbia bedroom, did you interpret those on June the
28 8th?

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1 A. Yes.

2 Q. Okay. And did you think that they were either foot
3 or shoe impressions?

4 A. We both decided that it was consistent with
5 footprints.

6 Q. Did you I think -- I am going to do it -- did
7 you -- well, did you attempt to determine the ^{gate}gate, that is, the
8 distance between the steps of the persons, the person that made
9 those impressions, if in fact they were shoe impressions?

10 A. No.

11 Q. Is determining ^{gate}gate a type of measurement that
12 criminalists do to try and get both ideas as to the size of the
13 person that made the impressions and in some cases what they
14 were doing when they made them?

15 A. It is very possible, yes.

16 Q. Did you measure on that particular carpet the
17 different, the different impressions to determine what their
18 dimensions were?

19 A. I only recall measuring one impression for its
20 length.

21 Q. You didn't do the width?

22 A. No.

23 Q. Did you make a -- did you make a note of that at
24 the time, how long it was?

25 A. I don't recall making any written notes to it.

26 Q. Was that shag carpet?

27 A. Yep.

28 Q. Um, when you saw the impressions, were -- did they

1 appear to be clear outlines or were they blurry?

2 A. I don't think I would phrase them in either of
3 those terms.

4 Q. Somewhere in between?

5 A. There was no distinctive edge to the patterns owing
6 to the fact that the carpet was shag. The carpeting could bend
7 one way or the other, but it was not fuzzy or blurry by any
8 means, either.

9 Q. Could you see any pattern in the impressions?

10 A. No.

11 Q. When you -- when you sprayed the luminol on the
12 rug, did the impressions appear to grow? That is, start
13 thirteen inches and grow up to fourteen or fifteen, something
14 like that?

15 A. Not during the time we were there and not during
16 the duration of the reaction with the luminol.

17 Q. They were -- the one length you mentioned, by the
18 way, was thirteen inches approximately; is that right?

19 A. Yes.

20 Q. That's thirteen as close as you can remember it?

21 A. Yes.

22 Q. Did you spray them repeatedly in an attempt to
23 photograph them?

24 A. Those impressions in the hallway, I don't recall
25 having sprayed more than once.

26 Q. Well, some impressions in the house, did you spray
27 in a attempt to -- spray repeatedly in an attempt to photograph
28 them?

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1 A. I recall in the bedroom we had a camera set up, or
2 I should say Mr. Roper had a camera set up. I don't recall
3 which impression in there we attempted to photograph.

4 Q. Well, the way that -- one of the ways, the way that
5 was being used that particular night, in an attempt to
6 photograph, was to essentially put the camera on bulb and then
7 spray the pattern repeatedly with the luminol to have it sort of
8 make a time exposure; is that correct?

9 A. That is the usual technique, yes.

10 Q. As you sprayed them there with this, with the
11 luminol, and the luminol soaked into the impression, did the
12 impressions that you were photographing appear to grow?

13 A. Not that I recall.

14 Q. With capillary diffusion, I think was the term that
15 you used -- you are familiar with that, right? When you spray
16 something you get diffusion through capillary action down into
17 fibers. I think we talked about that last time, didn't we?

18 A. I don't ever recall hearing the term "capillary
19 diffusion", but I know what you're speaking of.

20 Q. With that phenomenon, is it, is it common for a --
21 when the diffusion takes place, like if it were to take place in
22 this particular, in this particular rug here, for the liquid
23 just to spread from one little shag or one little portion of the
24 carpet to the other, or just to soak down deeper into whatever
25 peace of thread it is attached to, which of the two -- do you
26 understand what I am trying to say?

27 A. As close as I can come from what you are speaking
28 of, there has to be actual physical contact between components

1 of the carpeting. Necessarily it is going to soak down a thread
2 because one thread is attached throughout.

3 It may also diffuse horizontally across the surface
4 if there's enough contact physically between the fibers of the
5 carpeting.

6 Q. But that -- but normally in a capillary type
7 diffusion, it would normally soak down rather than out from
8 fiber to fiber along a chain; is that right?

9 A. I don't see any difference between the two. If
10 there is a contact between them, that is a capillary type
11 action.

12 Q. The -- on the Exhibit 499, um, this little dot
13 that's sort of soaked through on the bottom, does that indicate
14 the approximate size and description of a drop of blood that the
15 luminol revealed somewhere between S-1 and S on the diagram
16 there, on the tile floor?

17 A. I don't believe it was between S-1 and S.

18 Q. Where was it then? If you could take again the
19 blue marker and put just a little -- draw a little -- draw a
20 little dot on the 5-F.

21 A. It was more to the west of S-1.

22 Q. Was that the only luminol reaction that you saw on
23 the tile surface that went from right around this counter all
24 the way down to where that red line is drawn on 5-E?

25 A. Yes.

26 Q. Did you spray inside the closet when you were
27 spraying there in the Bilbia bedroom on the floor?

28 A. I believe so.

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1 Q. Did you see any reaction in there?

2 A. Not to my recollection.

3 MR. NEGUS: I have nothing further.

4

5 FURTHER REDIRECT EXAMINATION

6 BY MR. KOCHIS:

7 Q. Mr. Stockwell, the impressions that Mr. Negus asked
8 you about on the carpet, the thirteen inch impression and the
9 other impression on the diagram at an earlier hearing, did you
10 also test those with ortho-tolidine?

11 A. The one in the diagram 499? Yes, I did.

12 Q. With what result?

13 A. It was a positive ortho-tolidine such as blood
14 would give.

15 Q. How about the impression that was thirteen inches
16 long on the carpet itself?

17 A. The impression that I actually measured, yes. I
18 also used the ortho-tolidine on that impression, and it, too,
19 gave a positive reaction as blood would.

20 MR. KOCHIS: Thank you. I have no further questions.

21 THE COURT: Anything further, counsel?

22 MR. NEGUS: No.

23 THE COURT: Thank you very much sir?

24 THE WITNESS: Thank you.

25 MR. KOCHIS: Dan Gregonis, your Honor.

26

27 DANIEL J. GREGONIS,

28 called as a witness by the People, having been duly sworn,

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1 testified as follows:

2 THE CLERK: Thank you.

3 Would you state your full name for the record and
4 spell your last name.

5 THE WITNESS: Daniel J. Gregonis. G-r-e-g-o-n-i-s.

6 THE CLERK: Thank you.

7

8 DIRECT EXAMINATION

9 BY MR. KOCHIS:

10 Q. Mr. Gregonis, who do you work for?

11 A. I work for the County of San Bernardino Sheriff's
12 Crime Laboratory.

13 Q. In what capacity?

14 A. As a criminalist.

15 Q. Do you have any educational background,
16 specifically an undergraduate degree, which qualified you for
17 that occupation?

18 A. Yes. I have a bachelor of science degree in
19 criminalistics from the the Metropolitan State College in
20 Denver, Colorado.

21 Q. How long have you been a criminalist for San
22 Bernardino County?

23 A. Approximately five and a half years.

24 Q. Are you familiar with the term of serology?

25 A. Yes, I am.

26 Q. Could you tell the jury, if it is possible, in a
27 brief nutshell, what serology consists of.

28 A. Serology, in particular forensic serology, has to

1 do with the identification and subsequent typing of various body
2 fluids, mostly in the dried state.

3 Q. You used a couple terms, perhaps we could talk
4 about for a moment. You mentioned the term "body fluid".

5 Could you give the jury an example of a body fluid.

6 A. Um, several examples. One would be blood, another
7 semen, saliva, urine, any number of things.

8 Q. When you talk about typing things in a dried state,
9 are you talking about, for example, what we commonly refer to as
10 a bloodstain?

11 A. Yes, sir.

12 Q. You mentioned the term "identification."

13 Would that involve a process, for example, in which
14 you would analyze a stain, perhaps a stain on a wall to
15 determine if it was blood, as opposed to paint or tomato paste,
16 something like that?

17 A. Yes, it would.

18 Q. When you used the word "typing", would you be
19 speaking of further tests that would allow you to further
20 individualize a bloodstain, for example, attributed to a certain
21 ABO blood group donor?

22 A. Yes, it would.

23 Q. What training did you receive at the undergraduate
24 level in college which dealt with the issue or issues which are
25 involved in serology?

26 A. There are several issues that are involved in
27 serology; several of them I have had training in. Basic
28 chemistry, biochemistry, organic chemistry, genetics,

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1 microbiology, even anatomy classes.

2 Q. After college did you undertake any internships
3 which dealt with this particular issue of serology?

4 A. Not after college, but actually during my senior
5 year in college I spent approximately nine months at the
6 Colorado Bureau of Investigation Laboratory. The majority of my
7 time there was spent doing forensic serology.

8 Q. What type of experience did you gain in the
9 internship that you did not get in college?

10 A. Basically the number of tests that were run were
11 more than I had in my college career.

12 Also the exposure to a forensic type of case
13 material, and a forensic case that I didn't get in college.

14 Q. Did you more or less learn the hands-on technique
15 of actually performing some of these tests?

16 A. Basically, yes.

17 Q. Now, after college did you attend any seminars
18 which dealt with this specific issue of serology?

19 A. Yes, I have.

20 Q. Do you recall the first one, when it was?

21 A. The first one would be in, I believe, April of
22 1980, and that was entitled "Basic Forensic Serology". This was
23 a two week seminar held at the FBI Academy in Quantico,
24 Virginia.

25 Q. What was the next such seminar that you attended?

26 A. The next seminar was in July of 1982. That was
27 entitled "Biochemical Method of Bloodstain Analysis." That was
28 also two weeks and it was spent at the FBI Academy, Quantico,

1 Virginia.

2 Q. Do you belong to any professionals societies or
3 organizations which deal with this particular issue of serology?

4 A. Yes, I do.

5 Q. Which one?

6 A. That would be the California Association of
7 Criminalists.

8 Q. And are you a member of some sub group within that
9 association which works with this topic?

10 A. Yes, sir. I'm a member of the Serology Study Group
11 of the southern section, Southern California.

12 Q. Approximately how many members does that study
13 group have?

14 A. I would say there's approximately 30 members in
15 that study group.

16 Q. And for which purpose, for what purpose does the
17 group meet?

18 A. Basically the purpose which the group meets is to
19 examine information, ideas, techniques, or problems which we may
20 have in the analysis of serological type of evidence.

21 Q. Have you held any positions within that study group
22 in the past?

23 A. Yes. I have been chairman of that group.

24 Q. Do you regularly subscribe to any literature which
25 deals with the issues involving serology?

26 A. I do, and also the laboratory subscribes to a
27 number of journals including the Journal of Forensic Science,
28 Journal of Forensic Science Society, Forensic International, and

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1 also Human Genetics. There are are several more.

2 Q. Now, in the past, prior to today, have you analyzed
3 in the laboratory, in a controlled setting, samples to conduct
4 serological tests on them?

