

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

BRUCE MCGREGOR DAVIS,

Defendant.

219

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Monday, January 10, 1972

VOLUME 19APPEARANCES:

For the People:

JOSEPH P. BUSCH, JR., District Attorney
BY: ANTHONY MANZELLA
and
STEPHEN R. KAY,
Deputies District Attorney

For Defendant Davis: GEORGE V. DENNY, III

PIET
WHITELEY
TURNER

COPY

MARY LOU BRIANDI, C.S.R.
ROGER K. WILLIAMS, C.S.R.
Official Court Reporters

I N D E X

<u>PEOPLE'S WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR</u>
					<u>DIRE</u>
PIET, Paul	2727 K				
WHITELEY, Paul J.	2734 K	2781	2831 K	2842	
TURNEY, Francis	2846 M	2866	2882 M 2885 M	2886	2884 D

E X H I B I T S

<u>PEOPLE'S:</u>	<u>For Identification</u>	<u>In Evidence</u>
6 - photograph	2742	2742
6-A and 6-B - two photos	2732	2732
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8 - four photographs	2742	2743
9-A through 9-H - 8 photos	2762	2762
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E X H I B I T S

<u>PEOPLE'S:</u>	<u>For Identification</u>	<u>In Evidence</u>
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32 - (Previously identified)		2831
33 - (Previously identified)		2832
35 - traffic ticket		2832
37 - five photographs	2835	

1 LOS ANGELES, CALIFORNIA, MONDAY, JANUARY 10, 1972, 10:15 A. M.

2
3 THE COURT: Good morning, ladies and gentlemen.

4 (Whereupon, murmurs of "Good morning, your
5 Honor," were heard from members of the jury.)

6 THE COURT: I hope you all had pleasant weekends. It's
7 good to see you again.

8 The record will show that all jurors and
9 alternates are present. Mr. Denny is present; the defendant
10 is present; and Mr. Kay and Mr. Manzella for the People.

11 The People may proceed.

12 MR. KAY: Thank you. The People call as their next
13 witness Deputy Paul Piet.

14 THE CLERK: Raise your right hand, please.

15 You do solemnly swear that the testimony you may
16 give in the cause now pending in this court shall be the
17 truth, the whole truth, and nothing but the truth, so help
18 you God?

19 THE WITNESS: I do.

20
21 PAUL PIET,

22 called as a witness by and on behalf of the People, having
23 been first duly sworn, was examined and testified as follows:

24 THE CLERK: Please state and spell your full name.

25 THE WITNESS: Deputy Paul Piet; P-i-e-t, Los Angeles
26 Sheriff's Department, presently attached to Civil Division.

27 DIRECT EXAMINATION

28 BY MR. KAY:

1 Q What's a Civil Division?

2 A In the bailiff bureau.

3 Q Oh. Now, Deputy Piet, directing your attention to
4 July 31st, 1969, I take it you were also a Deputy Sheriff?

5 A Yes, I was.

6 Q And where were you assigned then?

7 A Malibu Sheriff's Station, Patrol Division.

8 Q All right. Did you have occasion on July 31st,
9 1969, to go to the location of 964 Old Topanga Road in Malibu?

10 A Yes, I did.

11 Q And what time did you go there?

12 A I received the call at 8:05, and I probably
13 arrived there at 8:10, 8:15.

14 Q And when you arrived at 964 Old Topanga Road in
15 Malibu, did you meet anybody?

16 A Yes, I met an informant by the name of Erwin and
17 two companions.

18 Q All right. Did you have a conversation with them?

19 A Yes, I did.

20 Q I take it this was at night, 8:05, 8:15 at night?

21 A Yes, it was.

22 Q All right. After you had a conversation with
23 Mr. Erwin, what did you do?

24 A Well, I looked up at the location, and the south-
25 east window was partially ajar, and I saw numerous flies
26 around it; and there was a ladder against the building, and I
27 moved the ladder to the window, and I proceeded up the ladder
28 to the window.

1 Q And did you look in the window when you got to the
2 top of the ladder?

3 A Yes, I did.

4 Q And what, if anything, did you see?

5 A I saw a victim lying on the floor, against the
6 west wall.

7 MR. KAY: Let's see. I'd better bring this little stand
8 out here.

9 Q If you could step down a minute, Deputy Piet?
10 I have here People's 5, which has already been
11 admitted into evidence.

12 Can all of you jurors see People's 5 now?

13 (No negative response.)

14 Q BY MR. KAY: I see in Photograph No. B -- and also
15 in Photograph D and C, there appears to be a ladder in the
16 photograph.

17 Is this the ladder that you talked about in your
18 testimony?

19 A Yes, sir.

20 Q Now, there also appears on Photograph B and D to be
21 a window open.

22 Is that the window that you looked into?

23 A Yes, sir.

24 Q Now, was the window open as far as it appears in
25 Photographs B and D, when you looked in?

26 A Well, it was slightly closed; approximately about
27 half the distance.

28 Q About half that distance (indicating)?

1 A Yes.

2 Q All right. Could you resume the stand, please?
3 Now, after you saw the body, what if anything did
4 you do?

5 A I proceeded down the ladder, and went to the
6 porch area, and examined the door.

7 The door was locked, and I found -- I took a
8 look at the window leading into the kitchen, and I noticed it
9 didn't have a lock on it, so I opened that window and
10 proceeded inside.

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Aa-1

1 Q All right. If you could step down again to
2 People's 5?

3 Can you find the area in here -- first, which
4 is the door that you approached?

5 A This one (indicating).

6 Q That's in photograph 5-E? You approached that
7 door?

8 A Yes.

9 Q And then the kitchen window that you entered,
10 is that shown in the photographs? Or if not, can you
11 describe approximately where it is?

12 A Approximately probably -- this window here. I
13 can't see --

14 MR. MANZELLA: Excuse me, Deputy Piet.

15 Would you use the hand microphone in front of
16 the witness stand?

17 Thank you.

18 Q BY MR. KAY: You are pointing now to photograph
19 5-F, and there appears to be a -- that looks like "Sergeant
20 Whiteley."

21 A This is probably the window right here (indi-
22 cating).

23 Q All right.

24 A And the door would be right here (indicating).

25 Q Next to a kind of a stove -- a stovepipe --

26 A Yes. This is far off to this way. I entered
27 through this way (indicating), and went through the window.

28 Q Okay.

Aa-2

1 MR. DENNY: May we have described for the record
2 what "this way, and this way," and "this" means?

3 Q BY MR. KAY: Yes. Would you describe, using
4 photograph F -- 5-F --

5 A All right. This is the eastern door. I
6 entered through this door, which is this side of --

7 Q This is photograph 5-F?

8 A Yes. This is the south door (indicating). I
9 came through the south door, went in through the east
10 window leading into the kitchen.

11 And there's only one window leading into the
12 kitchen.

13 THE COURT: What photograph is that?

14 THE WITNESS: On photograph F.

15 Q BY MR. KAY: 5-F?

16 A 5-F.

17 Q Now, after you entered the home at 964 Old
18 Topanga Road, did you find anyone inside other than the
19 body?

20 A No, sir.

21 Q All right. And did you go to the location
22 where you had seen the body --

23 A Yes.

24 Q -- when you opened the window?

25 All right.. And where was that?

26 A It was up against the west wall, in what
27 appeared to look like a living room, next to a couch, and
28 the body was -- his head was half covered with a pillow;

Aa-3

1 his face was decomposed, black, and with maggots on and about
2 the face.

3 I lifted the blanket and observed three blood
4 spots on his chest.

5 Q What did you do after you made this preliminary
6 examination of the body?

7 A I notified Homicide.

8 Q Sergeant Whiteley?

9 A Yes, sir.

10 MR. KAY: I have here, your Honor, a cardboard, a
11 piece of cardboard with two photographs on it, marked A and
12 B.

13 It's previously been marked as People's 6. May
14 it remain as People's 6 in this proceeding?

15 THE COURT: So ordered.

16 Q BY MR. KAY: Deputy Piet, I show you People's 6
17 for identification, photographs A and B.

18 Do you recognize the body depicted in those
19 two photographs?

20 A Yes, I do.

21 Q And is that the body you discovered at 964
22 Old Topanga Road?

23 A Yes, I did.

24 Q And do these photographs appear to you to
25 accurately depict how that body looked when you found it?

26 A It was in the same position.

27 Q And did it look the same?

28 A Yes, sir.

6 Id Ev.

Aa-4

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Q All right. And this is on July 31st, 1969?

2

A Correct.

3

Q And did -- after you called in, did Sergeant

4

Whiteley arrive?

5

A Yes, he did.

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Q And did you secure the location until he

7

arrived?

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A Yes, I did.

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Q Did you have to force any doors or windows

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open in the location to make the observations that you did?

Ab fls. 11

A No, sir.

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AB-1

1 MR. KAY: I have no further questions.

2 MR. DENNY: No questions.

3 THE COURT: You may step down.

4 MR. KAY: Thank you, Deputy Piet.

5 The People will call Sergeant Paul Whiteley.

6 THE CLERK: You do solemnly swear that the testimony you
7 may give in the cause now pending before this court shall be
8 the truth, the whole truth, and nothing but the truth, so help
9 you God?

10 THE WITNESS: I do.

11

12

PAUL J. WHITELEY,

13

called as a witness by and on behalf of the People, having been
14 first duly sworn, was examined and testified as follows:

15

THE CLERK: Would you state and spell your full name?

16

THE WITNESS: Paul J. Whiteley; W-h-i-t-e-l-e-y.

17

18

DIRECT EXAMINATION

19

BY MR. KAY:

20

Q Sergeant Whiteley, what is your occupation and
21 assignment?

22

A I am a supervising sergeant of detectives, Los
23 Angeles County Sheriff's Office, assigned to the Homicide
24 Bureau.

25

Q All right. And you are also the chief detective
26 on the Hinman and Shea murders?

27

A Yes, I am.

28

Q Directing your attention to July 31st, 1969, I

1 take it you were also assigned to homicide?

2 A Yes, I was.

3 Q All right. And did you have a partner at that
4 time?

5 A Yes.

6 Q And what was his name?

7 A Deputy Charles Guenther.

8 Q All right. Now, on July 31st, 1969, did you
9 receive a call from Deputy Paul Piet?

10 A Yes, I did.

11 Q And after receiving that call did you proceed to
12 the location of 964 Old Topanga Road in Malibu?

13 A Yes, I did.

14 Q And about what time did you arrive there?

15 A Approximately 10:00 P. M. in the evening.

16 Q All right. Did you meet Deputy Piet there?

17 A Yes, I did.

18 Q If you can step down a minute and use the hand-
19 microphone?

20 Let me make inquiry of you concerning this -- do
21 you want to use the hand-microphone?

22 A I won't need it.

23 Q Okay. Showing you People's 5 for identification,
24 Sergeant Whiteley, would you -- using these photographs --
25 describe what you did, once you arrived at 964 Old Topanga
26 Road?

27 A Yes. This is the exterior of 964 Old Topanga
28 Road. Photograph A here is the stairway leading from Old

1 Topanga Road up the hill, to enter the location.

2 Picture B shows the front of the house --

3 MR. DENNY: I'll object to the answer as not responsive
4 to the question, which was: "Tell us what you did." Not what
5 the pictures are.

6 THE COURT: The objection is sustained.

7 Q BY MR. KAY: All right. Sergeant Whiteley, could
8 you describe what the pictures show, first? And then I'll ask
9 you what you did.

10 A Photograph B is the front of the house at the
11 location, facing Old Topanga Road.

12 Photograph C is the walkway that goes along the
13 front of the house to a stairway leading into the house.

14 Photograph D shows the stairway leading into the
15 door of the location.

16 Picture E is another photograph showing the same
17 stairway.

18 Picture E -- or, excuse me -- Picture F shows
19 the doorway on the south side of the building, at a different
20 level, which is higher than the walkway shown in the photograph
21 C.

22 Q Now, Sergeant Whiteley, again using these photo-
23 graphs, can you describe what you did when you first got
24 there?

25 A I walked up this stairway --

26 Q Photograph A?

27 A Yes. And across the front, which, in Photograph
28 B I would be coming from left to right.

1 And in Photograph C, along the pathway to the
2 bottom of the photograph. I climbed a small hill and entered
3 the door in Photograph F.

4 Q And then did you -- did you enter the home?

5 A Yes.

6 Q All right. Now --

7 THE COURT: There's a pointer here, I think, on the other
8 side of that board. It might be easier if you were to use
9 that. Mrs. Muldrow and Mrs. Sandberg might have trouble seeing
10 otherwise.

11 Q BY MR. KAY: Do you want to help me a minute,
12 Sergeant Whiteley? I'm going to move this board around here.

13 Your Honor, I have on this board a sketch showing
14 the floor plan at 964 Old Topanga Road. It has previously
15 been marked People's 7.

16 May it be marked as People's 7 for identification
17 at this proceeding?

18 THE COURT: So ordered.
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7 ID

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Ac-1

1 MR. DENNY: No objection to having it received in
2 evidence.

3 THE COURT: All right. Received in evidence, then,
4 as People's Exhibit 7.

5 MR. KAY: Can all the jurors see this?

6 Q All right. Sergeant Whiteley, I wonder if you
7 would, then, if you could, describe the house at 964 Old
8 Topanga Road, using that floor plan?

9 A Old Topanga Road runs down here (indicating) at
10 the lower level --

11 MR. DENNY: By "here," you are indicating the left
12 side --

13 MR. KAY: Excuse me, Mr. Denny.

14 MR. DENNY: I'm sorry.

15 Q BY MR. KAY: That's the far left-hand corner?

16 A Yes.

17 Q Okay. Of People's 7.

18 A This (indicating) is a steep hill running to
19 the right-hand side, this being the highest portion of the
20 hill.

21 THE COURT: That's to the right-hand side of the
22 drawing?

23 THE WITNESS: Yes. I came along the walkway by this
24 stairway to the lower portion here, and climbed a small
25 hill, and I entered through this back door into the den.

26 Q BY MR. KAY: All right. Now, this -- this
27 back door to the den, could you mark that with your
28 initials and put "Paul Whiteley entered," if you can?

Ac-2

1 A (Witness complies.)

2 Q All right. Now, continue, Sergeant.

3 A I went -- I proceeded in through the den, through
4 this doorway (indicating), and entered a small hallway,
5 climbed a stairway into the living room, and observed a body
6 located in this portion (indicating) of the living room.

7 Q And I see there's a stick drawing of a body, and
8 there's the initials "PW." Did you make those markings?

9 A Yes, I did.

10 Q And that's in black Crayon or -- it appears.

11 Now, I take it that the home is on two levels;
12 is that correct?

13 A That's correct.

14 Q And can you enter the top level from the bottom
15 level, from inside the house? Or do you have to go outside
16 and climb up the stairs to get to the top level?

17 A You have to go outside the house, either through
18 this door (indicating) or this door, move down to this level,
19 to a bedroom which is directly beneath the living room.

20 Q Now, when you say "this door," the first door
21 was the den door where you entered, where it says "PW entered."

22 And the other door would be --

23 A Off the porch (indicating).

24 Q -- off the porch? All right.

25 And does this appear to be an accurate represen-
26 tation of the house at 964 Old Topanga Road, this being
27 People's 7?

28 A Yes.

Ac-3

1 Q If you could resume the stand for just a moment,
2 Sergeant Whiteley?

3 I show you People's 6 for identification, a
4 photograph of a body.

5 Does that -- do you recognize what's depicted
6 in that photograph?

7 A Yes, I do.

8 Q And is that the body you found at 964 Old Topanga
9 Road?

10 A Yes, it is.

11 Q And does that appear to be an accurate photograph
12 of how the body looked when you found it?

13 A Yes.

14 Q Except for the fact that, of course, the photo-
15 graphs are in black and white?

16 A Yes.

17 THE COURT: I'll admit that into evidence.

18 MR. KAY: Thank you. We would so move, your Honor.

19 MR. DENNY: Well, your Honor, I -- may I --

20 THE COURT: I will hear from you.

21 (Whereupon, the following proceedings were
22 had at the bench among Court and counsel, outside
23 the hearing of the jury:)

24 MR. DENNY: Your Honor, this photograph, although not
25 the most horrendous of this particular body -- there are
26 others that are worse -- nevertheless is a rather shocking
27 and horrendous picture of a partially decomposed body.
28

Ad fls.

Ad-1

1 I do not believe it is necessary to get this
2 particular picture in evidence before the jury, in view of
3 the fact that I don't think there's any argument as to the
4 fact that the body was there. There's no argument as to the
5 condition of the body.

6 There will be introduced into evidence, I
7 assume, as there was in the last trial -- and I am not going
8 to object to its introduction -- the mannequin which Dr.
9 Katsuyama will use to describe the wounds on the body.

10 There is no argument as to where the body was
11 found. I think the introduction of this picture can only
12 serve to inflame the jury, and the -- the probative value is
13 far outweighed by the prejudicial effect.

14 MR. KAY: Well, your Honor, I believe that the cases
15 in California do not prohibit the prosecution from entering
16 this type of photograph. We believe it's relevant, in
17 showing the state of decomposition, as to the time period
18 that Mr. Hinman was left there, -- from the time he was
19 murdered until the time he was found, which Dr. Katsuyama
20 will be testifying to.

21 And I think it's relevant to establish a time
22 period from the -- in front of the jury and I don't think
23 that these -- these photographs are in black and white;
24 they're not in color. They -- it should be noted that there's
25 a pillow covering Mr. Hinman's face, so they can't really
26 see the face.

27 I think that the photographs, as far as being
28 photographs of a dead body, are very innocuous. They're

1 certainly not as shocking as Coroner's -- even as Coroner's
2 photographs, which are generally always admitted in cases.

3 THE COURT: Well, it doesn't appear to the Court that
4 they're unnecessarily startling or gruesome.

5 The Court believes that the probative value
6 here would outweigh any prejudicial effect. The Court will
7 admit this into evidence.

8 The objection is overruled.

9 MR. KAY: Thank you, your Honor.

10 (Whereupon, the following proceedings were
11 had in open court, within the presence and hearing
12 of the jury:)

13 THE COURT: The photographs are received together
14 as People's 6.

15 MR. KAY: Thank you, your Honor.

16 (Whereupon, Mr. Kay exhibited the photographs
17 to the jury.)

18 MR. KAY: If I might have a moment, your Honor? I
19 have to find an exhibit here.

20 Q Sergeant Whiteley --

21 Well, your Honor, I have here a piece of card-
22 board with four photographs on it, which has previously
23 been marked as People's 8.

24 May it continue to be marked as People's 8?

25 THE COURT: Four photographs?

26 MR. KAY: Yes. Four photographs on a piece of card-
27 board.

28 THE COURT: It may be marked as 8 for identification.

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8 id.

1 MR. KAY: Thank you.

2 Q Sergeant Whiteley, I will show you People's 8
3 now. Do you recognize the four photographs that are on
4 People's 8?

5 A Yes, I do.

6 Q All right. And first, showing you -- well,
7 what do they depict, the four photographs?

8 A This is the den area (indicating) --

9 Q Down here on People's 7, where it says "den
10 area"?

11 A Yes.

12 MR. DENNY: Your Honor, may I approach the witness
13 a moment?

14 I have no objection to the receipt in evidence
15 of these photographs, your Honor, for -- it might make it
16 easier if they're put up here, too.

17 MR. KAY: I would so move.

18 THE COURT: All right. They're received in evidence
19 as 8.

20 Thank you, Mr. Denny.

21 Q BY MR. KAY: Would you step down here, Mr.
22 Whiteley?

23 Can everyone see these photographs? Maybe if
24 I move these a little closer.

25 All right. Sergeant Whiteley, if you could
26 start with photograph No. A, and describe what is shown
27 in each photograph?

28 A This photograph was taken from the center of the

8 Ev

1 den, showing the door -- the entranceway into the hallway,
2 which leads into the main portion of the home.

3 It would be standing here (indicating) and
4 photographing this doorway (indicating), the hallway; and
5 in the rear, you can see the bathroom, which is back here.
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1 Q All right. Now, Sergeant, if I could ask you,
2 when you point to People's 7, if you could explain for the
3 record that you are pointing to People's 7?

4 And I take it that when you said you were standing
5 in the den, you were standing exactly where the words -- or
6 the word d-e-n, is written; and you were looking straight into
7 the hallway and into the bathroom in People's 7; is that
8 correct?

9 A That's correct.

10 Q All right. Okay. Thank you.

11 If you could continue?

12 A Picture B is standing in the center of the den,
13 and it shows the window into the kitchen, and the doorway
14 into a small library that runs back behind the kitchen.

