

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

-vs-

BRUCE MCGREGOR DAVIS,

Defendant.

NO. A-267861

241

LAWNER

BAKER

CAMPBELL

WHITELEY

REPORTER'S DAILY TRANSCRIPT

Thursday, February 10, 1972

VOLUME 41APPEARANCES:

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

MARY LOU BRIANDI, CSR
ROGER K. WILLIAMS, CSR
Official Court Reporters

COPY

I N D E X

<u>PEOPLE'S WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
LAUNER, Samuel	6360 M	6394	6402 M		
BAKER, Delma Eugene	6403 M	6410			
	6411 M	6411			
(Re-opened)	6413 M				
CAMPBELL, Herbert L.	6419 K	6440	6450 K	6453	
WHITELEY, Paul J.	6464 M	6498	6542 M	6476 D	

DEFENDANT'S:

CAMPBELL, Herbert L. 6457

E X H I B I T S

<u>PEOPLE'S:</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
72 - a page out of a buy book	6405	6439
108 - Leslie Salt file	6427	
109 - two photographic blowups	6431	6439
55-A, B, C - (Previously identified)		6439
64, 71, and 72 - (Previously identified)		6439
78 - two strips of negatives	6487	
81-A and 81-B - photographs	6473	
82-A through 82-F - photographs		6481
83 - a diagram	6475	6494
84 - seven magazines	6495	

DEFENDANT'S:

W - chart 6397
 X - 3-page police property 6505
 report

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1 LOS ANGELES, CALIFORNIA, THURSDAY, FEBRUARY 10, 1972 9:13 A.M.

2 - - -

3
4 THE COURT: Mr. Watnick?

5 MR. WATNICK: Yes, Judge?

6 THE COURT: Have you seen your counterparts here today?

7 MR. WATNICK: Yes. I saw Mr. Kay. I believe now he
8 has gone downstairs for a minute. Mr. Denny slipped past,
9 I believe, as I walked in.

10 THE COURT: All right. We can get you away from here
11 and back to the Valley, as soon as everybody assembles, and
12 we can get a word or two from you about where this file is
13 put on the record.

14 MR. WATNICK: All right. Fine.

15 Here's Mr. Denny now.

16 (Proceedings had on unrelated matters.)

17 THE COURT: Mr. Watnick is here at the request of the
18 defendant in the case of People vs. Davis, and the reason
19 for his being here is to reveal to the Court and to the
20 defendant whether there is in existence any other file on
21 the witness, Alan Springer.

22 Mr. Watnick, what do you have to say about that?
23 Is there any file in your possession on Springer?

24 MR. WATNICK: No, your Honor. To the best of my
25 knowledge, we received a subpoena about a month ago, a
26 subpoena duces tecum from Mr. Denny, as attorney for the
27 defendant.

28 I believe he listed about four to five files.

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1 All of those files were found, with the exception of, I believe,
2 one, which was with the Probation Department. And I believe
3 that was sent in later on.

4 We did not have possession of that at the time.
5 After receiving this subpoena, I correlated and found all
6 the files that we had with those numbers and brought them
7 into court.

8 To the best of my knowledge, we have no other
9 files on the Defendant Springer. I wasn't asked prior to
10 this time to go through our records to see if there are any
11 other files under the name of Springer.

12 It could be done very quickly, by calling up our
13 office, or by my going back and checking all of our old
14 records under the name of Springer.

15 But to the best of my knowledge, there are no
16 other files.

17 THE COURT: Do you have any questions of Mr. Watnick,
18 Mr. Denny?

19 MR. DENNY: Yes, I do, your Honor.

20 Mr. Watnick, as I understand it, you said you got
21 all of those files which I had requested. Is it not a fact
22 that there was one file -- and that's file No. A-113570 --
23 which was in the possession of the Probation Officer?

24 MR. WATNICK: That's what I said, Mr. Denny. I said:
25 Yes, we --

26 MR. DENNY: All right. And when was that file made
27 available to the Deputies trying this case? When did you
28 get that from the Probation Officer?

1 MR. WATNICK: The day that we received the subpoena,
2 we called over there, and I brought the files down the same
3 day.

4 I believe we received the subpoena on a -- one
5 day for appearance the next day, and I believe within about
6 one or two days thereafter, we received the file from the
7 Probation Department, and I had it sent downtown.

8 THE COURT: Mr. Watnick, do you know Alan Springer?

9 MR. WATNICK: No, your Honor.

10 MR. DENNY: Well, who is the deputy who has handled the
11 Springer cases? Has any single deputy been assigned to do
12 that?

13 MR. WATNICK: No. As far as the files reflect, there
14 were probably five or six different deputies who handled the
15 case, routinely, as it came through the office.

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1 file.

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1 THE COURT: Let me ask you, have you gone through those
2 files?

3 MR. WATNICK: I looked at them when we first got the
4 subpoena. I looked at them today, yes, and I can tell you --

5 THE COURT: Are there any notes in there that reflect
6 any transaction, any plea bargain?

7 MR. WATNICK: No, your Honor. With regard to the
8 Defendant Springer, all I can tell the Court is it appears
9 from the jacket of the file that Deputy District Attorney
10 Herzbrun handled the plea with regard to Alan Springer.

11 THE COURT: How do you spell that?

12 MR. WATNICK: H-e-r-z-b-r-u-n. He is the calendar
13 deputy in the court of Judge Petris where the plea was
14 taken. So I would presume he took the plea in the matter,
15 but I have no knowledge.

16 THE COURT: That was a combined information, wasn't it?

17 MR. WATNICK: Yes. As I look at the files, there
18 appears to be two cases, 116185 and 113570, and they were
19 consolidated together. The defendant pled guilty to Count
20 IV, receiving stolen property in the consolidated information
21 113570. Herzbrun was the deputy.

22 THE COURT: Herzbrun was the deputy?

23 MR. WATNICK: I'm only --

24 THE COURT: As nearly as you can remember.

25 MR. WATNICK: I have no knowledge, but from the face of
26 the file, by the fact his name appears on it, I would say he
27 would be the deputy on it.

28 THE COURT: Would there ordinarily be a notation in there

1 if there was some plea bargain arrived at?

2 MR. WATNICK: There might and there might not be. Our
3 plea bargains or plea bargaining is only done in the chambers
4 with the Judge.

5 Judge Petris, I know, if there is a plea bargain,
6 will take notes on the particular bargain that's been made so
7 when it comes up for probation and sentence he will have his
8 own notes as to what was said with regard to any type of plea
9 bargaining or plea negotiation.

10 On many times we make it a practice to put on the
11 jacket of the file any plea negotiation. In fact, if there
12 is no notes, it usually means we have not made any bargain
13 or we have not negotiated any particular plea with regard
14 to lessening of the plea.

15 THE COURT: How long have you been in charge of that
16 Van Nuys Office?

17 MR. WATNICK: Approximately four years.

18 THE COURT: During that time had you heard the name
19 Springer and knew that Springer was somebody that was important
20 to the prosecution in the Manson cases?

21 MR. WATNICK: At the present time, your Honor, I have no
22 recollection. I can say that Mr. Springer is a co-defendant
23 with a William Donald Fehr.

24 And with regard to the William Donald Fehr case,
25 I did personally have a number of transactions with that case,
26 because a lieutenant from the Los Angeles Police Department
27 came to see me personally and I recall talked to Judge Petris
28 with me being present with regard to Fehr.

1 With regard to Springer, I have no knowledge.
2 The only independent recollection, whether I heard it at one
3 time or whether he might have been involved in this case or
4 any other case --

5 THE COURT: Was Fehr, to your knowledge, in any way
6 involved in assisting the police in the Manson matters?

7 MR. WATNICK: No, your Honor. In fact, he was assisting
8 the police materially on a number of burglaries, a large
9 number of burglaries. And I believe from my recollection he
10 helped in recovering a tremendous amount of property. But I
11 know that his name was never mentioned with regard to the
12 Manson case.

13 THE COURT: What do you have now, Mr. Denny? Do you
14 have -- have you looked at these files that Mr. --

15 MR. DENNY: I have not looked at the file, your Honor.

16 113570, I have still not seen that file.

17 THE COURT: Is there anything in there that you wouldn't
18 want Mr. Denny to see particularly? It is just the ordinary
19 file?

20 MR. WATNICK: There's nothing in here, your Honor,
21 except the --

22 THE COURT: Could you make that available to him and let
23 him take a look, just in the event there should be a note --

24 MR. WATNICK: Yes, your Honor.

25 THE COURT: -- that might show up during the plea
26 bargain?

27 Do you have any other questions?

28 MR. DENNY: Yes, I do.

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THE COURT: Do you want him under oath?

MR. DENNY: I will take his word as an officer of the court and as an attorney.

THE COURT: Off the record.

(Whereupon, there was a discussion had off the record.)

THE COURT: On the record.

MR. DENNY: Well, could I just conclude my questioning of Mr. Watnick?

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1 THE COURT: Yes.

2 MR. DENNY: Mr. Watnick, I note in looking at the Court
3 file, in the same file that you've added All3570, the D. A.'s
4 file, there are a number of blue back -- not in this case
5 supplemental probation reports, but just probation officers'
6 reports concerning the fact that -- well, take the one for July
7 16, 1971, the date on which his plea was entered or --

8 THE COURT: Is this for Springer now?

9 MR. DENNY: Yes.

10 The hearing date is 11-25 in '71.

11 "The probation officer has still not been in
12 contact with the defendant. Discussion with Sergeant
13 Whiteley, Los Angeles Police Department, the
14 defendant is still in Michigan and due to leave
15 in late November. Sergeant Whiteley is in
16 communication with the defendant and suggests a
17 late December court date."

18 And then, for the hearing date of December 23,
19 1971, "Sergeant Whiteley, Los Angeles Police Department, advises
20 defendant still in Michigan. He anticipates
21 the defendant's return to California in early
22 January to testify. The recommendation it be
23 put over to January 28, 1972."

24 Are you stating simply you personally did not know
25 that Mr. Springer was involved through Sergeant Whiteley in
26 testifying in the Manson cases?

27 MR. WATNICK: I have never heard Sergeant Whiteley's
28 name mentioned before. I don't know what you are reading from.

1 As far as I know, Sergeant Whiteley could have been a Sergeant
2 in the Army, so this is all strictly hearsay as far as I am
3 concerned.

4 MR. DENNY: All right, so you would have to talk with the
5 deputies actually handling the case to determine what they knew
6 about it on any given date?

7 MR. WATNICK: Well, I would recommend either talking to
8 the deputies, talking to the judge or talking to the probation
9 department. They would know about it. Probably the person
10 who knows most about the case would be Sergeant Whiteley, from
11 what you just read.

12 MR. DENNY: Well, I'm sure he knows most about that.

13 All right, thank you very much.

14 MR. KAY: May Mr. Watnick be excused, your Honor?

15 THE COURT: Yes, thank you very much.

16 MR. KAY: I'll go find Mr. Manzella, your Honor.

17 THE COURT: All right, please do.

18 MR. KAY: Oh, may Mr. Springer be excused, your Honor?

19 THE COURT: Mr. Denny, do you want him any more?

20 MR. DENNY: Your Honor, I would still like to have him
21 placed on call --

22 (Whereupon, members of the jury commenced coming
23 into the courtroom.)

24 MR. DENNY: -- because of what I anticipate to be some
25 possible testimony by Sergeant Whiteley.

26 THE COURT: Could you hold the jury a moment? Just stand
27 right outside that door for just a moment.

28 (Whereupon, the jury retired from the courtroom,

1 and the following proceedings were had:)

2 THE COURT: Well, it is obvious to the Court that another
3 motive on the part of Mr. Springer in acquiring information
4 concerning the Manson Family and Charles Manson and Bruce Davis
5 was in an effort to ingratiate himself with the police.

6 However, I am inclined to believe and do believe
7 that he was told to stay out of it and that he was acting,
8 for the most part, independently in the gathering of this
9 information. Except, as I have stated, in gathering the sword.
10 There appears to have been a sufficient specific request that
11 it would be said that he was acting as an agent in so doing.

12 The Court findings are no different in respect to
13 the defendant's rights. The Court does not believe that the
14 defendant was deprived of due process in any way in the
15 proceedings or in the events which led to his making the
16 statements in the furtherance of Mr. Springer which he is
17 alleged to have made.

18 Anything further?

19 MR. KAY: I am just wondering if Mr. Springer may be
20 excused. He's from out of state.

21 THE COURT: Well, I want to find out from Mr. Denny
22 whether he wishes to have him --

23 MR. DENNY: I do not wish to have him excused. And I'm
24 not just being an obstructionist and I'll tell the Court why.

25 THE COURT: Yes, I would like for you to. It costs the
26 County --

27 MR. DENNY: It certainly does, and it could cost the
28 defendant his liberty or his life. And the reason I wanted him

1 detained, I detected, what I thought, was questions yesterday
2 of Mr. Springer by the prosecution seeking to lay a foundation
3 for Sergeant Whiteley's testimony that maybe on November 26th,
4 1969, just maybe he did tell Sergeant Whiteley more than
5 appears in Sergeant Whiteley's reports: Namely, that the body
6 was cut up in pieces which did not appear in the reports.

7 And if Sergeant Whiteley gets on the stand and so
8 testifies, I want Mr. Springer back here so that I can question
9 him further on that point in connection with Sergeant
10 Whiteley's testimony.

lb fol

1b-1

1 THE COURT: Well, why not put him on the stand now and
2 question him and confront him with that. Under the Evidence
3 Code, if he has an opportunity to explain it, you can intro-
4 duce it at a later time if it is inconsistent.

5 MR. DENNY: Your Honor, I don't know what Sergeant
6 Whiteley is going to say. I don't know what he is going to
7 say and it is not going to do me any good to further question
8 Mr. Springer now.

9 THE COURT: You have fairly well covered that. There
10 would be -- sufficient -- assuming Sergeant Whiteley does
11 contradict him, of course there would be sufficient back-
12 ground for you to introduce inconsistent statements.

13 MR. KAY: I think that's right. He doesn't need to
14 recall -- I think Mr. Springer's statement on the matter --

15 THE COURT: Don't you agree?

16 MR. DENNY: There is no question I have cross-examined
17 him very well on that point.

18 THE COURT: I think you have given him, as the Code
19 says, an opportunity to explain.

20 MR. DENNY: Well, there's no question I have gotten in
21 the prior statement which the People themselves got in --

22 THE COURT: Yes.

23 MR. DENNY: -- on redirect; namely, simply they had
24 killed Shorty and buried him in Devil's Canyon, but nothing
25 about cutting up the body. I still, however, do not know
26 what Sergeant Whiteley may or may not say and I want the
27 opportunity, if he comes in with some story that Springer has
28 told him more, to at least have the opportunity to question

1b-2

1 Springer on that.

2 Now, whether or not it is going to be necessary
3 to do so, I don't know. That depends on what the People
4 represent here. If they represent Sergeant Whiteley is going
5 to come in with additional evidence of more conversation that
6 appears in his report, then, I want Mr. Springer here so that
7 I have that opportunity to question him further.

8 MR. KAY: Well, your Honor, I don't think that that's
9 reasonable ground to keep Mr. Springer in the State of
10 California at County expense. I think Mr. Springer has
11 already testified --

12 THE COURT: Where does Springer live?

13 MR. KAY: Michigan.

14 MR. DENNY: Your Honor, the People indicated they're
15 going to conclude their case this week, presumably.

16 THE COURT: Let's hold him here one more day. Perhaps
17 Sergeant Whiteley -- is he around today?

18 MR. MANZELLA: I don't know, your Honor.

19 THE COURT: All right, I'll order --

20 MR. KAY: Oh, excuse me. I understand from Mr. Manzella
21 that Sergeant Whiteley is not going to testify that Springer
22 said more than is in the notes in that conversation.

23 MR. DENNY: If that is the case, and that is the
24 representation of the People, he may be excused.

25 THE COURT: All right, I'll excuse him.

26 MR. KAY: Is that right, Tony?

27 MR. MANZELLA: Uh-huh.

28 MR. KAY: All right. Thank you.

2 fls.

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(Proceedings had on an unrelated matter.)

MR. DENNY: Your Honor, in the Davis matter, there is one thing, and that is the fees for an investigator.

I have talked with an investigator, who feels that, given the time and the circumstances, his fee would not run over \$250 for the investigatory work.

THE COURT: Mr. Kuczera, you can get the jury in.

THE BAILIFF: Yes, sir.

MR. DENNY: On a background check on Barbara Hoyt.

And I would request that the Court permit me to employ him, in an amount not to exceed that amount.

THE COURT: Very well.

MR. DENNY: Thank you, your Honor.

(Short recess.)

THE COURT: Good morning, ladies and gentlemen. Off the record.

(Whereupon, an off the record discussed ensued among the Court and members of the jury.)

THE COURT: All right. The record will show the defendant to be present with his counsel; all the jurors are present; Mr. Manzella for the People.

(Proceedings had on an unrelated matter.)

THE COURT: And the People may proceed.

MR. MANZELLA: The People call Mr. Sam Launer, your Honor.

THE CLERK: Would you raise your right hand, please?

Do you solemnly swear that the testimony you are about to give in the cause now pending before this court,

1 shall be the truth, the whole truth, and nothing but the truth,
2 so help you God?