5 A. Yes, I have.

6 Q. Approximately how many times?

7 A. As to any type of body fluid?

8 Q. Yes.

9 A. Two to three thousand times, probably.

10 Q. Have you likewise testified as an expert in a court
11 of law on the results of those findings?

12 A. Yes, I have.

13 Q. Approximately how many times?

14 A. Approximately 90 times.

15 Q. Are you familiar with the term "Proficiency
16 Testing"?

17 A. Yes, I am.

18 Q. And what does that term apply to?

19 A. It applies to simply a testing of your abilities
20 and techniques of a laboratory.

21 Q. Can you give the jury perhaps an example of how a
22 proficiency test would work in your laboratory in which you are
23 the person, you are the analyst who is actually having his
24 proficiency tested?

25 A. Yes, I can. The proficiency test sample, first of
26 all we may start with a body fluid, say blood. And to me, if I
27 were the subject doing the test, I would not know anything about
28 it to begin with.

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1 I look at the stain, analyze it see if it is blood.
2 If it is blood I go on to test it for various factors, including
3 the ABO blood groups and a number of other breakdowns of that
4 blood.

5 And then I would report those analyses back to
6 whoever gave me the sample, and they would tell me whether I'm
7 right, wrong, or whatever.

8 Q. Have you had your proficiency tested, as it were,
9 by these outside sources while you've been employed by the crime
10 lab?

11 A. Yes, sir, I have.

12 Q. And how have you performed?

13 A. Except for one enzyme which I did not report, I
14 have gotten everything right.

15 Q. Is serology, is this concept recognized in
16 scientific communities other than forensic serologists such as
17 yourself?

18 A. Yes, it is.

19 Q. For example, is it recognized in the medical
20 community?

21 A. Yes, it is.

22 Q. Does it take part or take place, for example, this
23 type of analysis, in blood transfusions?

24 A. Yes, it does.

25 Q. Likewise involved in paternity testing?

26 A. Yes, it is.

27 Q. Are you familiar with the term "biochemical markers
28 of individuality"?

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1 A. Yes, I am.

2 Q. What are we talking about?

3 A. What we're talking about there is like the ABO
4 blood groups, the ABO is probably the first to be discovered and
5 the best studied. You have basically four different kinds.

6 The A, B, O, and the AB. And different people have
7 different ones of those. Like those, the ABO blood groups,
8 there's other things called enzymes and serum proteins which
9 have different types for different individuals.

10 Q. Let me stop you there. With the ABO blood group,
11 is that concept, the ABO blood group system, is that recognized
12 in the scientific community, for example, of forensic
13 serologists?

14 A. Yes, it is.

15 Q. Is it likewise recognized in the medical community?

16 A. Yes, it is.

17 Q. And does the concept essentially hold that almost
18 all human beings have one particular ABO blood type within their
19 system?

20 A. Yes.

21 Q. And it would be one of the four that you just
22 mentioned, either the A, the B, the AB, or the O?

23 A. That's correct, yes.

24 Q. And are those blood types inherited from our
25 parents genetically?

26 A. Yes, they are.

27 Q. And do they remain constant throughout, for
28 example, throughout a person's life?

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1 A. Basically yes, they do.

2 Q. For example, if a person is born with an ABO type
3 A, would that person still have that blood type, the A blood
4 type, as an adult?

5 A. Yes, he would.

6 Q. Are there procedures by which you can analyze a
7 sample of whole blood, or what we call wet blood, to determine
8 what appearance ABO blood group type is?

9 A. Yes, there are.

10 Q. And once you know that, is it possible to
11 distinguish between certain persons as to whether or not they
12 could have been the donor of a particular type of blood?

13 A. As long as they were not the same ABO type, yes.

14 Q. Well, for example, let's take the first two people
15 seated in the jury box closest to you.

16 If we assumed this woman was an ABO type A, and the
17 gentlemen next to her was an ABO type B, and you had a sample of
18 whole blood which you analyzed and it came back an ABO type A,
19 you could then exclude this gentlemen as being the donor of that
20 blood sample; is that correct?

21 A. That is correct, yes.

22 Q. But unless you saw the blood actually drawn from
23 the first woman, this woman here, you wouldn't be able to say
24 that that was her blood without some further testing, is that
25 true?

26 A. You would not be able to say that's her blood
27 period. You would be able to say it's consistent with her
28 blood.

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1 Q. It's her type?

2 A. Yes.

3 Q. But, for example, I would assume she would not be
4 the only person in the world with an ABO type A?

5 A. That is correct, yes.

6 Q. And, in fact, are you aware in terms of percentages
7 how many people are A's, B's, AB's and O's?

8 A. Approximately, yes.

9 Q. And what are those percentages?

10 A. There is approximately 40 percent of the population
11 that are type A's, ten percent that are type B's, five percent
12 that are type AB's, and 45 percent that are type O's.

13 Q. Now, when we're talking about whole blood or wet
14 blood, would an example of that be what is called I believe the
15 EDTA blood samples?

16 A. Yes, it would.

17 Q. Is that blood that comes to your laboratory in some
18 type of glass or plastic vial?

19 A. Yes, it does.

20 Q. For example, in this case did you perform tests on
21 the whole blood of the deceased victims, Mr. and Mrs. Ryen,
22 Jessica, Chris Hughes, and the boy that survived, Joshua?

23 A. Yes, I did.

24 Q. And did you likewise perform certain tests on the
25 whole blood of Mr. Cooper, the defendant in this particular
26 case?

27 A. Yes, I did.

28 Q. Now, to test whole blood to determine what the ABO

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1 blood group type is, do you first centrifuge a portion of the
2 blood?

3 A. Yes, I do.

4 Q. Is that somewhat of a fancy word for spinning the
5 blood itself?

6 A. Basically, yes.

7 Q. Does that process cause the blood, the red
8 substance, to separate into a number of different groups, as it
9 were?

10 A. It causes the blood to separate into basically
11 three layers. One would be the red blood cells themselves. A
12 very small layer in between that contains what are called
13 platelets and white blood cells. And then on top a clear layer
14 that contains what is called the serum.

15 Q. Now, have you performed tests on whole blood in the
16 past to determine what the ABO blood group type was?

17 A. Yes, I have.

18 Q. Can you estimate how many times?

19 A. Perhaps a thousand times, maybe more.

20 Q. Have you likewise testified as an expert in a court
21 of law as to your results about the test you performed on whole
22 blood?

23 A. Yes, I have.

24 Q. About how many times?

25 A. About 90 times.

26 Q. Now, after this blood, this whole blood is
27 centrifuged, do you then essentially perform two tests, what is
28 called a forward test, which was performed on one part of the

- 1 blood, in this case would it be the red blood cells?
- 2 A. Yes, sir.
- 3 Q. And would you likewise perform a reverse test on
- 4 another layer which you've called the serum?
- 5 A. That is correct, yes.
- 6 Q. And do those two tests in a sense function as cross
- 7 checks as to your determination of the ABO type of that whole
- 8 blood?
- 9 A. Yes, they do.
- 10 Q. Do both those tests involve you taking, for
- 11 example, with the forward test do you essentially take an
- 12 eyedropper and dip it into the tube and get some of the red
- 13 blood cells and then place them into -- place a portion of them
- 14 into one each of four wells?
- 15 A. That's basically stated, yes.
- 16 Q. And then do you place some known antiserum that
- 17 will react with the blood in each of the wells?
- 18 A. Yes, I do.
- 19 Q. And, for example, if you get a -- what's the
- 20 reaction called if you get a reaction?
- 21 A. The reaction that you get if you do get a reaction
- 22 is called agglutination. Visually what it is is a clumping of
- 23 the sells.
- 24 Q. And are the forward/reverse tests in fact called
- 25 slide agglutination technique?
- 26 A. Yes, they are.
- 27 Q. Is that the test you perform on the whole blood?
- 28 A. Yes, sir, it is.

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1 Q. For example, if you find a clumping or
2 agglutination in the first well where you had put the antiserum,
3 is that consistent with someone who is an ABO type A?

4 A. Well, as long as you don't get any clumping in the
5 anti B cells, yes, it is.

6 Q. So, you have you to look at all four wells to make
7 the determination?

8 A. Yes, you do.

9 Q. Does the reverse test likewise involved placing a
10 portion of the blood, the serums, the unknown serum into one of
11 a number of wells?

12 A. Yes, it does.

13 Q. And then do you add into each well known red blood
14 cells?

15 A. Yes, sir.

16 Q. Which are almost standards, I suppose?

17 A. Yes, they are.

18 Q. And then depending on whether you get the
19 agglutination in those wells would lead you to a conclusion as
20 to what the blood type of the person is?

21 A. That is correct, yes.

22 Q. Now, in this particular case did you perform both
23 the forward and reverse tests, two separate tests, on the whole
24 bloods of the victims and the defendant?

25 A. Yes, I did.

26 Q. And did you get results?

27 A. Yes, I did.

28 Q. Directing your attention, Mr. Gregonis, to what has

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1 been marked for identification as Exhibit 589; do you recognize
2 what that is a chart of?

3 A. Yes, I do.

4 Q. And is it a chart that indicates some of the
5 serological results of the tests you performed on the whole
6 blood, the wet blood of the victims in this case and the
7 defendant, Mr. Cooper?

8 A. Yes, it does.

9 Q. Starting to the left of the chart as the jury looks
10 at it, the far left, have you indicated by laboratory
11 identification number the laboratory number that was assigned to
12 the particular EDTA whole blood samples?

13 A. Yes, I did.

14 Q. And then next to that have you indicated the name
15 of the person from whom the sample was drawn?

16 A. Yes, sir.

17 Q. Now, in this case when you performed the ABO slide
18 agglutination test on the whole blood of Peggy Ryen, what ABO
19 type was she?

20 A. She is an ABO type AB.

21 Q. And you indicated that on the chart?

22 A. Yes, I did.

23 Q. Likewise were you able to determine Jessica Ryen's
24 ABO blood type?

25 A. Yes, sir.

26 Q. What was it?

27 A. She is also an AB.

28 Q. And did you do the same type of test for Douglas

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1 Ryen?

2 A. Yes. Doug Ryen is an ABO type A.

3 Q. How about Christopher Hughes?

4 A. He is an ABO type O.

5 Q. And Joshua Ryen?

6 A. He is an ABO type B.

7 Q. And finally Kevin Cooper?

8 A. He is an ABO type A.

9 Q. So, at least based simply on ABO type alone with

10 whole blood it's possible to make some discriminations or

11 distinctions between the victims and the defendants in this

12 case; is that correct?

13 A. Yes, there is.

14 Q. Now, if you take a drop of blood out of a whole

15 blood sample and drop it on a piece of cloth, for example, or

16 place it on a wall, a plaster wall, and it dries, do what we

17 have is something we commonly called a bloodstain?

18 A. Yes, it is.

19 Q. Now, are you likewise able to examine blood stains,

20 perform certain scientific tests on the stain itself that will

21 allow you to determine what the ABO type was of that particular

22 blood stain?

23 A. Yes, you can.

24 Q. Is the procedure different than the procedure

25 that's used on whole blood, for example?

26 A. Yes, it is.

27 Q. But does it involve, when there's enough sample

28 possible to do both a forward test and a reverse test?