15 It would be standing on People's 7 where it says
16 "den" and showing the window to the kitchen (indicating), and
17 a doorway into what is labeled here "Utility Room."

18 Q Now, Sergeant Whiteley, I notice that in Photograph
19 B and Photograph C, there appears to be a door in the
20 photograph.

21 Did you notice anything unusual about that door
22 when you arrived at the home at 964 Old Topanga Canyon Road
23 the first time? Did you notice anything unusual about it?

24 A Yes.

25 Q What did you notice?

26 A The door had been broken in. The lock had been
27 dislodged from the molding on the wall.

28 Q Now, I notice in Photographs B and --

Ae-2

1 MR. DENNY: Well, just a moment. I'll move to strike
2 the conclusion of the witness that the door had been broken in.

3 The remainder, that the lock had been moved,
4 I do not move to strike that.

5 But the conclusion that the door had been broken
6 in, I do move to strike.

7 THE COURT: All right. The Court does strike the words
8 objected to by Mr. Denny.

9 Q BY MR. KAY: Well, Sergeant Whiteley, have you
10 ever seen a door that's been forced, in your many years in the
11 Sheriff's Office?

12 A Yes.

13 Q And how long have you been in the Sheriff's Office?

14 A About 15 years.

15 Q And on how many occasions have you seen a door
16 which, in your opinion, was forced?

17 A Seventy-five of them.

18 Q Seventy-five different doors?

19 A (Indicating affirmatively.)

20 Q And did you formulate any opinion, based on your
21 experience, as to whether or not the door in Photographs B
22 and C had been forced open?

23 A Yes.

24 Q All right. And what was that opinion?

25 MR. DENNY: I'll object, that the foundation is
26 insufficient to qualify this gentleman as an expert on forced
27 doors.

28 THE COURT: The objection is overruled.

A-3

1 Q BY MR. KAY: Yes. Could you answer that question?

2 A Yes. This door (indicating) appeared to me to be
3 forced in.

4 Q And what did you base that opinion on?

5 A On the lock being pushed out from the door, and
6 the jamb also showing pressure on the inside.

7 Q Now, I notice on these two photographs, on
8 B and C, the area where the lock had been removed from, they're
9 circled in red, and they have the initials "C. G."

10 Do you recognize those initials, C. G.?

11 A Yes.

12 Q All right. And whose are those?

13 A My partner, Charlie Guenther.

14 Q Now, moving on to Photographs No. D, in People's
15 8 for identification, what is shown in that area?

16 A This is a photograph also taken from the center
17 of the den -- I take that -- excuse me.

18 This photograph was taken from the doorway of the
19 den, showing small pieces of chain that were on the floor in
20 the den.

21 In People's 7, the photograph was taken from
22 here (indicating), and the pieces of chain were located just
23 below the word "den."

24 Q And I take it in this picture, there appear to be
25 little black circles around the places where there are pieces
26 of chain?

27 A Yes.

28 Q And Sergeant, I wonder if you could step to

Ae-4

1 People's 7 for a minute and indicate on there -- or maybe
2 writing on it and putting your initials -- the location of the
3 door that you testified was forced?

4 A That would be this door (indicating) between the
5 den and the utility room.
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Af, fol

AF-1

1 Q Okay. Could you put "door forced, P. W." on it?

2 A (Witness complies.)

3 Q Now, if you would, would you please describe the
4 condition of the living room, and what you observed in the
5 living room, when you went in there?

6 A Do you wish me to describe the body?

7 Q The -- yes, the body; any objects around the body,
8 covering the body.

9 A The victim was lying on his back. He was dressed
10 in a white T-shirt, blue Levi's, with no shoes. His arms
11 were extended out.

12 His wallet was halfway out of his front pocket --

13 Q All right. Maybe if you could use that People's
14 6 here, which shows the body, while you are describing the
15 body?

16 A The wallet was sticking out of his pocket here
17 (indicating), the right front -- or, excuse me. The left front
18 pocket.

19 The fly was open. All the buttons were undone on
20 it.

21 There was a pillow adjacent to his head here. And
22 he was covered with a green blanket, up to the top of his
23 chest (indicating), which has been removed for these photo-
24 graphs.

25 There were a pair of -- oh, chanting beads, off to
26 the right side of his body.

27 Q If you could stop there just a minute, Sergeant?

28 I show you People's 12 for identification. Do you

1 recognize People's 12?

2 A Yes. They appear to be the same type as was found.

3 Q All right. The chanting beads.

4 You may continue -- well, first, let me ask you
5 this:

6 Was there any -- anything on the pillow that was
7 covering the face of the body?

8 A There were body fluids on the pillow.

9 Q Any blood?

10 A Yes. That's included in the body fluids.

11 Q Okay.

12 A And there was a lighter adjacent to the victim's
13 hand.

14 Q A cigarette lighter?

15 A Yes. And just out of picture A here, there were
16 about nine ball-point pens, scattered on the floor, adjacent
17 to a coffee table.

18 Q Let's see if -- if you could wait a moment,
19 Sergeant, I'm going to try and find a photograph here.

20 Your Honor, I have a piece of cardboard with a
21 photograph on it, and it has previously been marked as
22 People's 11.

23 May it remain as People's 11?

24 MR. DENNY: May I see it, please?

25 Thank you.

26 THE COURT: So ordered.

27 MR. KAY: I will ask that -- any objection to its
28 being admitted into evidence at this time?

1 MR. DENNY: No objection.

2 MR. KAY: Thank you. We'd move that it be admitted into
3 evidence.

4 THE COURT: All right. So ordered. It's admitted,
5 ladies and gentlemen, --

6 Q BY MR. KAY: Sergeant --

7 THE COURT: -- admitted into evidence.

8 Q BY MR. KAY: Sergeant Whiteley, I show you
9 People's 11 here. Would you describe the photograph in
10 People's 11?

11 A This was the blanket that was found over the body.
12 We took it into the -- the yard and photographed it, showing
13 the area around the chest that we -- which I've circled here
14 and initialed, which was found right over the top of the
15 victim's body.

16 Q And there appears to be something reddish
17 in color on there. Is that blood?

18 A Yes.

19 Q And so the area you've circled and put your
20 initials, "P. W." on this photograph, that is the area
21 covering the body's chest?

22 A Yes.

23 Q All right. What was the -- what was the condition
24 of the body when you observed it?

25 A Very poor. It -- the body appeared that it had
26 been there for some time. There was a great amount of flies
27 and maggots and beetles on the body.

28 Q Could you tell by looking at the face of the body

1 whether it was -- could you identify the person by looking at
2 the face of the body? Or was the face too decomposed?

3 A It was quite decomposed.

AG fol

Ag-1

1 Q Did you notice anything -- I think you testi-
2 fied that the -- there was a white T-shirt on the body?

3 A Yes.

4 Q And did you notice any -- any holes or anything
5 in the T-shirt?

6 A Yes. There were three holes in the T-shirt, and
7 there was a great amount of beetle and maggot activity in
8 those three areas.

9 Q And where, approximately, in the T-shirt were
10 the three holes?

11 A One was directly in the center of the chest;
12 and the two were just a little bit lower, right down along
13 the midline between the navel and the middle of the chest.

14 Q Were these big holes or small holes or --

15 A They were approximately an inch and a half in
16 diameter.

17 MR. KAY: Your Honor, I have here a piece of card-
18 board with four photographs on it. It's previously been
19 marked as People's 10. May it remain as People's 10 for
20 identification?

21 THE COURT: So ordered.

22 MR. DENNY: No objection to its being received in
23 evidence.

24 MR. KAY: Thank you. We'd ask that it be admitted
25 into evidence.

26 THE COURT: Let me see it just briefly. All right.
27 So ordered.

28 Q BY MR. KAY: Sergeant Whiteley, showing you

10 Id Ev.

Ag-2

1 People's 10 for identification, do you recognize the four
2 photographs there?

3 A Yes, I do.

4 Q And what do they show?

5 A The kitchen area.

6 Q And this is the kitchen area at 964 Old Topanga
7 Canyon Road?

8 A Yes, that's correct.

9 Q And is this the way the kitchen appeared when
10 you arrived on the scene on July 31st, 1969?

11 A Yes.

12 Q And I take it all these other photographs that
13 you've described were also -- are they also accurate
14 representations of what you saw on July 31st, 1969?

15 A Yes.

16 Q All right.

17 Now, if you -- if you could, would you describe
18 in each photograph what you observed?

19 A Photograph A was taken from the hallway,
20 showing the broken breakfast table, and it's in a -- let's
21 see. The photograph would be taken from west to east,
22 showing People's 7 -- the photograph was taken from this
23 hallway (indicating), this way, to the right.

24 The breakfast table would be in the area here
25 (indicating), adjacent to the refrigerator.

26 Q Now, on People's 7, you were pointing to that.
27 Could you write in there, on People's 7, the approximate
28 location of the kitchen table, and then put your initials

Ag-3

in?

A (Witness complies.)

Q I see you are drawing it in there.

A Yes.

Q And when you found the kitchen table, was it in the same condition that it appears to be here, in this photograph?

A Yes.

Q And was the chair also knocked over?

A Yes.

MR. DENNY: I'm sorry, Mr. Kay. I don't think we can see from this angle.

Thank you.

1 fls.

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1 Q All right, continuing, Sergeant Whiteley.

2 A Picture C was taken from inside the kitchen
3 showing the west -- or excuse me, the northeast portion of
4 the kitchen going to People's 7. It would be taken from
5 approximately below kitchen, showing the area around the
6 sink and the cabinets and the northeast portion.

7 Q All right.

8 A Of the kitchen.

9 There were -- there was a mark on the drawer
10 here which appeared to me to be a bullet hole. There was
11 also a hole underneath the sink here which appeared to be a
12 bullet hole.

13 Q Did you look behind the sink there, too?

14 A Yes.

15 Q What did you find?

16 A Ultimately we found a suspended slug.

17 MR. DENNY: Object to what "we found," and move that
18 be stricken as not responsive to the question, "What did
19 you find."

20 THE COURT: After the word "ultimately," the answer is
21 stricken.

22 Q BY MR. KAY: Sergeant Whiteley, were you present
23 when something was found in the hall there?

24 A Yes.

25 Q What was found?

26 A A --

27 MR. DENNY: Object to what was -- oh, go ahead, strike
28 that.

1 A A suspended slug.

2 Q BY MR. KAY: All right. Now, I notice here on
3 the two marks here you have described as apparently being
4 caused by a bullet, there are red circles around the two
5 marks. And there are the initials "CG."

6 Is that also your partner, Charles Guenther's
7 initials?

8 A Yes.

9 Q All right, then. Now, if you could step to
10 People's 7 for a minute while we're on this subject.

11 I notice in People's 7 here there are several
12 markings that have the -- in the kitchen area that have the
13 initials "PW" by them.

14 Did you make those markings?

15 A Yes.

16 Q Would you describe what those markings show?

17 A The lower marking here is the cabinet drawer
18 where there appears to be a deflection. And then, there's
19 a hole underneath the sink which is the middle marking.
20 That in Picture C here is underneath the sink.

21 And then, there was another hole on the outside
22 wall of the kitchen.

23 Q That's where the bullet was recovered, the slug?

24 A Yes. It was recovered between the exterior
25 and the interior walls underneath the sink.

26 Q Now, did you attempt to line these two holes
27 and the marking here up to determine whether or not they
28 were in line with each other?

1 A Yes.

2 Q And what did you determine?

3 A They appeared to be made by or all be in the same
4 line or track.

5 Q So, in your opinion did they appear to be, the
6 two holes or the marks that you marked "PW" the one in front
7 of the sink and the one on the cabinet, did they appear to be
8 made by the same bullet that you observed recovered in the
9 wall?

10 MR. DENNY: I'll object to that as calling for a
11 conclusion and opinion.

12 THE COURT: Sustained without further foundation.

13 Q BY MR. KAY: All right. Well, did you -- in
14 other words, it was your opinion they were all in line,
15 those two holes and the scrape mark on the cabinet?

16 A Yes.

17 Q Now, getting back to People's 10 for a minute.
18 I believe we were about to go to the last photograph,
19 photograph D.

20 A This photograph D was taken from the middle of the
21 kitchen south, depicting the broken kitchen table and a
22 window which leads into the den, going to People's 7. It
23 would be from where the word "kitchen" is looking south to the
24 kitchen table and through this window into the den.

25 Q Now, did you notice anything unusual on the walls
26 or the -- on the ceilings in the kitchen?

27 A Yes.

28 Q What did you notice?

1 A There appeared to be blood spots on all the walls
2 except the south wall and on the ceiling.

3 Q All right. Now, when you saw the south wall,
4 and you're pointing to photograph D in People's 10?

5 A Yes.

6 Q All right.

7 So, in other words, on the three other walls
8 in the kitchen there appeared to be blood spots and also on
9 the ceiling?

10 A Yes.

11 Q Now, how many blood spots were there?

12 A They were numerous, numerous spots. The heaviest
13 ones were on the east wall on the cabinets.

14 Q That's the cabinet above where you have described
15 the bullet holes and the scrape mark?

16 A Yes, in photograph D.

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1 Q Okay. Now, getting back a moment to the location
2 of the body. It is not depicted in this photograph, but did
3 you have occasion to look at the wall above the head of the
4 body?

5 A Yes.

6 Q And was there anything unusual about that wall?

7 A Yes.

8 Q And would you please tell the ladies and
9 gentlemen of the jury what was unusual about that wall?

10 A There was writing on the wall which appeared to be
11 in blood, spelling "political piggy," and what appeared to be
12 an animal's paw print on the wall just above the victim's
13 head.

14 Q Did you draw any conclusions about how apparently
15 this was written on the wall?

16 A No.

17 Q So, when you say "political piggy" was that
18 spelled p-o-l-i-t-i-c-a-l, p-i-g-g-y?

19 A Yes.

20 Q Then, the paw print was below that or above that?

21 A It was below it.

22 Q Did a representative of the Coroner's Office come
23 to take charge of the body?

24 A Yes.

25 Q And did you again, at a later time, see the same
26 body down at the Los Angeles County Morgue?

27 A Yes, same morning.

28 Q All right, the same morning.

1a-2

1 And that's the morgue that's located in the same
2 building we're in now, in the bottom -- in the basement?

3 A That's correct.

4 Q You may resume the stand a minute, Sergeant
5 Whiteley.

6 Your Honor, I have here what appears to be a
7 UCB checkbook that's previously been marked People's 13.
8 May it remain as People's 13?

9 THE COURT: So ordered.

10 Q BY MR. KAY: Sergeant Whiteley, I show you this
11 checkbook People's 13. The checks have the name of "Gary A.
12 Hinman" on them, "964 Old Topanga Canyon."

13 Have you seen this before?

14 A Yes.

15 Q And on July 31st, 1969, did you see it at the
16 residence at 964 Old Topanga Canyon Road?

17 A No.

18 Q You saw it the next day?

19 A Yes, on August 1st.

20 Q All right. And where did you see it?

21 A It was in the kitchen.

22 Q Was it in a coat?

23 A Yes, it was in a coat hanging in the kitchen between
24 the hallway and the kitchen.

25 Q Was it inside the pocket of the coat?

26 A Yes.

27 Q If you would sit down a minute, Sergeant Whiteley,
28 I'm going to put another photograph up here on the board.

13 ID

1a-3

1 MR. DENNY: Your Honor, I wonder if this might be a
2 convenient time to take the morning recess?

3 THE COURT: If you wish.

4 We'll recess now for approximately ten minutes.
5 During the recess you are advised not to converse amongst
6 yourselves, nor with anyone else, nor permit anyone to converse
7 with you on any subject connected with this matter, nor are you
8 to form nor express any opinion on it until it is finally
9 submitted to you.

10 About ten minutes.

11 (Morning recess.)

12 THE COURT: The record will show that all the jurors and
13 alternates are present. The defendant is present with his
14 counsel.

15 You may proceed.

16 MR. KAY: Thank you, your Honor.

17 Q Sergeant, I wonder if you would please step
18 down here.

19 Your Honor, I have here a piece of cardboard with
20 a photograph on it. It has previously been marked as
21 People's No. 9 for identification.

22 May it remain as People's 9?

23 THE COURT: So ordered.

24 MR. DENNY: No objection to its being received in
25 evidence.

26 THE COURT: All right, ladies and gentlemen, it is
27 received as People's 9. How many photographs? Eight?

28 MR. KAY: Eight photographs marked A through H.

9 ID
AD

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1 Can all of you jurors see this again?

2 Q Now, Sergeant Whiteley, showing you Photograph No.

3 A. It appears on the wall there that there's "political
4 piggy" and a paw print.

5 Does this appear, this photograph No. A, does this
6 appear to be an accurate portrayal of the wall as you saw it
7 when you entered the home at 964 Old Topanga Road?

8 A Yes.

9 Q Is this the living room area?

10 A Yes, it is.

11 Q So it is very faint in this picture, but it goes
12 (spelling) p-o-l-i-t-i-c-, and then below that there's the
13 a-l; is that correct?

14 A That's correct.

15 Q And then, "piggy" is underneath that, p-i-g-g-y?

16 MR. DENNY: I think the exhibit speaks for itself,
17 your Honor, and I don't think we need go through that.

18 THE COURT: Yes, that is true.

19 MR. KAY: All right, I'll show this to the jurors here,
20 because it is a little faint.

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1 Q BY MR. KAY: Now, Sergeant Whiteley, if you
2 would, would you please describe these photographs and what's
3 in the photographs.

4 A Photograph A shows the northeast wall of the
5 living room. An outline is shown on the photograph here
6 where the body was lying. There is the pillow and a sheet
7 which was found adjacent to the victim's head.

8 Upon the wall is a makeshift little shrine,
9 appears to be of Oriental extraction.

10 Photograph B shows the same thing. A little
11 closer of where the body was lying, the pillow and the sheet
12 which were adjacent to the head and a small heater which was
13 next to the body.

14 Q Is the outline of the body made in chalk, is that
15 right?

16 A Yes.

17 Q And was that done while the body was still on the
18 ground or while it was removed?

19 A Portions was done while it was still on the
20 ground and the rest was done afterwards.

21 Q Continue, if you would, please.

22 A Photograph C was taken from the northwest corner
23 looking due west, showing where the body was in the center
24 of the photograph here and the beads which were found next to
25 the victim's body.

26 Photograph D was taken from the northwest corner
27 showing the entranceway into the living room and the hallway
28 where we're standing.

1 Q Now, let me ask you a question about Photograph D
2 here.

3 That's you in the photograph and is that Deputy
4 Guenther, also?

5 A Yes.

6 Q Now, in the approximate location where you are
7 standing, did you find anything unusual on the floor there?

8 A Yes, there were what appeared to be blood spots
9 on the floor.

10 Q Okay. Very many or --

11 A No, there were very few.

12 Q Approximately?

13 A Five or six small droplets.

14 Q Now, if you could go on to Photograph E.

15 A Photograph E is taken from the north portion of
16 the living room, showing the wall which is adjacent to the
17 entranceway into the living room, the wall in the picture D
18 on the extreme right side of the photograph.

19 Picture F is the north -- or, excuse me, the
20 southwest corner showing a window that was open and the furni-
21 ture which was in that portion of the living room.

22 Photograph G is the west wall and the fireplace
23 which is in the northwest corner of the living room.

24 And Photograph H is the north wall and the west
25 wall where the fireplace is in the living room.

26 The beads are shown in this photograph again,
27 which were adjacent to the victim's right hand.

28 Q Those are People's 12, the beads you identified?

1 A They are not the same beads, but they are the same
2 type of beads.

3 Q Okay. And that's shown in Photograph H?

4 A Yes.

5 Q Okay. You can resume the stand for a minute.

6 Your Honor, I have here a certificate of owner-
7 ship, commonly known as the pink slip to a Metropolitan,
8 1960 Metropolitan, in the name of Hinman, Gary A. May this
9 be marked as People's 14? It has previously been marked as
10 People's 14.

11 MR. DENNY: No objection to its receipt into evidence,
12 your Honor.

13 THE COURT: Very well, the Court will receive it into
14 evidence as People's 14.

15 MR. KAY: Thank you.

16 Q Sergeant Whiteley, I show you the certificate
17 of ownership in the name of Gary Hinman.

18 Have you seen this before?

19 A Yes.

20 Q Where did you first see it?

21 A Found it in the living room at the location on
22 August 1st, 1969, in the small metal file cabinet.

23 Q And I see in the upper right-hand corner it has
24 the license number INL-949.

25 Now, does this pink slip appear to you to be
26 in the same condition as when you found it?

27 A Yes.

28 Q Other than the fact it is now a court exhibit

14 Ev.

1 and stapled to this Manila folder.