3 THE WITNESS: I do.

4
5 SAMUEL LAUNER,
6 called as a witness by and on behalf of the People, having
7 been first duly sworn, was examined and testified as follows:

8 THE CLERK: Please take the stand and be seated.

9 THE BAILIFF: Would you state and spell your full name?

10 THE WITNESS: Samuel Launer.

11
12 DIRECT EXAMINATION

13 BY MR. MANZELLA:

14 Q Would you spell your last name, Mr. Launer?

15 A L-a-u-n-e-r.

16 Q Mr. Launer, what is your business?

17 A I am a pawnbroker.

18 Q And where is your business located?

19 A 1612 North Vine Street.

20 Q In Hollywood?

21 A In Hollywood.

22 Q And how long have you been there?

23 A Eleven years.

24 Q And how long have you been in the business?

25 A About 25 years.

26 Q Well, now, have you done business with a man by
27 the name of Donald Shea?

28 A Yes, sir.

1 Q Directing your attention to the photograph,
2 People's 46, do you recognize the person shown in that
3 photograph?

4 A Yes.

5 Q Is that Donald Shea?

6 A Yes.

7 Q Now, Mr. Launer, directing your attention to the
8 exhibits which have been marked People's 55-A, -B and -C,
9 do you recognize what those are?

10 A Yeah. These are our pawn tickets, issued by our
11 firm.

12 Q And directing your attention to People's 57-A,
13 -B and -C, do you recognize what those are?

14 A These are also our pawn tickets.

15 Q All right. Mr. Launer, what are pawn tickets?

16 A Well, people pledge things and make a loan on
17 them, and we issue these pawn tickets as a record.

18 Q And do you loan money on property which is brought
19 to you by your customers?

20 A Yes, sir.

21 Q Does that include hand guns?

22 A Yes, sir.

23 Q Now, are you required by law to keep a record
24 of each transaction?

25 A Yes.

26 Q And is that record what the pawn tickets are,
27 the ones you've identified?

28 A Yes, sir.

1 Q And do you maintain a record or pawn ticket for
2 each transaction --

3 A Yes.

4 Q -- that you handle in your -- that is, handle
5 in your business?

6 A Yes, sir.

7 Q Now, is there certain information which is
8 written down on the pawn ticket?

9 A Yes, sir.

10 Q And is that information required to be written
11 down on the pawn ticket?

12 A Yes, sir.

13 Q When is that -- when is the pawn ticket filled
14 out or completed?

15 A At the time of the transaction.

16 Q Now, at the time of the transaction, when the
17 pawn ticket is completed, and after the customer's given you
18 the property, and you've loaned him the money, does the
19 customer get any record to show that he -- that's his
20 property, to identify his property?

21 A He gets an exact copy.

22 Q Of the pawn ticket?

23 A Of the pawn ticket, yes.

24 Q And is that sometime referred to as a redemption
25 ticket?

26 A Yes, sir.

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2a fls.

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1 Q And does that occur in every transaction?

2 A Each and every transaction, that is correct.

3 Q And the redemption ticket is a copy of the pawn
4 ticket that you maintain?

5 A Yes.

6 Q Now, is the person who pawns the property, is he
7 required to sign the pawn ticket when he pawns the property?

8 A Yes, sir.

9 Q And when he returns to redeem the property, if he
10 does, how was the transaction handled at that time?

11 A Well, he signed his -- signs his name to his pawn
12 ticket, and we compare it with our ticket. And if it's correct,
13 why, we -- we let him -- he pays us for it, and we give him his
14 property.

15 Q Now, does the customer sign when he -- strike that.
16 If and when the customer redeems his property,
17 does he sign the redemption ticket? In other words, his copy
18 of the ticket?

19 A Yes.

20 Q All right. And he has already signed the original
21 at the time that he's pawned it; is that right?

22 A That is correct.

23 Q All right. Now, at the time that the property is
24 pawned, do you require -- are you required to ask for
25 identification on the part of the customer, from the customer?

26 A Yes, sir.

27 Q And at the time that the property is redeemed,
28 are you required to ask for identification?

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1 A We ask for the signature.

2 Q I'm sorry. I don't understand.

3 A We ask for the signature on the ticket.

4 And then we compare it with the original ticket,
5 with our copy.

6 Q All right. Now, does the original -- the original
7 customer have to redeem his property, or can somebody else
8 redeem it?

9 A No, sir. As long as the -- as the signature's
10 on the ticket, we'll deliver it to another party, as long as he
11 has the ticket.

12 Q All right. In other words, one of the important
13 things is having the redemption ticket itself; is that correct?

14 A That is correct.

15 Q And if someone else has the redemption ticket,
16 would that person then be able to redeem the property?

17 A Yes, sir.

18 Q And what would you require from that person?

19 A Identification.

20 Q Now, with regard to the records or pawn tickets
21 that you are required by law to keep, do you keep them in some
22 order, in some index form?

23 A Yes.

24 Q And how do you do that?

25 A We keep it in -- we keep it in the name -- in the --

26 Q Alphabetically?

27 A Alphabetically.

28 Q By the first initial of the last name?

1 A Yes.

2 Q Now, do you keep the original of the pawn ticket
3 at the time the property is pawned and you make the loan? Do
4 you keep the original of the pawn ticket?

5 A Yes, we do. That's our record.

6 Q All right. And the customer gets one copy?

7 A That's correct.

8 Q And does anyone else get a copy?

9 A Not of the original pawn ticket.

10 But we do send a record to the police department.

11 Q I see. You are required by law to do that?

12 A That is correct.

13 Q Now, are you required to place on the pawn ticket,
14 at the time of the transaction, a description of the property,
15 and any serial number, if the property does have a serial
16 number?

17 A Certainly.

18 Q Now, did you search your files for transactions --
19 strike that.

20 Did you search your files for records of trans-
21 actions with Donald Shea, the man you've identified?

22 A Yes, we did.

23 Q And did you find some?

24 A Yes, we did.

25 Q And are those in front of you now, as Exhibits 55
26 and 57?

27 A I'm just looking through here to see.

28 These are the pawn tickets here. The other -- these

1 other copies are not here.

2 Q Well, you can turn them over. Turn the file over,
3 Mr. Launer. The other file -- turn that over.

4 A This one?

5 Q Yes. Turn that over -- just flip it over
6 (indicating), the file. I believe they're on the back.

7 A Oh. Is this --

8 Q No, keep going.

9 A Oh, I see. Sorry.

10 No, they're not here. Our police reports are not
11 here.

12 Q Right. But are those copies of pawn tickets?

13 A Oh, yes. These are the pawn tickets.

14 Q Right.

15 A The yellow ones.

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1 Q And are those pawn tickets which you found as a
2 result of the search of your files for transactions with
3 Donald Shea?

4 A Yes, sir.

5 Q All right. And as you said, the police copies
6 are not copies of the -- the police forms are not copies
7 of pawn tickets; they're separate forms that you send in;
8 is that correct?

9 A Yeah. They get the information of what we took
10 in, and the serial numbers, complete descriptions. That's
11 what they're interested in -- also, the signature.

12 Those are not here.

13 MR. MANZELLA: If I may have just a moment, your Honor?

14 THE COURT: Yes, you may.

15 (Pause in the proceedings while Mr. Manzella
16 perused his notes.)

17 Q BY MR. MANZELLA: Mr. Launer, directing your
18 attention to the three exhibits which have been marked
19 People's 56, do you recognize what is shown in -- strike
20 that.

21 Do you recognize what those exhibits are, sir?

22 A Yeah. These are the police reports; exact
23 duplicates of the tickets.

24 Q All right. And they are on the forms that you
25 are required to submit to the Police Department; is that
26 correct?

27 A That is correct.

28 Q And are those -- did you also find those as a

1 result of your search of your files for transactions with
2 Donald Shea?

3 A Yes.

4 Q All right. Mr. Launer, do you recall now the --
5 strike that.

6 In the transactions you had with Donald Jerome
7 Shea, did you handle those transactions? Or were you present
8 when those transactions were being handled?

9 A Yes.

10 Q And --

11 A All but one here.

12 Q -- would you need to refer to your -- to the
13 pawn tickets and the other records, in order to refresh your
14 memory as to specific details of each transaction?

15 A Yes, sir.

16 Q All right. Directing your attention, then, to
17 the exhibits, People's 55, can you tell us when the first
18 time -- when was the first transaction that you had with
19 Donald Shea?

20 A It was February 3rd.

21 Q Of 1969?

22 A 1969.

23 Q And what did -- what did that transaction involve?
24 In other words, what did Mr. Shea pawn on that occasion?

25 A He pawned two guns, two revolvers.

26 Q And are those transactions shown by tickets in
27 People's 55?

28 A Yes, sir.

1 Q Would you point them out to me, please? Which
2 ones they are?

3 A 40726 and 40727 (indicating), succeeding numbers.

4 Q All right. You are referring to People's 55?
5 You are referring, then, to People's 55-A and People's 55-B;
6 is that correct; (indicating)?

7 A Yes, sir.

8 Q And they reflect the transaction which you had
9 with Donald Shea on February 3rd of 1969?

10 A Yes, sir.

11 Q All right. And are you required by law to put
12 the date of the transaction on the pawn ticket?

13 A Yes.

14 Q And is the date circled in any way on the pawn
15 ticket?

16 A Yes, it is.

17 Q It's circled in red?

18 A In red, that is correct.

19 Q All right. Now, I don't remember if I asked you
20 this or not, but does -- but what did Mr. Shea pawn on that
21 occasion

22 A He pawned --

23 Q I'm sorry. Let me interrupt you. You said two
24 revolvers?

25 A Two revolvers.

26 Q All right. Do you recall the description of the
27 two revolvers?

28 A They're right here in front of me.

1 Q All right. Would you need to refer to the pawn
2 tickets to refresh your memory as to the exact description?

3 A Yes.

4 Q All right. Would you tell us: What was the
5 description?

6 A They were revolvers, Colt Dakota .45 caliber,
7 seven and a half inch barrel, and blue steel.

8 They were in a brown attache case, serial No.
9 2421 and -- the other gun was also a Colt Dakota .45 caliber,
10 seven and a half inch barrel, blue steel, serial No. 2422.

11 Q Now, the -- strike that.

12 Was the attache case pawned as well as the two
13 guns?

14 A Yes, sir.

15 Q Now, at that time, at the time of the first
16 transaction, did you have a conversation with Mr. Shea about
17 the guns?

18 A Yes. He thought very highly of them, kept them in
19 good shape --

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1 MR. DENNY: Well, just a moment. Just a moment. I'll
2 object and move the answer be stricken for the purpose of the
3 objection, as hearsay.

4 THE COURT: After the word "Yes," it's stricken.

5 Q BY MR. MANZELLA: All right. Mr. Launer, would you
6 tell us what Mr. Shea said about the guns?

7 MR. DENNY: Again, objection as to hearsay.

8 MR. MANZELLA: The People would offer it on state of mind,
9 your Honor.

10 THE COURT: All right. Ladies and gentlemen, the state-
11 ment is received not for the truth of the matter, but -- not to
12 prove the truth of the matter uttered, but to show Mr. Shea's
13 state of mind, if in fact it does.

14 THE WITNESS: Okay.

15 Q BY MR. MANZELLA: You may state what he said.

16 A He thought very highly --

17 MR. DENNY: I'll object to that and move that that be
18 stricken, as not what he said.

19 THE COURT: Sustained.

20 Q BY MR. MANZELLA: Is that what he said, Mr. Launer?

21 A He said, "I think very highly of them. I have a
22 great regard for them, and I take good care of them."

23 Q Did he tell you to do anything with regard to the
24 guns?

25 A Yes, he --

26 Q What did he say in that regard?

27 A He wanted to know where I would store it; if it was
28 in a dry place; that I wouldn't mishandle it.

2c-2

1 Q Now, what -- what was the outer appearance of the
2 guns?

3 A They looked very nice.

4 Q Now, directing your attention to these two
5 revolvers, first to People's 53-A -- and I've examined the
6 weapon, and it's not loaded -- 53-A, is that one of the
7 weapons which Mr. Shea pawned on February 3rd of 1969?

8 A Yes, sir.

9 Q Directing your attention to People's 53-B --

10 A This is the gun.

11 Q -- is that the other gun which he pawned?

12 A Yes, sir.

13 Q Now, is the condition of the guns now, as you see
14 them, different than the condition in which -- on the date on
15 which he pawned them?

16 A Well, they -- uh --

17 Q Can you tell by looking at them?

18 A No, I can't tell.

19 MR. DENNY: May I have that answer reread?

20 THE WITNESS: I can't tell them --

21 MR. DENNY: Thank you.

22 THE WITNESS: -- exactly. They look like the same guns.

23 Q BY MR. MANZELLA: All right. What I am referring
24 to is the physical condition of the guns. In other words, are
25 they in the same shape, the same condition -- do they look as
26 well cared for as they did at the time that Mr. Shea pawned
27 them?

28 A I really couldn't tell you.

2c-3

1

Q All right.

2

A They look okay.

3

Q I'm sorry? I didn't hear you.

4

A They look okay, but --

5

Q They look okay?

6

A But I don't know whether they're exactly the same.

7

Q You are saying that they look okay to you now, --

8

A Yes.

9

Q -- as you look at them now? Okay.

10

Now, how much did you -- oh, strike that.

11

Directing your attention to People's 54, a brown

12

attache case, do you recognize this case?

13

A It looks like a brown attache case.

14

Q Can you tell, by looking at the case or examining the case, whether or not that was the case referred to in your records? Whether that was the case which Mr. Shea pawned on February 3rd of 1969?

18

A It seems to be. It's got his name on it.

19

Q Well, other than that, you can't really be --

20

A No.

21

Q -- positive about it?

22

A No. Impossible. No, I couldn't.

23

Q I take it the case had no serial number which you could identify; is that correct?

25

A That's right.

26

27

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2d fol

2d-1

1 Q Now, Mr. Launer, how much did you loan Mr. Shea on
2 the revolvers when he pawned them, on the revolvers and the
3 case when he pawned them on February 3rd of 1969?

4 A Twenty dollars on each one.

5 Q And is that reflected on People's 55-A and
6 People's 55-B, the pawn tickets?

7 A Is this it here (indicating)?

8 Q No, I believe --

9 A Oh, yes.

10 Q -- these (indicating) are 55-A and -B.

11 A Oh, yes. Yes, they are.

12 Q Now, did Mr. Shea sign the two pawn tickets
13 reflecting these transactions? Did he sign the two pawn
14 tickets, People's 55-A and 55-B?

15 A Yes, he did.

16 Q And did he sign them in your presence?

17 A Yes, he did.

18 Q All right. Would you hold up People's 55 -- that's
19 the file you have in your hand -- and show us the two tickets,
20 and where Mr. Shea signed them?

21 A (Indicating) Right here; he signed them in two
22 places, --

23 Q And are those --

24 A -- up here (indicating).

25 Q And are those signatures circled in red?

26 A Yes, they are.

27 Q Would you show the jury -- hold up the file and
28 show the jury the other ticket, where he signed?

1 A Up here (indicating), and down here.

2 Q In other words, it's sort of the middle portion of
3 the ticket, and then at the bottom of the ticket; is that
4 correct?

5 A That's correct.

6 Q And he signed them in your presence?

7 A Yes, he did.

8 Q And this was at the time that he pawned the guns?

9 A That is correct.

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1 Q BY MR. MANZELLA: Now, Mr. Shea redeemed the
2 guns after -- sometime after February 3, 1969?

3 A Yes, he did.

4 Q Did he redeem both guns and the case?

5 A Well, I have to look at the records.

6 Q All right. Do you have to look at the records
7 to refresh your memory?

8 A Yes, I do.

9 Q All right.

10 A He redeemed 2421 on March 5th, 1969.

11 Q Now, when you say 2421, you are referring to the
12 revolver which has the serial number 2421?

13 A Yes, sir.

14 Q All right. And he redeemed that on March 5th,
15 1969?

16 A Yes.

17 Q And did he redeem the other revolver?

18 A Yes, he did.

19 Q And on what date did he redeem that?

20 A On March 14, 1969.

21 Q And that was a revolver with serial No. 2422?

22 A Yes, sir.

23 Q And on one of those occasions he also redeemed
24 the case along with one of the revolvers, is that right?

25 A Yes, sir.

26 Q Now, sir, at the time that Mr. Shea redeemed the
27 revolvers and the case, did you require him to sign the
28 tickets?

3-2

1 A Yes, sir.

2 Q And did he sign the tickets?

3 A Yes, he did.

4 Q Now, would you point out, holding the redemption

5 tickets up, would you point out where they are signed?

6 A Signed right here (indicating).

7 Q About the middle portion of the ticket?

8 A About the middle, right.

9 Q Is that marked in any way on the ticket? Is it

10 circled or anything?

11 A No. The redemption signature is not circled.

12 Q Would you do me a favor and circle the signature

13 of Shea where he signed it on the redemption ticket?

14 Don't cover the signature itself. Make a pretty

15 wide circle so it doesn't cover the signature.

16 Q And did he sign the other redemption ticket when

17 he redeemed the other revolver?

18 A Yes, he did.

19 Q And would you --

20 A I can't --

21 Q Would you circle that for us, please?

22 A Yes, I'll do that.

23 Q All right.

24 Would you hold that up, please, and point to

25 where Mr. Shea signed it?