1 A. Yes, it does.

2 Q. The forward test that you would perform on a
3 bloodstain, what's that called?

4 A. The bloodstain for the forward test is called the
5 Absorption-Elution test.

6 Q. Does the reverse test have a full name?

7 A. Yes, it's does. It's called the Lattes test.

8 Q. And likewise in this case did you perform tests on
9 bloodstains that were collected from the Lease house, the Ryen
10 house, and the Ryen car in this particular case?

11 A. Yes, I did.

12 Q. Now, are you familiar with the concept or the term
13 of "secretor"?

14 A. Yes, I am.

15 Q. What does that mean?

16 A. Okay. First of all secretor only pertains to the
17 ABO blood group. And secretor stands for a person who is able
18 to secrete or have present in other body fluids besides his
19 blood, body fluids such as saliva, semen, or urine even, or
20 gastric juices a better example, his ABO blood group factor.

21 For instance, I am an ABO type A secretor and,
22 therefore, I will be able to detect in my saliva various -- the
23 A antigen and be able to say that I am an ABO type A simply from
24 my saliva.

25 A person who is a nonsecretor does not have
26 present, at least in the liquid portion of his saliva, the ABO
27 factors.

28 Q. I wonder if we can break that down. When you're

1 talking about secreting in your saliva certain ABO qualities or
2 quantities, what are you talking about, antigens? Antibodies?
3 What are you talking about?

4 A. Okay. I'm talking about what are called antigens.

5 Q. And what you're saying is if you are a secretor, if
6 your ABO blood type in your whole blood is an A, you will find
7 evidence of that in your saliva?

8 A. Yes, you will.

9 Q. Now, is it also possible to just stop with the
10 whole blood without moving to any other body fluid, for example,
11 putting aside saliva, putting aside semen, is there a test you
12 can perform on whole blood to determine whether or not that
13 person is a secretor?

14 A. In the majority of cases, yes, you can.

15 Q. What's the name of that test?

16 A. The test that I use is called the Lewis test.

17 Q. Now, in this case did you perform that test on the
18 whole blood samples that we've talked about to assist you in
19 your later analysis of some stains?

20 A. Yes, I did.

21 Q. Were you able to determine whether or not Peggy
22 Ryen was a secretor?

23 A. Yes, she is.

24 Q. And you've indicated that, for example, on the
25 chart, on this 589; is that correct?

26 A. That is correct, yes.

27 Q. And going down the line, could you tell the jury in
28 terms of the other victims and the defendant which were and were

1 not secretors?

2 A. Okay. Again, Peggy Ryen is a secretor.

3 Jessica Ryen is not a secretor.

4 Doug Ryen is a secretor.

5 Chris Hughes is not a secretor.

6 Joshua Ryen is a secretor.

7 And Kevin Cooper is not a secretor.

8 Q. Now, if we take the first two result columns on the
9 chart, the column at the left and the next column to it, and
10 deal only with ABO type and secretor type, with the results of
11 those two tests is it possible to distinguish between the whole
12 blood, the wet blood of all six persons whose names appear on
13 the chart?

14 A. Yes, it is.

15 Q. Now, in terms of the Defendant Cooper and Mr. Ryen,
16 they are two of the people on the chart that have the same ABO
17 blood type; is that correct?

18 A. That's correct, yes.

19 Q. But they differ as to whether or not they are
20 secretors; is that correct?

21 A. That is correct, yes.

22 Q. Is the butt of a cigarette a place which you may
23 find saliva?

24 A. Yes, it is.

25 Q. Is there a test you can perform on items such as
26 that, for example, such as a cigarette butt, which would
27 indicate to you the presence of saliva?

28 A. Yes, there is.

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1 Q. And do you recall the name of that test?

2 A. The name of that test is -- there is a couple of
3 tests that you can use. One is called an Amylase Diffusion
4 test, and the other would be called a Phaebus test. And in each
5 of these you are looking for an enzyme in saliva called amylin.

6 Q. If you, for example, get test results on a
7 cigarette butt --

8 And you examined some cigarette butts in this case,
9 I take it, is that true?

10 A. Yes, I did.

11 Q. If you get a result that's consistent with the
12 presence of saliva, can you then perform a further test on the
13 butt itself to make a determination as to whether or not the
14 person that placed the saliva on the cigarette butt, for
15 example, had the cigarette in his mouth, was a secretor or not?

16 A. Yes, you can.

17 Q. What type of test is that called?

18 A. The name of that test is called the
19 Absorption-Inhibition.

20 Q. Now, with that test if a person, for example, and
21 let's take Mr. Ryen who is a secretor, if Mr. Ryen took a
22 cigarette, smoked it, in the process got saliva on the butt, and
23 you analyzed it with that particular test, would it be possible
24 for you to detect his antigens?

25 A. Since Mr. Ryen is a secretor, yes, it would.

26 Q. Now, let's change the hypothetical and have the
27 cigarette being placed in the mouth of Mr. Cooper, a person who
28 is a nonsecretor; with the test you've mentioned, just that

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1 test, is it possible for you to tell whether or not the person
2 who had that cigarette in his mouth, first of all, was a
3 nonsecretor?

4 A. No, it is not.

5 Q. Is there a test, however, that would allow you to
6 determine if a person who had the cigarette in his mouth was a
7 nonsecretor?

8 A. Yes, there is.

9 Q. And what's that called?

10 A. Okay. Given that you have enough saliva there to
11 begin with, you have a pretty good indication whether the person
12 is a nonsecretor simply by not finding anything there.

13 To verify that you look at a test called EAP
14 Absorption-Elution.

15 Q. If I understand you, with the Inhibition test, if
16 a person is a secretor, for example, if Mr. Ryen had the
17 cigarette butt in his mouth, you would expect to find evidence
18 in the saliva of his antigens; is that correct?

19 A. That is correct, yes.

20 Q. And that would allow you initially to determine
21 that the person who had the cigarette in his mouth was what we
22 call a secretor?

23 A. That is correct, yes.

24 Q. So, for example, in this case if we were dealing
25 with just six people, that finding in and of itself would limit
26 it to Peggy, to Doug, and to young Josh Ryen, is that correct,
27 in terms of whether or not they were secretors?

28 A. Yes, it would.

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1 Q. Now, if you find evidence, for example, in saliva
2 on a cigarette butt that the person is a secretor, that he
3 secretes his ABO substances into the saliva, can you also,
4 provided the quantity is sufficient, make a determination as to
5 the ABO blood group type of the person that placed their saliva
6 there?

7 A. Yes, you can.

8 Q. Through what technique?

9 A. Again a technique called Absorption-Inhibition
10 test.

11 Q. So, with that Absorption-Inhibition test, is it
12 fair to say that in this case among the secretors, among Peggy
13 Ryen, Doug Ryen, Joshua Ryen, with those two tests you could
14 distinguish between those three individuals?

15 A. That is correct, yes.

16 Q. Now, the Absorption-Elution test, the other test
17 that allows to you determine whether or not a person is a
18 nonsecretor -- Have I misspoken myself? Let me back up.

19 The Absorption-Inhibition test, if you perform that
20 test on a cigarette butt and you don't find ABO antigens, is
21 that an indication at least that the person whose saliva is on
22 there is what we call a nonsecretor?

23 A. That's an indication, yes.

24 Q. It's consistent with, is that fair to say?

25 A. Yes, sir.

26 Q. But is it also consistent with possibly that person
27 being a secretor but secreting his ABO antigens in a very low
28 level?

0-1-7-9-1-5

3
1 A. It's consistent with that along with possibly you
2 don't have enough saliva on there to detect the antigens.

3 Q. Now, with the Absorption-Elution test, this other
4 test, can you perform that test on, for example, saliva on a
5 cigarette butt and determine the ABO type of a nonsecretor?

6 A. Yes, you can.

7 Q. So, for example, if Mr. Cooper had a cigarette butt
8 in his mouth, left the butt behind, left sufficient saliva on it
9 to perform the Absorption-Elution test, it would be possible
10 even if he is a nonsecretor to find the ABO blood antigens A on
11 that butt?

12 A. That is true, yes, sir.

13 Q. Perhaps for a moment we would leave the ABO and go
14 to the more presumptive areas of a stain.

15 When you first analyze a stain scientifically, is
16 there a test that you can perform on the stain that will enable
17 you to determine whether or not it's paint, whether it's tomato
18 paste, or whether it's blood?

19 A. Okay. As far as if a stain may be blood or not,
20 the first test is obviously a visual test. If it looks like
21 blood, then I will go towards another test and that would be a
22 test called, a presumptive test called ortho-tolidine that I
23 use.

24 Q. And have you used that test many times in a
25 laboratory?

26 A. Yes, I have.

27 Q. And is that essentially, do you scrape a portion of
28 the stain on to some filter paper?

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1
7
9
1
6

1 A. Actually the test is sensitive enough that you can
2 just rub the filter paper on the test and do the test on the
3 filter paper.

4 Q. Now if you get a positive reaction from that test,
5 which would be what, an indication that the stain is blood?

6 A. Yes, sir.

7 Q. Is there another test you can perform that would
8 allow you to determine whether or not that blood stain comes
9 from a human being as opposed to perhaps a reptile or something
10 else?

11 A. Yes, sir, there is.

12 Q. What's that test called?

13 A. The test that I call, the name of it is called the
14 Ouchterlony test, O-u-c-h-t-e-r-l-o-n-y, I believe.

15 Q. Have you used that test many times in the past, for
16 example, to determine whether or not a particular bloodstain
17 comes from a human being or from some other source?

18 A. Yes, I have.

19 Q. And have you likewise testified as an expert in a
20 court of law as to those results?

21 A. Yes, I have.

22 Q. Did you test a number of stains in this case to
23 determine, for example, first of all that they were blood?

24 A. Yes, sir.

25 Q. And then second of all, that they were from a human
26 being or from some other source?

27 A. Yes, sir.

28 Q. Now, is it possible to differentiate, to

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1 discriminate among blood samples further than ABO?

2 A. Yes, it is.

3 Q. Do we all have certain enzymes and serum proteins,
4 for example, in our body?

5 A. Yes, we do.

6 Q. For example, on this particular exhibit, 589,
7 starting with the initials that appear to the right of
8 "secretor", have you listed a number of different what are known
9 as enzyme types?

10 A. Yes, I have.

11 Q. And for example, have you listed EsD and PGM?

12 A. Yes, sir.

13 Q. And I take it those initials stand for words which
14 have a longer name?

15 A. That correct, yes.

16 Q. Is it acceptable with you if we use the initials
17 during your testimony as opposed to the formal name?

18 A. Yes, it is.

19 Q. Now, is there a test that you employ to determine,
20 for example, what a person's EsD enzyme type is?

21 A. Yes, there is.

22 Q. And what is that test called?

23 A. The test is called Electrophoresis.

24 Q. Before we get to that, let me ask you a couple
25 questions. First of all, this concept that people have various
26 enzymes in their -- do they have these in their blood for
27 example?

28 A. Yes, they do.

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1 Q. And are some of these likewise, is there evidence
2 of these in, for example, semen?