2 Did you look outside the location to see if you
3 could find a car that matched the description of this pink
4 slip and license number?

5 A Yes, I did.

6 Q And were you successful?

7 A Yes, I was.

8 Q Where was this car located?

9 A The vehicle was found on Old Topanga Canyon
10 Road off on the dirt portion in front of the residence.
11 It appeared to be abandoned.

12 Q All right. Did you check the engine on the car
13 to see if it was operable?

14 A Yes.

15 Q Was the car in an operable condition?

16 A No.

17 Q And was it missing anything in the engine area?

18 A The carburetor was off. I can't remember if
19 it was still sitting on top of the engine or not, but there
20 was no carburetor.

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1 Q Okay, and I take it -- did you try to start the
2 car or did you have any keys?

3 A No.

4 Q You had no keys?

5 A No.

6 Q All right. But you determined that the car was
7 inoperable?

8 A Yes.

9 Q Did you find any other vehicles --

10 Well, specifically, I'll show you People's 1 and
11 People's 2 for identification. The Fiat and the VW microbus.

12 Did you see either of these vehicles around the
13 home 964 Old Topanga Road?

14 A No.

15 Q On that Nash, the car that you described that you
16 found at the residence at 964 Old Topanga Road, other than the
17 fact that you determined it was inoperable, what condition was
18 it in? Was it clean or dirty or what?

19 A It was very dirty. It appeared the vehicle had
20 been sitting there for several months.

21 Q Now, were you present in the Los Angeles County
22 Morgue when an autopsy was done on the body that was discovered
23 at 964 Old Topanga Canyon Road?

24 A Yes, I was.

25 MR. KAY: Your Honor, I have --

26 MR. DENNY: Your Honor, before we begin on this, may we
27 approach the bench for a minute?

28 THE COURT: Yes, you may.

1c-2

1 (Whereupon, the following proceedings were had at
2 the bench among Court and counsel, outside the hearing of the
3 jury:)

4 MR. DENNY: Your Honor, I'm of the opinion, since Mr. Kay
5 is approaching the witness with exhibits which have hereto-
6 fore been marked People's Exhibits 16 and 17, I believe in the
7 Manson case, and which exhibits the Court did not permit to be
8 introduced into evidence in that case because of their
9 prejudicial aspect, that Mr. Kay is going to attempt to have
10 those marked for identification and have certain testimony of
11 Mr. Whiteley concerning the autopsy, which he's going to get
12 in through Dr. Katsuyama anyway, I don't believe it is
13 necessary to go into either the pictures through Mr. Whiteley
14 or the procedure of the autopsy through Mr. Whiteley or any-
15 thing else since they're going to do it through
16 Dr. Katsuyama again, if I understand it, with the mannequin
17 which was especially made for that purpose. And I think it
18 will consume a lot of the Court's time to go through this
19 procedure and to have these pictures marked. And I think
20 certainly it would not be received into evidence because of
21 there highly prejudicial flavor.

22 MR. MANZELLA: Since Mr. Denny did allude to the Court's
23 ruling in the previous case in the Manson trial, I should
24 point out that People's 17 was admitted. It was People's 16
25 that was not admitted into evidence. But People's 17 was
26 admitted into evidence.

27 However, the People are offering both People's
28 16 and 17, because we want to illustrate, in order to argue

1c-3

1 in the Shea portion of the case why the jury should find from
2 the circumstantial evidence that Shea is dead. We want to
3 illustrate why we are in fact using circumstantial evidence
4 in the Hinman portion of the case to show that the deceased --
5 that Gary Hinman is dead and that, in fact, there is no direct
6 evidence that Hinman is dead and that this case, the Hinman
7 case, is a circumstantial -- well, relies on circumstantial
8 evidence just the way the Shea case was, because the body was
9 so decomposed it could not be identified by anybody who knew
10 Hinman. The body in death could not be identified. In other
11 words, we are relying on circumstantial evidence to show that
12 that body is Hinman's body. We're using the prints taken at
13 the time of the autopsy and --

14 MR. DENNY: Well, I'll stipulate --

15 MR. MANZELLA: -- on circumstantial evidence --

16 MR. DENNY: I'll stipulate it is Hinman's body.

17 MR. MANZELLA: That's not my point. We're using this
18 case as part of our argument, and I think legitimately so,
19 that that's -- that it is not unusual to prove a death by
20 circumstantial evidence. We've done it in the Hinman, we're
21 doing it in the Shea case. We'll use that argument in the
22 Shea case.

23 Also, the photographs 16 and 17 illustrate the
24 autopsy testimony with regard to decomposition with regard to
25 the body. The photograph 16, People's -- which was
26 previously marked 16, I don't know if it has been marked here
27 yet --

28 MR. KAY: No.

lc-4

1 MR. MANZELLA: -- the wounds, we're not able to show the
2 wound to the head by photograph because of the stated
3 decomposition. And I believe the photographs show malice on
4 the part of the conspirators, those that conspired to kill
5 Hinman, and that they left the body in the condition that
6 they did and they left the body to decompose.

7 And I've got some cases I would like to cite to
8 the Court, if I may.

9 Essentially what the cases hold is that -- well,
10 first of all, all of those cases involve the introduction of
11 many photographs on behalf of the prosecution. And the cases
12 I'm referring to deal with colored photographs, both autopsy
13 photographs, which these photographs are, and photographs of the
14 body found at the scene.

15 And I would like to cite some of the language,
16 if -- with the Court's permission, if I may.

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1 THE COURT: Go ahead.

2 MR. MANZELLA: In People vs. Carter, C-a-r-t-e-r,
3 at 48 Cal. 2d, 737, at page 751, the Court said, and I
4 quote, "If the evidence has probative value, if the evidence
5 has probative value with respect to a fact in issue that
6 outweighs the danger of prejudice to the defendant, the
7 evidence is admissible even if it is gruesome and may,
8 incidentally, arouse the passions of the jury."

9 In the case of People vs. Love, L-o-v-e, at
10 53 Cal 2d, 843, at pages 852 and 854, the California Supreme
11 Court said that in part, I quote:

12 "Although this photographic evidence was
13 largely cumulative and might properly have been
14 excluded, the trial court did not abuse its discre-
15 tion in admitting it."

16 And in this case, the Love case, there were
17 eight by ten color photographs, autopsy photographs taken of
18 the deceased, two eight by ten color photographs.

19 In the case of People vs. Harrison, H-a-r-r-i-s-o-n,
20 at 50 Cal 2d 622, involved the introduction of seven colored
21 slides of a body. I believe they were autopsy slides. And
22 the Court held in Harrison:

23 "Necessity is not the test for determining
24 the admissibility at trial of photographs of a
25 murder victim. The test is whether the evidence
26 is relevant."

27 And in the case of People vs. Mathis, M-a-t-h-i-s,
28 at 63 Cal. 2d 416, at page 423, the California Supreme Court

1 held, and I quote:

2 "The color photographs in this case are indeed
3 gruesome, but the test for admissibility is whether
4 the probative value of the evidence outweighs the
5 inflammatory effect it may have."

6 There's one other thing I would like to quote to
7 the Court.

8 In the case of People vs. Stanworth, S-t-a-n-
9 w-o-r-t-h, it is a 1969 California Supreme Court case, at
10 71 Advanced Cal. 858, at page 878, the Court said, and I
11 quote:

12 "Where the --"

13 MR. DENNY: Shhhh.

14 MR. MANZELLA: I've only got two levels, apparently I
15 can't get in the middle.

16 THE COURT: You're doing all right.

17 MR. MANZELLA: (Reading.)

18 "Where the details of what took place at the
19 murder scene are not at all clear, the photographs
20 constitute the most accurate evidence of these
21 matters and lend clarity to the testimony of
22 doctors who testified in connection therewith."

23 I submit that in this case we've got that
24 situation where we have no eyewitness with regard to what
25 occurred at the murder scene.

26 Now, finally, and this is my last citation,
27 as to Section 352 of the California Evidence Code, I know
28 the Court is very familiar with that, but I would like to

1 point out to the Court the language in 352 which says that
2 the Court may exclude evidence if its probative value is
3 substantially outweighed by the probability that its admission
4 will create substantial danger of undue prejudice. Section
5 352 and 352(b). And I emphasize the language "substantially
6 outweighed by the probability that its admission will create
7 substantial danger of undue prejudice."

8 And we submit under 352 and the cases involving
9 the use of color photographs and the reasons that I have
10 already said to the Court why we want to introduce these
11 photographs, we submit that they are -- that the probative
12 value is not outweighed by any inflammatory effect they may
13 have on that jury.

14 MR. DENNY: May I respond to a couple of things?

15 First of all, this last case cited where the
16 question of how the murder occurred is not at all clear,
17 pictures may be introduced to show that those are pictures
18 of the murder scene itself. These are as Mr. Manzella
19 indicates, autopsy pictures. They're taken at a different
20 place at a different time.

21 So that case doesn't have any bearing. It is not
22 in point.

23 Secondly, insofar as the case cited as to the
24 issue, necessity is not the requirement but relevancy, is
25 how the relevancy is, and that's what 352 is. Relevancy is
26 whether the probative value is outweighed by the prejudicial
27 effect. That's the whole issue of relevancy. So we get
28 right back down to that issue.

1 Now, let's go to the probative value. Dr.
2 Katsuyama doesn't need these photographs to testify from.
3 He testified from the mannequin and did very well in the last
4 case and did very well in the Beausoleil case. So that
5 they're not necessary for that or to explain his testimony.
6 So, to say that they'd want to introduce these somehow to
7 argue from them, the Shea case, I find extraordinary. A body
8 decomposes with time, that is so. I don't believe that you
9 have to show a jury pictures of a decomposed body, when there
10 is no body at all in the Shea case, to argue that a body
11 decomposes with time.

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1 So, the fact that they want to use these pictures
2 to prejudice the jury, and I think it is certainly inflammatory
3 in this case to get before the jury these pictures to say this
4 is probably what Shea looked like or something of that kind,
5 is unthinkable. The pictures are not necessary and they are
6 not so highly probative, aside from what other things are in
7 evidence and testimony relating thereto, that their use is going
8 to be of such value and so probative that it will outweigh
9 the prejudicial affect on the jury. They are not pretty
10 pictures and they don't need to be introduced and they are
11 inflammatory.

12 THE COURT: Well --

13 MR. DENNY: And certainly from this witness, there's
14 no reason to have them introduced. If Dr. Katsuyama, for some
15 reason in the case, says he needs People's 17 to show the
16 marks -- and they don't show the marks very well. They don't
17 show the marks as well as the mannequin -- that's one thing,
18 but I don't think that looking at the picture it is that
19 probative as compared with the mannequin that was made up,
20 apparently, from all of the information available to the
21 autopsy surgeon at the time he performed the autopsy.

22 MR. KAY: Sergeant Whiteley also has to identify these
23 photographs because he was present when the fingerprints
24 were rolled from this corpse in the morgue and he has to
25 identify that this is the same body that he saw the fingerprints
26 being rolled from. That's why we are introducing them at this
27 time.

28 MR. DENNY: I'll stipulate to that.

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1 MR. KAY: Well --

2 THE COURT: What the People have said in connection with
3 their offer of proof here has some weight in the Court's mind as
4 to the relevance of the offered photographs. However, I think
5 that the prejudicial effect of People's 16, the view of the
6 face which is extremely shocking and gruesome is such that it
7 should be excluded, and I would find that its prejudicial
8 effect -- the Court does find its prejudicial effect -- the
9 Court does find its prejudicial effect would exceed its
10 probative value.

11 But as to 17, the Court will permit that. The
12 Court finds that it does have sufficient probative value for the
13 reasons -- some of the reasons stated by the People and it
14 should be permitted and that it -- its effect, prejudicial
15 effect, the probative value outweighs its prejudicial
16 effect.

17 MR. KAY: Okay, we would move that it be introduced at
18 this time.

19 MR. DENNY: Obviously over my objection.

20 MR. KAY: Thank you.

21 (Whereupon, the following proceedings were had in
22 open court within the presence and hearing of the jury:)

23 THE COURT: The Court will admit --

24 MR. MANZELLA: Your Honor, I don't believe they have
25 been marked for identification.

26 THE COURT: Strike that.

27 MR. KAY: Your Honor, I have the photograph here that's
28 previously been referred to on a piece of cardboard. It is one

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1 photograph that has previously been marked as People's 17 for
2 identification. May it be marked as People's 17 in this case
3 and be admitted into evidence?

4 THE COURT: So ordered.

5 Q BY MR. KAY: Getting back to the last topic,
6 Sergeant Whiteley, were you present at the autopsy of the
7 body that was found at 964 Old Topanga Canyon Road?

8 A Yes, I was.

9 Q And that, again, took place in the County Morgue
10 in this building?

11 A Yes.

12 Q I show you People's 17 for identification. Do you
13 recognize what's depicted in that photograph?

14 A Yes.

15 Q And is that the body as it appeared in the morgue?

16 A Yes.

17 Q The body that you found at 964 Old Topanga Canyon
18 Road?

19 A Yes.

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1 Q And is it in the same condition as depicted in
2 this photograph?

3 A Yes.

4 Q And were you present when some fingerprints were
5 taken from this body?

6 A Yes.

7 Q And who took those fingerprints?

8 A One of the Deputy Coroners.

9 MR. KAY: Your Honor, I have here People's 28, what's
10 been previously marked as People's 28. It's a fingerprint
11 exemplar card -- appears to be a Xerox copy of a fingerprint
12 exemplar card.

13 May it remain People's 28 in this proceeding?

14 THE COURT: So ordered.

15 Q BY MR. KAY: I show you the fingerprint exemplar
16 card, Sergeant Whiteley. Is this the card that was taken from
17 the body in People's 17?

18 A Yes, those were the prints that were rolled.

19 Q Did the Deputy Coroner just take the hand of the
20 body and then roll the fingerprints by doing that (indi-
21 cating)?

22 A Yes.

23 Q Okay.

24 And I notice at the bottom of this card, which
25 says "Coroner's Prints," there's a date, "8-1-69," and it's
26 signed "Paul Whiteley, W-i-t, " which I take it means
27 "Witness."

28 Did you sign that?

28 Ev

1 A Yes.

2 Q And these prints were taken on August 1st, 1969?

3 A That's correct.

4 Q And this, again, People's 17, accurately reflects
5 the body as it appeared in the Los Angeles County Morgue on
6 August 1st, 1969?

7 A Yes.

8 (Whereupon Mr. Kay exhibited the photograph
9 to the members of the jury.)

10 MR. DENNY: May the record reflect, your Honor, that Mr.
11 Kay has shown the Exhibit 17 to all of the jurors?

12 THE COURT: Yes, the record may so show.

13 MR. KAY: And, your Honor, I move that People's 28 be
14 received in evidence at this time. That's the fingerprint
15 exemplar card.

16 MR. DENNY: No objection.

17 THE COURT: So ordered. 28 is received in evidence,
18 then.

19 MR. KAY: May I have one moment? I think I've
20 concluded, but I just want to make sure.

21 Oh, yes, I do have --

22 Q Directing your attention, Sergeant Whiteley, to
23 the VW microbus and the white Fiat stationwagon, did you
24 issue an all-points bulletin for these two cars?

25 A Yes.

26 Q And when did you do that?

27 A August the 1st or 2nd of 1969.

28 MR. KAY: I have no further questions at this time.

1 Thank you, Sergeant Whiteley.

2 THE COURT: Any questions, Mr. Denny?

3 MR. DENNY: Yes, a few.

4 THE COURT: Go ahead.

5 (Pause in the proceedings while a discussion
6 off the record ensued at the counsel table between
7 Mr. Denny and Mr. Manzella.)

8
9 CROSS-EXAMINATION

10 BY MR. DENNY:

11 Q Mr. Whiteley, had you run some sort of DMV
12 check to determine that Mr. Hinman supposedly owned some
13 cars, other than that Nash Metropolitan, before you ran the
14 All-Points Bulletin?

15 A In the way you've worded it, no.

16 Q You got this information through civilian
17 witnesses?

18 A Partially.

19 Q All right.

20 I'm curious about the beads, People's 12 here.
21 Where did you get those beads, sir? Or did
22 you get those beads?

23 Do you have them? They're Exhibit No. --

24 A I know what exhibit you are speaking of.
25 They either came from the Nichiren Shoshu
26 Society, or from Miss Joan Farley.

27 Q Well, where are the beads that are depicted
28 here in the exhibits -- it's difficult to say which number

1 it is. I believe --

2 MR. KAY: Here, I'll tell you. It's 9.

3 Q BY MR. DENNY: (Continuing) -- 9-C.

4 A They were turned over to the Nichiren Shoshu
5 Society.

6 Q They were evidence in this case, and you turned
7 them over to the Nichiren Shoshu Society, did you?

8 A Evidence?

9 Q That's two questions.

10 A Evidence in the case? It would be a very --
11 I don't quite understand what you mean by -- when you say
12 "evidence in this case."

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1 Q Well, they would be -- almost the closest thing
2 to the body in this particular case; isn't that correct?

3 A Yes.

4 Q They seemed to have some significance to you,
5 as a homicide investigator, as an officer of some 15 years;
6 isn't that correct?

7 MR. KAY: Well, that assumes facts not in evidence. He
8 hasn't testified that they had any significance to him.

9 MR. DENNY: I am asking it, on cross examination.

10 THE COURT: Yes, I don't think it assumes any fact in
11 evidence, in that respect.

12 The Court sustains -- overrules the objection.

13 You may answer.

14 THE WITNESS: At the particular time, it had no
15 significance to me.

16 Q BY MR. DENNY: At some later time, it developed
17 some significance to you?

18 A Yes.

19 Q And still you did personally turn over those beads
20 to the Nichiren Shoshu Society?

21 A No, I didn't personally.

22 Q You authorized their release; is that correct?

23 A The parents did, I believe. I authorized the
24 release of the beads to the parents, who in turn turned them
25 over to the Nichiren Shoshu Society.

26 Q I see. Now, when you searched through the home,
27 you found some clothing there of a person or persons?

28 A Yes. There was clothing all over the house.

2a-2

1 Q Female clothing also?

2 A Yes.

3 Q Where was the female clothing located?

4 A There was some female clothing in the den.

5 Q Would you indicate, please, with your pointer,
6 to the jury approximately where?

7 A On this window seat (indicating) in the den.

8 Q Just piled on the window seat?

9 A Yes. It was scattered about on the window seat.

10 MR. KAY: And that's People's 7, Sergeant, that you are
11 pointing to?

12 THE WITNESS: Yes.

13 Q BY MR. DENNY: Yes. Would you say, did it appear
14 to be folded and scattered folded, or just thrown about in a
15 state of disarray? Or how would you describe it?

16 A Both.

17 Q And what's -- can you describe the items of
18 clothing?

19 A There was a pair of capris, and a couple of
20 pairs of women's panties.

21 I can't recall what else. There was not very much
22 else there.

23 Q Did you make a report at the time, an evidence
24 report, inventorying those particular items of clothing?

25 A I don't recall if I made an inventory report or
26 not.

27 Q Well, is it your custom, as a homicide investigator
28 of some fifteen years experience with the Sheriff's department,

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1 to make a rather complete and detailed inventory of the
2 premises where a murder has occurred?

3 A No.

4 Q All right. There were other items of women's
5 clothing elsewhere in the home?

6 A Yes.

7 Q Where?

8 A In the bedroom, on the first level, directly
9 underneath the living room.

10 Q Did you cause any pictures to be made of that
11 bedroom? Or taken?

12 A I really can't recall whether I -- I had the
13 photographer there at the time or not. I had to break into the
14 lower bedroom.

15 Q Is that where you gained some of your experience,
16 in determining whether a door has been broken in or not,
17 breaking in yourself?

18 MR. KAY: Argumentative, your Honor.

19 MR. DENNY: No, it's not.

20 MR. KAY: Well, I ask that that be stricken. Mr. Denny
21 has a habit of making gratuitous comments.

22 THE COURT: Both counsels' remarks, ladies and
23 gentlemen, are stricken.

24 Gentlemen, if you wish to argue, you may approach
25 the bench.

26 MR. DENNY: I don't want to argue it, your Honor. I
27 would like a court ruling on it.

28 THE COURT: Yes. The Court will rule on it, without

1 argument, gentlemen.