26 A Right over there (indicating).

27 Q Now, at the time that the merchandise was

28 redeemed, I don't recall if I asked you this or not, but do

1 you have some sort of a stamp that you use to show the date
2 of the redemption and the fact that there has been a redemption
3 of the property?

4 A Yes, sir.

5 Q All right.

6 Would you hold up -- strike that.

7 Does the stamped impression show on the two
8 redemption tickets which you just identified?

9 A Yes, it does.

10 Q Would you hold that up and show us where that is,
11 please?

12 A Right here. And on his copy, too.

13 Q All right. Taking the front one, hold that up.
14 Perhaps we can see that better. Hold that up horizontally
15 so that we can --

16 A It is marked "Redeemed," and the date is right
17 in there (indicating).

18 Q All right. And that's on People's 55-A, is
19 that correct?

20 A Yes, sir.

21 Q Now, how much money did Mr. Shea give you in
22 order to redeem the guns, do you recall?

23 A Yes, sir. It is marked on the ticket.

24 Q And how much was that?

25 A \$23.

26 Q He gave you \$23 for each revolver in order to
27 redeem it

28 A No, on the second one he gave us \$24.

1 Q Did that include the case?

2 A Yes.

3 Q Is that the transaction which included the case?

4 A Yes, sir.

5 Q Now, at some time after Mr. Shea pawned --
6 strike that.

7 Some time after Mr. Shea redeemed both revolvers
8 and the case, did he again come in and pawn something with
9 you?

10 A Yes, he did.

11 Q And when did he next come in?

12 A He came on two -- the next time he came in was
13 July 25, 1969.

14 Q And is that transaction shown by one of the
15 exhibits you're holding in your hands?

16 A Yes, sir. That was 2422.

17 Q And that would refer to -- with the serial No.
18 2422?

19 A Yes, sir. No case.

20 Q And you're referring to People's -- strike that.
21 And is that transaction reflected in People's
22 57-B?

23 A Yes, sir.

24 Q And did Mr. Shea again sign the pawn ticket in
25 your presence?

26 A Yes, sir.

27 Q Would you hold it up, please, show the jury where
28 he signed it?

1 A Here (indicating) and here (indicating).

2 Q Again, in two places, is that correct?

3 A That is correct.

4 Q All right. And are those two signatures circled
5 in -- circled with red ink?

6 A Yes, sir.

7 Q Now, did you make a loan on the revolvers on
8 that occasion -- strike that.

9 Did you make a loan on revolver 2422, July 25,
10 1969?

11 A Yes, sir.

12 Q How much did you loan to Mr. Shea on that
13 revolver?

14 A \$20.

15 Q Now, at some time shortly thereafter, shortly
16 after July 25, did Mr. Shea come in again?

17 A Yes, sir.

18 Q And on what date was that?

19 A July 28, 1969.

3a fls.

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- 1 Q And is that transaction reflected in People's 57-A?
- 2 A Yes, sir.
- 3 Q And what did Mr. Shea pawn on that occasion?
- 4 A He pawned gun No. 2421.
- 5 Q Did he again sign the pawn ticket in your presence?
- 6 A Yes, sir.
- 7 Q And would you again hold it up and show the jury
- 8 where he signed it?
- 9 A There (indicating) and here (indicating).
- 10 Q And are those signatures circled in red?
- 11 A Yes, sir.
- 12 Q Did you make a loan to Mr. Shea on that occasion?
- 13 A Yes, sir.
- 14 Q And how much did you loan him?
- 15 A \$25.
- 16 Q Did this transaction also include the brown attache
- 17 case?
- 18 A Yes, sir.
- 19 Q Now, the transactions that you've already mentioned
- 20 in which Mr. Shea pawned the revolvers and the brown attache
- 21 case, that is the transaction on February 3 -- strike that --
- 22 the two transactions on February 3, in which he pawned both
- 23 revolvers for \$20 each and the transaction on July 25, and again
- 24 on July 28, who determined the amount of the loan?
- 25 A He asked for this amount and I gave it to him.
- 26 Q On each occasion?
- 27 A Yes, sir.
- 28 Q Can you tell us whether or not you would have loaned

3a-2
1 more on these revolvers?

2 A Yes.

3 MR. DENNY: Object to that as irrelevant and immaterial,
4 and move the answer be stricken.

5 THE COURT: The answer is stricken and the objection is
6 sustained.

7 MR. MANZELLA: May we approach the bench, your Honor?

8 THE COURT: Yes, you may.

9 (Whereupon, the following proceedings were had at
10 the bench among Court and counsel, outside the hearing of the
11 jury:)

12 MR. MANZELLA: The objection was on the grounds it was
13 irrelevant.

14 Our position is that this is corroboration of the
15 testimony of the witnesses that said that Mr. Shea would not
16 have pawned the guns for less than they were worth so he could
17 always be sure to redeem them. And it shows that he was not
18 taking any chances to lose the guns by not being able to
19 raise the money to redeem them. I think it is relevant for
20 that reason.

21 THE COURT: I don't know how the jury, on the present
22 state of the evidence -- what relationship -- strike that.

23 I do recall that there is some testimony concerning
24 the value of the guns.

25 MR. MANZELLA: That's correct.

26 THE COURT: They already know that.

27 MR. MANZELLA: Uh-huh.

28 THE COURT: Whether this man would have loaned more on

3a-3

1 them doesn't reflect on the value.

2 MR. MANZELLA: No, but the --

3 THE COURT: In the Court's judgment.

4 It is a total of forty or fifty dollars, is much
5 less than the value that has been testified to, and I think
6 the jury can see that for itself.

7 MR. MANZELLA: But --

8 THE COURT: The relationship, what he might have loaned,
9 is not really material.

10 MR. MANZELLA: Well, the reason --

11 THE COURT: I think that's a matter of argument to the
12 jury.

13 MR. MANZELLA: If we can argue it, I think it is
14 relevant for that reason. It gives some support for that
15 proposition.

16 MR. DENNY: He testified he loaned what Shorty asked for.
17 That's all, and that's the only thing that's relevant. If
18 Shorty had asked for more and he said no or Shorty had had
19 some conversation with him specifically, "Well, I know I
20 could get fifty bucks each for the guns, but all I want is
21 twenty-five," that's one thing. But the mere fact he would have
22 loaned a thousand dollars or two dollars on them, whatever, two
23 hundred, is irrelevant in view of his testimony that Shorty
24 asked him for twenty bucks on the gun or twenty-five and that's
25 what he gave him.

26 THE COURT: I think so.

27 MR. MANZELLA: All right.

28 (Whereupon, the following proceedings were had in

3a-3

1 open court within the presence and hearing of the jury:)

2 Q BY MR. MANZELLA; Mr. Launer, do you recall on the
3 various occasions in which Mr. Shea asked you for a specific
4 amount, do you recall having any conversation with Shea about
5 how much you would have loaned on the guns?

6 A No, sir.

7 Q Now, Mr. Launer, the -- strike that.

8 After the -- after Mr. Shea came in and pawned both
9 guns, one gun on July 25, 1969, and the other gun on July 28,
10 1969, and the attache case on July 28, 1969, did someone come in
11 and redeem those guns and the attache case?

12 A I don't have the redemption ticket here.

13 Oh, it is on this side, I see.

14 Q Directing your attention to the exhibits which are
15 57, in that series of tickets is a redemption transaction
16 reflected?

17 A Yes. Yes, it is.

3b fol

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3b-1

1 Q All right, would you tell us, then, at some time
2 after Mr. Shea came in and pawned the two guns on July 25,
3 and July 28, 1969, the guns and the case, were the guns and
4 the case redeemed?

5 A Yes, sir.

6 Q And you can answer --

7 A Yes, sir.

8 Q All right, thank you.

9 Now, directing your attention to the revolver
10 No. 2422, the transaction involving revolver No. 2422, when
11 was that gun redeemed?

12 A That was redeemed on September 2nd, 1969.

13 Q And directing your attention to revolver No. 2421,
14 and the attache case, which were pawned on -- on July 28.

15 When were they redeemed?

16 A That was redeemed on September 3, 1969.

17 Q Now, are those redemption transactions reflected
18 in the documents before you?

19 A Yes, sir, right here.

20 Q You're referring to People's 57-C, is that correct?

21 A That's correct.

22 Q All right. And which revolver does that trans-
23 action -- does that particular ticket reflect, People's 57-C?

24 A No. 2421.

25 Q All right. And does the redemption transaction
26 referring to the revolver 2422 and the attache case shown
27 on one of those exhibits?

28 A Redemption 2422 was without a case.

1 Q And is that shown, is revolver 2422, the
2 redemption of that revolver, shown on one of the tickets?

3 A Yes, sir. September 2nd, 1969.

4 Q All right. And is that People's 57-D?

5 A Yes, sir.

6 Q Now, did the case, that was pawned with revolver
7 No. 2421, am I correct?

8 A Yes, sir.

9 Q All right. Now, was that redeemed with
10 revolver 2421?

11 A Yes, sir.

12 Q And is that transaction shown in People's 57-C?

13 A Yes, sir.

14 Q Now, let's go first to 57-D, revolver No. 2422,
15 the transaction on September 2nd, 1969.

16 A Yes, sir.

17 Q Was that revolver No. 2422 redeemed by Mr. Shea?

18 A No, sir.

19 Q And you personally handled the transaction,
20 is that correct?

21 A Yes, sir.

22 Q And did the person who redeemed the gun,
23 revolver No. 2422, on September 2nd, 1969, did that person
24 sign his name?

25 A Yes, sir.

26 Q On the redemption ticket?

27 A Yes, sir.

28 Q And does that signature show on People's 57-D?

1 A Yes, sir.

2 Q Would you hold that up, please, and show it to
3 all of us?

4 A Right there (indicating).

5 Q All right. And would you hold out this way more
6 so we can see it.

7 All right, and point to it again.

8 A Right there (indicating).

9 Q And what does the signature say?

10 A "Smith."

11 "R. Smith."

12 Q "R. Smith," that's "R period Smith," is that
13 correct?

14 A Yes, sir.

15 Q And at the time that you --when Mr. Smith
16 redeemed the guns -- did you have him present you with
17 identification?

18 A Yes, sir.

19 Q And I take it Mr. Smith also presented you with
20 the redemption ticket, is that correct?

21 A Yes, sir.

22 Q And do you recall what identification Mr. Smith
23 presented to you?

24 A An instruction permit No. CC225346, name of
25 Richard Alan Smith, 835 Colegio Drive, L.A. 45, and his
26 description.

27 Q All right. And I take it you are reading from
28 the redemption ticket itself, is that correct?

1 A That is correct.

2 Q Now, is that information which you wrote down on
3 the redemption ticket?

4 A Yes, sir.

5 Q From where did you get that information that you
6 were just reading?

7 A From his I.D.

8 Q And did you write that down there at the time that
9 he presented the --

10 A Yes, sir.

11 Q -- identification to you?

12 And were you looking at the identification when
13 you wrote the information down?

14 A Yes, sir.

15 Q Now, directing your attention to the other
16 exhibit, People's 57-C, which you testified shows the
17 redemption on September 3.

18 A Yes, sir.

19 Q Of revolver 2421, in the case?

20 A Yes, sir.

21 Q Did Mr. Shea come in and redeem the revolver
22 2421 and the case?

23 A No, sir.

24 Q Did somebody else come in and redeem it?

25 A Yes, sir.

26 Q And did that person sign the redemption ticket?

27 A Yes, sir.

28

3c fls.

3c-1

1 Q Would you point out where that is signed, please?

2 A Right here.

3 Q In other words, it is in the same location on the
4 other redemption ticket, is that correct?

5 A Yes, sir.

6 Q And is that signature circled in any way?

7 A No, it isn't.

8 Q All right. What does that signature say?

9 A "R. A. Smith."

10 Q "R. A. Smith"?

11 A Correct.

12 Q Now, was this Mr. Smith who came in on September
13 3, was he the same Mr. Smith who came in on September 2nd?

14 A Yes, sir.

15 Q And you personally handled this transaction
16 as well, is that correct?

17 A Yes, sir.

18 Q Now, Mr. Launer, just let me ask you here, do you
19 think you would be able to -- would you be able to recognize
20 the person who signed his name as Mr. Smith on both September
21 2nd and September 3rd, if you saw him again?

22 A I don't think so.

23 Q All right. Mr. Launer, directing your attention
24 to the signature line on the redemption ticket on People's
25 Exhibit 57-C.

26 A Yes.

27 Q Which is this exhibit right here (indicating).

28 A Yes, sir.

3c-2

1 Q Just above the signature of "R. A. Smith," appearing
2 on People's 57-C, there appears to be a penciled signature, a
3 signature which has either been erased or rubbed off in some
4 way on the signature line itself.

5 Do you see that?

6 A Yes, sir. Yes, sir.

7 Q All right. Were you present when that signature was
8 placed on People's 57-C, the redemption ticket?

9 A Yes, sir.

10 Q And in what name is that signature? What does that
11 signature say?

12 A It is very --

13 MR. DENNY: Well, just a moment, I think the document
14 speaks for itself.

15 THE WITNESS: It has been erased.

16 MR. DENNY: Just a moment, sir.

17 THE COURT: Sustained.

18 MR. DENNY: Move that be stricken. The document speaks
19 for itself, what name is there.

20 Q BY MR. MANZELLA: However, I direct his attention
21 specifically to that portion I am referring, and I am referring
22 to what appears to be the penciled signature which appears to
23 say "Donald Shea."

24 MR. DENNY: Just a moment, your Honor.

25 Q BY MR. MANZELLA: On that signature line. And I
26 want to direct his attention to that signature.

27 MR. DENNY: You've directed his attention to it by pointing
28 it out to him and I request the question be stricken and the
29 document speaks for itself.

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1 MR. MANZELLA: Your Honor, we are not --

2 THE COURT: There's no question pending now.

3 MR. MANZELLA: All right.

4 Q Mr. Launer --

5 MR. DENNY: Well, the statement of Counsel, then, I
6 move that that be stricken, your Honor, as not testimony.

7 THE COURT: Very well. That is stricken.

8 Q BY MR. MANZELLA: Very well. Mr. Launer, I want
9 to direct your attention to what appears to be a signature in
10 the name of Donald Shea, appearing --

11 MR. DENNY: Move that that be stricken --

12 Q BY MR. MANZELLA: -- appearing on Exhibit 57-C.

13 A Yes, sir.

14 THE COURT: All right. That -- overruled.

15 Q BY MR. MANZELLA: Now, were you present when that
16 signature was placed on People's 57-C?

17 A Yes, sir.

18 Q And was that signature placed there by Donald
19 Shea?

20 A No.

21 Q Was it placed there by the man who signed his name
22 as Mr. Smith, --

23 A Yes, sir.

24 Q -- right below that?

25 A Yes, sir.

26 Q And when that signature was placed there -- that is,
27 the signature of -- in the name of Donald Shea, did you
28 complete the transaction at that time? That is, the redemption

1 of revolver 2421 in the case?

2 A No, sir.

3 Q And why not?

4 A Because he wasn't Donald Shea.

5 Q All right. Now, do you recall, in relation to when
6 Mr. Smith came in and completed the transaction -- that is,
7 the redemption transaction on September 3rd of 1969 -- how --
8 when in relation to that did -- was the signature -- the name
9 Donald Shea placed on there?

10 When did that happen, when you refused to complete
11 the redemption transaction?

12 A I believe he came in later that day or the next
13 day. I don't recall exactly.

14 Q In other words, he came in after and redeemed the
15 guns?

16 A With identification.

17 Q All right. And it was -- it was either later the
18 same day or the next day; is that correct?

19 A Yes, sir.

20 Q All right.

21 (Pause in the proceedings while a discussion off the
22 record ensued at the counsel table between Mr. Manzella and
23 Mr. Kay.)

24 Q BY MR. MANZELLA: All right. Mr. Launer, I just
25 have a few more questions of you.

26 A Okay.

27 Q Again, I want to direct your attention to the two
28 revolvers. Do you recall whether or not, at the -- during these

1 transactions that you had with -- concerning these revolvers,
2 whether or not the handles were scratched? The wooden handles
3 were scratched as they appear to be now?

4 MR. DENNY: Just a moment. I'll object to that as asked
5 and answered already.

6 THE COURT: Sustained.

7 MR. MANZELLA: I don't believe I have asked that
8 question, your Honor, whether the wooden handles were scratched.

9 MR. DENNY: He asked about the appearance two times.

10 MR. MANZELLA: Your Honor, I would like to approach the
11 bench, if I may.

12 THE COURT: All right. I'll overrule the objection.
13 You may answer.

14 Q BY MR. MANZELLA: Do you recall whether or not the
15 handles were scratched at the time that Mr. Shea presented
16 them to you?

17 A I don't recall. They look kind of scratched up,
18 but I don't recall exactly. I wouldn't be able to remember
19 that far back.

20 Q They look scratched up now?

21 A Yeah.

22 Q All right. Directing your attention to the bluing
23 on the guns, where the bluing appears to be worn, do you recall
24 whether or not the bluing was worn at the time that you
25 handled the guns?