3 A. Yes, there are.

4 Q. Is that a fact -- is that a theory which is
5 accepted in the forensic serology community?

6 A. Yes, it is.

7 Q. Is it likewise accepted in the medical community?

8 A. Yes, it is.

9 Q. Is it used, for example, in paternity testing?

10 A. Yes, sir.

11 Q. Were these initials that you have -- that you
12 yourself have chosen or are these things you've learned from
13 textbooks?

14 A. These are basically the names which have been given
15 to them in the past.

16 Q. As is the case with the ABO blood group, do you
17 essentially inherit your enzymes types from your forefathers?

18 A. Yes, you do.

19 Q. Do they remain the same throughout the course of a
20 person's lifetime?

21 A. Yes, they do.

22 Q. And, for example, is there only one type of EsD
23 enzyme?

24 A. No, there is not.

25 Q. What are the common types, for example?

26 A. The common types of EsD would be what are called
27 the 1, the 2-1 and the 2.

28 Q. Is everybody for example a 1?

1 A. No, sir.

2 Q. And this chart gives an indication, that at least
3 in terms of that enzyme, Chris Hughes apparently was different
4 than everybody else on the chart?

5 A. That is correct, yes, sir.

6 Q. Now, this -- this test, this Electrophoresis test,
7 could you tell the jury, maybe first briefly in a nutshell, what
8 the test consists of?

9 A. Yes, I can.

10 Q. Could you tell us them?

11 A. The test itself consists of, just to describe it a
12 little, you take a gel on a flat plate, a piece of glass, and
13 then you put a blood sample or semen sample, whatever you are
14 analyzing, on it into the gel itself and then put electricity
15 through the gel

16 What happens to the serum proteins or enzymes in
17 that blood sample, they will separate and show up at different
18 distances in the gel.

19 Q. Well, let's see if we can break that down a little.

20 Directing your attention to what we've marked for
21 identification as Exhibit 590; do you recognize what this is a
22 diagram of?

23 A. Yes, I do.

24 Q. And starting first with the portion of the diagram
25 that is between the model of zone electrophoresis and visualized
26 proteins, focusing simply on this top, as it were, half of the
27 diagram, is this a side view, a crude side view of the
28 electrophoretic procedure?

1 A. Yes, it is.

2 Q. Now, you mentioned to the jury the word "gel" and
3 is that not unlike in certain respects Jello in terms of the way
4 it's formed up?

5 A. Basically except it's a clear material.

6 Q. For example, do you start with a beaker, a plastic
7 beaker?

8 A. No. Basically I start with a dry powder and put it
9 into a glass flask.

10 Q. And is the powder what is called a buffer?

11 A. No.

12 Q. Is that the starch?

13 A. The powder would be either starch or agarose.

14 Q. And do you add to the starch or agarose some type
15 of buffer?

16 A. Yes, I do.

17 Q. And did you do anything to it after the two are
18 together?

19 A. Yes, I did.

20 Q. What?

21 A. What happens, I add the buffer to the agarose or
22 starch. I will heat that up to boiling to dissolve the initial
23 powder.

24 Q. And is it then in a liquid form?

25 A. Yes, it is.

26 Q. Then do you take that liquid form and pour it on to
27 the plate?

28 A. Yes, I will.

1 Q. And does it -- is it allowed to remain there for
2 some period of time?

3 A. Well, the next thing after I do after I pour it on
4 there is I level it with a scraper to make sure I have an even
5 level surface. Then I let it set up into a solid Jello type
6 substance.

7 Q. It starts to gel, as it were?

8 A. Yes, sir.

9 Q. How long does the, for example, the gelling process
10 take?

11 A. It depends on the gel, but what it's made of and
12 stuff, but basically anywhere from, oh, 10 to 15 minutes.

13 Q. So, in this particular case you've indicated on the
14 diagram, on 590, that you pour the gel on top of, across this
15 glass plate; is that correct?

16 A. That is correct, yes.

17 Q. Now, after it does solidify or gel, do you then
18 take some type of razor and then put the razor down into the gel
19 and actually make slots into the gel itself?

20 A. Yes, I do.

21 Q. And would you do that in an area that would be
22 approximately where you have sample origin?

23 A. It depends on what enzymes or whatever you are
24 analyzing for. But in the diagram, yes, the razor cuts would be
25 where the sample is going to be placed.

26 Q. For example, focusing your attention and the jury's
27 attention on the bottom half of the diagram, 590, you have what
28 appears to be three lines across a particular rectangle, is this

1 supposed to be a view looking down on a gel plate, for example?

2 A. Yes, it is.

3 Q. And would these three lines indicate the
4 approximate location of these slots you've actually made in the
5 gel with the razor?

6 A. Yes, they do.

7 Q. Is the purpose for making the slots that you are at
8 a later point going to put different samples, for example, a
9 sample in the first slot, a different sample in the second slot,
10 and a different sample in the third slot, and so on?

11 A. That is correct, yes.

12 Q. So, after the gel has hardened, one of the next
13 steps would be to make these slots in the gel itself; is that
14 correct?

15 A. That is correct, yes.

16 Q. And then after that you would do what?

17 A. After that -- before this time I would prepare my
18 samples for placing on the gel. And I would simply put the
19 samples into the gel itself and then put it on this apparatus
20 here, the cooling plate.

21 Q. Let's stop for a minute. Let's just --

22 How do you actually get the samples into the slots?

23 A. Okay. What I do is I just take a pair of tweezers
24 and pick up a sample, and the samples are precut, I will place
25 them into the slots themselves.

26 Q. After the samples are in the slots, what do you do?

27 A. What I will do then is I will take the glass plate,
28 this is done on a work table just with the glass plate, and I

1 will put it on top of this cooling -- the apparatus that you see
2 above the -- on top of the cooling plate -- and let it set for
3 approximately ten minutes.

4 Q. Now this procedure, this electrophoretic procedure,
5 is this something you thought up?

6 A. No, it is not.

7 Q. Do you know when it was first used in this country?

8 A. As far as the enzymes and things that we're talking
9 about here, I would say in the 1950's.

10 Q. How long has your laboratory in San Bernadino been
11 set up to perform this type of test?

12 A. I would say approximately six years.

13 Q. Have you -- how many times have you conducted this
14 type of test in the past on a bloodstain?

15 A. Perhaps five hundred times, six hundreds times.

16 Q. Have you ever testified before in a court of law on
17 the results of electrophoretic analysis that you have conducted?

18 A. Yes, I have.

19 Q. How many times.

20 A. About 80 times.

21 Q. Now, are forensic serologists, people such as
22 yourself that work in the crime labs, the only type of people
23 that use this procedure?

24 A. No they -- No, we are not.

25 Q. Do you know of people in the medical community that
26 use the procedure as well?

27 A. Yes, I do.

28 Q. Can you give me an example of anybody?

1 A. Two people I know of for sure, one is Dr. Sparks
2 at the UCLA Medical Center, another one would be a Barbara Bryan
3 who works at the Irvine Medical Center.

4 Q. To your knowledge, do hospitals, which work with a
5 paternity technique, use this electrophoretic technique as well?

6 A. Yes, they do.

7 Q. Is there is a reason you have to place the glass
8 plates with the gel on some type of a cooling platinum?

9 A. Yes, there is.

10 Q. What's the reason?

11 A. Basically to keep it cool. It is an obvious
12 answer. The reason behind keeping it cooled is that it helps
13 to, with the electrophoretic analysis, keeps the proteins or the
14 things that we're looking at from denaturing; keeps them from
15 spreading out. It makes it a lot easier to read.

16 Q. Do you, while the plate is actually being cooled,
17 do you also pass the electricity through the plate?

18 A. After the first ten minutes of letting it sit down
19 on the plate and letting it equilibrate on the plate, that's
20 when I turn on the electricity, and during that time the plate's
21 being cooled.

22 Q. Now, what happens when you place an electrophoretic
23 charge into the plate that has the gel on it and the bloodstains
24 on it, for example?

25 A. What happens, as you can see on the diagram, we
26 have a plus and a minus side to the glass plate. What that
27 illustrates is the plus side and the minus side through the
28 electrodes in this apparatus, and the enzymes, they're charged,

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1 and like a magnet they will be drawn to a certain charge, either
2 the plus or the minus depending on what charge they are.

3 The enzymes that are charged in minus will go
4 towards the plus and those that are essentially a charged plus
5 will go towards the minus.

6 Q. If the test is run properly, do you eventually see
7 then a pattern develop with the different samples?

8 A. Yes, you do.

9 Q. For example, can you test whole blood and
10 bloodstains using the same electrophoretic technique?

11 A. Yes.

12 Q. Would there be a difference between how you get the
13 sample into the gel?

14 A. Basically not. The sample is introduced into the
15 gel basically the same way.

16 Q. Now, for example, on Exhibit 590, did you pick, for
17 example, some common enzyme types to just show the jury as an
18 example?

19 A. Yes, I did.

20 Q. And of the enzymes whose name appear on 589, which
21 one is 590 a example of?

22 A. 590 is an example of PGM.

23 Q. Would that be essentially emissions of the second
24 enzyme looking from left to right on the chart, 589?

25 A. Yes, it is.

26 Q. Now, is part of the theory behind this
27 electrophoretic technique that certain types -- for example,
28 let's stick with PGM -- that certain types will always express

1 themselves the same way or show the same type of pattern?

2 A. That is true, yes.

3 Q. Now, on this particular Diagram 590, which I have
4 turned sideways, you have, you listed three of the common PGM
5 types.

6 A. Yes, I have.

7 Q. Could you perhaps join me at the diagram, and with
8 the black -- why don't you use the blue. Can you indicate
9 underneath each slot the type of PGM that we're seeing on the
10 plate.

11 A. Okay. The first one is a type 1. The second one
12 is a type 2. And the third one is a type 2-1.

13 Q. Before we go any further, when you run the plate,
14 the electrophoretic plate, do you actually get something that is
15 always neat and concise as the rectangles that we see on this
16 particular diagram?

17 A. No, sir, you do not.

18 Q. But the way you read, for example, the PGM plate,
19 does it have to do with the position of what you referred to in
20 the field as certain bands?

21 A. Yes, they do.

22 Q. And does it also have to do with some of the
23 enzymes with the intensity or how bright a particular band is?

24 A. Yes, it does.

25 Q. For example, on the first column to the left, when
26 you read a PGM plate if you get bands in the four areas that you
27 have indicated, is that consistent with a PGM type 1?

28 A. Okay. As far as what I'm reading here is just

1 bands below the top two, if you will. These two bands are
2 consistent with the type 1.

3 Q. Now, is the theory behind the electrophoresis, if
4 you take a -- if you take blood, let's say, from a number of
5 people, ten people, all of whom are PGM type 1, would you expect
6 to get banding then in approximately the same location,
7 approximately the same intensity in all ten people on a PGM run
8 if they were all PGM 1?

9 A. Yes, I would.

10 Q. If you stuck into that group of ten people a couple
11 of PGM type 2's, or the next category over, would you expect to
12 get banding in the same position and with the same intensity as
13 at 1?