2 If you'll just state the objection, and then if
3 I wish you to approach the bench to give argument, I'll let
4 you do so, or ask you to do so.

5 Would you read the question to me, please?

6 MR. DENNY: I believe the Court would need the prior
7 question and answer before this particular one.

8 THE COURT: Please, Mr. Williams? You may do that.

9 (Whereupon, the record was read by the
10 reporter as follows:

11 "Q Did you cause any pictures to be
12 made of that bedroom? Or taken?

13 "A I really can't remember whether I --
14 I had the photographer there at the time or not.
15 I had to break into the lower bedroom.

16 "Q Is that where you gained some of
17 your experience, in determining whether a door
18 has been broken in or not, breaking in yourself?")

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1 THE COURT: Overruled. I will overrule the objection.
2 You may answer.

3 THE WITNESS: Yes.

4 Q BY MR. DENNY: Are those some of the 75 doors
5 you referred to earlier in your testimony, on direct examina-
6 tion, that you had seen broken in? That caused you to
7 believe --

8 A No.

9 Q -- that the door pictured was broken in?

10 A No.

11 Q Then you've seen more than 75 doors broken in;
12 is that right?

13 A Yes.

14 Q All right, sir. Going, then, to the bedroom, is
15 it just a one-bedroom -- is there just one bedroom in that
16 particular home?

17 A Yes.

18 Q And in the one bedroom, you said there were also
19 women's clothing. Where?

20 A In a closet, on the north side of the bedroom.

21 Q And what type of clothing?

22 A Both men and women's clothing.

23 Q What type of women's clothing in particular?

24 A Dresses, blouses; that's about all I can recall.

25 Q Did you check any bureaus, dressers, to see
26 whether there was any clothing or personal effects in there?

27 A Yes.

28 Q And were there any women's clothing or personal

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1 effects in such dresser or bureau?

2 A Yes, there was a lady's bra in one of the drawers.

3 Q Anything else?

4 A Of wearing apparel?

5 Q Yes.

6 A There were men's clothing.

7 Q No. I am talking specifically about women's --

8 A No, not that I can -- not that I can recall.

9 Q And did you check the bathroom? Was there a
10 bathroom on the lower floor?

11 A No.

12 Q Did you check the bathroom in the upper floor?

13 A Yes.

14 Q Did you determine whether there were any toilet
15 articles of any kind that would normally be used by a woman,
16 as distinguished from a man?

17 A Yes.

18 Q And did you find any?

19 A Yes.

20 Q What did you find?

21 A There was a pair of women's panties on the floor
22 adjacent to a dirty clothes hamper.

23 And there were several bottles of perfume in the
24 cabinet in the bathroom.

25 Q Were there several toothbrushes in a toothbrush
26 holder, something like that?

27 A No.

28 Q Any toothbrushes that you found?

2b-3

1 A I can't recall.

2 Q I realize this goes back quite a ways, and you may
3 not have been questioned about this previously.

4 Were there any other things throughout the
5 house -- articles of clothing or things particularly that
6 you would associate with female use -- other than those that
7 you have referred to thus far?

8 A No.

9 Q Would you say, sir, based on your experience as a
10 homicide investigator, that it appeared that a female lived
11 in the house?

12 A No.

13 Q Or had recently occupied the house?

14 A (Pause.) Well, yes.

15 Q All right. And did you make any determination,
16 sir, as to the male clothing, whether that male clothing
17 belonged to any person other than the decedent, Gary Hinman?

18 A Yes.

19 Q And did you determine that it did belong to
20 someone other than Mr. Hinman?

21 A Yes. There was men's clothing in the house that
22 did not belong to Mr. Hinman.

23 Q All right.

24 And was this also in the bedroom, the downstairs
25 bedroom?

26 A Yes.

27 Q Were there any items of male clothing upstairs --

28 A No.

1 Q -- that did not belong to Mr. Hinman?

2 A No, not that I could determine --

3 Q All right.

4 A -- belonged to anyone other than Mr. Hinman.

5 Q Did it appear, sir, from your examination that
6 the upstairs was being utilized for sleeping purposes in
7 any way? Regularly utilized for sleeping purposes?

8 A No, it did not appear that way.

9 Q And how many beds were in this bedroom downstairs?

10 A One bed.

11 Q How big?

12 A A double bed.

13 Q A double bed. Other than the double bed, what
14 furniture was in that lower bedroom?

15 A A dresser -- dresser drawers and -- and a night
16 table. I think that was it.

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1 Q Now, did you find some papers, documents, letters?
2 You went through, kind of with a fine tooth comb, the items
3 and effects in there, to look for such things, did you not?

4 A Yes, sir.

5 Q And I believe you found an envelope on the floor --
6 or somewhere -- addressed to a Robert Beausoleil; is that
7 correct?

8 A Yes, sir. I found an envelope. It wasn't on the
9 floor. It was in a night stand, in the den area.

10 Q And that was dated some year or so previously, is
11 that correct, --

12 A Yes.

13 Q -- postmarked?

14 A It was approximately 15 -- 14, 15 months old.

15 Q All right. Now, did you find any mail addressed to
16 Gary Hinman?

17 A Yes, sir, I did.

18 Q And did you find letters or mail addressed to any
19 other person there?

20 A Yes.

21 Q To whom?

22 A Eric Carlson.

23 Q Is that E-r-i-c?

24 A E-r-i-c, Carlson. And a woman with a last name
25 of Carlson; I can't remember the first name.

26 Q And were the postmarks on those letters recent, as
27 far as their relationship to July 31st, August 1, 1969?

28 A They were approximately three or four months old.

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1 THE COURT: We'll recess at this time, ladies and
2 gentlemen, until 2:00 o'clock. Again, you are admonished that
3 during the recess, you are obliged not to converse amongst
4 yourselves nor with anyone else, nor to permit anyone else to
5 converse with you on any subject connected with the matter,
6 nor to form nor express any opinion on the matter until it is
7 finally submitted to you.

8 (Whereupon, an adjournment was taken at 12:01
9 P. M. until 2:00 o'clock P. M. of the same day.)
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1 LOS ANGELES, CALIFORNIA, MONDAY, JANUARY 10, 1972 2:00 P.M.

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4 (Whereupon, the following proceedings were had
5 out of the presence of the jury:)

6 MR. DENNY: Judge, I asked for this hearing because
7 I had subpoenaed Mr. Abrams, who is a Deputy Probation
8 Officer, and he is the Deputy Probation Officer assigned at
9 the present time to investigate or render a probation report
10 on Alan Springer, who, as I understand it, will be testifying,
11 as he has previously, for the People.

12 And I have subpoenaed the probation file No.
13 X-379774 on Mr. Springer which is in the possession and
14 custody of Mr. Abrams at this time.

15 And I would like, for the purpose of discovery,
16 simply to lay the foundation through Mr. Abrams that this
17 is the file and have it marked for identification so that I
18 may have it at this time with the understanding that as soon
19 as we are through cross-examining Mr. Springer or before, if
20 I can get all the information I need from it, and the
21 People will waive any foundational requirements, it may be
22 returned to Mr. Abrams.

23 I understand further that Mr. Abrams has by
24 policy of the office a statement as far as releasing these
25 records. But at least that's the purpose of this. And I
26 would like to have him sworn and simply proceed as indicated.

27 THE COURT: Let's see, you wish to swear him so that
28 he would testify as to the --

1 MR. DENNY: Foundation.

2 THE COURT: -- foundation for the records and his -- the
3 policy of the office; is that it?

4 MR. DENNY: Yes.

5 THE COURT: Against releasing the records?

6 MR. DENNY: Yes.

7 THE COURT: Oh, I can't see the necessity for it. Is
8 that -- is it stipulated that the foundational facts are
9 stipulated to with respect to this file?

10 MR. MANZELLA: It is stipulated that it is the proba-
11 tion officer's file in the case of People vs. Springer.

12 Is that what you are asking for?

13 MR. DENNY: I was not --

14 MR. MANZELLA: I don't understand really what you want
15 to do.

16 MR. DENNY: Well --

17 THE COURT: He's not asking you to stipulate to its
18 admissibility.

19 MR. MANZELLA: I understand that. We will be glad to
20 stipulate -- Mr. Abrams is here. We would be glad --

21 MR. DENNY: The number of consolidated cases of People
22 vs. Alan Springer, going back from 1967 up to the present
23 time, as I understand it.

24 MR. MANZELLA: Hmm.

25 MR. DENNY: But as I understand it, -- is this correct,
26 Mr. Abrams, the records that you have brought are his --
27 Mr. Springer's probation file from 1967 to the present time?

28 MR. ABRAMS: That's correct.

1 THE COURT: '57 or '67?

2 MR. DENNY: '67.

3 THE COURT: '67 to the present time.

4 MR. DENNY: And they are the official records that
5 have been made in the course of business of the Probation
6 Department from supervising --

7 MR. ABRAMS: That's correct.

8 MR. DENNY: -- in supervising Mr. Springer and of
9 getting information of his background for the court?

10 MR. MANZELLA: Mr. Springer, does the probation file
11 contain letters from outside of the Probation Department?

12 MR. ABRAMS: Well, before I talk about it, I would like
13 to read this for the record, just to -- the Department says
14 it is mandatory that I make a statement before I discuss the
15 record, if that would be all right.

16 MR. MANZELLA: Okay, have we identified the file so
17 we know what we are talking about?

18 MR. ABRAMS: It is the file of Alan Springer, probation
19 file with the No. X-379774.

20 MR. MANZELLA: And that's all the documents you are
21 holding in your hand now except that cover letter or state-
22 ment?

23 MR. ABRAMS: Well, it also includes the District
24 Attorney file on one of the cases I am investigating as well
25 as a transcript and a police report on another case which was
26 consolidated which I am investigating.

27 MR. MANZELLA: And is it contended all those documents
28 and file be marked as the probation file?

1 MR. DENNY: That is correct.

2 Just for the purpose of identification only.

3 MR. MANZELLA: Okay, fine.

4 MR. DENNY: Better let him read --

5 MR. ABRAMS: (Reading.)

6 "The probation officer considers case records
7 in his possession to be confidential as held by the
8 Attorney General in 24 opinions, Attorney General 219.
9 He objects to any inspection of such records. If
10 the court orders the records to be received in spite
11 of his protest, he will comply with such order but
12 respectfully requests that his objection be included
13 in the record."

14 Also, if any of these records are to be retained,
15 I must have Xerox copies of them. In other words, I can
16 leave Xerox copies but I must take the records back with me.

17 THE COURT: All right, now --

18 MR. DENNY: Well, how --

19 THE COURT: You don't intend to introduce the probation
20 officer's file, do you, this file that's --

21 MR. DENNY: No, I don't expect to introduce it into
22 evidence at the present time.

23 THE COURT: You simply want to be able to inspect it?

24 MR. DENNY: That is correct, your Honor.

25 Now, there may be things in there which will
26 have some bearing on cross-examination of Mr. Springer, but
27 unless they are statements of Mr. Springer himself, I doubt
28 that I could use them specifically to cross-examine him.

1 But it is at this time just simply for the
2 purpose of discovery to determine the extent of the records
3 and any deals that have been made between the District
4 Attorney's office and Mr. Springer for his testimony.
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1 Mr. Abrams, do you have copies of any of those
2 records at the present time?

3 MR. ABRAMS: Well, the only thing that really would be
4 copies would be -- I have several copies of each continuance
5 I've submitted.

6 MR. DENNY: I've seen those.

7 MR. ABRAMS: And there may be an extra copy of the
8 probation report or the violation report. Other than that,
9 the only thing in here would be minute orders pertaining to the
10 various continuances.

11 Has the Court ordered me to release this, by the
12 way?

13 MR. MANZELLA: Your Honor, I would object to the
14 District Attorney's Office file being released, if it is in
15 fact the District Attorney file, because I don't think the
16 fact that it's in the hands of an agency other than the
17 District Attorney's Office makes it any more discoverable than
18 if it was still in the hands of the District Attorney's Office.

19 And I would object to that being released.

20 THE COURT: What portion of that pile of papers which you
21 have in your hand -- looks like about a three-inch file -- is
22 the District Attorney's file, since you refer to it?

23 MR. ABRAMS: Well, this is the transcript and an arrest
24 report, an arrest report from an arrest in January, which was
25 consolidated into the present information which I am investigat-
26 ing, which is -- which is this file here, which is the District
27 Attorney's file.

28 That's case No. A-115370. The transcript is

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1 A-116185, which was later consolidated under the lower number.

2 MR. DENNY: Well, your Honor, I have no --

3 THE COURT: It began last January, then?

4 MR. ABRAMS: The A-115370, and the 116185 resulted from
5 an arrest in January of 1971.

6 THE COURT: What are you holding? A transcript of a
7 preliminary hearing?

8 MR. ABRAMS: A transcript, and an arrest report from the
9 January '71 arrest.

10 MR. DENNY: Your Honor, I would like to review that
11 transcript, because that is an important piece of evidence,
12 as to the extent of -- or, the magnitude of the cases that have
13 been held in abeyance for disposition over Mr. Springer.

14 There are some rather large items of stolen
15 property, of great value, that I think will be reflected in
16 there, that are not reflected just in the court records, show-
17 ing the charge of receiving stolen property.

18 MR. KAY: Has he been convicted of that crime, or --

19 MR. ABRAMS: He's pled guilty to it.

20 MR. KAY: To what charge?

21 MR. ABRAMS: He has pled guilty to one Count.

22 MR. DENNY: Of receiving stolen property.

23 THE COURT: Well, on that basis, I think that that would
24 be discoverable. However, that should be in the court file,
25 shouldn't it, so that it --

26 MR. DENNY: It is not in the court file, your Honor. I've
27 checked the court file, and it is not there.

28 THE COURT: Well, is it your position that you could not

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1 properly leave that with Mr. Denny, without making a copy
2 thereof and having him read the copy?

3 MR. ABRAMS: Correct. I'm in the process of investigating
4 the case. Unfortunately, the District Attorney's file in this
5 particular case is missing somewhere, and I have no information
6 with which to investigate the case, other than the transcript and
7 the police report, which I obtained Friday by going down to the
8 Los Angeles Police Department.

9 Now, I might -- I might aside here that the plea --
10 the arrest report does indicate the type of merchandise involved
11 in the case.

12 And it would be a lot easier to copy than the
13 transcript.

14 MR. KAY: I think Mr. Denny already has a copy of that, --

15 MR. DENNY: I have a copy of that.

16 MR. KAY: -- of the arrest report.

17 MR. ABRAMS: It does point out the property, the various
18 property involved.

19 MR. DENNY: Well, your Honor, I think I could get together
20 later this afternoon with Mr. Abrams. I know he has got a job
21 out in the Valley, which would make it a little difficult,
22 perhaps; but if he can remain here during the afternoon
23 session --

24 THE COURT: Well, I won't ask him to remain the entire
25 afternoon, but I'll ask that you make that available to Mr. Denny
26 sometime this week.

27 You won't need to have it for very long, I
28 shouldn't imagine.

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1 MR. DENNY: Well, no, I won't. Except, your Honor, I am
2 tied up in court all during the working hours -- when, I assume,
3 he is working.

4 And I don't think we can get together in the even-
5 ing very well.

6 THE COURT: Well, see what arrangements can be made
7 during the next week.

8 MR. ABRAMS: All right.

9 THE COURT: And see if you can find some time, perhaps,
10 when we recess here -- or, in the early morning.

11 MR. ABRAMS: I could leave you the transcript, if you
12 could get it back to me by Monday.

13 MR. DENNY: Oh, no problem about that.

14 THE COURT: That's satisfactory with the Court.

15 How about the other file, though?

16 MR. DENNY: Will the Court order that file to be made
17 available to me, for inspection?

18 THE COURT: Now, what other file are we speaking of?
19 And what kind of a case was that? And how old is it?

20 MR. ABRAMS: Okay. Well, the probation file --

21 THE COURT: Is that a matter in which he is currently on
22 probation?

23 MR. DENNY: Yes, your Honor.

24 MR. ABRAMS: Well, he is not currently on probation.

25 MR. DENNY: Yes. I'm sorry. There's a violation of
26 probation pending.

27 MR. ABRAMS: Probation is revoked, and probation is in
28 effect in limbo right now. The original expiration date was

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1 September of 1970, and probation was revoked as the result of
2 a violation, and the proceedings have been continued all along.

3 THE COURT: For the disposition of the other case?

4 MR. ABRAMS: On his original probation -- yeah, to trail
5 the disposition of the other cases. The violation and the new
6 case are set together.

7 THE COURT: The violation and the new case are set for
8 what date?

9 MR. DENNY: January 28th.

10 MR. ABRAMS: So far, it's been continued several times.
11 I still have not seen Mr. Springer, and so I don't know whether
12 I'll be able to hit the 28th, either.

13 THE COURT: Well, would it maybe inconvenience you to
14 release that file? You'd have to -- you'd want to copy it
15 all before releasing it to Mr. Denny; is that --

16 MR. ABRAMS: Well, this is the procedure I'm supposed to
17 follow. I -- I'm not sure exactly what he's looking for in the
18 file.

19 It might be a lot easier if I could spend even
20 ten or fifteen minutes going through it, and I could show him
21 or point out whatever he needs in there, and there may be
22 copies of what he needs.

23 MR. DENNY: Well, it obviously would be easier to do
24 that, your Honor.

25 THE COURT: When do you intend to put Mr. Springer on?

26 MR. KAY: Probably next week.

27 THE COURT: Would you two get together, you and Mr.
28 Denny get together, sometime this week, then? What is your

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1 schedule? Would you be free some afternoon at 4:00? I'll let
2 Mr. Denny go early.

3 MR. ABRAMS: Well, I may --

4 THE COURT: See, that would keep you from making copies.
5 So that if he does it in your presence, he goes through it in
6 your presence, he should be able to dig out all he'll need in a
7 very short time.

8 It really doesn't appear, after having looked at
9 it, to be too voluminous.

10 MR. DENNY: No, not quite three inches thick.

11 MR. ABRAMS: And a lot of it is duplication paper work,
12 which has no bearing on anything but the probation report.

13 I could probably make arrangements with him. I
14 am sure I will be coming down to the jail sometime this week
15 to do interviews.

16 MR. DENNY: All right. If the Court will so order.

17 MR. KAY: And your Honor, we still object to Mr. Denny's
18 going through the -- getting the District Attorney's file on
19 that. Because oftentimes, there are confidential communica-
20 tions between different deputies.

21 MR. DENNY: Well, your Honor, I would request at this
22 time that the Court peruse that file, to determine whether
23 there's anything in the file as far as any arrangement made
24 between the District Attorney's Office and Mr. Springer.

25 I doubt whether there is.

26 THE COURT: How did you come to be in possession of this?

27 MR. ABRAMS: Well, in the course of doing pre-sentence
28 investigations, we always obtain the District Attorney's file,

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1 to use as the basis for our investigation.

2 It contains the arrest record, and the witnesses;
3 usually, the investigating officers, I attempt to contact in
4 the course of my investigation, and --

5 THE COURT: Is that specially prepared, Mr. Kay, for the
6 probation officer?

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1 MR. KAY: No, your Honor. This is specially prepared
2 for the -- the Deputy District Attorneys that are trying the
3 case at the preliminary hearing level and the trial level.

4 But as a -- as a matter of courtesy, it's given
5 to the Probation Office -- although no one other than the
6 probation officer is to be allowed to --

7 THE COURT: All right. Let me see it.

8 I frankly don't think there would be anything
9 in that particular case.

10 MR. ABRAMS: I really don't think there is. Although
11 I haven't looked through it since sometime ago.

12 THE COURT: Here's a crime report. You probably have
13 a copy of that.

14 MR. DENNY: Yes, I have that already, your Honor.

15 MR. KAY: See, those pages (indicating) that you are
16 going through, and anything on those pages, is the work
17 product of the District Attorney's Office.

18 The arrest reports and things, we have no objec-
19 tion to.

20 He's probably already seen those (indicating).
21 That, again, is a work product of the District Attorney.

22 MR. DENNY: Well, I will stipulate, having casually
23 observed the Judge leafing through the papers, that I need
24 not have a more specific look at that.

25 MR. KAY: All right. We'll accept that stipulation.
26 Mr. Denny says he doesn't want to see it now.

27 THE COURT: I don't see any information here in this
28 file that would indicate that there is any agreement, or

1 there has been any agreement arrived at, between the
2 defendant and the District Attorney's Office -- or the
3 defendant's counsel and the District Attorney's Office.