26 A I don't remember. I couldn't --

27 Q All right. And I take it the same is true of the
28 other revolver?

1 A Yes, sir.

2 Q All right. And I have been referring to People's
3 53-A and -B; is that correct?

4 A Yes, sir.

5 MR. DENNY: All right. Thank you, Mr. Launer. I have no
6 further questions.

7 THE WITNESS: Yes, sir.

8 THE COURT: Any questions?

9 MR. DENNY: Yes, just briefly.

10

CROSS

11

CROSS EXAMINATION

12

BY MR. DENNY:

13

14 Q Mr. Launer, looking at 57-C and -D, the redemption
15 tickets there that were signed by Mr. Richard Alan Smith, do
16 you have those?

17

4a fol

18

A Yes, sir.

19

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4a-1

1 Q All right.

2 (To the bailiff.) Could I get that chart?

3 The 57-D is on September 2nd? That is, the date
4 of redemption is September 2nd; is that correct?

5 A Yes, sir.

6 Q I wonder if you could come down here just a
7 moment with that document?

8 MR. MANZELLA: Your Honor, excuse me. There's certain
9 writing on this exhibit, and unless this has already been
10 admitted, I would object to it being --

11 MR. DENNY: It's only been marked for identification.

12 MR. MANZELLA: I would object to it being shown to the
13 jury. There appears to be certain statements made in writing
14 on the exhibit itself.

15 MR. DENNY: That's correct, your Honor.

16 It was made before the jury at the time.

17 MR. MANZELLA: And it appears to be written testimony
18 contained on the exhibit.

19 THE COURT: What is it, Mr. Denny?

20 MR. DENNY: Your Honor, this is the exhibit, Defendant's
21 S, that I used in examining Miss Hoyt as to various times.

22 MR. MANZELLA: Right.

23 MR. DENNY: The end of August and the beginning of
24 September.

25 MR. MANZELLA: And I would object to Miss Hoyt's
26 statements -- or whoever's statements there are printed
27 on that exhibit -- being in front of the jury at this time.

28 MR. DENNY: Your Honor, they were in front of the jury

4a-2

1 at the time they were made.

2 MR. MANZELLA: That's correct. But Miss Hoyt is not
3 on the stand now, and I would object to her testimony being
4 in front of the jury -- or whatever this is on this exhibit--
5 at this time.

6 MR. DENNY: Well, your Honor, I wish to make --

7 MR. MANZELLA: If he uses a calendar, fine. But this
8 is certainly not relevant, to have Miss Hoyt's or Mr. Denny's
9 writing in front of the jury during the examination of this
10 witness.

11 MR. DENNY: I wish to make additional notations on
12 this before the jury, which they have seen already, your
13 Honor.

14 THE COURT: We'll take a recess at this time. You have
15 been sitting about an hour now.

16 During the recess, you are admonished that you
17 are not to converse amongst yourselves, nor with anyone else,
18 nor permit anyone to converse with you on any subject
19 connected with the matter, nor to form or express any opinions
20 on it until it is finally submitted to you.

21 Ten minutes -- fifteen minutes.

22 (Mid-morning recess.)

23 (Proceedings had on an unrelated matter.)

24 THE COURT: The jurors are all present. All counsel
25 are present. The defendant is present.

26 Q BY MR. DENNY: Mr. Launer, could you come down
27 a moment? And if you would hold this microphone here --
28 you'll have to stand over here (indicating). All right.

4a-3

1 Just talk into it as if it were an ice cream
2 cone, kind of.

3 All right.

4 Now, again, looking at the exhibit, I understand
5 that 57-D, the one over on the right here, is the ticket
6 showing the redemption; and that redemption on that particular
7 ticket was on what date?

8 A September 2nd.

9 Q All right.

10 We have a chart here showing the days of
11 August, the last week or so of August, and the first week
12 of September.

13 Your Honor, may this be marked for identification
14 as People's -- I'm sorry -- Defendant's next in order?

15 THE COURT: It would be W for identification, the
16 chart.

17 Q BY MR. DENNY: So that then would be on the 2nd.
18 And which gun was that? Which serial number
19 was that?

20 A 2422.

21 Q And the name -- the signature?

22 A R. Smith.

23 Q All right. We'll put there, in black, "R. Smith,
24 redeemed 2422" on the 2nd.

25 A Yes, sir.

26 Q And then the other ticket, 57-C, shows the
27 redemption on what date?

28 A September 3rd.

D's W id.

4b fls.

4b-1

1 Q Again, 1969?

2 A '69, yes, sir.

3 Q All right. And what was redeemed at that time?

4 A 2421.

5 Q And was the case redeemed at the same time?

6 A Yes, sir.

7 Q And who is indicated as having redeemed that,
8 by the signature, at least?

9 A R. A. Smith.

10 Q R. A. Smith. Well, I note on the back of that
11 particular exhibit, in 57-C, there's a good deal of information
12 about the driver's permit --

13 A Yes.

14 Q -- number, the address, the Collegio Drive address.

15 A Yes, sir.

16 Q And is it the place of birth and the date of birth
17 that also appears there?

18 A Yes, sir.

19 Q What is that?

20 A Uh -- Arizona -- was it Nevada or Arizona?

21 Q Does it indicate the town? I think Arizona.

22 A The state -- maybe the last -- of the last -- the
23 last time he had a driver's license, it might be.

24 Q All right. It looks to be two states, "N-e-v" and
25 Arizona.

26 A Yeah. "Previous -- previous state." "Previous
27 license issued in Arizona." That's what that is.

28 It's marked "Previous," and that was in -- June the

1 20th, 1942.

2 Q That's -- is that the date of birth?

3 A Date of birth.

4 Q June 20th, '42?

5 A Yes, sir.

6 (Inaudible) Brown hair.

7 THE REPORTER: I'm sorry. I couldn't hear that.

8 Q BY MR. DENNY: You are reading the description?

9 A Yes,

10 Q Would you read the description that you placed on'
11 there?

12 A Male, brown hair, brown eyes, five feet-five,
13 130 pounds, born June 20th, 1942. Previous license, Arizona.

14 Q Then what I thought was "N-e-v" is "P-r-e-v"?

15 A That's what it is.

16 Q All right. Fine. And you got this information
17 from what, sir?

18 A From the Instructor's Permit that he had, No. CC-
19 -225346.

20 Q When you say an Instructor's Permit, is that what
21 it was, or is this a temporary license?

22 A Instructor's Permit. It's different.

23 Q What is the difference between an Instructor's
24 Permit and a temporary license?

25 A A temporary license you get when you get your new
26 license, before your -- when you're issued a new license, four
27 years apart.

28 This is a -- before you -- before you have any

1 license at all, you must have an Instructor's Permit.

2 Q And was this in the form of --

3 A A regular form.

4 Q -- a regular form? A piece of paper? Not a
5 light, thin piece of paper, but a --

6 A I don't recall.

7 Q -- but a regular piece of paper?

8 A It must have been issued by the State of
9 California.

10 Q All right. And you have indicated, I think,
11 previously, that despite the description and the other informa-
12 tion on there, you don't feel you would be able to recognize
13 the redeemer's face, --

14 A No, sir.

15 Q -- is that right?

16 A That's right.

17 Q All right. Now, again, the 57-C --

18 A That's here.

19 Q Yes.

20 (Continuing) -- is the one that appears to have this
21 penciled signature --

22 A Yes, sir.

23 Q -- above the line, or on the line.

24 And that, again, is the redemption date of which?

25 A September 3rd.
26
27
28

4c fol

4c-1

1 Q All right. Now, would it then be the fact that
2 this "R. A. Smith" -- or whatever it was -- came in with
3 identification on the 2nd, presented you that identification
4 on the 2nd --

5 A Yes, sir.

6 Q -- got the first gun? Then came back sometime
7 on the 3rd, did not have identification, and then got
8 identification and came back on the 3rd?

9 A No. It seems to me that he -- the second time
10 he tried to sign Donald Shea's name here, and I says,
11 "Well, you are not Donald Shea."

12 Q He had already redeemed the gun under the name
13 of "R. Smith --"

14 A Well --

15 Q -- the other gun?

16 A Yes.

17 Q So you knew he was not --

18 A Yes.

19 Q -- Donald Shea?

20 A That's right.

21 Q And you knew Donald Shea from previously, anyway?

22 A That's right.

23 Q All right.

24 A So I told him he would have to have identification.
25 And he went out and got it.

26 Q Well, the only thing I am curious about is, did
27 he attempt, do you know, to redeem both guns on the 2nd?
28 Or did he only attempt to redeem the one gun,

4c-2

1 shown in 57-D, --

2 A I don't remember.

3 Q -- on the 2nd?

4 A All I can go by is what's here.

5 Q Well --

6 A I really don't recall. It's been so long
7 ago.

8 Q I understand.

9 I wonder if, by any chance, did you put the
10 "Redeemed" stamp on this 57-D --

11 A If I --

12 Q -- first? And then you discovered that he
13 didn't have --

14 A No. If I would, I would cross it out.

15 MR. DENNY: All right. Okay. Fine. Thank you very
16 much, sir.

17 THE WITNESS: You're welcome.

18 MR. DENNY: And I think we are finished.

19 THE COURT: Anything further from the People?

20 MR. MANZELLA: Just one question.

21
22 REDIRECT EXAMINATION

23 BY MR. MANZELLA:

24 Q Mr. Launer, can you give us a description of the
25 man who tried to sign the name, or did sign the name of
26 Donald Shea?

27 A I don't remember. I wouldn't remember him at
28 all.

4c-3

1 Q Do you recall whether he was tall or short?

2 A I think he was -- I don't know.

3 Q You don't know. Okay.

4 A I just don't recall.

5 MR. MANZELLA: All right. Thank you, Mr. Launer.

6 THE WITNESS: You're welcome.

7 THE COURT: Mr. Launer, you are excused.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you.

10 MR. MANZELLA: The People call Mr. Delma Baker,
11 your Honor.

12 THE CLERK: Would you raise your right hand to be
13 sworn?

14 Do you solemnly swear that the testimony you
15 are about to give in the cause now pending before this court,
16 shall be the truth, the whole truth, and nothing but the
17 truth, so help you God?

18 THE WITNESS: Yes, I do.

19
20 DELMA EUGENE BAKER,
21 called as a witness by and on behalf of the People, having
22 been first duly sworn, was examined and testified as follows:

23 THE CLERK: Please take the stand and be seated.

24 Would you state and spell your full name, please?

25 THE WITNESS: Delma Eugene Baker; D-e-l-m-a, E-u-g-e-n-e,
26 B-a-k-e-r.

27
28 DIRECT EXAMINATION

1 BY MR. MANZELLA:

2 Q Mr. Baker, in 1969 were you the owner of a business
3 in Culver City?

4 A Yes, I was.

5 Q And what was that business?

6 A Baker's Gun Shop.

7 Q And did you, at your gun shop, did you buy and
8 sell guns?

9 A Yes, sir, I did.

10 Q Did that include used guns?

11 A Used guns, yes, sir.

12 Q Now, are you required, in the buying and selling
13 of guns, are you required by law to keep records of those
14 transactions?

15 A Yes, I am.

16 Q And what kind of records do you keep?

17 A Records for the Culver City Police Department,
18 the State, and the Federal --

19 Q All right.

20 A -- record.

21 Q And what is the physical form of these records?

22 A Uh -- I have here what we call a buy book. It's
23 a pawnshop detail of Culver City.

24 Q The Culver City Police Department?

25 A Right.

26 Q And they supply you with what you refer to as
27 a buy book?

28 A Right.

5-1

1 Q That's spelled b-u-y, is that correct?

2 A Right.

3 Q Now, are the pages or forms contained in the buy
4 book, are they numbered in sequence?

5 A Yes, they are.

6 Q And the transactions that you complete, that is in
7 the buying and selling of guns, do you follow filling out the
8 forms in sequence in the buy book?

9 A Yes, I did.

10 Q Now, did you make a search of your buy books to
11 determine the -- whether or not you had any records reflecting
12 the transaction with a Donald Shea?

13 Well, strike that, I'm sorry, with a Richard Alan
14 Smith?

15 A Yes.

16 Q And did you find any?

17 A Uh, you have the page out of the buy book.

18 Q All right.

19 Your Honor, I don't remember if -- this present
20 exhibit I have here, what appears to be a document four inches
21 by six inches, containing certain printing thereon, including
22 the name, "Richard Alan Smith," may I have that marked
23 People's 72 for identification? It has previously been so
24 marked at another proceeding.

25 THE COURT: All right. 72 for identification.

26 Q BY MR. MANZELLA: All right, Mr. Baker, directing
27 your attention to People's 72.

28 Would you tell us what that is?

72 ID

1 A This is a page out of this buy book. No. 3070.

2 Q And you took that page out and gave it to us, is
3 that correct?

4 A That's correct.

5 Q Now, the information contained on People's 72, is
6 that information required to be placed on that form at the
7 time of the transaction when you purchase or sell a gun?

8 A Yes, it is.

9 Q Now, did you personally handle the transaction
10 reflected in People's 72?

11 A Yes, I did.

12 Q Do you recall the details of that transaction now
13 or would you need to refer to People's 72?

14 A Uh, I would have to refer to this.

15 Q When you say "this," you are referring to People's
16 72?

17 A Yeah.

18 Q Now, the transaction that you personally handled,
19 which is reflected in People's 72, on what date did that
20 transaction occur?

21 A 10-10-69.

22 Q Is that October 10 of 1969?

23 A That's correct.

24 Q And what kind of transaction occurred on that
25 date which you handled?

26 A I bought two Dakota 7 and a half-inch barrel,
27 single-action revolvers, serial number 2421 and 2422.

28 Q Those are the serial numbers of each gun?

1 A That's the serial numbers of each gun, yes.

2 Q Now, the person that sold you the guns, did you
3 pay him any money for the guns?

4 A Yes, I did.

5 Q And what did you pay him for the guns?

6 A \$75.

7 Q Now, is the signature of the person selling you
8 guns required to be placed, required by law to be placed on
9 form People's 72?

10 A Yes, it is.

11 Q And if the person who sold you the two Dakota
12 revolvers on October 10 of 1969, did that person place his
13 signature on People's 72?

14 A Yes, he did.

15 Q All right. Would you hold that up, please, and
16 point out to us where that signature is?

17 A Down at the bottom of the page (indicating).

18 Q And what is that signature? What does that
19 signature say?

20 A Uh, "Richard Alan Smith."

21 Q Did Mr. Smith sign that in your presence?

22 A Yes, he did.

23 Q Now, at the time that you bought the guns from
24 Mr. Smith at your gun shop on October 10, of 1969, did you
25 require Mr. Smith to present you with some sort of identifica-
26 tion?

27 A Yes, I did.

28 Q And are you required to do that?

1 A Yes.

2 Q Now, did you -- I take it -- strike that.

3 I take it after the transaction is completed you
4 gave Mr. Smith back his identification, is that correct?

5 A That's correct.

6 Q Did you make any notation of, uh, the information
7 contained on that identification?

8 You can answer that yes or no.

9 A Yes.

10 Q Where did you make that notation?

11 A On this, uh, exhibit here.

12 Q People's 72?

13 A That's correct.

14 Q Would you tell us, then -- well, strike that.

15 Did you record that information at the time
16 Mr. Smith -- at the time of the transaction?

17 A Yes.

18 Q And as you recorded the information, were you look-
19 ing at the identification with which he had presented you?

20 A Yes.

21 Q All right. Would you tell us what you recorded?

22 A Uh, first, "Richard Alan Smith," the man's name
23 that was on the driver's license.

24 "Sex: Male; hair: brown; eyes: brown; height:
25 five-five; weight: 130; date of birth: 6-20-42; and white;
26 residence: 8350 Collegio Drive, L. A., California, and 90045,
27 and driver's license number is CC225346.
28

5a-1

1 Q Now, I have forgotten whether you told us or not,
2 did you pay the person who identified himself as Mr. Smith,
3 did you pay him any money for the guns?

4 A Yes, I did.

5 Q How much did you pay him?

6 A \$75.

7 Q Now, directing your attention to People's
8 Exhibit 53-A and -B for identification, the two revolvers.

9 If you would examine those for us, and tell us
10 whether or not you recognize those revolvers?

11 A Yes, I do.

12 Q All right. Are those revolvers which you
13 purchased on October 10 of 1969?

14 A They are.

15 Q Now, directing your attention to the physical
16 condition of the revolvers now.

17 In particular, the scratches on the handle and
18 the -- where the bluing appears to be worn off the metal
19 portions of the gun.

20 Do you recall at the time you purchased the weapons
21 whether or not there were scratches on the handle?

22 A Yes, same condition they were when I purchased
23 them.

24 Q Do you recall at the time that you purchased
25 them whether or not the bluing was worn off the -- some of
26 the metal portion of the gun?

27 A Yes, it was.

28 Q Now, how do you recall the physical condition of

5a-2

1 the guns at the time you purchased them?

2 A Used, well used.

3 Q Let me ask you this: Would you have loaned more
4 on the guns if they had been in better condition?

5 MR. DENNY: Just a moment.

6 THE WITNESS: Yes.

7 MR. DENNY: I'll move that be stricken for the purpose
8 of an objection.

9 THE COURT: Sustained.

10 MR. DENNY: Assumes facts not in evidence, for one.

11 THE COURT: Sustained.

12 Q BY MR. MANZELLA: Mr. Baker, does the price you
13 paid for the guns help you remember the condition of the guns,
14 in which they were, at the time you purchased them?