14 A. Yes, they would. As the 1's?

15 Q. Yes.

16 A. No. Up above as illustrated on the chart.

17 Q. Would you -- then as theory, then can you
18 discriminate between someone whose a PGM 1, a PGM 2 and PGM 2-1
19 based on what you see on a electrophoretic plate?

20 A. That's correct. Yes.

21 Q. Have you then, as a reference for the jury,
22 displayed what the Phenotype -- and when we use the word
23 "Phenotype", are we simply talking about what the enzyme looks
24 like on the plate?

25 A. Basically, yes.

26 Q. Have you drawn that expression then on the No. 2
27 position, the middle position, as to what a PGM, for example, 2
28 would look like?

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1 A. That is correct, yes.

2 Q. And finally what a 2-1 would look like?

3 A. Yes.

4 Q. Perhaps with a dotted line, could you show the jury
5 on the plate the portion of the plate you would actually be
6 reading off of to make your determination as to whether someone
7 was a 1, a 2-1 or a 2?

8 A. The area that I'm looking at is below the top two
9 bands on this diagram. So -- (Witness complied). That's the
10 cut-off point right there.

11 Q. Now, the exhibit we're working with is obviously a
12 two dimensional surface; is that correct?

13 A. That is correct, yes.

14 Q. When you conduct the electrophoretic run, are you
15 limited to two dimensions or do you have more?

16 A. Well, it does have three dimensions to it. It is
17 approximately a millimeter thick.

18 Q. Is it necessary, for example, from time to time
19 when you read a plate, to pick it up and turn it and look at it?

20 A. Yes, it is.

21 MR. KOCHIS: Is this a convenient place?

22 THE COURT: Let's take a recess. Remember the admonition
23 please. 20 minute recess.

24 (Recess)

25

26 THE COURT: Go ahead.

27

28

DIRECT EXAMINATION (Resumed)

1 BY MR. KOCHIS:

2 Q. Mr. Gregonis, when we broke this afternoon, I
3 believe we were talking about the fact that the electrophoretic
4 plate itself was three dimensional; is that correct?

5 A. That is true, yes.

6 Q. So you aren't just limited looking straight down on
7 it when you make a reading; is that correct?

8 A. That is true, yes.

9 Q. Now, you mentioned sometime this afternoon that one
10 of the things you do during the electrophoretic run, you
11 actually place a current of electricity which runs through the
12 gel; is that correct?

13 A. That is correct, yes.

14 Q. Does the length of time that the electricity runs
15 through the gel, does that remain the same for each enzyme or
16 does it vary from test to test?

17 A. That will vary from test to test.

18 Q. For example, could you give the jury a minimum and
19 a test name and enzyme name and a maximum, with the name.

20 A. The maximum that I run is a what's called a serum
21 protein Haptoglobin, that's for approximately 20 hours, and then
22 the minimum would be approximately two hours for two, one would
23 be called Carbonic Anhydrase, the other one a Peptidase A.

24 Q. Then you just deviated a little bit from our
25 procedure. You have gone to names instead of initials; is that
26 correct?

27 A. That is correct, yes.

28 Q. When you go from the initial to name. For example,

1 that Haptoglobin, do you see that abbreviated on the Chart 589?

2 A. Yes, I do.

3 Q. What initials do you use?

4 A. The initials that you use for Haptoglobin are Hp.

5 Q. For example, the Hb, would that be for Hemoglobin?

6 A. Yes.

7 Q. The Carbonic Anhydrase, you simply refer to that as

8 CA II?

9 A. Yes.

10 Q. Peptidase A you just have the PEPA; is that

11 correct?

12 A. That is correct, yes.

13 Q. Now, regardless of the length of time that
14 electricity passes through the gel, there comes a time at which
15 you stop the electric current from passing over the gel plate;
16 is that correct?

17 A. That is correct, yes.

18 Q. Then you are going to move to the next part of the
19 procedure which is going to allow you to actually read what's on
20 the plate; is that correct?

21 A. Yes, sir.

22 Q. Now, as the time that you charge a plate varies
23 from test to test, does the method by which you read off the
24 plate also vary somewhat from test to test?

25 A. Yes, it does.

26 Q. Now, in this particular case you have listed over
27 the top of 589 a number of enzyme types, perhaps a dozen or
28 more.

1 Do you have to test each one of those enzymes one
2 at a time separately?

3 A. Yes, you do.

4 Q. Well, maybe that question isn't a question.

5 For example, do you have to do just one
6 electrophoretic run which allows you to read for the EsD, then
7 did you have to start a separate plate to read the PGM, for
8 example?

9 A. No. They are -- you do not. They are done on the
10 same plates.

11 Q. Do you in fact use what is called a multisystem?

12 A. Yes, I do.

13 Q. Is that something you developed?

14 A. No, sir, it is not.

15 Q. Do you happen to know the name of the man that
16 developed it?

17 A. Yes, I do.

18 Q. Who is that?

19 A. It was developed by an Brian Wraxall of the
20 Serological Research Institute.

21 Q. Do you know how to spell his last name?

22 A. W-r-a-x-a-l-l, I believe.

23 Q. Does that test essentially allow you to run more
24 than one enzyme and, in some cases, for example, in Group II, as
25 many as three enzymes on the same plate at the same time?

26 A. Yes, it does.

27 Q. But would it be fair to say that you, for example,
28 on the Group I, which we will talk about in a minute, you are

1 going to read the enzymes separately?

2 A. Yes, sir, that is true.

3 Q. Now, perhaps so that the jury is not confused, so
4 this can sink in a little, can you join me at the chart, at 589,
5 and, for example, let's start chronologically numerically with
6 Group I, which is two enzymes you would run on the first plate,
7 what is called the Group I Plate.

8 A. That would be the EsD and the PGM.

9 A. So, perhaps could you indicate with some lines and
10 Group I the enzymes that are run on that plate.

11 A. (Witness complied).

12 Q. Now, that's using this system that this person
13 named Mr. Wraxall developed; is that true?

14 A. That is correct.

15 Q. Are you the only serologist in California that uses
16 the multisystem that apparently was designed by Brian Wraxall?

17 A. No, sir, I am not.

18 Q. Are there other people?

19 A. Yes, sir.

20 Q. Do you know if people in the medical community,
21 people, for example, that work with paternity testing use a
22 multisystem, whether it is Mr. Wraxall's system or another
23 system?

24 A. Yes, I do. They do.

25 Q. Now, you have in the next column what appears to be
26 a PGM subtype. Is that then a separate run?

27 A. Yes, sir, it is a run by itself.

28 Q. Let's stop for a minute.

1 Going back to the Group I. Assuming that we have
2 run our electrophoretic plate, which we have shown the jury in
3 590, and how long do you allow the electricity to pass through
4 this particular plate?

5 A. Well, this is an illustration of PGM again. That
6 is run for three hours at approximately 300 Volts.

7 Q. And is the reasons you place the plate on the
8 cooling platinum so that the sample in the gel is not damaged by
9 the heat from the electricity that's actually passing through
10 the plate?

11 A. That is correct.

12 Q. Now, one thing that perhaps I have neglected to
13 cover.

14 Do you use as a control, more or less, as a
15 safeguard, as a check, what we call a standard when you conduct
16 these electrophoretic runs?

17 A. Yes, I do.

18 Q. And, again, could you tell the jury what a standard
19 is?

20 A. A standard, as far as the electrophoresis plates
21 are concerned, is a blood of known type.

22 For instance, in the Group I plate with the EsD and
23 PGM, we will run a standard which we know is an EsD type 2-1 and
24 PGM type 2-1.

25 Q. To give the jury an example, in your lab, for
26 example, are some of the standards, ones are your blood that you
27 have taken off people that work in your laboratory?

28 A. Yes, they are.

1 Q. You get them by hook or crook to donate their blood
2 one way or the other for your test purposes?

3 A. It is mostly volunteer. There are definitely
4 people that won't give.

5 Q. And this is blood that you have typed many times in
6 the past?

7 A. I have typed it many times in the past, plus when I
8 initially typed it I compared it to a known standard that I got
9 elsewhere.

10 Q. To make sure that the pattern is actually the same?

11 A. Yes, sir.

12 Q. Now, is there a reason you would take up space in a
13 electrophoretic run and put onto the plate a sample of blood
14 that you already know the type of? And why would you? What is
15 that --

16 A. The reason behind doing it is to not only to make
17 sure that the electrophoretic run is running correctly, to make
18 sure that the bands are separated properly, and to also orient
19 myself towards where the bands are supposed to be in the plate,
20 but to make sure that when I type something as a 1, say a PGM 1,
21 that the standard lines up with that, or it lines up with the
22 standard.

23 Q. If I understand your answer correctly, you used a
24 standard then basically for two reasons: One is for a
25 comparison with your unknown. Would that be correct?

26 A. Yes, sir.

27 Q. And two is to make sure that your test is not
28 malfunctioned.

1 A. That is correct, yes.

2 Q. For example, if on Exhibit 590, if you place in the
3 slot furthest to the left a known PGM type 1, and when you ran
4 the plate you got something that was completely dissimilar to,
5 well, for example if you got something that appeared to be 2-1,
6 would you consider the possibility perhaps that you had placed
7 the wrong sample onto the plate?

8 A. That is possibility, yes.

9 Q. And if you got a lot of smearing or streaking in
10 this particular area, would you consider the possibility that
11 perhaps the sample or something had gone wrong with the test
12 itself?

13 A. Those are two possibilities, yes.

14 Q. And, for example, if this was a standard, a PGM 1
15 standard that came out as it is depicted on the diagram on 590,
16 could you then use that as a reading for a standard by which to
17 compare other unknown samples to determine whether they were
18 1's, or 2's, or something else?

19 A. Yes, we could.

20 Q. Did you, in this case, for example, when you do the
21 that electrophoretic run, did you place standards on the plates
22 with, for example, the unknown stains that came out of the Ryan
23 home?

24 A. Yes, sir, I did.

25 Q. Is that more or less standard operating procedure?

26 A. Yes, it is.

27 Q. Back to the Group I system. Is the EsD the first
28 enzyme that you read off the Group I plate?

1 A. Yes, it is.

2 Q. So, we have now got the plate itself being run.

3 Do you take the -- I'm sorry -- the glass plate
4 with the gel actually off the cooling apparatus to read it?

5 A. Yes, I do.

6 Q. Do you take it to another location where you can
7 read it under a special type of light?

8 A. Well, in between that step I also put on a chemical
9 to develop the enzyme that I'm looking at. So, there's -- I
10 will take it off the cooling plate, put the chemical on to
11 develop the enzyme, I will incubate it for a period of time,
12 then I will bring the EsD into a dark room and read it with an
13 ultraviolet light.

14 Q. Does the chemical have initials you can refer to,
15 or do you have a long form for it?

16 A. I refer to it with the initials. It is MUA is the
17 initials.

18 Q. And then after that it is applied you would take it
19 into a dark room?

20 A. Yes, sir.

21 Q. And do you have to apply a particular type of light
22 to read the EsD?

23 A. Yes.

24 Q. What type of a light?

25 A. It is a long wave ultraviolet light.

26 Q. And does it actually almost turn the plate a bluish
27 color?

28 A. Well, basically the light itself is kind of a

1 bluish color. So, yes, it does.