4 MR. DENNY: I think, again for the record, your Honor,
5 that's the --

6 THE COURT: It's A-11 --

7 MR. DENNY: -- count charging two counts of violation
8 of 11910 of the Health and Safety Code.

9 THE COURT: Yes. It's A113570.

10 MR. KAY: Thank you.

11 THE COURT: It would seem to me, then --

12 MR. KAY: In other words, then, you are not to show
13 that to Mr. Denny; do you understand that?

14 MR. ABRAMS: Yes.

15 MR. KAY: Good.

16 THE COURT: All right. You gentlemen can do that
17 sometime this week, so that Mr. Denny may be apprised of what's
18 in your file.

19 MR. ABRAMS: Also the transcript on the 116185 case?

20 THE COURT: Yes, if you will, please.

21 And thank you very much. You are excused for
22 today.

23 MR. ABRAMS: Thank you.

24 THE COURT: We appreciate your coming in. All right,
25 Mr. Abrams. Thank you.

26 MR. MANZELLA: Your Honor, I have got a three-page
27 report from the Police Department of Tacoma, Washington, that
28 I want to give to Mr. Denny.

1 It's a one-page arrest report and it contains
2 information, with regard to Ella Bailey's -- the charges
3 against Ella Bailey in Tacoma, Washington.

4 THE COURT: Very well. The record will show that you
5 are delivering that to Mr. Denny.

6 MR. DENNY: Thank you, sir.

7 MR. MANZELLA: On the second page of the report, I
8 have deleted approximately seven lines of information which
9 I felt had no relevance to the charges against Ella Bailey
10 in Tacoma, Washington, and was not information pertaining to
11 this case.

12 THE COURT: Well, was it any information indicating
13 that there were any other charges or was any other charge
14 pending against her?

15 MR. MANZELLA: No, your Honor.

16 MR. DENNY: Well, your Honor, again, I am in no way
17 impugning the good faith or integrity of either of the
18 prosecutors here, but I would ask that the Court simply
19 review the original document itself -- well, not this one,
20 but the original, because this one shows that a piece of
21 paper has been placed over that -- simply in an effort to
22 determine whether there would, in the Court's opinion, be
23 any relevancy or materiality, as far as a possible line of
24 impeachment, --

25 THE COURT: The Court is --

26 MR. DENNY: -- admissible impeachment of Miss Bailey,
27 based on what is hidden by that paper.

28 THE COURT: The Court is looking at a Tacoma, Washington,

1 Police Department form, labeled "Information Report." And
2 the date of the report is March 13th, 1970.

3 It refers to arrestees -- to Susan Ann Jackson.

4 Is that an alias of the witness?

5 MR. MANZELLA: Yes, your Honor,
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1 THE COURT: It also indicates that merchandise is
2 retained in the possession of the victim, after recounting the
3 circumstances of the arrest for use of stolen credit card.

4 And then at the bottom of the page, there's a
5 blank area in which -- as a result of the typewritten lines
6 being covered by a paper stapled over those lines.

7 Do you have the original of this?

8 MR. MANZELLA: No. I have another copy.

9 THE COURT: Do you have another copy -- do you have
10 anything to indicate to the Court what the information is
11 here?

12 MR. KAY: Yes.

13 MR. MANZELLA: Yes.

14 THE COURT: Do you have it with you?

15 MR. MANZELLA: No.

16 MR. KAY: I think I can --

17 MR. MANZELLA: Your Honor, my objection is: Under Mr.
18 Denny's theory, the Court would have to look at everything in
19 our files to determine whether or not we have information
20 that was discoverable by the defense.

21 I -- I see no reason for the Court to have to
22 look through all the files we have, to see if we have any
23 discoverable material, because there's no reason why the
24 Court should have to look through a particular arrest or
25 information report to determine whether items are discover-
26 able or not.

27 THE COURT: On what basis would you exclude any of
28 those lines? Was there something that --

1 MR. MANZELLA: They don't pertain to -- they're not
2 discoverable. They don't pertain to --

3 THE COURT: Are they matters which would indicate to
4 anyone that Ella Jo Bailey is given any consideration by the
5 Washington police or by the --

6 MR. MANZELLA: No, no, your Honor.

7 THE COURT: -- Los Angeles Sheriff's Department, or the
8 Los Angeles Police Department?

9 MR. MANZELLA: No.

10 THE COURT: On any charge or --

11 MR. MANZELLA: That's correct. They don't deal with
12 that at all. They don't deal with anything having to do with
13 this case, and they don't deal with anything having to do
14 with any consideration or promises of leniency or reward or
15 anything else given to Ella Bailey.

16 They deal, if I remember correctly, with state-
17 ments made by persons with whom Ella Bailey was -- well, who
18 were arrested with Ella Bailey on the same charges, and --

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1 THE COURT: Are you willing to accept that and --

2 MR. MANZELLA: And statements that they made to the
3 police.

4 THE COURT: I believe that if, of course, they in any way
5 disclose the intention of the police department to give her
6 any sort of consideration in exchange for cooperation, well,
7 then, they're discoverable to show her state of mind.

8 MR. DENNY: I'm sure your Honor they would not, that
9 being the initial arrest report and at that time they, not even
10 knowing --

11 THE COURT: It appears --

12 MR. DENNY: -- any connection.

13 Again, it is a rather brief report, assuming that
14 the material down below discloses some of the circumstances
15 of the case.

16 Now, what the size, scope, whatever of the opera-
17 tion was.

18 MR. MANZELLA: That's disclosed in the first paragraph
19 on line 2, I believe, testing merchandise, the amount of the
20 merchandise which was the subject of the forgeries.

21 MR. KAY: Yes.

22 MR. DENNY: All I'm asking for is that the Court not
23 look everything over in the District Attorney's file, but look
24 over this particular document in camera. And the Court can make
25 a decision on it.

26 THE COURT: Well, the Court's going to accept Mr.
27 Manzella's statement in respect to what those lines were. The
28 Court believes that in connection with the seriousness of the

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1 offense committed in Washington, that that's amply disclosed by
2 the arrest report as it has been given to the defendant.

3 MR. DENNY: Well, again, your Honor --

4 THE COURT: It is clear that it was a felony arrest and a
5 felony prosecution.

6 Go ahead.

7 MR. DENNY: There's a difference between a one-shot deal
8 and a continuing conspiracy in a ring where a number of people
9 are involved in a large-scale operation of passing forged
10 credit cards. And if those statements reflect that this was
11 part of a large-scale operation -- and again, I don't know, and
12 the Court doesn't know. But if those are statements reflect-
13 ing that, and it is obvious from the statements or, at least,
14 it would appear from the statements that Ella Bailey is the
15 head of a large conspiracy ring, and this is just the top of
16 the iceberg -- and obviously, then, any police department
17 having investigated it and having determined that there were a
18 number of other similar cards passed --

19 MR. MANZELLA: I have agreed with the defense and the
20 Court that Mr. Denny is entitled to information concerning the
21 extent of the crime with which she's charged, and I have agreed
22 with him that he is entitled to information concerning any
23 bargains that we've struck with our witness. He's also
24 entitled to any statements made by a witness concerning this
25 case. That portion, I believe it contains neither of those or
26 none of those things. If it did contain negotiations, if it
27 did contain parts or descriptions of the offense not contained
28 in the rest of the report or if it did contain statements of

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1 Ella Bailey, it would be in there and it would not be deleted.

2 MR. DENNY: But, again, if it contains statements of a
3 co-defendant disclosing things which she may not have stated --

4 MR. MANZELLA: There are statements of co-defendants in
5 there which were not believed.

6 MR. DENNY: -- which disclosed a bigger operation than
7 she had admitted, but might be disclosed on the stand --

8 MR. MANZELLA: No, the statements do not show that. I
9 have deleted it for another purpose altogether.

10 THE COURT: Let me take a look at it. Would you?

11 MR. MANZELLA: Okay.

12 Do you have a copy?

13 MR. KAY: I have a copy. Hold on just a second. I have
14 it in my briefcases out in the courtroom.

15 MR. MANZELLA: It is the last three pages.

16 MR. KAY: Last three pages?

17 MR. MANZELLA: Yes.

18 MR. DENNY: May I look at the statement, your Honor?

19 (Whereupon, Mr. Kay left the judge's chambers.)

20 THE COURT: Off the record.

21 On the record.

22 (Whereupon, Mr. Kay entered the judge's chambers.)

23 MR. MANZELLA: This is the entire report.

24 (Whereupon, there was a pause in the proceedings
25 while the judge perused the document.)

26 THE COURT: The Court has looked at the sheet which has
27 been furnished to Mr. Denny and observed that there is some
28 writing pertaining to the arrest. But the Court -- the arrest

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1 of Ella Bailey.

2 The Court concurs with Mr. Manzella's estimate of
3 it. It is -- consists of one, two, three, four, five, six,
4 seven lines which appear to the Court to be such, contain such
5 information as would not, for any reason that I can think of,
6 be discoverable in this case.

7 All right, anything further, Mr. Denny?

8 MR. DENNY: Well, your Honor, again in order to
9 protect the record in the case, may I ask that Mr. Manzella
10 make a copy of that and have it sealed and make it a Court
11 exhibit. Otherwise, there will be nothing to show what the
12 Court has made its decision on and it is in camera there.

13 THE COURT: As to that copy that you just furnished me
14 with, is -- do you have any other copy of it? Can the Court
15 take that --

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1 MR. KAY: Well, I don't have another.

2 THE COURT: Without any great inconvenience?

3 MR. DENNY: It is all right --

4 MR. MANZELLA: Why don't we let Joyce have that now and
5 make another copy of it.

6 MR. KAY: All right, let Joyce have it?

7 MR. MANZELLA: Yes.

8 THE COURT: I think it will be clear with what you
9 have there.

10 MR. MANZELLA: I want to make it something so you know
11 what it is.

12 MR. KAY: Court's Special Exhibit.

13 MR. DENNY: Joyce, do you know if we've got any special
14 exhibit for the Court?

15 Well, can we make it Court's Special Exhibit 1,
16 then?

17 THE COURT: All right, it is satisfactory.

18 MR. KAY: And I take it that Mr. Denny will not have
19 access to this document? I don't want him to go through the
20 back door and do what he can't do through the front door by
21 looking in the Court's files.

22 MR. DENNY: I indicated it should be sealed as part of
23 the Court's records.

24 THE COURT: It appears to the Court to be information
25 that Mr. Denny wouldn't care about or want, in any event, but
26 nevertheless that would be the order.

27 Let's proceed. The jury is out there waiting on
28 us.

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(Whereupon, the following proceedings were had in open court within the presence and hearing of the jury:)

THE COURT: All the jurors are present, the record should show. Mr. Denny is present.

Mrs. McKissack.

(Whereupon, unrelated matters were called and heard before the Court.)

THE COURT: All right, back to the case of People vs. Davis.

Sorry for the interruption, ladies and gentlemen. We're ready to proceed now.

You may go ahead, Mr. Denny.

MR. DENNY: Thank you, your Honor.

PAUL J. WHITELEY,
the witness on the stand at the time of the noon recess, resumed the stand and testified further as follows:

CROSS-EXAMINATION (Continued)

BY MR. DENNY:

Q Mr. Whiteley, going back to the subject we were discussing at the close of the morning session. That is, the clothing that you found at various places.

Did you indicate that you did also find some clothing upstairs on the main floor of this living room-kitchen-bathroom area?

A Yes.

1 Q Male clothing?

2 A Yes.

3 THE COURT: Pull that microphone over, Sergeant.

4 Q BY MR. DENNY: As well as the female clothing
5 which you've previously described; panties, I think, in the
6 bathroom?

7 A Yes.

8 Q And that male clothing, where was it located?

9 A There was some on the window seat in the den.

10 Q Next to that which you've described as female
11 clothing which you saw there?

12 A Yes.

13 Q In the same type, as either folded in somewhat
14 disarray or in complete disarray?

15 A Yes.

16 Q All right, continue.

17 A There was a coat hanging in the kitchen. There
18 was clothing in the bathroom.

19 Q What sort of clothing in the bathroom, sir?

20 A It was clothes, men's dirty clothes and, also,
21 there was a man's suit.

22 Q Hanging somewhere in the bathroom?

23 A Yes.

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1 Q Where?

2 A It was over one side of the tub. It was laying
3 over the tub (indicating).

4 Q All right. No clothing any place else?

5 A I can't recall any.

6 Q Well, did it appear to you, sir, that the main
7 portion of the male clothing was downstairs in the bedroom
8 area?

9 A There wasn't that much downstairs, either, in the
10 house.

11 Q Well, was there more downstairs than upstairs?

12 A It was about the same.

13 Q And did it appear that that clothing had been
14 recently used? Or to have lain dormant there for some time
15 there in the lower bedroom area?

16 A It appeared the clothing in the closet in the lower
17 bedroom had been there quite a while.

18 Q How did you determine that, sir?

19 A There was dust on the top edges of the clothing,
20 where it hung on the hangers in the closet.

21 Q And upstairs?

22 A No. I saw no evidence of -- it appeared that it
23 had been -- the clothing had been recently worn.

24 Q Did you find some Levi's anywhere?

25 A Are you speaking other than on the body?

26 Q Yes.

27 A There might have been in the clothes hamper.

28 Q All right. Now, sir, the diagram --

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1 What is that, 7?

2 MR. KAY: 7.

3 MR. DENNY: Yes, People's 7.

4 Q (Continuing) -- is that diagram supposed to
5 represent the condition of the Hinman residence as of
6 approximately July 31, 1969?

7 A What do you mean by "condition"?

8 Q That is --

9 A The relationship between the rooms?

10 Q Yes. The building structure, the floor plan, the
11 doors.

12 A Yes.

13 Q I note that there appears to be a sliding door
14 between the hall and the bathroom; is that correct?

15 A Yes.

16 Q And to your recollection, there was such a sliding
17 door at the time you viewed it on July 31st?

18 A I can't recall.

19 Q And I note, too, that there appears to be a door
20 between the hall and the den, swinging out from the hall into
21 the den.

22 Was that door there on July 31st?

23 A Yes, it was.

24 Q And the pictures that you caused to be taken, which
25 are now marked, I believe, People's 8 and People's 9 -- 10 --
26 were those taken on July 31st? Or August 1st?

27 A August 1st.

28 Q Had the condition of the building changed between

1 July 31st and August 1st, to your knowledge?

2 A I -- I think that you are going into this doorway
3 between the den and the hall? Is that what you are speaking of?
4 Or the condition of the whole house?

5 Q Well, let's take that doorway. That -- had that
6 condition changed?

7 A Yes, it had.

8 Q In what way?

9 A It was taken off the hinges.

10 Q So that the picture in 8-A, which shows that
11 doorway with no door that swings out, is after you had removed
12 the door, or had it removed; is that correct?

13 A That's correct.

14 Q All right. And for what purpose was that door
15 removed?

16 A To gain entrance back into the living room, hall,
17 bathroom and kitchen.

18 Q Was that locked in some way, that door?

19 A Yes, it was.

20 Q Was it moved just off the pin; was that it?

21 A That's correct.

22 Q Now, again, going to People's 8, 8-B and 8-C,
23 do those two pictures showing the door between the den and the
24 utility room in this case, do those pictures accurately depict
25 the condition of that door when you got there on July 31st,
26 1969?

27 A Yes.

28 Q So that that door was nailed shut at that time; is

1 that correct? With two nails?

2 A I can't recall it being nailed.

3 Q Well, pictures B and C do show two nails, one above
4 the other, which appear to nail that door shut; isn't that
5 correct?

6 A Yes, I see the two nails here.

7 However, I don't recall, having forced the door
8 open, that -- that it was nailed shut.

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1 Q Well, did you move that door to go into the
2 utility room from the den?

3 A Yes, I did.

4 Q All right.

5 And did you move that door in doing so?

6 A Did I move the door?

7 Q Yes.

8 A Yes.

9 Q You went in through that way?

10 A Yes.

11 Q All right. And to your recollection, was the
12 door nailed in any way --

13 A No.

14 Q -- with those nails there? That are pictured
15 in 8-B and -C?

16 A I'm sure they were, yes.

17 Q Again, there appears to be some metal object
18 going through the round portion of the door, where the handle
19 would be.

20 Do you know what that metal object is?

21 A Yes.

22 Q What is that?

23 A That's the locking bar.

24 Q Now, Officer, do you feel qualified because of
25 your experience, as far as seeing broken-into doors, to give
26 us an opinion as to when that door was broken into?

27 A No.

28 Q You couldn't tell, could you, from --

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A When?

Q Yes.

A No.

Q So that you are not, I take it, in any way intimating that that was broken into within the past week or month or a couple of months; is that correct?

A That's correct.

Q All right, sir.

And going to the photographs in People's 10, specifically 10-C, those -- or that photograph of the marks, which you say appeared to have been bullet marks, now, you've indicated on the drawer that there is a mark -- which you have stated is what sort of mark, in your opinion?

A I call it a carom of a possible slug.

Q And the mark next to the door, the cabinet door, just to the right of the cabinet door, is a round hole, which you indicate would be an entry hole of a bullet?

A That's correct.

Q Now, did you check that rather carefully -- both those marks -- at the time you made your investigation?

A Yes, somewhat.

Q And did it appear to you that the marks were fresh?

A I -- I can't answer something like that. I don't know, you know, how long it takes for wood to dissipate its moisture content, to say that that was done within two hours or two weeks.

Q Well, did it appear to you that the marks were

1 old?

2 A I have no way of knowing.

3 Q Would you say that the damage did not appear to
4 be recent?

5 A I can't say that, either.

6 Q Well, did you so state in a report you wrote,
7 an official report, on August 9, 1969?

8 A I might have.

9 Q Well, let me show you a copy thereof.

10 I want to show you the first and second pages of
11 a multi-page report, and the file number of the last digit
12 is 1076-016; it's dated 8-9-69.

13 Do you recall having prepared that report?

14 A Yes.

15 Q Directing your attention to the paragraph here,
16 where there is some red underlining that I have placed on
17 there, in the last sentence, would you want to read that?

18 "On a drawer of the east side of the kitchen
19 was observed a declining, jagged indentation,
20 approximately eight inches in length, pointing toward
21 a small hole in a cupboard underneath the sink."

22 The damage in the drawer and the hole beneath
23 the sink appeared to have been made by a bullet. The
24 damage did not appear to be recent.

25 You did so write; is that correct?

26 A Yes, sir, I did.

27 Q Thank you, sir.

28 Now, sir, in looking through that house for

1 clues, did you find any alcohol -- alcoholic beverages of
2 any kind in the house? Liquor?

3 A Not that I can recall.

4 Q Well, do you need anything to refresh your
5 recollection, or --

6 A I don't think -- unless you have something that
7 -- because I can't remember finding any alcohol in the house.

6b fls.

6b-1

1 Q All right, sir. Did you find any sort of drugs of
2 any kind?

3 A No.

4 Q Not even aspirin?

5 MR. KAY: Well, that's assuming that that is a drug. I
6 don't know that --

7 Q BY MR. DENNY: Well, let's broaden it to drugs or
8 medication of any kind.

9 A I can't recall any.

10 Q Did you look specifically for evidence of drugs or
11 medications of any kind?

12 A Yes.

13 Q Now, did you attempt to have the lighter, which you
14 say was close to the body, dusted for prints? Fingerprints?

15 A I'm sure I did. But I can't specifically recall
16 watching the print deputy print it.

17 Q Well, do you know whether the print deputy did
18 print it? Do you have any reports indicating whether or not he
19 did?

20 A I can't specifically recall. I know he was working
21 in that area.

22 Q Who was the print deputy?

23 A I believe it was Flois White.

24 Q Well, as a supervising detective in the Homicide
25 Division, is part of your job to direct the print deputy what
26 to print? Or are they given just carte blanche to print what
27 they want to print?

28 A No, I directed.

6b-2

1 Q Well, do you recall specifically directing
2 Mr. White to print that cigarette lighter?

3 A No, sir, I don't. It was over two and a half -- or
4 almost two and a half years ago, and I just can't specifically
5 remember that one thing.

6 Q All right. How about the ball-point pens that were
7 scattered but close to the body, the nine ball-point pens that
8 you've referred to in your testimony, --

9 A No.

10 Q -- did you ask that those be printed?

11 What did you direct be printed?

12 A Any printable surface that he saw. I specifically
13 remember the door jams, the kitchen cupboards, the glasses on
14 the sink, the tops and side of the stove.