15 A Yes.

16 Q What would you have paid for the guns if they
17 had been in better condition?

18 MR. DENNY: Object to that as irrelevant and immaterial.

19 THE COURT: Sustained.

20 MR. MANZELLA: Your Honor, it goes to his ability to say
21 why he would have paid more for the guns.

22 THE COURT: The Court sustains the objection.

23 MR. MANZELLA: All right, thank you, Mr. Baker.

24 I have no further questions, your Honor.

25
26 CROSS-EXAMINATION

27 BY MR. DENNY:

28 Q Well --

5a-3

1 MR. MANZELLA: Oh, yes, I do, I'm sorry, Mr. Denny.

2 THE COURT: Excuse me just a moment. I have a call
3 from another department, a Judge, a matter of some urgency.

4 (Whereupon, the Judge retired to chambers,
5 returning shortly, and the following proceedings were
6 had:)

7 THE COURT: You may proceed.

8
9 FURTHER DIRECT EXAMINATION

10 BY MR. MANZELLA:

11 Q Mr. Baker, eventually what did you do with the
12 guns?

13 A Uh, I kept them.

14 MR. DENNY: Just a moment, I'll object to that as
15 irrelevant and immaterial.

16 THE COURT: Sustained.

17 MR. MANZELLA: All right, thank you. No further
18 questions.

19 THE COURT: Any questions?

20 MR. DENNY: Yes, just briefly.

21
22 CROSS-EXAMINATION

23 BY MR. DENNY:

24 Q Sir, the information that you say you got off of
25 a driver's license, was that a regular driver's license or an
26 instructor's permit or an instruction permit?

27 A It was a regular driver's license.

28 Q Did it -- you wouldn't recall, I assume, whether it

5a-4

1 was a newly issued license or not, would you?

2 A I don't recall.

3 Q All right.

4 Now, sir, again your business is buying and
5 selling, is it?

6 A Yes, was.

7 Q All right. And then -- before you buy a gun,
8 you look pretty closely at the gun to see the condition?

9 A Yes.

10 Q Because you want to determine the resale value?

11 A That's correct.

12 Q All right. And your over-all impression of the
13 gun at the time you bought it was that it was not in the
14 greatest condition, is that right?

15 A That's right.

16 Q All right.

17 However, you didn't check it so carefully that you
18 could say specifically which scratch or dent was on there,
19 then, that you can look at it and see now, did you?

20 A I didn't check it that close, no.

21 Q All right. It was just your over-all impression
22 that it was not in the greatest condition?

23 A Right.

24 Q But you don't know now, looking at it, whether
25 there had been some more dents, scratches, nicks and some
26 of the varnish, say, worn off the handle due to the passage
27 of time in the last few years, have you?

28 A No.

1 MR. DENNY: All right, nothing further.

2 THE COURT: Anything further, gentlemen?

3 MR. MANZELLA: I do have one more question which is
4 probably more properly part of my direct examination. Just
5 one question.

6 THE COURT: All right, you may.

7
8 DIRECT EXAMINATION (Reopened)

9 BY MR. MANZELLA:

10 Q Mr. Baker, did you examine the interior of the
11 barrel and the chamber to determine whether or not the gun
12 had been fired?

13 A Uh, yes. Uh, as far as I can remember, yes.

14 Q And had -- from your inspection, had the gun
15 been fired?

16 MR. DENNY: Well, just a minute, I'll object to that
17 as calling for expert opinion. No foundation.

18 THE COURT: Sustained.

19 Q BY MR. MANZELLA: All right, Mr. Baker, how long
20 as of 1969 had you been in the business of buying and selling
21 guns?

22 A Since '66.

23
24
25
26
27
28
5b fls.

5b-1

1 Q And during that period of time, approximately how
2 many guns had you bought? How many guns had you bought and
3 sold?

4 A Oh --

5 Q If you have any idea.

6 A I have no idea.

7 Q Did you handle hand guns -- strike that.

8 You handled used guns as well as new guns?

9 A Used and new, yes.

10 Q When you bought used guns during that period
11 of time that you bought and sold guns, did you, on each
12 occasion, look at the interior of the weapon, that is the
13 interior of the barrel and the chambers --

14 MR. DENNY: Irrelevant.

15 Q -- to determine whether or not the weapon had
16 been fired?

17 MR. DENNY: Irrelevant and immaterial.

18 THE COURT: Overruled.

19 MR. DENNY: Your Honor, it begs the question until the
20 foundation --

21 THE COURT: The objection is overruled.

22 A Yes.

23 MR. DENNY: Well, a further objection, no foundation as
24 to expertise.

25 THE COURT: Overruled.

26 Q BY MR. MANZELLA: All right, your answer is yes.

27 A Yes.

28 Q Does that aid you in determining the price which

1 you charge for a weapon?

2 A Uh, the condition of the interior of the barrel,
3 yes, and sometimes there's possibly rust and other -- whether
4 the gun will clean up or not, determines what I pay for it.

5 Q All right. Have you, yourself, fired handguns
6 and other guns?

7 A Yes.

8 Q Have you, yourself, cleaned the weapons that you
9 have fired?

10 A Uh, sometimes, yes.

11 Q On one occasion or many occasions?

12 A Uh, I fired many guns, yes.

13 Q And you've cleaned many guns?

14 A Yes, I have.

15 Q And are you familiar with the appearance of the
16 interior of the barrel and of the chamber of handguns when
17 they've been fired?

18 A Yes.

6 fls.

19
20
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28

6-1

1 Q When you examined the condition of the interior
2 of the barrel and of the chamber and cylinder of People's 53-A
3 and -B, when you purchased them on October 10th of 1969, were
4 you -- did they appear to have been fired or not to have been
5 fired?

6 MR. DENNY: Just a moment, sir. I'll object to that
7 again as improper, inadequate foundation.

8 THE COURT: Mr. Baker, at the time that you looked at
9 these guns, you had been in the business how long?

10 THE WITNESS: Since '66.

11 THE COURT: And you said you had no idea of how many
12 guns you handled in the course of your business.

13 Can you give us a rough estimate?

14 THE WITNESS: I would say approximately four to five
15 hundred.

16 MR. DENNY: I'm sorry, your Honor. Is that between
17 1966 and 1969, when he brought the guns, or to the present
18 time?

19 THE COURT: Would you answer his question?

20 THE WITNESS: Again?

21 MR. DENNY: Is that from 1966 until the time you bought
22 those guns in 1969, that you are answering four to five
23 hundred? Or from 1966 until the present time?

24 THE WITNESS: Until '69, yes.

25 THE COURT: Up till that time that you looked at those
26 pistols, then, you had handled some five hundred guns --

27 THE WITNESS: Yes.

28 THE COURT: -- in the course of your business?

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1 THE WITNESS: Yes.

2 THE COURT: -- in the course of your business?

3 THE WITNESS: Yes.

4 THE COURT: You may ask your question.

5 MR. MANZELLA: All right. I think I've already asked
6 it, your Honor.

7 MR. DENNY: Well, I'll object to the question that was
8 asked, your Honor, as to whether he had determined at that time
9 whether the gun had been fired, as ambiguous, unless the time
10 is established, when it had been fired.

11 THE COURT: Sustained.

12 Q BY MR. MANZELLA: Mr. Baker, on October 10th of
13 1969, when you examined the interior of the weapon, did you
14 determine whether or not it had been fired?

15 A They had not --

16 MR. DENNY: Just a moment. Just a moment. I'll object
17 to that question as ambiguous again as to time.

18 THE COURT: Overruled. I assume it means whether it
19 had ever been fired.

20 MR. MANZELLA: That's correct.

21 Q As of October 10th, 1969, when you examined the
22 guns --

23 A Well, they --

24 MR. DENNY: That's irrelevant and immaterial.

25 THE WITNESS: There was no doubt --

26 THE COURT: Overruled.

27 THE WITNESS: -- in my mind that they had been fired.

28 MR. MANZELLA: May the answer remain in?

1 THE COURT: Well, I don't know what it was. I didn't
2 hear it anyway.

3 Go ahead and respond again.

4 THE WITNESS: There was no doubt in my mind but what the
5 guns had been fired.

6 MR. MANZELLA: All right. Thank you. I have no
7 questions.

8 MR. DENNY: I have no questions.

9 MR. MANZELLA: May Mr. Baker be excused?

10 MR. DENNY: No objection at all.

11 THE COURT: Either of you have any further questions?

12 MR. DENNY: None.

13 THE COURT: You may step down, Mr. Baker, and you are
14 excused.

15 THE WITNESS: Thank you.

16 MR. KAY: The People will call Herbert Campbell.

17 THE CLERK: Do you solemnly swear that the testimony you
18 are about to give in the cause now pending before this court
19 shall be the truth, the whole truth, and nothing but the
20 truth, so help you God?

21 THE WITNESS: I do.

22
23 HERBERT L. CAMPBELL,

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

26 THE CLERK: Please take the stand and be seated.

27 Please state and spell your full name.

28 THE WITNESS: Herbert L. Campbell; C-a-m-p-b-e-l-l.

DIRECT EXAMINATION

1
2 BY MR. KAY:

3 Q Sergeant Campbell, what is your occupation and
4 assignment?

5 A I am an examiner of questioned documents, assigned
6 to the crime lab of the Los Angeles County Sheriff's
7 Department.

8 Q And how long have you been so assigned, sir?

9 A Approximately nine years.

10 Q And I take it that you are head of that section
11 now, that --

12 A Yes.

13 Q And is Sergeant Fraser under you?

14 A Yes.

15 Q And did you train Sergeant Fraser?

16 A Yes, I did.

17 Q All right. Now, would you please relate to the
18 ladies and gentlemen of the jury your background, training and
19 experience in the -- as far as being a handwriting expert?

20 MR. DENNY: I don't believe that's what he testified
21 to. He said he is an examiner of questioned documents, not a
22 handwriting expert.

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1 MR. KAY: Well, I think we have established by Sergeant
2 Fraser that this is what that means.

3 Q You are a handwriting expert, are you not?

4 A Yes. The term "handwriting expert" is part of
5 the job.

6 Q All right. Would you please relate your back-
7 ground and experience in the field of handwriting?

8 A Yes. For approximately nine years, I have
9 devoted my full time to the study and the examination of
10 questioned documents.

11 This takes in primarily the examination,
12 comparison and evaluation and identification of handwriting,
13 printings, typewriting, machine printings, business machine
14 impressions, and more -- papers and inks.

15 My training was under the supervision of the
16 departmental document examiner, who at that time was Mr.
17 William L. Bowman, B-o-w-m-a-n.

18 In addition, I have studied the books that are
19 generally regarded as the basic texts in the field of
20 questioned documents.

21 In addition to examining documentations for the
22 Sheriff's Department, I also examine cases for 39 other
23 police departments within the County of Los Angeles, for
24 various County agencies, such as the auditor's office,
25 the Coroner's Office, the Department of Public Social Services,
26 various other County departments.

27 Occasionally also for the District Attorney's
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1 Office and the Public Defender's Office.

2 I also examined documentations for various
3 agencies of the State of California, for the various agencies
4 of the Federal Government locally; and occasionally, at the
5 requests of various local courts.

6 Q Approximately how many times have you qualified
7 as a handwriting expert in the courts of the State of
8 California?

9 A I've testified a total of 263 times in Municipal
10 Courts, Superior Courts, United States District Courts,
11 before State Boards, Civil Service Boards, Grand Juries,
12 and Armed Forces Courts Martial.

13 In addition, I have maintained a library --

14 MR. DENNY: Well, just a moment. I'll move to strike
15 that as voluntary, and I would ask to strike the prior
16 question as not -- I mean, the prior answer as not responsive
17 to the question, the question being:

18 How many times he has qualified as an expert?
19 Not how many times he has testified.

20 THE COURT: The objection is overruled.

21 But the last sentence is stricken, regarding the
22 keeping of a library.

23 Q BY MR. KAY: All right. How many times specifically
24 have you qualified as an expert in the courts of the State of
25 California?

26 A 263 times.

27 Q All right, are you a member of the Questioned
28 Documents Section of the American Academy of Forensic Sciences?

6a-3

1 A Yes.

2 Q And what is that?

3 A That is an association of document examiners,
4 recognized by the American Academy of Forensic Sciences,
5 from throughout the world.

6 Q Approximately how many members are there of the
7 Questioned Document Section?

8 A 80.

9 Q And this is throughout the world?

10 A Yes.

11 Q Approximately how many questioned documents
12 have you examined over the past nine years?

13 A It would be a minimum of a thousand documents per
14 month, as an average.

15 Q Did you also write a guide on questioned
16 documents, that's used by law enforcement agencies in
17 California?

18 A Yes. In the southern part of California, at
19 least.

20 Q All right. What is the name of that document?

21 A It's entitled "Questioned Document Guide for
22 Investigators."

23 Q All right.

24 And you said something about you maintain a
25 library. What kind of library is this that you maintain?

26 A It is a library consisting of articles, of books,
27 of papers that are presented in the field of questioned
28 documents by recognized authorities in documents, from

1 throughout the world.

2 Q In other words, you keep your education current?

3 A Yes.

4 Q All right. And could you explain to the ladies
5 and gentlemen of the jury exactly what is a questioned
6 document?

7 A A questioned document generally is a document --
8 however, it could be a questioned writing of any sort, such
9 as writing on walls, doors or anything of that nature.

10 Generally, it's considered a writing or typewriting
11 about which there is some question as to its authorship or
12 origin.

13 Q And what is a known exemplar?

14 A A known exemplar is specimens of handwriting or
15 typewriting -- whatever the case may be -- that are presented
16 or obtained from an individual.

17 Q And --

18 A And that was witnessed by some other person.

19 Q In other words, that you know who made out the
20 exemplar?

21 A That's correct.

22 Q All right. Now, on the many occasions that you
23 have testified as an expert in the courts of the State of
24 California, did you make comparisons between questioned
25 documents and a known exemplar, to determine whether or not
26 the person who made the known exemplar also made the
27 questioned document?

28 A Yes.

1 Q Did you examine some questioned documents in this
2 case to determine who wrote them?

3 A Yes.

4 MR. KAY: May I have just a moment, your Honor?

5 THE COURT: Yes, you may.

6 (Pause in the proceedings while Mr. Kay perused
7 some exhibits.)
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1 Q BY MR. KAY: I think I have enough to keep
2 us busy for a while.

3 Now, Sergeant Campbell, directing your attention to
4 People's 55-A, 55-B, 55-C, these pawn tickets and redemption
5 tickets.

6 Did you examine the signatures -- now, first,
7 directing your attention to 55-A.

8 Did you examine the two signatures of Donald Shea
9 which are circled in red?

10 A Yes.

11 Q All right. And then, on the redemption ticket, on
12 53-A, did you examine the signature of Donald Shea which is
13 circled in red?

14 A Yes, I did.

15 Q All right. And then, directing your attention to
16 People's 55-B.

17 Did you examine the two signatures on the pawn
18 ticket of Donald Shea that are circled in red?

19 A Yes.

20 Q And on the redemption ticket, did you examine the
21 signature of Donald Shea which is circled in red?

22 A Yes.

23 Q Now, directing your attention to 55-C, the top
24 pawn ticket.

25 Did you examine the two signatures of Donald Shea,
26 which are circled in red?

27 A Yes, I did.

28 Q And on the redemption ticket; did you examine the

7-2

1 signature of Donald Shea?

2 A Yes.

3 Q Now, directing your attention to 57, 57-A.

4 Did you examine the two signatures of Donald Shea
5 which are circled in red?

6 A Yes.

7 Q And on 57-B, did you examine the two signatures of
8 Donald Shea which are circled in red?

9 A Yes, I did.

10 Q Now, I have a letter here which has previously been
11 marked as People's 64 which has been passed to the ladies and
12 gentlemen of the jury. It is addressed, "Dearest Niki," and
13 signed "Love always Don," and has a body of a letter; and have
14 you examined this letter?

15 A Yes, I have.

16 Q I have a check here which has previously been
17 marked as People's 71, a check pay to the order of Donald Shea
18 and signed "Jerry Binder."

19 Directing your attention to the endorsement on the
20 back of that check at the top where it says "Don Shea."

21 Have you examined that signature?

22 A Yes, I have.

23 Q Also, I have the original of the Leslie Salt
24 Company file.

25 May this be marked as People's next in order, your
26 Honor?

27 THE COURT: It would be marked 107 for identification.

28 MR. DENNY: We have a 107, your Honor.

1 THE COURT: Oh, excuse me. Then -- 107 -- the last one
2 I have --

3 MR. DENNY: 107 is the moon chart, moonrise-moonset.

4 MR. KAY: That's right. I think we did that last night
5 about the last thing --

6 THE COURT: All right, then this would be 108, right?

7 108 for identification, ladies and gentlemen,

8 MR. KAY: All right, thank you.

9 Q Now, I take it that you had had a chance in the
10 past to see the Xerox copy of the Leslie Salt file; is that
11 true?

12 A Yes.

13 Q And a couple of days ago at my request, did you
14 examine the original of the Leslie Salt, the file?

15 A Yes.

16 Q All right. And you examined the signatures on
17 that of Donald Shea along with the printed part in pencil on
18 the application for employment?

19 A Yes.

20 Q Now, with reference to the documents that I've
21 shown you and you've identified as having examined them, did
22 you examine them to determine whether or not the signatures
23 "Donald Shea" or "Donald J. Shea" on all these different
24 documents that you have identified were made by one and the
25 same person?