2 Q. Now, did you to have put any filter paper over it
3 at this time to do the reading at that time or not?

4 A. No, you do not.

5 Q. Now, after you read the EsD under the ultraviolet
6 light, what additional steps, if any, do you have to take to
7 read the PGM off the same plate?

8 A. Well, the EsD will be in the same region as the PGM
9 so I will read the EsD and then go back to the laboratory bench
10 and put a reaction mixture on to develop the PGM.

11 Q. Now, do you keep records of your runs?

12 A. Yes, I do.

13 Q. And would you keep any records of what samples you
14 put in a particular slot?

15 A. Yes, I do.

16 Q. You did that on this case, for example?

17 A. Yes.

18 Q. Would you keep a record of, for example, the date
19 at which the run took place?

20 A. Yes, sir.

21 Q. And the type of sample that went into the slot, one
22 through -- how many slots do you usually have?

23 A. There's either usually nine or twelve.

24 Q. So you would then keep a record that would
25 correspond to each one of the slots that a sample is placed
26 into.

27 A. Yes, sir.

28 Q. For example, whether Mr. Cooper's VV-2 blood was in

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1 a house, you would keep a record --

2 A. Yes.

3 Q. -- as a bloodstain from a house, whether it was a 2
4 from the telephone or some other stain; if it was on a plate,
5 you would keep a spec record of that.

6 A. Yes.

7 Q. Would the record also include the standards or
8 these controls, these known blood samples that you would put
9 into the plate?

10 A. Yes, it does.

11 Q. Now, what do you do then to read the PGM after you
12 had read the EsD?

13 A. Okay. The EsD, after I get done reading that and
14 photographing it, what I'll do is I will go back and take the
15 reaction mixture for PGM and put it in another jello-type
16 substance, it is liquid form. I will pour it on the plates, and
17 because of the difference in temperature it will cool down and
18 solidify. I will put that in an oven at body temperature and
19 let it incubate for approximately half an hour, an hour, take it
20 out and read it through a transmitted light.

21 Q. Okay. Now, I may have left something out.

22 Between the reading of the EsD and the reading of
23 the PGM, do you do anything to attempt to record what may have
24 been on that plate?

25 A. Yes, I do.

26 Q. What do you do?

27 A. I photograph it.

28 Q. What, do you use a regular film? By that, do you

1 use a negative of Polaroid, or what do you use?

2 A. Right now I use a Polaroid positive negative film.
3 I have in the past just used a regular polaroid film.

4 Q. Now, the pictures, are they as clear as what you
5 actually see in real life on the plate?

6 A. No, they are not.

7 Q. But do they usually give you some indication of
8 what the plate looked like?

9 A. Yes, they do.

10 Q. Is it your procedure to take a picture, for
11 example, of all your ESD runs?

12 A. Yes, it is.

13 Q. All your PGM runs? Excuse me.

14 A. Yes, it is.

15 Q. Now, moving down the chart, and starting, for
16 example, continuing with the EAP, the ADA and the AK.

17 Are they run on this multisystem on one plate as a
18 group?

19 A. Yes, they are.

20 Q. And do you refer to that as the Group II plate?

21 A. Yes, I do.

22 Q. Could you indicate perhaps for the jury, so they
23 will have that in writing, which ones are the Group II.

24 A. It is -- okay. The Group II consists of the EAP,
25 and the ADA, and the AK. (Witness complied).

26 Q. So, to read for these enzymes, and to be practical,
27 let's use the defendant's blood, with one test you can determine
28 his ESD and PGM type plate.

1 A. That is correct.

2 Q. And if you want to go further, you to want to
3 develop his EAP, ADA and AK, you have enough of a sample to run
4 that separate electrophoretic plate; is that correct?

5 A. That is correct, yes.

6 Q. And if that plate is run correctly, you can get
7 results on two plates for up to five enzymes.

8 A. That is correct, yes.

9 Q. Could you tell the jury verbally, and indicate on
10 the chart, which enzymes are run on what is called the Group III
11 plate.

12 A. Okay. First of all, they're not enzymes, there are
13 what you called serum protein, and on the Group III plate are
14 what is called Gc and Tf. Serum protein,

15 Q. And "Tf" is for Transferrin?

16 A. Yes, it does.

17 Q. Do you see on this chart the tests that are
18 performed in the Group IV series?

19 A. Yes, I do.

20 Q. Which ones do they cover?

21 A. The Group IV series are performed with the CA II,
22 PEPA, and also you can get an indication of Hemoglobin type on
23 the Group IV.

24 Q. Back -- before we do that, in the summer of 1983,
25 from, let's say, June the 5th until August the 8th, were you
26 running Hemoglobin on the Group IV?

27 A. I was running the Hemoglobin on the Group IV only
28 as looking for variance. If it looked on the plate that it is

1 variant, as meaning a sickle cell trait or something like that,
2 then I would mark it down as I was not running that standard; I
3 was not making any calls.

4 Q. Could you indicate then the enzymes that are
5 covered under Group IV?

6 A. Just the CA II and PEPA.

7 Q. All the ones that could be run under Group IV?

8 A. Okay.

9 Q. That would be CA II, PEPA and the Hemoglobin.

10 Q. (Witness complied)

11 Q. Of the Haptoglobin which you have indicated by
12 these initials Hp, you apparently run separately; is that
13 correct?

14 A. That is correct, yes.

15 Q. And do you use an electrophoretic technique to test
16 for that type?

17 A. Yes, I do.

18 Q. And does that particular test have a name?

19 A. The type of test that I use is called a vertical
20 gradient acrotomide electrophoresis.

21 Q. Was that the first time you performed that type of
22 test?

23 A. No, it isn't.

24 Q. Have you done that a number of times?

25 A. Yes, I have.

26 Q. Has this multisystem, this technique using the
27 Group I through IV systems, been tested by persons other than
28 yourself, for example?

1 A. Yes, it has.

2 Q. Has electrophoresis been accepted in the forensic
3 serology community as a valid reliable means of typing blood?

4 A. Yes, it has.

5 Q. And has the use of the multisystem likewise been
6 accepted as a valid and reliable scientific means of making
7 these analysis?

8 A. Yes, it has.

9 Q. Now, it appears from the chart, 589, that you have
10 typed the whole bloods of the victims and the defendant in this
11 case, and all the catagories are indicated on the chart. Is
12 that correct?

13 A. That is correct, yes.

14 Q. Could you articulate for the jury, starting with
15 the EsD the different types of the victims and the defendant's
16 blood.

17 A. Okay. Do you want me to go down this way?

18 Q. Start with Peggy Ryen and ending with Kevin Cooper.

19 A. Okay. My question is, do you want me to say all
20 the enzymes and serum proteins?

21 Q. Just EsD first,

22 A. Peggy Ryen is a type 1 EsD. Jessica Ryen is type
23 1. Doug Ryen is a type 1. Chris Hughes is a type 2-1. Joshua
24 Ryen is type 1. And Kevin Cooper is a type 1.

25 Q. What were the results that you got off the PGM run?

26 A. Off the PGM run, I got for Peggy Ryen a type 1.
27 Jessica Ryen as a type 1. Doug Ryen as a type 2-1. Chris
28 Hughes as a type 1. Joshua Ryen as a type 2-1, and Kevin Cooper

1 as a type 1.

2 Q. Do you know when you started typing the whole
3 bloods of the victims to make these determinations?

4 A. Not specifically, no. I can take a look at my
5 notes.

6 Q. Was it sometime during the month of June, 1983?

7 A. Yes, sir, it was.

8 Q. The next category I believe is the PGM subtyping;
9 is that correct?

10 A. Yes, it is.

11 Q. What were your results on that?

12 A. Peggy Ryen was 1+1-. Jessica Ryen, 1+1-.
13 Doug Ryen was a 2+1+. Chris Hughes is a 1+. Joshua Ryen is a
14 2+1-. And Kevin Cooper is a 1+.

15 Q. Could you then go to the EAP, just the victims.
16 Just Peggy through Joshua.

17 Q. Peggy Ryen is a type B. Jessica Ryen is type BA.
18 Doug Ryen is type BA. Chris Hughes is a type BA, and Joshua
19 Ryen is a type B.

20 Q. Now, you have a result under the column that
21 applies to VV-2, Kevin Cooper. Kevin Cooper appears to be an
22 RB.

23 A. That is correct.

24 Q. As of today, do you have an opinion as to what EAP
25 type whole blood Mr. Cooper has?

26 A. Mr. Cooper is an EAP, RB.

27 Q. Now, when you first -- do you remember when you
28 first typed his blood, Cooper's blood, and got a EAP result? Do

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1 you have those notes there?

2 A. Yes, I do.

3 Q. Could you get the notes and could you tell the jury
4 the date at which you first typed them.

5 A. This would be August 4th, and I developed it on
6 August the 5th of 1983.

7 Q. When did you actually call the plate?

8 A. This would be August the 5th, 1983.

9 Q. Now, when you called the plate back in August, did
10 you read Mr. Cooper's EAP type as RB?

11 A. No, I did not.

12 Q. What did you read it as?

13 A. I read it as a B.

14 Q. Now, could you then extend perhaps underneath that
15 column on the chart, could you extend two lines, and could you
16 perhaps put "B" in there.

17 And could you also put a little No. 1 up there so
18 the jury knows, and so they're not misled by the chart, so they
19 know that's what you called it the first time.

20 Now, is there a difference between a B and an RB as
21 far as the EAP goes?

22 A. Yes, there is.

23 MR. KOCHIS: And perhaps if I could get, your Honor, a
24 sheet of paper.

25 THE COURT: Sure.

26 MR. KOCHIS: A blank sheet.

27 THE COURT: In the corner, I believe.

28 MR. KOCHIS: If I could have the clerk prepare a tag or

1 whatever would be next in order.

2 THE CLERK: 595.

3 BY MR. KOCHIS:

4 Q. Now, between the two EAP types, Mr. Gregonis, for
5 example, the B and the RB, is either one of them a rarer type,
6 as it were?

7 A. Yes. The RB is much rarer.

8 Q. And until this case, till the Cooper case, had you
9 ever conducted an electrophoretic run and seen an RB?

10 A. Not that I know of, no.

11 Q. Now, perhaps you could illustrate for the jury
12 first just on this diagram what the pattern of a B -- why don't
13 we put a B, a CB, and an RB, could you do that?

14 A. Yes. As far as a B is concerned, if we look at
15 first of all where the sample was first put, label that origin,
16 I will just put an "O."

17 Q. In origin, are we talking about the slots that you
18 make in the gel with the razor?

19 A. That's where I put the sample. What we're looking
20 at basically are two bands for the B, one band down here closer
21 to the origin, another more intense band up above it, away from
22 the origin.

23 Along with this, these two bands would be a storage
24 band or band that occurs simply from sitting around, if you
25 will, which is weaker, above that.