15 Q Now, sir, the blood spots that you've mentioned in
16 the kitchen, at the time you investigated those spots, did you
17 know whether they were human blood or any other kind of blood?

18 A No, I didn't at that time.

19 Q You brought Mr. Turney in, the crime lab
20 representative?

21 A Yes, sir.

22 Q To make some kind of analysis of those spots; is
23 that correct?

24 A Yes, sir.

25 Q And did Mr. Turney indicate to you, at the time
26 that -- oh, by the way, when was he brought in to do that?

27 A I don't recall. It was a day or two later.

28 Q And were you present when he did so, or not?

1 A Yes, I was.

2 Q And to your knowledge, did he determine at that
3 time whether the blood was human blood or any other kind of
4 blood? As distinguished from human blood?

5 A I now know that --

6 Q Well, don't tell me what you now know.

7 A Well, you asked me to my knowledge.

8 Q All right. We'll start with your present knowledge.

9 A Yes, I do know that all he found was blood.

10 Q Well, let me go, then, to the question that I
11 think I asked:

12 Did he indicate to you at that time whether the
13 blood was human blood or any other kind of blood?

14 MR. KAY: Calls for hearsay, your Honor.

15 THE COURT: Sustained.

16 Q BY MR. DENNY: Well, sir, did you jump to the
17 conclusion that it was human blood?

18 A Yes.

19 Q And you so indicated in your report; is that
20 correct?

21 A Right.

22 Q And you attributed that to Mr. Turney; is that
23 correct?

24 A Yes.

25 Q And indeed, Mr. Turney did not make a finding that
26 it was human blood at that time; isn't that correct?

27 A Yes.

28 Q Mr. Turney never made a finding that it was human

1 blood; isn't that correct, to your knowledge?

2 A Yes.

3 Q So, your report was -- contained a conclusionary
4 error in that respect; isn't that correct?

5 A Yes.

6c fol

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1 Q All right, sir.

2 Now, as far as this Nash Metropolitan automobile,
3 you indicated that that appeared very dirty; appeared to have
4 been sitting for several months; is that correct?

5 A Yes.

6 Q And did you base that opinion and conclusion on
7 the fact of its being covered with dust and dirt? Or any
8 other fact?

9 A That's the main thing I'm basing my conclusion on,
10 the weathered condition of the car.

11 Q Well, would you say that it might have been two
12 weeks that it had been sitting there, idle?

13 A It's possible, yes.

14 Q Might have been sitting there as long as six
15 months, idle?

16 A That's also possible.

17 Q Or a year, idle?

18 A Possible.

19 Q In other words, you don't hold yourself as an
20 expert on the length a car has sat, merely by the accumula-
21 tion of dirt on it; is that correct?

22 A No. I -- judging from the amount of dirt in the
23 area there, and the type of gravel, plus the amount of
24 travel or assumed travel of vehicles on the dirt, I just
25 would figure that it had been there for quite sometime.

26 MR. DENNY: All right, sir. I have no further questions.

27 THE COURT: Mr. Kay, any redirect examination?

28 MR. KAY: Thank you, your Honor.

REDIRECT EXAMINATION

1
2 BY MR. KAY:

3 Q Sergeant Whiteley, I have three Manila envelopes
4 here. One is People's 32 for identification. I believe it's
5 already so marked.

6 Your Honor, it's a temporary driver's license
7 under the name of Gary Alan Hinman, 964 Old Topanga Canyon
8 Road.

9 Sergeant Whiteley, I show you People's 32. Have
10 you seen that before?

11 A Yes, I have.

12 Q And where did you first see it?

13 A On August the 1st, 1969, at 964 Old Topanga
14 Canyon Road.

15 Q And where?

16 A In a metal -- it was in a small metal box.

17 MR. KAY: Your Honor, I ask that People's 32 be
18 admitted into evidence at this time.

19 MR. DENNY: No objection.

20 THE COURT: All right. So ordered.

21 Q BY MR. KAY: Sergeant Whiteley, I show you
22 People's 33 for identification, a Motor Vehicle purchase
23 order in the name of Gary A. Hinman, 964 Old Topanga Canyon
24 Road.

25 Have you seen this before?

26 A Yes, I have.

27 Q And where did you first see this?

28 A In the same metal cabinet in the living room at

32 Ev.

1 the location.

2 Q 964 Old Topanga Road?

3 A That's correct.

4 Q And you found this on August 1st also?

5 A Yes.

6 MR. KAY: All right, your Honor, I ask that People's
7 33 at this time be admitted into evidence.

8 THE COURT: So ordered.

9 MR. DENNY: No objection.

10 Q BY MR. KAY: Now, Sergeant Whiteley --

11 Or, your Honor, I have here People's 35, as
12 it's previously been marked. It appears to be a "Notice of
13 Vehicle Code Violation," commonly known as a traffic ticket.
14 And the driver's signature down here at the bottom is signed
15 "Gary A. Hinman."

16 Have you seen this before?

17 A Yes, I have.

18 Q And where did you first see this?

19 A On August the 1st, in the same metal cabinet in
20 the living room at 964 Old Topanga Road.

21 MR. KAY: Thank you.

22 Your Honor, I ask that People's 35 at this time
23 be admitted into evidence.

24 MR. DENNY: No objection.

25 THE COURT: So ordered.

26 Q BY MR. KAY: Now, Sergeant Whiteley, in response
27 to a question by Mr. Denny, you stated that -- he was
28 questioning you about these beads, these prayer beads in

33 Ev.

35 Ev

1 People's 12.

2 And I take it that these were released to Gary
3 Hirman's parents, and they in turn released it to the Nichiren
4 Shoshu Society?

5 MR. DENNY: I'll object to that as calling for hearsay.

6 MR. KAY: Well, he testified to this in response to
7 your question. So I would remind Mr. Denny, I'm just laying
8 a foundation to asking questions.

9 THE COURT: In its present form, the Court will sustain
10 the objection.

7 fls.

7-1

1 Q BY MR. KAY: All right, would you please go
2 through again, as you did with Mr. Denny, what became of
3 the beads that were in the photographs, the beads that were
4 by Mr. Hinman's hand.

5 MR. DENNY: Well, I --

6 Q BY MR. KAY: You just testified they were
7 released. Who were they released to?

8 A To the Hinman family.

9 Q And in turn, what did they do with it, to your
10 knowledge?

11 MR. DENNY: I'll object to it as calling for hearsay.

12 THE COURT: Sustained.

13 Q BY MR. KAY: Now, Sergeant Whiteley, you testi-
14 fied that at the time the beads that were in the photograph
15 by Mr. Hinman's hand -- and let me see if I can find that
16 photograph here again, find that -- if you can step down
17 here a minute, Sergeant Whiteley, I see here in photograph
18 No. H there appear to be beads that look similar to People's
19 12.

20 Are these the actual beads that you found near
21 Mr. -- well, near the body's hand?

22 A Yes.

23 THE COURT: Indicating --

24 MR. KAY: And that's in photograph 9-H.

25 THE COURT: Very well.

26 Q BY MR. KAY: Is that correct, Sergeant Whiteley?

27 A Yes.

28 Q All right. You say at the time they were

7-2

1 released -- in response to Mr. Denny's question -- that
2 these beads didn't have any significance to you, but at a
3 later time they did.

4 When was it that these beads became significant
5 to you?

6 A When I arrested Susan Atkins in October.

7 Q Did you have a conversation with her?

8 A Yes, I did.

9 Q Is that when they became significant to you?

10 A Yes.

11 Q All right.

12 Your Honor, I have here a piece of cardboard
13 with five photographs on it. It has previously been marked
14 as People's 37. May it remain as People's 37?

15 THE COURT: So ordered. 37 for identification.

16 MR. KAY: Thank you.

17 MR. DENNY: Well, may the record reflect the objection
18 I have heretofore made concerning that exhibit?

19 THE COURT: Yes, it will.

20 Q BY MR. KAY: Sergeant Whiteley, do you see Susan
21 Atkins' picture on this board?

22 A Yes, I do.

23 Q Would you please identify it?

24 A A.

25 Q In other words, this is Susan Atkins (indicating)?

26 A Yes.

27 Q There are some other pictures on the board, would
28 you identify them?

37 id.

7-3

1 A B is Charles Manson; C is Mary Brunner; D is
2 Robert Beausoleil; and E is the defendant.

3 Q Okay, thank you.

4 I'm going to ask you a couple more questions.
5 You can sit down.

6 Now, in response to a question by Mr. Denny you
7 stated that it was your opinion that there was no female
8 living on a permanent basis. Upon what did you base that
9 opinion?

10 MR. DENNY: Just a moment, I'll object to that. I
11 don't believe that was his testimony and it assumes a fact
12 not in evidence.

13 THE COURT: Would you read the question for me, Mrs.
14 Briandi?

15 (Whereupon the question was read by the
16 reporter as follows:

17 "Q Now, in response to a question by Mr.
18 Denny you stated --"

19 MR. DENNY: I can't hear you.

20 (Whereupon the question was read by the
21 reporter as follows:

22 "Now, in response to a question by Mr.
23 Denny you stated that it was your opinion that there
24 was no female living there on a permanent basis.
25 Upon what did you base that opinion?")

26 THE COURT: Overruled. I think there was a response --
27 there was a question and such a response.

28 Q BY MR. KAY: Yes, thank you, your Honor.

7-4

1 Did you answer that question, Sergeant Whiteley?

2 A Yes, I believe you mean on a recent basis?

3 Q Right.

4 A Only that the -- only clothing than that found
5 in the lower bedroom which appeared that it had been there
6 quite sometime. Upstairs there was only one pair of Capris
7 and a pair of panties or maybe two pair of panties. And
8 there just didn't seem to be enough there for a woman to be
9 living there.

10 Q Now --

11 A As well as there were no shoes or stockings. They
12 were found in the upper portions of the house.

7a fls.

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1 Q Now, in the downstairs portion I believe you
2 testified that you had to break in to get into the downstairs
3 portion?

4 A Yes.

5 Q And the clothes that were located down there, did
6 all the clothes have dust on them?

7 A Yes, it was very dirty in the downstairs.

8 Q And did it appear that any of the clothes there had
9 been used recently, either the male or the female clothes?

10 A No.

11 Q In other words, it appeared that they had not been
12 used recently?

13 A That's correct.

14 Q Now, in response to a question by Mr. Denny, you
15 stated that you did conclude that in the kitchen of the house
16 there was human blood. On what did you base your conclusion or
17 am I misstating your testimony?

18 MR. DENNY: I think he is. It assumes facts not in
19 evidence.

20 MR. KAY: Well --

21 MR. DENNY: Well, he concluded that it was not human
22 blood, though his report said there was. That's what his
23 testimony was.

24 MR. KAY: Well, let me --

25 THE COURT: Well, the Court will sustain the objection at
26 this time. You may proceed.

27 MR. KAY: Thank you. I'll reframe the question. Thank
28 you, your Honor.

7a-2

1 Q Sergeant Whiteley, did you conclude there was --
2 well, first let me ask you this: Was there a test made in the
3 kitchen to determine whether or not the blood was human or
4 animal blood, to your knowledge?

5 A I don't know specifically what test he was running.
6 I know he was running tests on various spots of blood. It was
7 a breakdown of communications, is how this happened, between the
8 report and the criminalist.

9 MR. DENNY: Just a minute, I'll object to this and move
10 the last be stricken as far as the background. It is not
11 responsive to the question.

12 THE COURT: All right, the Court does strike it. It is
13 not responsive.

14 Q BY MR. KAY: Well, to your knowledge, did Sergeant
15 Turney test the blood to determine whether it was human blood or
16 animal blood or whether it was just blood? Do you have any
17 personal knowledge?

18 A I only know he was running tests on the blood. I
19 don't know what specifically or what specific test he did run.

20 Q So, then, in other words, I take it it would be your
21 position you don't know whether it was human blood or animal
22 blood or do you know?

23 A I do not know. I assumed it was human blood.

24 Q And what did you base that assumption on?

25 A On what Mr. Turney said to me.

26 Q And Mr. Turney is seated in this courtroom and he
27 will be the next witness, is that correct?

28 A Yes, sir.

7a-3

1 MR. DENNY: Well, I had assumed there had been an order
2 for the exclusion of witnesses.

3 THE COURT: Well, there has been none, but if you wish to
4 have such an order, the Court will.

5 MR. DENNY: I do wish to have such order.

6 THE COURT: The Court will make such an order. Both the
7 witnesses for the People and the defense are excluded and they
8 are to wait outside.

9 MR. KAY: Okay.

10 THE COURT: Until they are called.

11 The attorneys please advise the Court.

12 MR. KAY: Some gentleman has found a good sleeping place
13 in the courtroom.

14 THE COURT: He may wait outside, too.

15 MR. KAY: Could I have just a moment, your Honor?

16 THE COURT: Yes, you may.

17 (Whereupon, there was a pause in the proceedings
18 while Mr. Kay conferred with Mr. Manzella at the counsel table.)

19 Q BY MR. KAY: Sergeant Whiteley, Mr. Denny showed
20 you a report there where --

21 Do you still have that report?

22 MR. DENNY: Yes.

23 MR. KAY: Thank you.

24 Q Where I believe you testified that the report was
25 compiled by you. And in there you stated in reference to the
26 ricochet mark or the carom mark, as you call it, on the kitchen
27 cabinet, that the damage did not appear to be recent.

28 What did you mean by that?

7a-4

1 A Just what it says.

2 Q All right. Now, is there any way that you have
3 of telling whether it was recent or not recent?

4 A No, I -- many things that I write in my reports,
5 I write my observations even though I can't get up on the stand
6 and testify to that information.

7 Q So, in other words, you don't really know whether it
8 was recent or not recent, based on just your examination of
9 the mark?

10 MR. DENNY: I object to that. Is he cross examining his
11 own witness or being argumentative?

12 THE COURT: Overruled.

13 Q BY MR. KAY: I'm trying to clarify that.

14 THE COURT: Overruled.

15 Q BY MR. KAY: Is that true?

16 A That's correct.
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1 MR. KAY: I have no further questions at this time. Thank
2 you, Sergeant Whiteley.

3 MR. DENNY: May I have just a moment, your Honor?

4 THE COURT: Yes, you may.

5 MR. KAY: Oh, excuse me, your Honor. I don't believe that I
6 asked People's 12 be introduced into evidence, the beads.
7 I would make a motion that they be introduced into evidence at
8 this time.

9 MR. DENNY: Well, I object to the introduction of those
10 beads.

11 THE COURT: The Court will sustain the objection at this
12 time.

13 MR. KAY: Well, may we approach the bench on that, your
14 Honor?

15 THE COURT: Yes, you may.

16 MR. KAY: Thank you.

17 MR. DENNY: Well, Steve --

18 (Whereupon, Mr. Kay and Mr. Denny conferred at
19 counsel table.)

20 THE COURT: Any further examination, Mr. Denny?

21 MR. DENNY: Yes, yes, there is.

22 MR. KAY: All right, I'll put off arguing it at this
23 time.

24
25 RECROSS EXAMINATION

26 BY MR. DENNY:

27 Q Sergeant Whiteley, I'm somewhat confused about your
28 statement that the bedroom did not appear to have been used.

1 recently in conjunction with your earlier testimony that there
2 didn't appear to be arrangements for sleeping upstairs.

3 Is that what you testified?

4 A That's correct.

5 Q Well, did it appear to you that the house had been
6 used for sleeping by the occupant at any time within the week or
7 two prior to or several weeks prior to the discovery of the body?

8 A No, sir.

9 Q You couldn't determine in the course of your
10 investigation that Mr. Hinman, assuming that he lived there,
11 had slept there?

12 A No, sir.

13 Q Or where he might have slept, if, indeed, he had
14 slept there, is that correct?

15 A No, sir, it would -- the only place I feel would be
16 on the floor in the living room or on top of the window seat in
17 the den.

18 MR. DENNY: All right, I have no further questions.

19 MR. KAY: No further questions, your Honor.

20 THE COURT: We'll give you a short recess, ladies and
21 gentlemen.

22 During the recess you are admonished not to
23 converse amongst yourselves, nor with anyone else, nor allow
24 anyone to converse with you on any subject connected with the
25 matter, nor form nor express any opinion on it until it is
26 finally submitted to you.

27 You may approach the bench, gentlemen, or wait
28 until the jury leaves, and then argue from counsel table.

1 (Whereupon, the jury retired from the courtroom,
2 and the following proceedings were had:)

3 THE COURT: What is the basis of your objection to the
4 beads being admitted?

5 MR. DENNY: Your Honor, I -- upon reflection -- have no
6 objection to the beads going in.

7 MR. KAY: Okay, we'd ask that People's 12, then, the beads
8 be received into evidence.

9 THE COURT: They have been identified as the general
10 type of thing --

11 MR. KAY: They have been identified as -- Joan Farley's
12 testimony has been to it and I think if your Honor would look --

13 THE COURT: She didn't identify them as the specific
14 beads shown in People's A?

15 MR. KAY: No, she didn't, but she described what they
16 were, what these beads were and I think if your Honor can look
17 in the photographs 9, People's 9, photographs C and H, your
18 Honor can see that this is --

19 THE COURT: Let's see that.

20 MR. KAY: That this is exactly -- that these beads are --

21 THE COURT: Yes, they do appear to be the same.

22 The Court will admit them.

23 MR. KAY: Thank you, your Honor.

24 THE COURT: Anything further?

25 MR. DENNY: No, I have no objection to its introduction,
26 your Honor.

27 THE COURT: All right. We're in recess, then.

28 MR. KAY: Thank you, your Honor.

1 (Afternoon recess.)

2 THE COURT: All jurors are present. All counsel are
3 present. The defendant is present, the record will show.

4 The People may call their next witness.

5 MR. MANZELLA: People call Francis Turney, your Honor.

6 THE CLERK: You do solemnly swear that the testimony you
7 may give in the cause now pending before this court shall be
8 the truth, the whole truth, nothing but the truth, so help
9 you God?

10 THE WITNESS: I do.

11 THE CLERK: Please take the stand and be seated.

12 THE BAILIFF: Would you state and spell your full name,
13 sir.

14 THE WITNESS: Francis Turney, F-r-a-n-c-i-s,
15 T-u-r-n-e-y.
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FRANCIS TURNEY,

called as a witness by and on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MANZELLA:

Q Mr. Turney, what is your occupation?

A I am a criminalist, employed by the Los Angeles County Sheriff's Criminalistics Laboratories.

Q Would you tell us what your background, training and experience has been in the field of criminalistics?

A Yes, I have a Bachelor's Degree from the University of Redlands with a major in chemistry.

I was employed by San Bernardino County for approximately ten years as an analytical chemist.

I was employed by the rocket industry for approximately five years as a research chemist.

I came with the Los Angeles County in 1962 and have been so employed since then.

I was trained in the methods of investigation and testing of various types of samples, blood samples by the other criminalists.

I have also just about completed my work for a Master's in criminalistics at California State College of Los Angeles.

Q And I think you touched on it, but does that background, training and experience that you have had, include the analysis of biological fluids, such as blood?

7c-2

1

A Yes, it does.

2

Q And have you testified in the courts, Superior Courts of Los Angeles County as a criminalist?

3

4

A Yes, I have.

5

Q And approximately how many times, if you recall?

6

A Well, in all types of cases, it probably would be maybe 1500, 2000 times.

7

8

Q In any of those cases have you testified with regard to blood analysis?

9

10

A Yes, I have.

11

Q Approximately how many times, if you recall?

12

A Well, talking about blood analysis, talking about blood typing and that type of analysis, it would be maybe 40 or 50.

14

15

Q Now, approximately how much of your work as a criminalist with the Los Angeles County Sheriff's Office is -- involves the analysis of blood and blood samples?

17

18

A During the periods where I am assigned to the -- what we call our physical section, we're probably typing several samples a day.

20

21

Q How long have you been with the criminalistics laboratory of the Sheriff's Department?

22

23

A Ten years.

24

Q Now, directing your attention to the date of August 7, 1969. On that date did you go to 964 Old Topanga Canyon Road in Malibu?

26

27

A Yes, I did.

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Q Did you go alone or did you go with other persons?

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A I went with several other people.

Q Who are those other people?

A Well, I have another criminalist who was along with me. He's kind of a trainee, a Mr. Cook. And then there was Sergeant Guenther -- or Deputy Guenther and Sergeant Whiteley.

Q Now, while you were at 964 Old Topanga Road on August 7th, 1969, did you perform any tests at that location to determine whether or not blood was at that location?

A Yes, I did.

Q As a result of those tests, did you find blood at the location?