26 A Yes, I did.

27 Q And did you formulate an opinion as to whether or
28 not these documents were all made by one and the same person,

108 ID

1 the signatures on the documents?

2 A Yes.

3 Q What is that opinion?

4 A It is my opinion all the Shea signatures were by
5 the same person.

6 Q All right.

7 Now, directing your attention specifically to the
8 letter which I described as having been passed to the jury
9 before, did you have an occasion to compare the body of the
10 letter with the employment file from the Leslie Salt Company
11 and specifically the application for employment form that had
12 been filled out and signed by Donald Shea?

13 MR. DENNY: Just a moment, I'll object to that as
14 assuming facts not in evidence that it was filled out and signed
15 by Donald Shea.

16 MR. KAY: Well, --

17 MR. DENNY: The question assumes facts not in evidence.

18 THE COURT: Restate your question.

19 Q BY MR. KAY: All right.

20 Sergeant Campbell, you have just told us that the
21 signatures on the employment file, the "Donald J. Shea," are
22 the same as on the pawn tickets and on the letter; is that
23 right?

24 A Yes.

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Q All right, made by the same person.

Now, did you have an occasion to compare --

MR. DENNY: Just a moment, I'll object to that. He did not so testify.

MR. KAY: Yes, he did.

MR. DENNY: He said in his opinion they are. Not that it is a fact.

THE COURT: The objection is overruled.

Q Now, Sergeant Campbell, did you have an occasion to compare the printing on the application for employment with the -- which has been marked as part of People's 108 with the printing of the letter -- the letter that starts off, "Dearest Niki," and signed "Love always, Don," which is People's 64?

A Yes.

Q All right. And did you formulate an opinion as to whether or not the letter was written by the same person that filled out the application form?

A Yes.

Q What is that opinion?

A It is my opinion that the printing appearing on the application for employment and on the letter was made by the same person.

Q I need to get --

May I have a moment, your Honor? I have to get some more exhibits here.

THE COURT: Yes, you may.

(Whereupon, unrelated matters were called and

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1 heard before the Court.)

2 Q BY MR. KAY: Sergeant Campbell, did you also
3 examine some documents to determine whether or not the
4 signatures of Richard Alan Smith were signed by one and
5 the same person?

6 A Yes.

7 Q Okay. I have here People's 74, which is a
8 booking slip, which had previously been identified by
9 Deputy Sheehan.

10 Did you examine the two signatures on the front
11 of the booking slip "R. A. Smith" and "Richard Alan Smith"?

12 A Yes, I did.

13 Q I show you People's 50 -- or 74-A, another
14 booking slip, which on the back of it has two signatures
15 and looks like a black felt pen or something, "Richard A.
16 Smith" and "Richard A. Smith."

17 Did you examine those two signatures?

18 A Yes.

19 Q Now, I show you People's 72, a record of a gun
20 sale.

21 Did you examine the signature of "Richard A.
22 Smith" on this document?

23 A Yes, I did.

24 Q Now, I show you two pawn redemption slips,
25 57-C and -D.

26 Did you examine the two signatures first on
27 57-C, "R. A. Smith," on the front of the redemption slips?

28 A Yes.

1 Q 57-D on the front of the redemption slip where
2 it is signed "R. Smith"?

3 A Yes, I did.

4 Q All right. Now, did you formulate an opinion
5 as to whether or not the person that signed the two booking
6 slips, People's 74, signed it in the name of "Richard Alan
7 Smith" and "R. A. Smith," and People's 74-A, signed it
8 "Richard A. Smith" and "Richard A. Smith," whether or not
9 this person was the same person that signed the same
10 "Richard A. Smith" to People's 72 and signed the name
11 "R. A. Smith" to People's 57-C and signed "R. Smith" to
12 People's 57-D?

13 A Yes.

14 Q What is that opinion, sir?

15 A My opinion that all the Smith signatures were
16 made by the same person.

17 Q And the 72 which you -- strike that.

18 Your Honor, I have here a blow-up, a photographic
19 blow-up of 57-A and 57-C.

20 May this be marked as People's 109?

21 THE COURT: Marked as 109 for identification.

22 Q BY MR. KAY: Now, Sergeant Campbell, you've seen
23 People's 109 before, have you not?

24 A Yes.

25 Q All right. And is this, in fact, a blow-up of
26 People's 57-A and 57-C, the pawn slip and redemption slip?

27 A Yes, it is.

28 Q All right.

109 id.

1 Now, directing your attention to People's 57-C,
2 and above the signature of "R. A. Smith" in the space
3 where there's a space for the person redeeming the gun
4 to sign, you'll note that there's a penciled signature
5 in there; is that correct?

6 A Yes.

7 Q All right. And does that pencil signature also
8 appear on the blow-up of People's 57-C, which has now been
9 marked, the blow-up has been marked 109? Does that pencil
10 signature appear on the blow-up?

11 A Yes.

12 Q On this penciled signature there which appears
13 to be on 57-C and on the blow-up, the one I directed your
14 attention to which appears to be "Donald" -- some middle
15 initial -- would you tell the ladies and gentlemen of the
16 jury what, if anything, you notice unusual about that
17 signature, when you examined that?

18 MR. DENNY: Object to that as irrelevant and immaterial,
19 when he says it is "unusual."

20 MR. KAY: Well, your Honor --

21 THE COURT: It assumes facts not in evidence.

22 Q BY MR. KAY: Oh, okay, did you notice anything
23 unusual about that signature?

24 MR. DENNY: Object to that as vague and ambiguous as
25 to what's unusual.

26 MR. KAY: Well, Sergeant Campbell is a handwriting
27 expert.
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1 THE COURT: The objection is overruled.

2 You may answer.

3 THE WITNESS: Yes, I did.

4 Q BY MR. KAY: All right. And when you first
5 examined that, what did you notice that was unusual about the --
6 about the signature?

7 A Well, the first -- apparently, there has been an
8 erasure across the signature, the center portion of which was
9 almost obliterated by the erasure.

10 And secondly, there apparently had been some
11 difficulty in writing this signature, inasmuch as portions of
12 it had been over-written several times.

13 THE COURT: Did you say over-written?

14 THE WITNESS: Yes, sir.

15 Q BY MR. KAY: What do you mean by over-written?

16 A Well, for example, in the capital letter "D,"
17 there are three distinct writing lines, which indicates that
18 whoever did the writing had some -- for some reason -- had some
19 difficulty in forming the letter "D," for example.

20 Q Now, did you have an occasion to compare this
21 signature on 57-C and 109, this signature of Donald J. Shea,
22 with the other signatures of Mr. Shea that you have testified
23 to, with all -- well, with the other signatures of Donald J.
24 Shea that you said were made by one and the same person?

25 A Yes.

26 Q And did you formulate any opinion as to whether or
27 not this signature, on People's 57-C, and on the blowup,
28 People's 109, whether or not that was made by the same person

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1 that made the signatures on the other documents, and the letter,
2 and the application for employment file?

3 A Yes. I formed a qualified opinion regarding that
4 signature.

5 Q All right. And what was -- okay. First, I'll ask
6 you:

7 What was the opinion?

8 A It is my qualified opinion that the signature was
9 probably not the same -- not made by the same person who wrote
10 the other Shea signatures.

11 Q All right. And what do you mean by "qualified
12 opinion"?

13 A That the -- it is not as strong, of course, as
14 a positive conclusion. It's due primarily to the condition of
15 the document, and the condition of the signature itself.

16 Q You are talking about --

17 A So that I cannot --

18 Q -- the condition of the signature on 57-C?

19 A Yes.

20 Q In other words, it's not very clear?

21 A That's correct.

22 Q Now --

23 THE COURT: This would be a good time to recess.

24 How about 1:30, ladies and gentlemen? Would that
25 inconvenience anyone greatly?

26 (No affirmative response.)

27 THE COURT: All right. Let's make it 1:30.

28 During the recess, you are admonished that you are

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1 not to converse amongst yourselves nor with anyone else, nor
2 permit anyone to converse with you on any subject connected with
3 the matter, nor to form or express any opinion on the matter
4 until it is finally submitted to you.

5 I'll see you all at 1:30.

6 (Whereupon, at 12:03 P. M., an adjournment was
7 taken until 1:30 P. M. of the same day.)

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1 LOS ANGELES, CALIFORNIA, THURSDAY, FEBRUARY 10, 1972 1:40 PM

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3
4 THE COURT: The jurors are all present. The defendant
5 is present with his counsel. We're ready to proceed.

6 People.

7 State your name.

8 THE WITNESS: Herbert L. Campbell.

9
10 HERBERT L. CAMPBELL,
11 the witness on the stand at the time of the noon recess,
12 resumed the stand and testified further as follows:

13
14 DIRECT EXAMINATION (Continued)

15 BY MR. KAY:

16 Q Sergeant Campbell, I believe we were at the point
17 where I was going to ask you whether or not on 57-C, on this
18 redemption pawn ticket that you testified -- have been
19 testifying about, and the blowup of this 57-C which is the
20 right-hand portion of People's 109, on this signature that
21 says "Donald" -- some letter "Shea," did you note any
22 dissimilarities between the signature here, "Donald Shea,"
23 and the other signatures of Donald Shea?

24 A Yes.

25 Q All right. And would you please tell the ladies
26 and gentlemen of the jury what dissimilarities you noted?

27 A Well, the dissimilarities I noticed are the
28 differences in the form of the letters in the name "Donald

1 Shea." Primarily, the capital letter D in the exemplar
2 Shea signatures and all the other Shea signatures, as a
3 matter of fact -- the capital letter D is made with a --
4 in such a manner that the lower portion on the writing line
5 is a very narrow -- the narrow section of the letter, and it
6 gets a little larger as the writing line progresses upward.

7 In other words, it appears that it is an inverted
8 triangular shape of the letter, whereas the letter D on the
9 penciled letter D, and the penciled signature that has been
10 erased, is just the opposite. It is much heavier, much
11 wider at the base of the letter than at the top. Plus the
12 fact, as I stated before, that it has been overwritten at
13 least three times.

14 Further along in the signature it appears that
15 the writer possibly was unfamiliar with the spelling of the
16 name. At any rate, made an error and possibly omitting
17 either the L or the D. It is hard to determine exactly
18 which letter is over the other. But the L and the D are
19 superimposed. In other words, one is written on top of the
20 other.

21 Because of the condition of the document, it is
22 impossible to determine which happened first. This normally
23 wouldn't happen in a signature wherein a person is familiar
24 with writing the name.

25 And the last name Shea or what appears to be Shea,
26 the terminal letter A or what should be an a, at any rate,
27 appears actually to be a letter U. It is made in such a
28 manner that it is very wide, widely open at the top. In all

1 appearances is the letter U, and this does not occur on any
2 of the other Shea signatures.

3 Q What about the middle initial letter there, did
4 you notice anything unusual about that?

5 A Well, the letter, the middle initial, the
6 condition of the document at that point is so bad that it
7 wouldn't be possible to make any intelligent observation
8 there.

9 Q Showing you the blowup -- I notice when you've
10 just been testifying, you've been looking at the actual
11 document 57-C.

12 Now, on the blowup, does the middle part appear
13 any clearer where you could --

14 A It is slightly clear on the enlarged photograph.
15 Here, again the form of what should be the middle
16 initial J is not similar at all in comparison with the
17 other Shea signatures.

18 MR. KAY: Your Honor, at this point I would ask that
19 People's 57-A, -B, -C, -D, be received into evidence and
20 also People's 109 be received into evidence.

21 MR. DENNY: No objection. Also 55 series, A, B, and C.

22 MR. KAY: Right.

23 MR. DENNY: That they be received.

24 MR. KAY: 55-A, -B, and -C; 72; 71; and 64. 64 might
25 have -- that's the letter that was passed to the jury.
26 That might have been --

27 THE COURT: I don't believe it has been.

28 MR. KAY: I offer that into evidence, also.

1 MR. DENNY: No objection.

2 THE COURT: Those are all received into evidence.

3 MR. KAY: Your Honor, I would ask permission at this
4 time to pass the blowup, People's 109 to the members of the
5 jury so that they can look at the signature that Sergeant
6 Campbell has been testifying about.

7 MR. DENNY: Your Honor, I think that's a waste of
8 time at this point.

9 THE COURT: You may do so.

10 Just look at it very quickly and pass that on.

11 MR. KAY: The questioned signature is in red on
12 People's 109.

13 Thank you, I have no further questions, Sergeant
14 Campbell.

57A-D }
109 }
55A-C } Ev.
72 }
71 }
64 }

9a fls.

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1 THE COURT: You may cross.

CROSS

CROSS EXAMINATION

4 BY MR. DENNY:

5 Q Yes, Sergeant Campbell, when you say you have the
6 qualified opinion that this signature that appears on the
7 exhibit that has just been passed to the jury was probably not
8 made by the person making the other signatures, you say, where
9 those denominated Donald J. Shea, your testimony would be, then,
10 that it is possible that this signature that we're talking
11 about, the penciled signature, could have been made by the
12 same person; is that what you are also implying by that
13 qualified opinion?

14 A Well, in the realm that many things are possible,
15 I would have to say yes. But based on my experience and -- uh,
16 I would say it would probably not be.

17 Q Probably not, but it is still within the realm of
18 possibility?

19 A Yes.

20 Q Based on your observations?

21 A Yes.

22 Q Based on the fact that the writing that you have,
23 that penciled writing was a very poor sample to work on in
24 itself, is that right?

25 A Yes.

26 Q Looking at it realistically, though, and getting
27 out of the realm of possibilities, and based on your experience
28 and expertise in the field, Sergeant Campbell, would you say

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1 more likely that in your opinion it would constitute an
2 attempted forgery of the signature of Donald Shea?

3 A Yes, I would say that is possibly what would
4 account for the divergence in the writing signatures.

5 Q So although you are not willing as a writing expert
6 to say this is definitely a forgery because of the smudges and
7 the rest of it, nevertheless because of these things you have
8 told us about, the three strikes on the "D," the initial Donald
9 "D," the open "A" on the end, the other items that you mentioned,
10 it would be your opinion that it is probably an attempted
11 forgery, is that right?

12 A Yes.

13 Q All right, good.

14 Now, sir, would you go back and tell us again, a
15 questioned document broadly -- what does a questioned document
16 take in?

17 A Generally, it is any document about which there
18 is some question or dispute regarding its authorship or its
19 origin, presentation.

20 Q Well, you mentioned something about the fact that
21 in addition to determining the authorship, et cetera, you
22 deal in examination of inks, is that right?

23 A Occasionally, yes.

24 Q And the writing on things not only on paper but
25 on door jambs, I think you said, something of that kind; is that
26 right?

27 A Yes.

28 Q And what is the purpose of that?

1 A The purpose is to identify the writer, basically.

2 Q All right. Or to identify if something has been
3 written in a particular kind of ink? Is part -- let me with-
4 draw that question.

5 Is part of your expertise of the questioned
6 document expert the determination of the types of ink used in
7 making a writing?

8 MR. KAY: This appears to be irrelevant, your Honor.

9 MR. DENNY: It goes to his expertise.

10 MR. KAY: Outside the scope.

11 THE COURT: Overruled, you may answer.

12 THE WITNESS: Not generally. As far as inks are concerned,
13 generally a comparison is to the color of ink, the width of the
14 writing line, et cetera. The chemical analysis of ink we no
15 longer do.

16 Q Is that because with ballpoint pens it is almost
17 impossible to trace them anyway?

18 A Generally, because ballpoint inks nowadays are
19 manufactured in large vats and it would just be, usually, a
20 waste of time to try to pin it down to one particular pen.

21 Q Right. But you have received training, in the
22 course of your training, in the determination of the use of
23 different kinds of inks, is that right?

24 A I have conducted experiments previously under the
25 supervision of the head forensic chemist in the past, some
26 years ago.

27 Q And this was part of the training, to train you as
28 an expert in the field of questioned documents, is that right?

1 A Yes.

2 Q So that to become the -- one of the eight members
3 of the questioned document section of the Academy of Forensic
4 Sciences, is that right, the American Academy --

5 A I believe I said eighty.

6 Q Eighty?

7 A Eighty.

8 Q I'm sorry, I thought it was more exclusive. But
9 eighty is still good enough.

10 To become one of them, your qualifications had to
11 include not only that you be able to identify one signature,
12 questioned signature to an exemplar, but these other areas that
13 you have just discussed with us, is that right?

14 A Uh, well, not so much on the -- as far as ink is
15 concerned -- on the identity of ink. More realistically, I
16 would say, it would be a familiarization of the various inks
17 and the result of various chemical analysis and the manner in
18 which they are conducted. They have to have some background
19 in it.
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1 Q All right. And to determine whether something is
2 an ink versus a paint, or something like that?

3 A Yes.

4 Q Is that right?

5 A Not so much paint, no. Just ink. I have
6 nothing --

7 Q Or --

8 A -- at all to do with --

9 Q -- ink versus ball-point pen ink, or something
10 like that?

11 A I believe it's all with ball-point ink. There
12 are practically no fluid pen inks used much any more.

13 Q How about india ink?

14 A No. Just ball-point ink.

15 Q Well, you are familiar with india ink and writing
16 with india ink, aren't you?

17 MR. KAY: This appears to be irrelevant.

18 MR. DENNY: This goes to his expertise, your Honor, to
19 test his expertise.

20 THE COURT: Sustained.

21 Q BY MR. DENNY: Well, sir, would you tell us
22 again what a questioned -- strike that.

23 What an exemplar is?

24 A An exemplar is written material that has been
25 identified as having been written by a specific person -- or,
26 in the case of a typewriter, a specific machine.