26 Q. Now, perhaps next to that could you diagram the CB?

27 A. Yes. A CB would again have these two bands closer
28 to the origin, however, they would be of approximately the same

1 intensity. And again you'd have a week storage band up here.

2 Q. And third, could you diagram an RB, for example,
3 for us.

4 A. Okay. An RB as I see it on my system would have
5 both these two bands here along with the storage band and
6 another band up towards where the storage band area is.

7 Q. Now, if you read a plate, just for example, read
8 from the origin up to the first two bands, is an RB and a B
9 going to essentially look the same?

10 A. If you ignore from here on up, yes, they will, they
11 look the same.

12 Q. What would happen if when you developed the plate
13 you didn't develop it up far enough to where the storage band
14 region was on the B and the R band region was on the RB, would
15 the two look about the same?

16 A. They would look the same, yes.

17 Q. Now, is this the way -- you've drawn these
18 rectangles rather clearly for the jury, is this the way the
19 plate actually appears when you look at it?

20 A. No, it isn't.

21 Q. Directing your attention to what we've marked for
22 identification as Exhibit 591, is this actually a photograph, an
23 enlargement of a photograph you took of an electrophoretic run?

24 A. Yes, it is.

25 Q. Could you perhaps join me in the center of the jury
26 box on the outside.

27 Is this a photograph, a picture, that you took?

28 THE COURT: Counsel, I don't think the jury can see it

1 better that way than before. You are cutting off the front row
2 on the end there. That's better.

3 BY MR. KOCHIS:

4 Q. Is this a photograph, an enlargement of a picture
5 you took of an EAP run to illustrate what the different types
6 look like?

7 A. Yes, it is.

8 Q. And starting from the jurors' right, I believe,
9 moving to the -- their left, could you explain to them what the
10 diagram shows with the different phenotypes?

11 A. Okay. Starting from the jurors' right over here, I
12 believe --

13 Q. Right.

14 A. -- would be the type A phenotype with two bands.
15 It's a little hard to see with one band here, one band up above
16 it.

17 The type CB as I've indicated two bands
18 approximately equal in intensity, and there is a slight storage
19 area up here.

20 The type RA has four bands, one where the other A
21 band is, one above that, and just progressively up the plate
22 from the A up.

23 The RB again has three bands basically, one closer
24 to the origin, more intense one in the middle, and one above
25 that.

26 The BA has approximately four bands as you can see
27 here, the more intense band approximately the third band up.

28 The type C has two bands basically, with the band

1 on the bottom being more intense than the band above.

2 The type CA has the same with the A as over here,
3 one band here, one band here, but it also combines with the two
4 bands of the C to give you this four-banded pattern with the
5 more intense bands on the bottom.

6 A type RB has again a band on the bottom.

7 A RA band, that is the same as one of the B bands
8 and A bands up towards the top.

9 Q. Now, on this diagram, and I believe it's 591, is
10 Mr. Cooper's blood anywhere on the diagram?

11 A. Yes, it is.

12 Q. And that's -- the laboratory number when we talk
13 about his blood, it's VV-2; is that correct?

14 A. That is correct.

15 Q. Which one is it, do you know?

16 A. Mr. Cooper's blood is the second one, the RB.

17 Q. Could you perhaps, on the diagram itself could you
18 just place a "K.C." underneath that for Kevin Cooper, underneath
19 that on the white so the jury can later --

20 A. (Witness complied.)

21 Q. Now, is there a reason that the banding on Mr.
22 Cooper's RB doesn't appear exactly the same as the banding on
23 the other RB sample?

24 A. I think it's basically just variation within
25 samples. This is -- this sample over here is slightly weaker
26 than Mr. Cooper's blood sample over here.

27 Q. And again on Mr. Cooper's blood, when we talk about
28 his EAP type being an RB, in the R band position there is a band

1 of light that's in approximately the same position as the
2 storage bands in a B type blood?

3 A. That is true, yes.

4 Q. Returning again to the chart, 589, could you
5 indicate for the jury -- well, perhaps to be a little more
6 concise, you, in a group system using the multisystem, you ran
7 everybody's ADA and AK type, is that true?

8 A. That is true.

9 Q. And is it fair to say that everybody in the
10 picture, the Ryens, the Hughes boy, and Mr. Cooper, they all
11 have the same ADA and AK types?

12 A. That is true, yes.

13 Q. They are all ADA's and AK's?

14 A. That is correct.

15 Q. If that was the only test you could perform on a
16 bloodstain, you couldn't distinguish whether that drop of blood
17 came from which one of the six people; is that correct?

18 A. That is correct, yes.

19 Q. Now, with the Group III system is that the case?

20 A. No, it is not.

21 Q. Could you tell the jury what the Gc results were,
22 for example, for the Ryens, the Hughes boy, and Mr. Cooper?

23 A. Okay. As far as the Gc, I was unable to get it on
24 three people. That was Peggy Ryen, Jessica Ryen, and Chris
25 Hughes.

26 As far as Doug Ryen, he is a type 2-1.

27 As far as Joshua Ryen, he is also a type 2-1.

28 And Kevin Cooper is a type 1.

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1 Q. Now, these minus signs that you've indicated next
2 to the Gc results for Mrs. Ryen, her daughter, and Chris, when
3 you say you couldn't get it, what does that mean?

4 A. Simply that the serum protein wasn't active enough.
5 There wasn't enough there for me to detect and make a
6 determination as to what type it was.

7 Q. So, is it correct to say then that there are
8 certain cases in which after you do an electrophoretic run and
9 you look at the plate you don't feel comfortable calling it one
10 way or the other?

11 A. That is correct, yes.

12 Q. And perhaps is that what took place on the analysis
13 for those three people?

14 A. Yes, it is.

15 Q. Were you able to get transferrin results for all
16 people?

17 A. Yes, I was.

18 Q. And what were those results?

19 A. Okay. Everybody -- all the Ryens, Peggy, Jessica,
20 Doug, and Joshua, along with Chris Hughes are all transferrin or
21 Tf type C's.

22 Kevin Cooper is a type CD.

23 Q. What are the haptoglobin?

24 A. As far as the haptoglobin results, the Hp as
25 indicated on the chart, Peggy Ryen is a type 1.

26 Jessica Ryen is a type 2-.

27 1, Doug Ryen is a type 2-1.

28 Chris Hughes was, I was enable to determine what

1 type he was.

2 Joshua Ryen is a type 1.

3 And Kevin Cooper is what's called a 2-1M.

4 Q. And the PEPA's -- I'm sorry, I skipped the CA II.
5 Is everybody essentially the same in that?

6 A. Everybody is a CA II type 1.

7 Q. And is it also fair to say that everybody has the
8 same hemoglobin type or --

9 A. That is true, yes.

10 Q. How about PEPA?

11 A. As far as PEPA, again, all the Ryens, Peggy, Doug
12 Jessica, and Joshua are all 1's, along with Chris Hughes being a
13 type 1.

14 Kevin Cooper is a PEPA type 1 -- or a type 2,
15 excuse me.

16 Q. Now, are you familiar with the term "population
17 frequency"?

18 A. Yes, I am.

19 Q. And does that term apply, for example, to the
20 frequency with which in a given population you would find
21 somebody with the same, let's use the word "genetic profile", as
22 Peggy Ryen?

23 A. Yes, it does.

24 Q. And is your ability to discriminate between her and
25 other persons greater as the number of tests, for example,
26 continue?

27 A. Yes, it is.

28 Q. And can you also make more accurate determinations

1 as to how frequent her genetic profile would appear in a given
2 population based on the more tests that you perform?

3 A. Yes I can.

4 Q. For example, if you just did the ABO test in terms
5 of a given hundred people in the State of California, she would
6 not be the only one that was an ABO type AB?

7 A. That is correct.

8 Q. And she would be what percentage of that hundred
9 people for example?

10 A. Approximately five percent.

11 Q. So, five out of every people in terms of ABO would
12 have a genetic profile similar to that of Peggy Ryen's?

13 A. As far as ABO, yes.

14 Q. Now, have you done some calculations on, well, the
15 victims, for example, from Peggy down to Josh, as to how
16 frequent their genetic profiles are?

17 A. Yes, I have.

18 Q. And is there -- let me back up for a minute.

19 Does the research indicate that your ABO type, and
20 let's use Peggy as an example, peggy is a type AB, does the
21 research indicate that a person with an ABO type AB is going to
22 automatically have certain enzymes and certain proteins?

23 A. No, it does not. It indicates the opposite.

24 Q. For example, are your enzyme types and certain
25 protein tpestips independent of your ABO type?

26 A. Yes, they are.

27 Q. And then does the research indicate, for example,
28 let's use the Group I enzymes, the EsD and the PGM, does the

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1 research indicate that your EsD type will also be linked or
2 determine your PGM type?

3 A. No, sir, it does not.

4 Q. Are they independent then of each other?

5 A. Yes, they are.

6 Q. Would that apply to the other enzymes and certain
7 proteins on that chart?

8 A. Yes, it does.

9 Q. To arrive at a population frequency then of a
10 genetic profile, do what you essentially do is do you take the
11 frequency with which each particular type appears and multiply
12 them by each other?

13 A. Yes, we do.

14 Q. With the test that you've done on Peggy Ryen, what
15 would be the frequency with which her profile would appear in a
16 population?

17 A. Okay. As far as Peggy Ryen is concerned it's
18 approximately .1 percent.

19 Q. Roughly, are you talking about then one out of
20 every hundred people would have a genetic profile similar to the
21 one on the board next to Peggy?

22 A. No. That would be approximately one out of every
23 thousand.

24 Q. Could you indicate perhaps that then for the jury
25 on the chart?

26 A. Okay. First of all to -- to make this -- my
27 numbers are not including the secretor status because you cannot
28 get that out of the dried blood stain, nor is it including the

1 PGM blood subtype.

2 Q. So, could you perhaps then put a "W-O" to indicate
3 "without" and then just put "S" for secretor and "P-S" for PGM
4 subtype to indicate that the number does not apply to those
5 categories?

6 A. (Witness complied.)

7 Q. And when we continue down, can you be a little more
8 conservative with your space in the event we want to add other
9 things.

10 Can you indicate the -- one out of a thousand I
11 believe you said?

12 A. Yes.

13 Q. Could you indicate perhaps that there underneath?

14 A. Underneath? Okay. (Witness complied.)

15 Q. So if we had 10,000 people we would expect to find
16 nine other people with Peggy Ryen's profile?

17 A. That is correct, yes.

18 Q. Were you able to determine the frequency with which
19 Jessica Ryen's genetic profile would appear in the population?

20 A. Yes.

21 Q. Is there a particular population that you're using
22 for this profile? Are we talking about this country?
23 California? The world? What are you talking about?

24 A. Okay. What I'm talking about is this country, the
25 United States, and in particular for my calculations of the
26 victims in this case it would be the white population.

27 Q. Are there -- are there certain enzyme types then
28 that are -- that can be indicative of the racial heritage of the

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1 person whose blood it is?

2 A. Yes, there are.

3 Q. With Jessica then, can you indicate the frequency
4 with which her profile would appear in the population in this
5 country?