A Yes.

Q Would you tell us where you found blood?

A Well, I checked the writing on the wall to see if it was blood and it was.

There were some deposits on a coffee table in the living room along the edge which I checked and determined to be blood.

There was deposits on the stairs and in the hall leading from the living room to the kitchen which I checked and determined to be blood.

And there was numerous spots in the kitchen and various areas in the kitchen which I checked to determine if it was blood.

Q All right. Directing your attention to the photograph which has been marked People's 9 for identification. And in particular, that photograph which has been marked

1 Photograph A of People's 9 for identification.

2 Did you test the writing on the wall which is
3 "Political Piggy" while you were at the location?

4 A Yes, I did.

5 Q And did you determine that that was in blood,
6 that writing was in blood?

7 A Yes, I did.

7d fls.

7d-1

1 Q And directing your attention to what appears to be
2 drawn there, an animal's paw print to the left of the words
3 "political piggy," did you test that simulated paw print for
4 blood?

5 A To the best of my recollection, I did.

6 Q What was the result of that test?

7 A It was blood.

8 Q Now, you testified that there was a table in the
9 living room on which you did test for blood and on which you
10 found the presence of blood.

11 Is that table shown in any of these photographs?

12 A It is shown on photograph G.

13 Q And is that what might be referred to as a coffee
14 table shown on photograph G?

15 A That's correct.

16 Q And did you test the area of the rug which is shown
17 in various photographs: Photograph A, photograph B, photograph
18 C for blood?

19 A Hmmm, I don't think so.

20 MR. MANZELLA: Your Honor, I have here a series of
21 photographs.

22 The first one appears to depict a portion of the
23 refrigerator and cabinets in the kitchen of the home at 964
24 Old Topanga Canyon Road. It has previously been marked
25 People's 21-A for identification. May it be so marked?

26 THE COURT: Yes, it may be so marked.

27 MR. MANZELLA: I have here a photograph which appears to
28 show a cabinet and a portion of the stove at 964 Old Topanga

1 Canyon Road in the kitchen. May I have that marked? It has
2 previously been marked People's 21-B. May that be so marked at
3 this proceeding?

4 THE COURT: So ordered.

5 MR. MANZELLA: And I have here what appears to be a
6 photograph of a kitchen cabinet at the home of 964 Old Topanga
7 Canyon Road which previously has been marked as People's 21-C.
8 May that be marked at this proceeding?

9 THE COURT: So ordered.

10 Q BY MR. MANZELLA: All right, Mr. Turney, you
11 testified that you found blood in the hallway; is that correct?

12 A That's correct.

13 Q All right. Directing your attention to the scale
14 drawing of the residence at 964 Old Topanga Canyon Road, that
15 second floor, which is People's 7.

16 Does the location in which you found blood in the
17 hallway show in People's 7?

18 A Yes.

19 Q Is that location marked in any way on the diagram,
20 People's 7?

21 A The spots aren't marked, no.

22 Q Well, would you show us the area, then, using the
23 pointer which is next to you on the witness stand? Show us the
24 area in which you found blood in the hallway.

25 MR. DENNY: Can the jurors see that all right?

26 THE COURT: You might want to turn it, Mr. Turney.

27 Keep your voice up or use that microphone.

28 THE WITNESS: There was several drops on this step here

1 (indicating).

2 There was one fairly good drop right in front of
3 the bathroom (indicating).

4 Those are all I can remember at this time. And I
5 don't recall others in the hallway, but there could have been.

6 Q BY MR. MANZELLA: Mr. Turney, using this black
7 crayon, would you mark with circles the areas in the hallway in
8 which you found -- in which you tested for and found blood?

9 (Witness complied.)

10 Q BY MR. MANZELLA: All right, would you put your
11 initials near the circles?

12 (Witness complied.)

13 8 fol

8-1

1 MR. MANZELLA: May the record reflect that the witness
2 has complied, your Honor?

3 THE COURT: Yes, the record may so show.

4 Q BY MR. MANZELLA: All right. Mr. Turney, directing
5 your attention to the photograph which has been marked
6 People's 21-A for identification, do you recognize what is
7 depicted in that photograph?

8 A Yes, I do.

9 Q And does that appear to be a portion of the kitchen
10 of the residence at 964 Old Topanga Canyon Road?

11 A Yes, it is.

12 Q And does the area in which you found blood in that
13 kitchen show in this photograph?

14 A Yes.

15 Q And is that -- are those areas marked in any way on
16 this photograph?

17 A Yes, they are.

18 Q And were they marked by you?

19 A Yes, they were.

20 Q All right. Directing your attention to the
21 photograph, would you explain those markings for us, please?

22 A The --

23 Q Well, excuse me. Let me interrupt.

24 Why don't you use the hand-microphone, and then
25 you can turn in your chair?

26 A The circle on the top of the refrigerator is an
27 area where there was numerous drops of blood. And the arrow
28 indicates the direction in which these drops were traveling

8-2

1 when they hit the refrigerator.

2 Also, up across the cabinet doors, the ceiling, and
3 then down the back wall, or, the end wall of the kitchen,
4 indicating that the blood was traveling in an arc, up at this
5 end of the kitchen (indicating), and then down at the other
6 end of the kitchen.

7 Q When you say "up at this end," you are referring
8 to the right-hand side of the photograph? And when you say
9 "down," you are referring to the left-hand side of the
10 photograph?

11 A That's correct.

12 Q All right. Now, did you find blood on the cabinets
13 shown in the photograph, as well as the refrigerator?

14 A Yes, I did.

15 Q All right. Now, have you had some background
16 training and experience, and have you done some study to
17 determine the causation of various shapes of blood drops?

18 A Yes, I have.

19 Q Would you tell us briefly what that study and
20 background, training and experience has been?

21 A Well, the main book that I've read that describes
22 these is Kirk's Criminal Investigation.

23 But I have observed these drops and their shapes on
24 practically every homicide investigation I have been on, where
25 I've trailed bleeding individuals through houses, down side-
26 walks, around blocks.

27 You can tell where they have run, where they have
28 stopped, where they have slowed down, by the size and shapes of

8-2

1 the drops.

2 Q Approximately how many homicide investigations have
3 you participated in? If you can recall.

4 A Well, it would be around 100 or so. I don't
5 recall exactly.

6 Q Directing your attention to the photograph marked
7 People's 21-B for identification, do you recognize what is
8 shown in that photograph?

9 A Yes, I do.

10 Q And again, would you use the hand-microphone,
11 so that I can hold it up here, and you can turn and look at
12 it?

13 Does the area in the kitchen in which you found blood
14 also show in this photograph, People's 21-B?

15 A Yes, it does.

16 Q And is that area marked in any way on the
17 photograph?

18 A Yes.

19 Q And was it marked by you?

20 A Yes, it was.

21 Q All right. Would you tell us how it is marked and
22 where you found the blood?

23 MR. KAY: Excuse me, Mr. Manzella. There appears to be
24 a glare on the photograph. I wonder if you could maybe bring
25 Mr. Turney down in front of the jury, where they can see it
26 more easily.

27 MR. DENNY: Well, the photograph isn't in evidence now.
28 I am not objecting to the interrogation at this point, but it

8-4

1 should not even be shown to the jury at this point.

2 MR. MANZELLA: May I inquire of the jurors, if there is
3 a glare on the photograph, whether any of the jurors cannot
4 see?

5 JUROR OBRADOVICH: We can see.

6 MR. MANZELLA: Can all the jurors see the photograph?

7 THE JURORS: (Indicating affirmatively.)

8 THE COURT: All right.

8a fol

8a-1

1 Q BY MR. MANZELLA: Would you tell us -- if I
2 haven't already asked you, I would like to ask you now to
3 tell us -- the areas in which the blood that you found is
4 shown in the photograph marked People's 21-B? And if it is
5 marked, how it was marked?

6 A Well, it is shown in the circles, and they
7 indicate the area in which there was numerous small droplets
8 of blood, on the door of the cabinet there.

9 Q And directing your attention to the photograph
10 which has been marked People's 21-C for identification,
11 do you recognize what is depicted in that photograph?

12 A Yes, I do.

13 Q And does that also appear to be a picture of a
14 cabinet in the kitchen at 964 Old Topanga Road?

15 A Yes, it does.

16 Q And did you find blood on that cabinet?

17 A Yes, I did.

18 Q And is that blood shown in this photograph?

19 A Yes, it is.

20 Q And is that blood shown on the photograph marked
21 in any way?

22 A Yes, sir.

23 Q And how is it marked?

24 A By circling the area of the blood.

25 Q And did you place those markings on the
26 photograph?

27 A Yes, I did.

28 Q Now, were you able to determine the direction --

8a-2

1 from the shape of the blood spots found on the cabinet -- the
2 direction in which the blood was traveling when it struck the
3 surface?

4 A Yes, I was.

5 Q And is that direction indicated in any way on the
6 photograph? Or in the photograph?

7 A Yes, it is.

8 Q How is it indicated?

9 A By an arrow pointing down.

10 Q All right. Then, did you place that arrow on
11 the photograph?

12 A Yes, I did.

13 Q And was it your opinion, based upon your back-
14 ground, training and experience, and your examination of the
15 shapes of the blood spots in the photograph, that the blood
16 was traveling in the downward direction when it struck that
17 surface?

18 A Yes, that's right.

19 MR. MANZELLA: Your Honor, I have here what appears to be
20 a knife, which has previously been marked People's 18.

21 May that be so marked at this proceeding? For
22 identification?

23 THE COURT: 18, did you say?

24 MR. MANZELLA: Yes, your Honor.

25 THE COURT: Yes. It is marked for identification as 18,
26 a knife.

27 MR. MANZELLA: Your Honor, I have here what appears
28 to be two pieces of a sword or cutlass that has previously

18 Id.

8a-3

1 been marked People's 20 at a prior proceeding.

2 May I have that marked People's 20 for identifica-
3 tion at this proceeding?

20 Id.

4 THE COURT: So ordered.

5 Q BY MR. MANZELLA: All right.

6 Mr. Turney, directing your attention to the
7 exhibit which has been marked People's 18 for identification,
8 do you recognize that knife?

9 A Yes, I do.

10 Q Have you ever seen it before?

11 A Yes.

12 Q And was that knife presented to you by one of the
13 investigating officers in this case?

14 A Yes, it was.

15 Q And did you perform a test on that knife to
16 determine the presence or absence of blood?

17 A Yes, I did.

18 Q And what was the result of that test?

19 A I did not find any blood.

20 Q And directing your attention to the cutlass or
21 sword which has been marked People's 20 for identification,
22 do you recognize that sword?

23 A Yes, I do.

24 Q And was that sword presented to you by one of the
25 investigating officers in this case?

26 A Yes, it was.

27 Q And did you perform tests on that sword to
28 determine the presence or absence of blood?

1 A Yes, I did.

2 Q And as a result of those tests, did you form an
3 opinion as to whether or not blood was present or absent?

4 A I did not find any blood.

5 Q Now, Mr. Turney, do you have any background,
6 training and experience -- and have you done any study --
7 to determine the relative ease or difficulty with which
8 particular types of surfaces may be washed free of blood?

9 A I have had some experience along this line, yes.

10 Q And is that during the course of your work in the
11 field of criminalistics?

12 A Yes.

13 Q And is that during the course of your work on
14 homicide investigations?

15 A Yes.

8b fls.

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8b-1

1 Q All right. Would you tell us on what -- strike
2 that.

3 Can you tell us on what you base an opinion as to
4 whether or not blood may be relatively easily or more
5 difficultly wiped from -- or cleaned from a surface, a
6 particular surface? And on what do you base your conclusions
7 in that regard?

8 A Surfaces that are non-absorptive, blood can
9 easily be removed.

10 Other types of surfaces, like cloth or carpets or
11 so on, it's very difficult to remove completely, completely
12 remove blood where it can't be found.

13 Q Is there a distinction in the difference between a
14 porous surface and a non-porous surface?

15 A There is.

16 Q That would be between a surface that has
17 relatively numerous and large holes in it and a surface which
18 has relatively fewer and smaller holes in it?

19 A Well, it's a matter of absorption; a matter of
20 porosity more than anything else.

21 Q All right. And what kind of surface was -- strike
22 that.

23 What kind of surface is the blade of the knife which
24 is People's 18 for identification?

25 A That --

26 MR. DENNY: Well, your Honor, excuse me. I think the
27 exhibit speaks for itself.
28

1 THE COURT: Would you give me the question again? I'm
2 sorry.

3 (Whereupon, the record was read by the reporter as
4 follows:

5 "Q What kind of surface is the blade of
6 the knife which is People's 18 for identification?"

7 THE COURT: Sustained as to that question.

8 Q BY MR. MANZELLA: All right. Did you form an
9 opinion as to whether or not it would be relatively difficult
10 or relatively easy to wash blood from the surface of the blade
11 of the knife which is People's 18 for identification?

12 A It would be fairly simple to get the blood off the
13 knife.

14 Q And would your conclusion be the same for the sword
15 which is marked People's 20 for identification?

16 A Yes.

17 MR. MANZELLA: Your Honor, I have here what appears to be
18 a black T-shirt, which was previously marked People's 22.

19 May that be marked People's 22 for identification at
20 this proceeding?

21 THE COURT: So ordered.

22 MR. MANZELLA: And I have here what appears to be a pair
23 of men's Levi's, which previously have been marked People's 23.
24 May this pair of Levi's be marked People's 23 for identification
25 at this proceeding?

26 THE COURT: So ordered.

27 Q BY MR. MANZELLA: All right. Mr. Turney, directing
28 your attention to the black T-shirt which has been marked

1 People's 22 for identification, was that black T-shirt
2 submitted to you by one of the homicide investigators in this
3 case?

4 A Yes, it was.

5 Q And did you perform tests on the black T-shirt to
6 determine the presence or absence of blood?

7 A Yes, I did.

8 Q And as a result of those tests, did you form an
9 opinion as to whether or not there was blood present on the
10 black T-shirt?

11 A Yes.

12 Q And what was that opinion?

13 A I found blood -- if I could refer to my notes --

14 Q Did you make those on the results of the test which
15 you performed on the T-shirt?

16 A Yes, I did.

17 Q And do you have those notes with you now?

18 A Yes.

19 Q Do you need those notes -- do you need to refer to
20 those notes to refresh your memory with regard to the details of
21 the findings of your test?

22 A Yes, I do.

23 Q All right. Would you refer to your notes, please?
24 With the Court's permission?

25 A Yes, I found traces of blood on the front, at the
26 hem, and on the right sleeve of the T-shirt.

27 Q Now, directing your attention to People's 23 for
28 identification, the Levi's which are on the witness stand in

1 front of you -- I'm sorry. Were you going to say something?

2 A No.

3 Q (Continuing) -- to the Levi's which are on the
4 stand in front of you, did you perform tests on those Levi's
5 to determine the presence or absence of blood?

6 A Yes, I did.

8c fol

8c-1

1 Q And as a result of those tests, did you form an
2 opinion as to whether or not blood was present or absent on
3 those Levi's?

4 A Yes, I did.

5 Q And what was that opinion?

6 A I found traces of blood on the right leg.

7 Q Now, Mr. Turney, at the time that you tested the
8 surfaces about which you've testified, at 964 Old Topanga
9 Road, did you test those surfaces to determine whether or
10 not the blood that you found was human blood?

11 A No, I did not.

12 Q Would you be able to perform that test at the
13 scene, or would you have to take samples of blood and remove
14 it to your laboratory to perform that test?

15 A It is our normal practice to remove it and take
16 it to our laboratory --

17 MR. DENNY: I'll object to that as not responsive;
18 move that it be stricken. The question --

19 THE COURT: Sustained.

20 MR. DENNY: -- is: Could you do it?

21 THE COURT: The objection is sustained.

22 Motion to strike is granted.

23 Q BY MR. MANZELLA: In your experience, based upon
24 your background, training and experience, and your study in
25 the field, how do you go about performing the tests to
26 determine whether or not the blood that you find is human
27 or animal?

28 A We use the anti-human precipitant test, where

8c-2

1 the -- an extract of the blood is layered on an anti-human
2 serum, which gives a white precipitate, if it's human.

3 This is normally done in the laboratory.

4 Q And did you perform that test in this case?

5 A No, I did not.

6 Q Did you remove any samples of blood from the
7 scene at 964 Old Topanga Canyon Road to the laboratory?

8 A No, I did not.

9 Q And why did you not do that?

10 A Well, I was told I didn't need to take any
11 samples by Sergeant Whiteley.

12 This was not a full scale investigation by our
13 laboratory. I was asked to go out there to do a specific
14 job, and that was to find the trail of blood between the
15 living room and the kitchen.

16 Q All right. Now, were you prepared to do the
17 testing to determine whether the blood was human or animal
18 at the scene, at that time?

19 A No, I was not.

20 Q When Sergeant Whiteley told you not to take
21 samples of blood, did you at that time explain to him that
22 you had to do that to determine whether it was human or
23 animal?

24 A The question never came up.

25 MR. MANZELLA: All right. Thank you.

26 I have no further questions.

27
28 CROSS-EXAMINATION

8c-3

1 BY MR. DENNY:

2 Q Mr. Turney, excuse me, sir. Did you say that
3 the purpose of your going to this home was what? Just to
4 trace a trail of blood?

5 A Yes.

6 Q And what did you bring with you, to trace that
7 trail of blood?

8 A Well, I had my field kit, which has the materials
9 for -- just checking for the presence of blood.

10 Q And what do you use to check for the presence of
11 blood in your field kit?

12 A We use the benzidine test, where you -- you
13 pick up a little blood on a swab and check it with the
14 benzidine reagent, which gives you a color reaction.

15 Q Um-hmm.

16 And you can do that from any surface, from
17 porous to non-porous?

18 A Yes.

19 Q Is that the same test that you used on the knife
20 that's been marked for identification?

21 A Yes.

22 Q Are there any other tests to determine the
23 presence of blood, other than the benzidine test?

24 A Yes, there are -- oh, I suppose a good many.
25 There's four or five that I know of.

26 Q Are there others that are more particular than
27 the test that you say you used at the house there?

28 A There are some that are more specific, less

1 sensitive.

2 Q How about spectography?

3 A I -- I have seen something written on that, but
4 it's not a general -- in general use --

5 Q Well, whether it's --

6 A -- by any lab that I know of.

7 Q Whether it's in general use or not, you can
8 determine the presence of blood on even a non-porous
9 surface, such as metal, through the use of spectography,
10 can you not? Blood that would not show up with a benzidine
11 test?

12 A I'm not familiar with the procedure. I don't
13 know how sensitive it is, or --

8d fls. 13

8d-1

1 Q Don't you use spectography, sir, in your work?
2 A Not for determining blood --
3 Q In your work as a criminalist?
4 A Not for determining blood.
5 Q Do you use it for anything?
6 A We have several applications of spectography in
7 the lab.
8 Q And what do you use it for?
9 A Well --
10 Q Paint samples?
11 A We have one instrument that determines metallic
12 elements.
13 We have several other instruments that we use
14 for drugs and chemicals and so on.
15 Q Well, sir, the benzidine test is just the
16 simplest, easiest test to determine the presence of blood;
17 is that correct?
18 A It's the -- it's a very convenient test, very
19 sensitive.
20 Q But there are tests that are more sensitive;
21 is that correct?
22 A I don't know of any that are more sensitive.
23 Q You don't?
24 A No.
25 Q All right, sir.
26 A Well, we use one that is a little bit more
27 sensitive.
28 Q Oh, there is one. What is that?

1 A But it has to be done in total darkness.

2 Q Well, what is it?

3 A It's a luminol test, where you spray this
4 luminol solution, and it will -- it fluoresces when it hits
5 blood.

6 Q Yes.

7 And did you do that on the knife or the sword?

8 A No. You can't use it on metal, because metal
9 fluoresces anyway.

10 Q All right, sir.

11 Now, going to the reason, again, that you were
12 there, you say it was just to trace a trail of blood; is that
13 all?

14 A Yes.

15 Q Well, did you tell Mr. Whiteley that this was
16 human blood; that these droplets that you discovered in the
17 hall and in the kitchen were human blood?

18 A No, I did not.

19 Q Are you sure you didn't tell him that they were
20 human blood?

21 A Yes.

22 Q Did any of the blood spots on any of the
23 surfaces that you have indicated to be blood -- was any of
24 that moist, or was it all hard and dry?