27 Q And when you say "identified," what do you mean?

28 A Having been identified by someone who witnesses

10-2

1 the handwriting, or someone who is familiar with the hand-
2 writing, for example, a family member who has resided with
3 a person and is familiar enough with that person to know
4 what their handwriting is like -- (inaudible).

5 THE REPORTER: I'm sorry. What was the last phrase?

6 MR. DENNY: "Over a period of time."

7 THE WITNESS: Over a period of time.

8 Q BY MR. DENNY: All right. And Sergeant Campbell,
9 when documents are brought to you for a determination as to
10 the authorship of a questioned document, as compared with an
11 exemplar, a known writing, in the main they are brought with
12 some statement as to which is the exemplar; is that correct?

13 A Usually, yes.

14 Q In other words, you do not usually witness the
15 person making out the exemplar yourself? That's not the
16 normal course of events, is it?

17 A Not usually, no.

18 Q And in this case, you did not witness the making
19 out of any of these exemplars presented to you; is that
20 correct?

21 A That's correct.

22 Q All right. But you were told, were you, which
23 were the exemplars and which were the questioned documents?

24 A I don't believe these -- I was told specifically
25 that these were exemplars. I think -- as I recall, they
26 wanted signatures compared.

27 Q Well, when you say "Larry," you are talking about
28 Larry Sloan?

10-3

1 A No, no. I'm sorry. If I --

2 Q Well, didn't you --

3 A I said, when they submitted -- in other words,
4 the investigators.

5 Q Well, did you not just state, though, that when
6 Larry called --

7 A No. When they, I said.

8 Q I misunderstood you, then.

9 A No.

10 Q All right. When they called -- and is that Mr.
11 Kay or Mr. --

12 A No. Originally, it was at the request of
13 Sergeant Gleason, I believe, from homicide --

14 Q All right.

15 A -- Sheriff's Homicide.

16 Q And are you telling us, then, that as far as
17 you were concerned, when these documents were placed into
18 your hands, they all constituted questioned documents, as
19 far as you were concerned?

20 A I don't recall specifically, but I -- I believe
21 that I was shown a series of signatures and asked to compare
22 them.

23 And as I recall, I asked which ones would be
24 considered as exemplars.

25 Q Well, do you recall which ones were to be
26 considered as exemplars?

27 A Yes.

28 Q All right. Taking the specific exhibits in the

10-4

1 55 series, the 55-A, -B and -C, were you told that any of
2 those constituted exemplars, as distinguished from questioned
3 documents?

4 A Yes. As I recall, the Shea signatures on all
5 the pawn slips were -- were indicated as exemplar signatures.

6 Q All right. And in the 57 series, -A, -B, -C and
7 -D, was it indicated to you which were the exemplars and
8 which were the questioned documents?

9 A Yes. Here again, all the Shea signatures on
10a fls. 10 the pawn slips.

10a-1

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1 Q All of the Shea signatures?

2 A Yes -- with the exception, of course, of the one
3 that --

4 Q Well, the --

5 A -- on the Smith -- on the Smith pawn slip.

6 Q 57-C (indicating)?

7 A Yes, right.

8 Q All right. Now, in the 57-C and -D series, there
9 are two Smith signatures. Were those considered by you, or
10 presented to you as the questioned signatures? Or exemplars?

11 A No, they were submitted as questioned signatures,
12 and booking slip signatures were submitted as exemplar signa-
13 tures on the case of the Smith signatures.

14 Q And by the booking slip signatures, you refer to --
15 May we have those two, 74-A and --

16 MR. KAY: I think you have them in your hand -- oh, no.
17 Pardon me. Wait.

18 Here they are. 74-A and 74.

19 Q BY MR. DENNY: The signature on the booking slip,
20 "Richard A. Smith," on the bottom line, in People's 74, that
21 was considered -- or, presented to you as an exemplar?

22 A Yes. That's one of three. And "R. A. Smith" at
23 the top, to the right; "Richard Alan Smith," closer to the
24 center; and one at the bottom, which you just mentioned.

25 Q All right. And in 74-A, that was presented to you
26 as an exemplar, the two signatures that appear on the top and
27 the middle?

28 A Yes.

1 Q You had no independent knowledge yourself as to
2 specifically whether 74-A had been made in the presence of any-
3 one or not? You just took Officer Gleason's word for it that
4 that was made by a person writing the name "Richard A. Smith"
5 and it was witnessed by someone?

6 A Yes, that's correct.

7 Q And as far as this check here, People's 71, and the
8 endorsement on the back, was that presented to you as an
9 exemplar, or as a questioned document?

10 A I believe that was also an exemplar -- yes.

11 Q And who indicated to you that that was a known
12 signature or an exemplar?

13 A I believe the investigating officer, as far as I
14 can recall.

15 Q And a known signature or exemplar is one that has
16 been witnessed by someone, or as a signature which a family
17 member or someone close to the person can say is specifically
18 that of the known person?

19 A Yes.

20 Q All right. Now, sir, again, simply by way of
21 question on your expertise, if I may, there is a writing on this
22 particular negative --

23 MR. KAY: Well, your Honor, I'm going to object to this.
24 It's beyond the scope of direct, and --

25 MR. DENNY: This is on his expertise.

26 MR. KAY: -- and is irrelevant at this point.

27 MR. DENNY: It's to test his expertise.

28 THE COURT: You haven't put your question yet.

1 MR. DENNY: Yes, that's right.

2 Q Looking at the ink writing that appears -- the
3 letters -- that is, the numeral "6" -- if you are holding it
4 like this (indicating) -- as part of your training, experience,
5 and that experience which goes to establish your expertise, do
6 you have the expertise to determine, sir, whether that particular
7 letter or numeral would have been placed on that negative
8 before or after that negative was developed?

9 MR. KAY: Same objection, your Honor. Beyond the scope;
10 irrelevant.

11 THE COURT: Sustained.

12 MR. DENNY: May I take him as my own witness for this
13 purpose?

14 MR. KAY: We'd object at this point.

15 THE COURT: Well, after you finish your cross.

16 MR. DENNY: I've finished my cross.

17 THE COURT: All right.

18 MR. KAY: Well, I have redirect.

19 THE COURT: Redirect? Then, go ahead.

20
21 REDIRECT EXAMINATION

22 BY MR. KAY:

23 Q Sergeant Campbell, does it make any difference to
24 your opinion that the signatures of Donald Shea, the ones that
25 you said were the same, whether or not they are the same or not,
26 does it make any difference which is the exemplar and which is
27 the questioned document?

28 A Uh -- to some extent.

RED.

1 Q Well, what difference does it make?

2 A On the signature "Don" at the bottom of the
3 printed note --

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10b-1

1 Q Um-hmm.

2 A -- for example, if the name "Don," D-o-n, was
3 considered -- was to be considered as an exemplar, and all
4 the other signatures were to be considered questioned --
5 in other words, if the reverse were true than is presently,
6 it would be impossible to determine positively that the
7 "Donald Shea" signatures were the same handwriting as the
8 "Don."

9 Because in the exemplar "Don," you only have
10 three letters. You would have the strong possibility,
11 inasmuch as D-o-n is, of course, identical to all the
12 first parts of the signature "Donald Shea."

13 Q I see.

14 A But in this case, where it's -- where just the
15 opposite is true, and you have actually an abundance of
16 exemplar material, as opposed to one questioned --

17 Q And you are saying again that the signatures that
18 you examined, the "Donald Shea" signatures, excluding
19 People's 57-C, the questioned signature, that the other
20 Donald Shea signatures are -- were all made by the same
21 person; is that right?

22 A Yes.

23 Q All right. And the "Richard Alan Smith"
24 signatures that you examined, they were all made by the
25 same person; is that correct?

26 A Uh -- yes. All the Smith signatures were made
27 by the same writer.

28 Q All right.

10b-2

1 A I couldn't say for -- I don't want to confuse
2 the issue by intimating that there is a possibility that the
3 Shea signatures and the Smith signatures could be by the same
4 writer.

5 I am saying that all the Shea signatures are
6 by the same person writing "Shea," and all the Smith
7 signatures are again by some person writing "Smith."

8 MR. KAY: All right. May we approach the bench for
9 a moment, your Honor?

10 THE COURT: Yes, you may.

11 MR. DENNY: Well, does counsel have any further
12 examination? Because I have a little recross, if he's
13 finished.

14 THE COURT: Recross?

15 MR. DENNY: Yes, before we approach the bench.

16 MR. KAY: Okay. No, I don't.

17 THE COURT: All right. Go ahead.

18
19 RECROSS-EXAMINATION

20 BY MR. DENNY:

21 Q Sergeant Campbell, again on the very last
22 statement you have made, you are not saying, I assume --
23 well, let's not say what you are not saying; let's see if
24 we can get what you are saying.

25 The signatures, "Richard Alan Smith," were all
26 made by the same person, as far as your opinion goes?

27 A Yes.

28 Q You'd state that as an expert opinion?

10b-3

1 A Yes.

2 Q All right. And when you express an opinion as
3 an expert opinion, you are expressing your opinion; you are
4 not expressing fact; is that right?

5 A Yes.

6 Q All right. And the signatures of Donald J. Shea--
7 or "Don Shea" or "Don" -- other than the penciled signature,
8 you say, in your opinion were all made by the same person;
9 right?

10 A Yes.

11 Q All right. Then, taking the penciled signature
12 on 57-C, you can't form an opinion -- is that true -- as
13 to whether or not the person who wrote "Richard Alan Smith"
14 wrote that penciled signature?

15 A That's correct, yes.

16 Q All right. And the writing, right underneath that
17 penciled writing, of "R. A. Smith," or "R. Smith," whichever
18 it is on 57-C, you have no way of knowing, because the
19 penciled signature appears to be an attempted forgery,
20 whether the person writing "R. A. Smith" or "R. Smith" below
21 the penciled signature was the one who attempted to forge
22 the signature of "Donald J. Shea" in pencil; is that right?

23 A That's right. There's no way you can determine
24 that.

25 Q All right. You are not excluding that as a
26 possibility?

27 A No.

28 MR. DENNY: All right. I have nothing further, other

10b-4

10c fls.

1 than my examination, which I assume is what we want to
2 approach the bench about.
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(Whereupon, the following proceedings were had at the bench among Court and counsel, outside the hearing of the jury:)

MR. KAY: The People would object to having Mr. Denny interrupt the People's case at this time. Sergeant Campbell is downtown. He's available at all times.

I think that, certainly, when we have out-of-State witnesses, we haven't objected when Mr. Denny has attempted to call them, to examine them, as his own witnesses.

But I think there should be a certain integrity to the People's case, and that they should be allowed to present their case without interruption -- and especially, when the witness is available at all times.

THE COURT: Well, I think it will be relatively short. It's only one subject, isn't it?

MR. DENNY: That's right, your Honor. Three minutes.

MR. KAY: Well, also, I think with Sergeant Campbell, that Mr. Denny has some -- has to make some arrangements to pay him an expert witness fee or something.

I mean, he's calling him as an expert, and I think that he should allow at least Sergeant Campbell to discuss it with him before.

MR. DENNY: I am perfectly willing for the Court to pay him whatever the Court feels is proper as an expert witness fee, if the Court feels that that is proper.

I don't think it's going to come out of my pocket in any event. And if the Court feels that it is proper, under these Acircumstances, to pay him --

1 THE COURT: I'll permit you to ask him -- I'll permit
2 you to alter the order of proof.

3 MR. DENNY: Thank you, your Honor.

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

7 THE COURT: On another subject, aside from what you've
8 heard on direct and cross, the Court is permitting the
9 defendant to present evidence.

10 (Pause in the proceedings while a discussion
11 off the record ensued at the witness stand between
12 Mr. Denny and the witness.)

13
14 HERBERT L. CAMPBELL
15 called as a witness by and on behalf of the defendant, having
16 been previously duly sworn, resumed the stand and testified
17 further as follows:

18
19 DIRECT EXAMINATION

20 BY MR. DENNY:

21 Q Sergeant Campbell, I've given you the opportunity
22 to look through a 10-power jeweler's loupe here at the
23 negatives numbered 5 and 6, in Defendant's Exhibit B.

24 I wonder, after having had just this short
25 opportunity to do so, under these lighting conditions, and
26 with that particular instrument, whether you are able to
27 form any opinion as to whether or not the numbers, "5" and
28 "6," that appear on the two negatives, appear to have been

1 made with some sort of ink?

2 A I would have no opinion regarding the numbers,
3 on such a cursory examination.

4 You'd have to have, No. 1, better lighting;
5 better magnification equipment.

6 I'd generally use a Zeiss microscope, with about--
7 oh, up to 40 power, if needed.

8 I doubt if they -- or, on an examination like
9 this, whether a low power would be beneficial at all.

10 Q All right. So that without taking the documents
11 and subjecting them to such microscopic examination, you
12 could not -- you say it would take expert testimony, with
13 expert equipment, to determine, one, whether those numbers
14 were put on with ink; and two, whether they were put on
15 before or after the negatives were processed; is that correct?

16 A Yes.

17 MR. DENNY: All right. May we approach the bench,
18 your Honor?

19 THE COURT: Yes, you may.

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

23 MR. DENNY: Your Honor, at this time, I would renew
24 my request to have either Larry Sloan or Sergeant Campbell--
25 either one -- appointed by the Court, to make the necessary
26 microscopic examination, under proper conditions, so's to
27 determine whether in fact the numbers on the negatives in
28 Exhibit B were indeed put on with india ink or some such ink,

1 and were placed on either before or after the development
2 of the negatives.

3 And if I may, your Honor, I will get the testimony
4 of Sergeant Christansen, in which he said specifically,
5 without equivocating -- and I can cite it to the Court
6 by page and line number -- that these numbers were put on
7 before the pictures were taken.

8 And it is extremely relevant and material to the
9 defense of the case, and to the --

10 THE COURT: Why is it relevant? I can't see that it's
11 relevant, or that it's --

12 MR. DENNY: It goes to the basis for his opinions,
13 his expert opinion, your Honor.

10d fls.

10d-1

1 MR. KAY: Well, he said that they have -- he didn't
2 base his opinion on those things.

3 THE COURT: That's true.

4 MR. DENNY: Your Honor, it goes to his trustworthiness
5 as a witness. His credibility is in issue as a witness.

6 And he's stated -- and I would like to put it into
7 the record; I can get it right from my briefcase, where --

8 THE COURT: Well, the record speaks for itself.

9 MR. DENNY: All right. Well, it was cited by Mr. Kay,
10 two earlier statements that he had made, that he wasn't sure;
11 but finally, on redirect, he stated without equivocation that
12 these numbers were placed on the negatives before the pictures
13 were ever taken; and that the reason we only have four views
14 instead of six views of the bullets is because that they were
15 pre-numbered, serially, and that that is why two and three are
16 the same and five and six are the same.

17 Now, your Honor, his credibility is in issue as an
18 expert. And under these instructions the jury will get, the
19 jury may ignore the testimony of an expert, or give it the
20 weight to which they feel it's entitled, based upon his
21 credibility, his expertise and his credibility.

22 And this goes directly to his credibility.

23 MR. KAY: Number one, I think it's irrelevant; and
24 number two, Sergeant Christensen's testimony was that he didn't
25 put them on anyway; that Sergeant Warner did; and that he
26 didn't.

27 MR. DENNY: Well, your Honor, may I have just a moment
28 to get the transcript? It will take --

10a-2

1 THE COURT: No, The Court doesn't believe that it's
2 material.

3 The Court believes that it's of such a minor
4 nature that it shouldn't consume Court or Counsel's time.

5 MR. DENNY: Your Honor, I cannot --

6 THE COURT: The Court has -- has also looked at those
7 negatives, and has said before that it -- it is something which
8 does not appear to be a matter of expert testimony.

9 MR. DENNY: That's why I had this witness --

10 THE COURT: Excuse me.

11 MR. DENNY: I'm sorry, your Honor.

12 THE COURT: You are asking for the appointment of an
13 expert.

14 MR. DENNY: That is correct.

15 THE COURT: And the Court -- the Court has stated -- and
16 I think that it's obvious that it can be determined, without
17 expertise, in respect to it -- that the ink is on a negative,
18 and that it's been placed on the negative after the development
19 of the negative.

20 MR. DENNY: Well, your Honor, if the People will stipulate
21 to that, fine. But you say "What is obvious." This witness
22 says -- who is the supposed expert --

23 MR. KAY: Keep your voice down.

24 MR. DENNY: -- that he can't. And he is an expert,
25 your Honor.

26 MR. KAY: Mr. Denny --

27 MR. DENNY: He is an expert, and he can't tell.

28 THE COURT: The Court is not going to take the time to --

10d-3

1 MR. DENNY: Your Honor, it's not going to take time.
2 This man can take these negatives right now, submit them to
3 examination, and come in on Monday and testify.

4 And this is all I am asking.

5 THE COURT: And testify --

6 MR. DENNY: Testify that these numbers -- if in fact it
7 is true -- were put on after the negatives were developed.

8 THE COURT: The Court believes that --

9 MR. DENNY: Well, is the Court going to instruct the
10 jury that anyone can tell that the numbers have obviously been
11 put on after they have been developed?