6 A. Okay. Using the same, out of a thousand people
7 her's would be approximately three out of a thousand.

8 Q. Can you also indicate then "W-O-S" or "P1" to
9 indicate that that does not include secretor status or PGM
10 subtype?

11 A. Yes.

12 Q. So in terms of numbers, her profile is somewhat
13 more frequent than her mother?

14 A. That is correct, yes.

15 Q. Were you able to determine her father's frequency
16 of his genetic profile?

17 A. Yes, I was.

18 Q. And what was that?

19 A. Approximately .76 percent, which would be 76 out of
20 10,000 people.

21 Q. Or roughly 7.6 out of a thousand?

22 A. Yes.

23 Q. Could you perhaps do it that way so we can keep the
24 comparisons about the same?

25 A. Yes.

26 Q. What's the number that you've got to the left of
27 the decimal point by the "6"? Is that a "7"?

28 A. This?

1 Q. To the left of the decimal.

2 A. To the left. Yes, that's my "7".

3 Q. Were you able to determine the frequency with which
4 Chris Hughes' profile would appear in the population in this
5 country?

6 A. Yes, I was.

7 Q. And what was that?

8 A. It would be approximately 1.8 percent or 18 people
9 out of a thousand.

10 Q. So, so far his would be the most common profile; is
11 that correct?

12 A. That is correct, yes.

13 Q. Could you indicate that on the chart as well?

14 A. (Witness complied.)

15 Q. Were you likewise able to determine the frequency
16 of Josh Ryen's genetic profile in the population in this
17 country?

18 A. Yes, I was.

19 Q. And could you tell the jury what that is?

20 A. Okay. His percentage is approximately .068 percent
21 of the Caucasian populace.

22 Q. Could you indicate that then on the chart?

23 A. Okay. This would be I guess approximately .7 out
24 of one thousand.

25 Q. Fine. So in terms of frequency, thus far of all
26 the victims his would be the most infrequent or least common of
27 the profiles?

28 A. Yes, sir.

1 Q. Now, with Mr. Cooper what I'd like to do is two
2 things.

3 In August you determined -- you called him Ab, is
4 that correct.

5 A. That is correct, yes.

6 Q. Using that, would you have the frequency with which
7 his profile would appear in a population?

8 MR. NEGUS: Objection. That would be irrelevant what his
9 erroneous call would be.

10 THE COURT: Unless we're going to ignore that hereafter
11 and just talk about his later figure or analysis, then I think
12 it needs to be there.

13 MR. NEGUS: I don't think there is any dispute that Mr.
14 Cooper is an RB.

15 MR. KOCHIS: Well, if that's Mr. Negus' position, I'm not
16 going to quibble at this point about an RB statistic.

17 THE COURT: All right. Go ahead.

18 BY MR. KOCHIS:

19 Q. Just to make sure that the jury is not misinformed,
20 with Mr. Cooper's type as you know it now as an RB, is that
21 going to make his profile, his genetic profile much rarer than
22 it would be if it was a?

23 A. It will make it rarer, yes.

24 Q. Could you indicate -- Well, first of all what I'd
25 like to do then is without --

26 Have you done a calculation as to the frequency of
27 his profile without the EAP factored into it?

28 A. No, sir, I haven't.

1 Q. Could you do one then? Could you place a line
2 across his box?

3 A. (Witness complied.)

4 Q. And could you indicate what the frequency of his
5 profile would be in the population in this country with the
6 results as they appear right next to his name?

7 A. Okay. As far as the results are concerned, first
8 of all, you have to consider that you do have three, and if you
9 consider the RB, four indications of black heritage.

10 Q. Well then, let's stop for a minute. Are there
11 certain enzyme types that the research and the literature
12 indicates occur in certain ethnic populations?

13 A. Yes, sir.

14 Q. For example, are there certain enzymes that a
15 particular type can indicate that it came from a person of black
16 heritage?

17 A. Yes, there are.

18 Q. Is peptidase A one of those?

19 A. Yes, it is.

20 Q. And is -- skipping the EsD for a moment, is
21 haptoglobin another?

22 A. Yes, it can be.

23 Q. And likewise can transferrin be another?

24 A. Yes.

25 Q. Now, which particular peptidase A type is
26 indicative or an indication that the person from whom the blood
27 came is a person of black heritage?

28 A. This would be either the 2 or the 2-1 types.

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1 Q. And Mr. Cooper is a 2-1?

2 A. That is correct.

3 Q. And is that at least serologically genetically some
4 indication that the person whose blood came from VV-2 happens to
5 be someone that has black heritage in his background someplace?

6 A. Yes, it is.

7 Q. Now is this your idea?

8 A. No, it isn't.

9 Q. And is this idea reflected in the scientific
10 literature?

11 A. Yes, it is.

12 Q. Likewise, with the haptoglobin, what haptoglobin
13 type is an indication that in this case VV-2 came from a person
14 who happens to be black?

15 A. This would be the type 2-1M.

16 Q. And then in the transferrin, is the CD, if you get
17 a CD result is that an indication that the blood came from
18 someone who happens to have black heritage?

19 A. Yes, it is.

20 Q. And essentially as serologists talk, when you talk
21 about types that are related to heritage, is it the M gene of
22 the haptoglobin? The M mode, I'm sorry.

23 A. Okay. The 2-1, the M stands for "modified". It's
24 a 2-1M that is an indication of black heritage.

25 Q. And is that the same case with the 2 in the
26 transferrin?

27 A. Yes.

28 Q. And the 2-1 with the PEPA?

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1 A. Yes, sir.

2 Q. Now, because of that have you then charted the
3 frequency of Mr. Cooper's genetic profile as it would appear in
4 the black population?

5 A. Yes, I have.

6 Q. Let's stop for a moment.

7 If you were to look for Mr. -- the frequency of
8 this profile in the white population in this country, what would
9 happen?

10 A. Okay. I believe that it would be -- I don't
11 believe that you would find the CD, the haptoglobin 2-1M, and
12 the peptidase A 2-1 in the white population unless that person
13 had black heritage.

14 Q. So, essentially what you are saying, is to do Mr.
15 Cooper's profile you have to move to a different population to
16 get an accurate frequency?

17 A. That is correct, yes.

18 Q. Now, for example, what would happen if you took and
19 looked for the genetic profiles for the Ryens or the Hughes boy
20 in the black population?

21 A. You could definitely find their profiles in the
22 black population.

23 Q. Okay. To some degree?

24 A. Yes.

25 Q. What would be the frequency of Mr. Cooper's profile
26 then in the black population?

27 A. As far as percentages is concerned with the RB it
28 would be approximately .00011 percent.

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1 Q. In terms of numbers, can you -- is it even possible
2 to equate that to some number out of a thousand?

3 A. Not in a thousand, no.

4 Q. How -- why don't you give us number then?

5 A. It would be one in -- or eleven in ten million.

6 Q. Could you indicate that on the --

7 A. (Witness complied.)

8 Q. So is it fair to say that Mr. Cooper's profile is
9 the rarest, his genetic profile is the rarest of everybody on
10 the chart?

11 A. Yes, sir.

12 Q. And if we assumed that there were between --

13 Well, are you aware approximately what the
14 population in this country is.

15 MR. NEGUS: Objection, your Honor. This is -- I think
16 that what we're about to go into is not the normal way of doing
17 it in the scientific community, and before we do it I think we
18 should have a hearing on it.

19 THE COURT: All right. It's a good time to do that.

20 Why don't we excuse you for the rest of the day,
21 ladies and gentlemen.

22 And, counsel, you can remain here.

23 Please, recall and remember the admonition at all
24 times over the evening adjournment. be back tomorrow morning at
25 9:30. Thank you.

26

27 (The following proceedings were held in
28 open court in the presence of the jury:)

1 THE COURT: What was the last question, Mr. Kochis?

2 MR. KOCHIS: I was asking questions to elicit a response
3 as to how frequent Mr. Cooper's profile was in this country
4 among black people.

5 MR. NEGUS: The problem is that I think he was going to
6 try and assign a number based on total populations, but that's
7 not scientifically reliable. All you can do with it is assign
8 frequency, which he has already done, and attempting to put
9 numbers on it is in fact misleading and unreliable.

10 MR. KOCHIS: I was just going to attach a frequency for
11 that profile in this country. That's all. I wasn't going to
12 place a percentage on it, or a number on it.

13 He's already got a frequency with which it appears
14 in a group of ten million people and with our population and
15 with with approximately 20 percent of the population being
16 black, you can assign the frequency of that profile to the black
17 population.

18 MR. NEGUS: But that's not scientifically reliable. He's
19 gone as far as is accepted in the scientific community.
20 Anything else is getting into People versus Collins type
21 problems. And its basically scientifically and statistically
22 misleading because there is no knowledge as to how many people
23 have that particular -- that particular profile in the country.
24 Nobody's ever done any work on that.

25 THE COURT: Isn't this a matter of simple calculations by
26 the jurors themselves?

27 MR. KOCHIS: That's possible.

28 THE COURT: Let's leave it at that, sir. You can talk

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1 about it in argument or you can perhaps work it out yourself in
2 argument provided you have the foundation laid in the evidence
3 as to the number of people, I suppose number of people in the
4 United States.

5 MR. KOCHIS: Well, can I ask those questions of Mr.
6 Gregonis though?

7 MR. NEGUS: That's outside his expertise. And I think
8 it's also misleading. You get into a People versus Collins time
9 problem.

10 THE COURT: I don't know what your talking about.

11 MR. KOCHIS: Your Honor, Collins had nothing to do with
12 serology and phenotyping. It had to do with a psychologist
13 assigning random probabilities to the likelihood of another
14 racial couple black man with a blond woman with a ponytail being
15 in a convertible in a particular place and a particular time,
16 and it was appealed.

17 MR. NEGUS: It had to do with mathematics. And Justice
18 Sullivan who had some background in mathematics pointed out that
19 that particular type of argument is not only misleading, but
20 it's mathematically inaccurate. And I think that Mr. Kochis is
21 trying to get into the same sort of thing.

22 THE COURT: I agree. Do you have a citation on that?

23 MR. NEGUS: It's I believe in 68 Cal.2d.

24 THE COURT: Let me look at it. Lets's meet briefly
25 tomorrow morning.

26 MR. KOCHIS: Your Honor, the other area I want to clear
27 with the Court is Mr. Negus and I had earlier in the week agreed
28 to a procedure to handling some of the experts I have coming up.

1 They have come from distances, and I think with Dr. Morris --

2 Let me talk to Mr. Negus because it was my
3 understanding that I thought we had an agreement as to how to
4 handle a pathologist from Long Beach.

5 THE COURT: Why don't I wait here a few minutes to be
6 sure.

7 MR. KOCHIS: We can discuss this, and then I can --

8 THE COURT: What I was suggesting is that I will be in
9 chambers if you want to take more time to discuss it. And if
10 you want to get on the record, we can.

11 MR. KOCHIS: Fine. We could perhaps hold the defendant
12 for another moment so I can clear this up.

13 THE COURT: All right.

14 You can get down.

15 (Adjournment.)
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