25 A Oh, it was all dry. It was -- this was seven
26 days after it happened -- after the body was discovered;
27 and that was about what, two weeks after the --

28 Q Well, you don't know when it was, do you, sir?

1 A I know it was at least seven days after the body
2 was discovered --

3 Q All right.

4 A -- that I was out there.

5 Q All right. And did the spots that you saw have
6 the common, ordinary appearance of dark red dried blood?

7 A Yes.

8 Q Was there anything unique about these spots that
9 one with any training at all would have any question about,
10 just looking at them, without testing them, that they were
11 spots of blood?

12 A No.

13 Q So that even a layman, looking at them, would be
14 likely to conclude that they were blood spots; isn't that
15 correct?

16 MR. MANZELLA: Objection. That calls for speculation,
17 your Honor, as to what someone else would conclude.

18 THE COURT: Sustained.

19 Q BY MR. DENNY: Well, it would not take an expert,
20 in your expert opinion, to determine that they were blood
21 spots; is that correct?

22 MR. MANZELLA: Again, that calls for speculation, and
23 not an opinion, your Honor.

24 THE COURT: Overruled. I'll --

25 MR. DENNY: This is a supposed expert.

26 THE COURT: -- let him answer.

27 THE WITNESS: I would say any reasonable person would
28 come to the conclusion they were blood.

9-1

1 Q All right. So, are you telling us, then, that you
2 just went out in order to confirm what was readily obvious to
3 any reasonable person that those spots were blood spots?

4 A Well, there are -- you're talking about the spots
5 in the kitchen, yes.

6 The spots in the hallway, which is carpeted, those
7 they wanted confirmation because they just looked like dark
8 spots and they could have been anything and they needed to be
9 tested.

10 Q Now, it is possible on sight to make a test to
11 determine whether it is human blood or not, isn't it?

12 A It is possible to do it at the scene?

13 Q Yes.

14 A Well, yes, we can roll up in a laboratory truck and
15 do everything there.

16 Q Well, without rolling up in a laboratory truck,
17 the test to determine the presence or absence of human blood,
18 as distinguished from animal blood, can be done without too
19 much difficulty on the scene, can't it?

20 A It can be done. We'd have to carry other equipment
21 than we carried, though.

22 Q Other equipment than you carried that day?

23 A We never carry that equipment with us to the
24 scene.

25 Q All right.

26 A Part of it needs to be refrigerated.

27 Q All right. And if necessary, you could take a door
28 off, small cabinet door and submit that to test in the

9-2

1 laboratory, is that right?

2 A There's no problem about taking samples. I just
3 didn't take them.

4 Q You wouldn't even have to take the door off.

5 A That's correct.

6 Q Just scrape a little bit?

7 A That's correct.

8 Q All right.

9 Now, sir, this blood was thoroughly dried and
10 coagulated, is that correct?

11 A Well, I don't know about the coagulation. It was
12 thoroughly dried.

13 Q Well, would you distinguish to the jury and to
14 me, if you would, please, the difference between dry blood and
15 coagulated blood? Is there a difference?

16 A Well, coagulation usually is referring when you're
17 talking about wet blood, the separation of the cells from the
18 serum. Once it is dried, the cells are all destroyed and you
19 have nothing but a whole homogeneous red deposit.

20 Q In order for blood to be dry, it must have been
21 coagulated first, isn't that correct?

22 A Not necessarily, no.

23 Q All right. So all you would be willing to say is
24 that all of these blood spots were thoroughly, totally dried
25 at the time you examined them, is that correct?

26 A That's correct.

27 Q And then, would you make your determination as to
28 the age of those particular blood spots?

9-3

1 A Only by looking at them. They appeared to be
2 reasonably fresh.

3 Q Well, now, on what did you base that opinion, sir,
4 when you say they appeared to be reasonably fresh?

5 A Well, old samples get darker and darker, and these
6 aren't too dark.

7 Q How dark were they?

8 A Well, it is hard to recall. They just impressed
9 me with being fairly recent blood spatters.

10 Q Well, now, how much darker does a blood spot get
11 after it is thoroughly dry?

12 A Oh, they'll continue to be blacker and blacker.
13 You find one two or three months old, they'll be fairly black.

14 Q All right. But you made no specific finding as to
15 the age of these, did you?

16 A No, I did not.

17 Q All right. Because you weren't called on to do
18 that, were you?

19 A No, I wasn't.

20 Q Neither did you type the blood?

21 A No, I did not.

22 Q Because you weren't called on to do that, were you?

23 A Well, I wasn't asked to or specifically said I
24 didn't have to take any samples.

25 Another thing, you don't type blood, go to the
26 work of typing blood if you don't have anything to compare it
27 to and with a decomposed victim, there's no blood sample to get
28 from the victim to compare the type to.

9-4

1 Q Oh, the autopsy surgeon is not able to type the
2 blood of a partially decomposed body?

3 A I don't --

4 MR. MANZELLA: Your Honor, I would object to that on the
5 grounds it appears to be calling for speculation on the part
6 of this witness as to what the autopsy surgeon would do.

7 THE COURT: The objection is sustained.

8 Q BY MR. DENNY: As a criminalist, sir, you
9 are telling this Court and this jury that you cannot get a
10 blood type from a deceased body that has been partially
11 decomposed?

12 A Uh, if the body is decomposed, you cannot type it.

9a fol

9a-1

1 Q Well, sir, when you went up there, did you know
2 the state of the particular body in question?

3 A Yes, I did.

4 Q And do you know, sir, whether or not the blood
5 was typed by the Coroner?

6 A I don't know. I'm --

7 Q Do you know of your own knowledge or experience,
8 sir, what -- well, strike that. Strike that.

9 Was it just your opinion at the time that you
10 went up here -- this was on the 7th, wasn't it, of August?

11 A Yes.

12 Q It is your opinion, then, that it would be a
13 waste of time to try to type of the blood because you
14 couldn't get a blood type from this decomposed body?

15 A I don't recall really anything about it, but I
16 was told they didn't need any samples checked and so I
17 didn't take any.

18 Q Were you told that they just assumed that they
19 were blood spots of Gary Hinman, the decedent, and so you
20 didn't need to determine the blood type to match it to the
21 blood type of Gary Hinman, the decedent?

22 A Well, this I am -- I'm sure was the thinking. It
23 wasn't put in those words.

24 Q And based on that thinking and that conclusion and
25 that assumption, you didn't do any scientific work to deter-
26 mine whether that was true, is that correct?

27 A That's right.

28 Q All right, sir.

9a-2

1 As far as you are aware, there is no way to
2 determine that now at this date for this jury, is that
3 correct?

4 A I do not know. I don't know what the condition
5 of the house is in, whether it has been repainted or what.

6 Q Now, sir, showing you People's 21-B, the
7 photograph showing the cabinet with apparently a meat cutter
8 above it and a stove to the right of it. You indicate that
9 you have circled the locations there with the two circles
10 and initialed them; is that correct?

11 A That's correct.

12 Q I notice, though, that you have no arrows on that
13 particular exhibit. Is there some reason for that?

14 A Well, I didn't determine or recall the -- any
15 direction on it, any spatterings on that side of the room.

16 Q Well, now, that's two things you are telling us.
17 You didn't determine it and you didn't recall it.

18 Did you determine the direction at any time?

19 A Not on that side of the room.

20 Q So the fact that you don't recall means not that
21 you did it and you don't recall what the results were, but that
22 you simply didn't do it, is that correct?

23 A That's correct.

24 Q All right. Well, did you take any close-up
25 pictures, sir, to verify the direction of the spots on any
26 of these exhibits?

27 A I didn't take any pictures at all.

28 Q Did you cause any pictures to be taken so that

1 the jury might be able to determine whether or not your --

2 MR. MANZELLA: Objection, it is argumentative, your
3 Honor.

4 THE COURT: Sustained.

5 Q BY MR. DENNY: Did you take or cause to be taken
6 any close-up pictures of any of these blood spots?

7 A The photographer was taking these while I was
8 there and, uh --

9 Q So there was a photographer right there present
10 and you could have had them --

11 A I thought he was taking pictures of the blood
12 spots.

13 Q Well, did you direct him specifically to take
14 close-up pictures of the blood, showing close-ups of those
15 blood spots?

16 A That's what those pictures are supposed to be.

17 Q That's what these pictures are supposed to be?

18 My question is, did you direct him to do just
19 that, to take close-up pictures?

20 A I don't recall telling him what to do. He was
21 taking pictures of the blood spots and I assumed he was
22 getting them.

23 Q As a criminalist, sir, as one who testifies as an
24 expert in the field of criminology, do you not feel it would
25 be helpful in presenting your testimony to a jury to have
26 close-up pictures of the blood spots that you are being
27 called upon to testify about?

28 A Yes, it would help.

1 Q All right.

2 And in the course of your -- how many years is
3 it as a criminalist?

4 A Ten.

5 Q Have you ever had the opportunity, other than on
6 this particular occasion, to direct a photographer to do just
7 that, to get close-up pictures?

8 A I occasionally ask them to take pictures of
9 certain things, yes.

10 Q All right.

11 But, you didn't in this case?

12 A I didn't specifically point to a blood spot and
13 say "Take that picture." He was in there taking pictures
14 of the blood spots and they are the experts in the photography,
15 I am not. And how they do it, is their -- how they do it --
16 I don't know, how to tell them to take a picture.

17 Q You are a criminalist, aren't you?

18 A Yes, but I am not a photographer. And when they
19 start taking pictures, I can't tell them how to do it.

9b fls.

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9b-1

1 Q You can't --

2 A They are the experts.

3 Q But you can't ask them to take a --

4 A They are the experts.

5 Q There have been cases there --

6 A I tell them to take a picture of a certain
7 thing, and how they take it is -- how they do it -- I don't
8 tell them how to take it.

9 Q You don't?

10 A No.

11 Q All right, sir.

12 By the way, there are some X's on this picture
13 21-A.

14 What do those X's represent?

15 A Well, as I recall, I was asked to put X's where
16 there are other blood spots indicating the cabinet and the
17 ceiling.

18 Q Well, there appears to be an X down here on the
19 wall over the drainer.

20 A Yes. I indicated there was blood spots on the
21 end wall which is just outside of the picture.

22 Q All right.

23 A Underneath the -- above the sink and underneath.
24 I think there is a cabinet across the back there, too.

25 Q All right. Now, on this X on 21-A, on the middle
26 cabinet here, there doesn't appear to be an arrow there.

27 Is there some reason for the lack of an arrow
28 there?

9b-2

1 A Well, yes, because I was showing the general
2 direction of this arrow, that arrow and that one.

3 Q Well, this X is below the general direction,
4 seemingly not in the same path.

5 A All the blood spots on here were all going in that
6 direction.

7 Q All going in that direction, all right, sir.

8 And on 21-C, is it your statement, now, that all the
9 blood on the cabinet here, as depicted in 21-C, not only that
10 in the upper left-hand corner, but in the lower left-hand
11 corner was going in a downward direction?

12 A Yes. This was a cabinet at the end of the room.
13 It would be an indication by this X here, would be the area
14 where that cabinet is.

15 Q Indicating the X on the left-hand lower portion of
16 21-A?

17 A That is correct.

18 Q All right, sir.

19 Now, sir, when you say that you examined this
20 black T-shirt, People's 22 and found traces of blood on the
21 front hem and on a sleeve, is that correct?

22 A That's correct.

23 Q And were these again traces that appeared to be a
24 darkened material that were visible to the naked eye?

25 A I don't really recall whether I went over with an
26 ultraviolet light to try to find some stains or whether I
27 actually saw some darkened places where I tested and how I
28 located them, I don't recall.

9b-3

1 Q What sort of tests did you perform on the T-shirt?
2 A The benzidine.
3 Q Any other tests?
4 A No.
5 Q So you didn't determine whether that was animal or
6 human blood, is that correct?
7 A I didn't, no.
8 Q And you didn't determine what blood type it was,
9 is that correct?
10 A That's correct.
11 Q But as far as you know, the blood that appears
12 there might be the blood of the wearer of the T-shirt, might
13 be the blood of someone else, might be the blood of an
14 animal, might be the blood of a steak, is that correct?
15 A That's correct.
16 Q All right, sir. And on the Levi's, the same?
17 A That's correct.
18 MR. DENNY: No further questions.
19
20 REDIRECT EXAMINATION
21 BY MR. MANZELLA:
22 Q Mr. Turney, all the blood spatterings which you
23 found in the kitchen, do they all show in the photographs
24 marked People's 21-A, 21-B and 21-C for identification?
25 A I'm not sure I understand your question.
26 Q Is all the spatterings of blood which you found
27 in the kitchen, do they all show in these photographs?
28 A No.

9b-4

1 Q Now, the X's which appear -- strike that.

2 The X which appears on this photograph, People's
3 21-A for identification, which appears on the cabinet door,
4 does that X indicate that that is an area in which you found
5 blood spatterings?

6 A Yes, but they were not -- they didn't show up in
7 the picture.

8 Q All right. And is the same -- strike that.

9 And with regard to the other photograph, People's
10 21-B for identification, did you find blood on that cabinet
11 door which is not shown in the photograph, if you recall?

12 A There are probably other spots that didn't show
13 up. I circled the ones that I could see in the photograph.

14 Q All right. And is the same true of the cabinet
15 shown in People's 21-C for identification?

16 A There are other spots showing it that I haven't
17 circled. I think I circled the major groups and there are
18 probably some that didn't show up, even, in the photographs.

19 MR. DENNY: Well, I'll move that that last be stricken
20 as a guess.

21 THE COURT: All right, yes, a guess or a speculation is
22 stricken. That last statement is stricken.

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1 Q BY MR. MANZELLA: Now, you have testified with
2 regard to your background, your training and experience,
3 and your study in the field concerning the causation of
4 different shapes of blood spots or splatterings.

5 In your opinion, the shapes which you found on
6 the surfaces you have identified, in the photographs marked
7 People's 21-A, 21-B, and 21-C for identification, would
8 those shapes have been caused by blood coming from a moving
9 instrument?

10 MR. DENNY: Well, just a moment, now.

11 I'll object to that. There's no foundation for
12 this witness testifying as to that.

13 MR. MANZELLA: He testified as to his background,
14 training, experience and study in determining --

15 THE COURT: The objection is overruled.

16 MR. DENNY: Well, may I take the witness on voir dire
17 on that, your Honor?

18 THE COURT: Yes, you may.

19
20 VOIR DIRE EXAMINATION

21 BY MR. DENNY:

22 Q Mr. Turney, in the course of your training, have
23 you had any training to distinguish between blood coming from
24 a moving object versus blood coming from, say, a piece of
25 steak, versus blood coming from a finger that was flipped
26 like that (indicating), versus blood coming from another part
27 of the anatomy?

28 MR. MANZELLA: That's not proper voir dire, your Honor.

10-2

1 THE COURT: The objection is sustained.

2 Q BY MR. DENNY: Have you had any training, sir,
3 to distinguish between the sources of blood that have hit
4 an object?

5 A Not specifically, no. I don't think it would
6 make any difference what the source was. All the spots
7 indicate is that --

8 MR. DENNY: Well, the answer, I'll move --

9 THE WITNESS: -- it was flying.

10 MR. DENNY: I'm sorry, Mr. Williams. I'll move that
11 all the latter be stricken as not responsive to the question,
12 other than -- I believe his answer -- "No, not specifically."

13 THE COURT: After "not specifically," the answer is
14 stricken.

15 Anything further --

16 MR. DENNY: Nothing further.

17 THE COURT: -- on voir dire?

18 Go ahead, Mr. Manzella.

19
20 REDIRECT EXAMINATION (Continued)

21 BY MR. MANZELLA:

22 Q All right. Mr. Turney, do you recall the
23 question that I asked previously?

24 A Yes.

25 Q Would you answer that question?

26 MR. DENNY: I'll object to that as no foundation.

27 THE COURT: Overruled. You may answer.

28 THE WITNESS: The spots could have come from a weapon,

10-3

1 an instrument; also could have come from just blood on
2 somebody's pants.

3 Q BY MR. MANZELLA: And at the time the blood was
4 deposited on the surfaces you identified, in your opinion,
5 would it have been moving at the time it was deposited?

6 A Yes, it was moving in the direction I indicated.

7 MR. MANZELLA: All right. All right. Thank you, Mr.
8 Turney.

9 I have no further questions, your Honor.

10 THE COURT: Any further questions?

11 MR. DENNY: Yes, sir.

12
13 RECROSS EXAMINATION

14 BY MR. DENNY:

15 Q If I took a leg of lamb, and I hit that leg of
16 lamb -- a fresh leg of lamb, not cooked -- on my hand like
17 that (indicating), and that leg of lamb had blood in it,
18 that blood would shoot out in the direction that the leg of
19 lamb was moving; is that correct?

20 A That's right, yes.

21 Q All right. And that blood would then spurt
22 over somewhere; is that correct?

23 A Yes.

24 Q Or even if I just took it and shook it like that
25 (indicating), it would do so; is that correct?

26 A Yes.

27 Q Or a steak? A bloody steak?

28 A Yes.

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Q Or, as you say, a finger, --

A Yes.

Q -- a cut finger, perhaps?

A Yes.

Q All right. Or a weapon with blood on it?

A Yes.

10a fls.

10a-1

1 Q All right. So, as far as the spots that you saw
2 on the wall, you have no way of knowing whatsoever what the
3 source of those spots was; is that correct?

4 A That's correct.

5 MR. DENNY: No further questions.

6 MR. MANZELLA: Nothing further.

7 THE COURT: You may step down.

8 THE WITNESS: Thank you.

9 THE COURT: All right. Ladies and gentlemen, we'll
10 declare a recess now until tomorrow morning at 9:30.

11 Let me just take a look at that calendar for
12 tomorrow morning.

13 Hmmm -- it's a long one. I'd better make it
14 9:45, and just hope that we can get to it by then.

15 Let's have you here anyhow at 9:45.

16 And remember the admonition, that you are not to
17 converse amongst yourselves nor with anyone else, nor permit
18 anyone to converse with you on any subject connected with this
19 matter, nor are you to form or express any opinion on the
20 matter until it is finally submitted to you.

21 Good night. See you tomorrow morning.

22 (Whereupon, murmurs of, "Good night, your Honor,"
23 were heard from the members of the jury.)

24 (Whereupon, the members of the jury exited the
25 courtroom at 4:40 p.m., and the following proceedings were
26 had:)

27 (Whereupon, a discussion off the record ensued
28 at the clerk's desk between Mr. Kay and the clerk.)

1 MR. DENNY: Your Honor, I would like to address the
2 Court on --

3 THE COURT: Yes?

4 MR. DENNY: -- one matter pertaining to the custody of
5 Mr. Davis.

6 Mr. Davis informs me that, for whatever reasons,
7 the Sheriff now has taken away the razors from certain of the
8 prisoners where he is located -- he included -- and they are
9 issued a razor with a blade locked in each morning.

10 It is difficult enough with the equipment that
11 they're given to shave with, but they also don't have any hot
12 water to shave with, and he specifically does not have any
13 hot water to shave with.

14 There are others -- apparently it takes a court
15 order to do it -- who have, with that court order, gotten hot
16 water to shave with.

17 I would request the Court to make an order to the
18 Sheriff -- apparently it is not difficult to get a small
19 pail of hot water brought to the cell, to provide the
20 defendant here hot water to shave with each morning, before
21 he comes down to court.

22 THE COURT: What is the situation, Mr. Kuczera?

23 THE BAILIFF: I don't know, sir. It's the first I heard
24 of it.

25 THE COURT: Can he be -- they're given a clean blade, a
26 fresh blade, every morning, in a locked razor?

27 MR. DENNY: Is it fresh or what?

28 THE DEFENDANT: Well, it doesn't feel like it's fresh.

1 You know, we can -- we could buy stainless steel razor blades
2 at the store, you know, before our razors were taken away.

3 But now, they furnish blades, and they don't feel
4 like -- they don't feel like stainless blades. They're not as
5 sharp as stainless, is.

6 And when they don't have hot water, with stainless
7 blades, you can do it with cold water. But with these regular
8 blades --

9 THE COURT: It seems like a reasonable request.

10 Could you pass it down along to the Sheriff,
11 Mr. Kuczera?

12 THE BAILIFF: Yes.

13 MR. DENNY: Your Honor, I don't know if it will take a
14 court order to do it --

15 THE COURT: I don't know either. But let's see first if
16 we can do it without an order.

17 MR. DENNY: All right. Thank you, your Honor.

18 (Whereupon, at 4:43 p. m., an adjournment was
19 taken in this matter until 9:45 a. m. of the following day,
20 Tuesday, January 11, 1972.)
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