12 MR. KAY: Obviously not.

13 MR. DENNY: Well, if the Court is going to so instruct,
14 that's fine. Or if the People are going to so stipulate.

15 But unless the Court is going to instruct the
16 jury to that effect, or unless the People are going to
17 stipulate, I have the right to put on evidence.

18 MR. KAY: I think it's --

19 MR. DENNY: And I have the same right to get experts
20 as the People do, your Honor, to establish that evidence.

21 And this witness has said that, as an expert he
22 can't tell.

23 THE COURT: It's of such minor importance that it is
24 really insignificant.

25 MR. DENNY: Your Honor, let me just, if I may, make the
26 point as to how significant this is.

27 This is the only demonstrative evidence, short of
28 the testimony of Ella Bailey, that connects my client with the

1 Hinman murder, that bullet. And if the jury believes --

2 THE COURT: Let's proceed,

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

5 THE COURT: Anything further?

6 MR. KAY: I have no questions.

7 MR. DENNY: In view of the Court's ruling, I have nothing
8 further, your Honor.

9 MR. KAY: May Sergeant Campbell be excused?

10 THE COURT: Yes, he may be excused.

11 THE WITNESS: Thank you.

12 MR. MANZELLA: The People will call Sergeant Whiteley,
13 your Honor.

14 THE CLERK: Do you solemnly swear that the testimony you
15 may give in the cause now pending before this court shall be
16 the truth, the whole truth, and nothing but the truth, so help
17 you God?

18 THE WITNESS: I do.

19
20 PAUL J. WHITELEY,

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

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DIRECT EXAMINATION

BY MR. MANZELLA:

Q Sergeant Whiteley, for a few questions, I would like to direct your attention to the physical search about which you've already testified, of Spahn Ranch and the surrounding areas which you directed.

During the course of portions of that physical search, did you observe the presence of cameras and camera crews of local television network stations?

MR. DENNY: I'll object to that as irrelevant and immaterial.

THE COURT: Sustained.

MR. MANZELLA: I would like to approach the bench and make brief argument, your Honor.

THE COURT: All right, you may.

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

MR. MANZELLA: The People's offer of proof is that there was publicity given to the physical search, which was disseminated among the public, through the media;

And that -- that is one more piece of circumstantial evidence that Shea is dead, because it would be reasonable to infer that had he been alive, he would have seen the publicity, and that -- or heard about it; and that he would have made his existence and presence known.

The fact that the case received --

MR. DENNY: Well, your Honor --

10a-2

1 MR. MANZELLA: Or, that the physical search for Sham
2 was publicized, --

3 THE COURT: Well, I can't --

4 MR. MANZELLA: -- I believe, is highly relevant. It's
5 a complete distinction between this kind of a situation and
6 the situation in which no one is aware, other than close
7 friends or something, of a physical search for a person, or
8 a search for a person.

9 I think it's highly relevant.

10 In the Devins case --

11 THE COURT: I can't see that --

12 MR. MANZELLA: -- it was admitted.

13 THE COURT: -- that your question concerning the camera
14 crews would have --

15 MR. MANZELLA: All right. I can ask him the direct
16 question.

17 THE COURT: Yes.

18 (Continuing) -- any significance, any relevance,
19 because I suppose everyone knows that pictures are taken.
20 Whether they're eventually shown --

21 MR. MANZELLA: All right.

22 THE COURT: -- on television, perhaps, I don't know.

23 MR. MANZELLA: All right. I'll --

24 THE COURT: Or whether all of them are, I don't know.

25 MR. MANZELLA: I'll ask him, then, if this will --
26 if portions of the physical search conducted and directed by
27 him were given publicity in the -- on television and over
28 the radio and in the newspapers.

11 fls.

11-1

1 THE COURT: Well, does he know that?

2 MR. MANZELLA: Yes.

3 THE COURT: Does he know?

4 MR. MANZELLA: Yes.

5 MR. DENNY: Well, your Honor --

6 THE COURT: Will you stipulate to that?

7 MR. MANZELLA: Everybody knows, if the Court wants to
8 take judicial notice of it. I don't know how I could even
9 ask the Court to take judicial notice or frame a stipulation.

10 THE COURT: It is difficult to do, because these people
11 on the jury have been weeded out, but we do know from what we
12 have heard from the jury about it there was some publicity
13 about that search.

14 MR. DENNY: Well, your Honor, my only objection to it is
15 this: I don't think merely by virtue of the fact that the
16 search for Shea's body was publicized, necessarily then it
17 is circumstantial evidence that he would have made himself
18 known under those circumstances. Obviously, if he is dead by
19 other than criminal means, he couldn't have made himself known.

20 And they're going to say it therefore must be that
21 he would have made himself known unless he was dead by
22 criminal means.

23 MR. MANZELLA: That's not true.

24 MR. DENNY: And that's the inference you are supposed to
25 draw from this publicity. And it may well be Mr. Shea wanted
26 to disappear under some circumstances and, by God, wasn't going
27 to show up. There's all sorts of inferences that may be
28 drawn and I think it is irrelevant and it gets into the area of

1 where the prejudicial effect outweighs the probative value as
2 far as what you are going to be arguing from this evidence
3 that there was any such publicity.

4 MR. MANZELLA: Mr. Denny is wrong in only two parts.

5 The first part is that we're trying -- is that the
6 evidence --

7 MR. DENNY: I'm getting a lot better.

8 MR. MANZELLA: -- is that the evidence we would offer
9 would show that Shea is dead by criminal means. That's not
10 true. That proof of the death can be separate and completely
11 apart from proof of the agency which caused the death. This
12 is some evidence of the death. It is no evidence -- possibly,
13 it might not be evidence of criminal agency as a result of
14 that death, but it is evidence of death.

15 MR. DENNY: Not necessarily of death.

16 MR. MANZELLA: Secondly, when he says the fact there
17 are other interpretations that make this evidence irrelevant,
18 that's not true, of course. If there could be a reasonable
19 interpretation that this was circumstantial evidence of his
20 death, then, it is admissible. And I submit the fact that
21 the search for Shea was publicized is evidence of -- is
22 circumstantial evidence of his death and is, therefore,
23 relevant.

24 In the Devins case, the publicity disseminated
25 throughout Europe for the whereabouts of -- publicity
26 disseminated throughout Europe for the whereabouts of --
27 publicity disseminated throughout Europe with regard to the
28 death or the disappearance of the woman that was the victim

1 in the Davins case was admitted into evidence on exactly the
2 same point.

3 THE COURT: Well --

4 MR. MANZELLA: And I'm not sure in the L. Ewing Scott
5 case or not.

6 THE COURT: The Court believes --

7 MR. MANZELLA: Yes, I believe it was.

8 THE COURT: The Court believes your point is well taken.
9 I think that you can argue that. It is, as Mr. Denny says,
10 susceptible to other argument, however.

11 MR. MANZELLA: Uh-huh.

12 THE COURT: And the point is, your offer of proof must
13 meet with the rules of evidence.

14 MR. MANZELLA: That wasn't the objection. The objection
15 was relevance. That's why I'm arguing relevance. That was the
16 objection.

17 MR. DENNY: I think if the Court is going to rule that
18 evidence of the publicity that was had in connection with this
19 is relevant, then, that it's probative value is not out-
20 weighed by its prejudicial effect.

21 THE COURT: The Court would so rule.

22 MR. DENNY: Well, then, certainly Whiteley can say what
23 he was aware of from personally having seen television
24 pictures of the digging up of the ranch. I agree with the
25 Court, the mere fact that there were cameras out there does not
26 mean that those things were shown.

27 THE COURT: That's what I mean.
28

1 MR. DENNY: Well, that's part of my objection.

2 But if he wants to ask if he personally saw
3 television and newspaper articles --

4 THE COURT: All right, for whatever that may be --

5 MR. DENNY: For whatever it may be worth, yeah.

6 THE COURT: All right.

7 Oh, incidentally --

8 MR. MANZELLA: Uh-huh.

9 THE COURT: -- I'm not sure this last man called was a
10 man who could --

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1 MR. MANZELLA: Campbell.

2 MR. DENNY: Campbell.

3 THE COURT: Campbell, thank you -- would be a person
4 who could properly testify to what you seek from him.

5 MR. DENNY: Well, then I'll ask the court to appoint
6 Larry Sloan who I think is --

7 THE COURT: Well, Larry Sloan is another examiner for
8 questioned documents.

9 MR. DENNY: For the District Attorney's Office.

10 THE COURT: Would a photographer --

11 MR. DENNY: Beg pardon?

12 THE COURT: Wouldn't an expert in the field of
13 photography be better able to tell whether that number is
14 superimposed on the negative or whether or not it is a
15 part of the picture?

16 MR. DENNY: He very well might be able to, your Honor.
17 If the Court would appoint an expert in the field of
18 photography, that would be fine.

19 THE COURT: If I find one, I may do it.

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

23 THE COURT: The People may proceed.

24 MR. MANZELLA: Thank you, your Honor.

25 Q BY MR. MANZELLA: During the course of your --
26 strike that,

27 During the course of the physical search of
28 Spahn Ranch and the surrounding areas which you directed,

11a-2

1 were you personally aware of publicity disseminated through-
2 out the various news media, that is, television, radio and
3 newspapers concerning your efforts to locate the body of
4 Donald Jerome Shea?

5 A Yes.

6 Q And was there publicity disseminated regarding
7 your physical search over television?

8 A Yes.

9 Q And was there publicity regarding your physical
10 search disseminated over radio?

11 A Yes.

12 Q Was there publicity regarding your physical
13 search disseminated throughout the local newspapers?

14 A Yes.

15 Q Directing your attention to the photographs which
16 have been marked People's 61-A through J for identification,
17 which shows the white Mercury Comet. Have you seen that
18 vehicle before?

19 A Yes, I have.

20 Q When did you first see that vehicle?

21 A December 8, 1969.

22 Q Where did you see that vehicle?

23 A The vehicle was parked on -- on Independence just
24 north of Gresham Street.

25 Q And in what city is that?

26 A I don't know whether it is Chatsworth or Canoga
27 Park in there.

28 Q And was that near the intersection of Gresham

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1 Street and Independence Street?

2 A Yes, it was.

3 Q Now, sometime after you saw the -- first saw the
4 vehicle at that location, did you cause pictures to be taken
5 of the vehicle and of the location?

6 A Yes.

7 Q And directing your attention to the photographs
8 which are in front of you, People's 61-A through J, were
9 you present when those photographs were taken or did you
10 direct that those photographs be taken?

11 MR. DENNY: I'll object to that as a compound question.

12 Q BY MR. MANZELLA: Did you direct that those
13 photographs be taken?

14 A Yes.

15 Q And at what location was the vehicle at the time
16 those photographs were taken?

17 A Where we found it parked, southbound on
18 Independence Street, on the west side of the street.

19 Q All right. And do you recall the date on which
20 those photographs were taken?

21 A Yes, on December 9.

22 Q The following day?

23 A Yes.

24 Q I meant the day following the day that you first
25 saw the vehicle at the location.

26 A Yes.

27 Q You understood that, didn't you?

28 A Yes.

11a-4

1 Q All right.

2 A Yes.

3 MR. MANZELLA: Your Honor, I have here a series of
4 photographs. I don't know if they've been marked here or
5 not. They've previously been marked People's 82-A through F.

6 THE COURT: Yes, they have heretofore been marked.

7 MR. MANZELLA: I have here two black and white
8 photographs previously marked People's 81-A and -B.

9 May they be so marked at this proceeding?

10 THE COURT: So ordered.

11 Q BY MR. MANZELLA: All right, Sergeant Whiteley,
12 directing your attention to People's 82-A through F for
13 identification, do you recognize what is shown in those
14 photographs?

15 A Yes.

16 Q And what is that?

17 A This is the approximate location of where we
18 found the vehicle as well as the intersection of Independence
19 and Gresham Street.

20 Q Do you recall the date on which those photographs
21 were taken?

22 A No, sir, I don't. It was quite a while later
23 that the photographs -- these general photographs were taken.

24 Q All right.

25 The area, general topography, the area shown in
26 the photographs, is it the same as shown in the photographs
27 as it was when you found the vehicle, when you saw the
28 vehicle at the location on December 8 and 9, 1969?

1 A Yes, it appears generally the same.

2 Q All right. Are there any major or significant
3 differences between the topography shown in the photograph as
4 it was on December 8 or 9, as you are able to recall at this
5 time?

6 A No.

7 Q Now, directing your attention to People's 81 for
8 identification.

9 Do you recognize the area shown in these two
10 photographs?

11 A Yes, I do.

12 Q Would you tell us what is shown in those two
13 photographs, People's 81?

14 A Also the general area where the vehicle was found
15 and the intersections of Gresham Street and Independence.

11b fls.

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1 Q And are those aerial photographs?

2 A Yes, they are.

3 MR. MANZELLA: Your Honor, I have here what appears to be
4 a diagram of the -- showing various streets and other markings
5 in the area of Independence and Gresham Street. The inter-
6 section of Independence and Gresham Street, previously been
7 marked People's 83.

8 May that be so marked for identification at this
9 proceeding?

10 THE COURT: So ordered.

11 Q BY MR. MANZELLA: Sergeant Whiteley, directing
12 your attention to -- if you would hold that just for a moment.

13 Directing your attention to People's 83 for
14 identification.

15 Do you recognize what is shown on that diagram?

16 A Yes.

17 Q What is that?

18 A The relationship of Spahn's Movie Ranch to the
19 intersections of Gresham and Independence where the vehicle
20 was found.

21 Q All right. And what are the various markings
22 contained on the photograph -- strike that -- contained on the
23 diagram?

24 MR. DENNY: Well, object to that, they speak for them-
25 selves.

26 MR. MANZELLA: Well, I'm not sure that they do. That's
27 why I'm asking the question.

28 THE COURT: Sustained.

83 ID

11b-2

1 Q BY MR. MANZELLA: All right. Does that diagram
2 accurately reflect the relationship of the various streets
3 which it purports to show on the diagram?

4 A Yes.

5 MR. DENNY: Your Honor, may I take the witness briefly
6 on voir dire on that?

7 THE COURT: Yes, you may.

8 VOIR DIRE
9 DENNY

10 VOIR DIRE EXAMINATION

11 BY MR. DENNY:

12 Q Mr. Whiteley, just -- is that a scale drawing?

13 A I don't know whether it is or not. I didn't
14 prepare it myself.

15 MR. DENNY: Well, I'll object to its use, then, for
16 the purpose, apparently, it is going to be used for unless it
17 is shown to be a scaled drawing, because it purports to be a
18 diagram of the relationship between Spahn's Ranch and where
19 the car was found, et cetera, and if it is not drawn to scale,
20 it cannot purport to show that relationship accurately.

21 MR. MANZELLA: Your Honor, Sergeant Whiteley has
22 testified -- strike that.

23 May I ask the question?

24 Q BY MR. MANZELLA: Sergeant Whiteley, are you
25 familiar with the relationship of the various streets and the
26 distances from the intersection of Independence and Gresham
27 Streets and Spahn Ranch?

28 A Yes.

Q Does -- do those relationships, shown in that

1 diagram, People's 83 for identification, appear to accurately
2 reflect -- are those relationships accurately reflected in that
3 diagram?

4 MR. DENNY: Objection, no foundation. He can't answer
5 that.

6 MR. MANZELLA: He says he's familiar with them, your
7 Honor.

8 THE COURT: Overruled. You may answer.

9 MR. DENNY: Your Honor, he said he didn't prepare it.

10 THE COURT: Overruled, he may answer it. He doesn't
11 have to prepare it if it is before him and he knows the
12 streets.

13 MR. DENNY: If he knows the scale.

14 THE COURT: If he knows the streets.

15 You may answer.

16 THE WITNESS: Yes.

17 MR. MANZELLA: People will offer it in evidence at this
18 time.

19 MR. DENNY: Object to its receipt. Object to testimony
20 concerning it.

21 THE COURT: The objection is overruled.

22 You may proceed.

23 Q BY MR. MANZELLA: Now, Sergeant Whiteley, will you
24 step down off the witness stand, please, and using this
25 pointer, tell us first of all is the area in which you found
26 the white Mercury Comet shown in People's 61-A through J; is
27 that the area shown in the diagram People's A through J?

28 A Yes.

1 Q Would you point it out, please?

2 A It is where the black dot is at the end of the red
3 arrow.

4 Q And are you aware of the distance from the location
5 at which the vehicle was found as shown in People's 83, the
6 distance from there to Spahn Ranch?

7 A Yes.

8 Q And approximately what is that distance?

9 A It is approximately five miles.

10 Q All right, thank you, Sergeant Whiteley. You can
11 take the stand again.

12 Now, Sergeant Whiteley, directing your attention
13 to the six color photographs which have been marked People's
14 82-A through F for identification.

15 In particular, that photograph which has been
16 marked People's 82-B for identification.

17 Can you tell us how far from the house shown in
18 that photograph you found the vehicle shown in People's 61?

19 A From the property as shown in this photograph,
20 at its northeast corner, to where the car was found, would be,
21 perhaps, one hundred and seventy-five, one hundred-twenty-five
22 to one hundred-seventy-five feet.

23 Q And would you point out the -- well, strike that.

24 Does the area in which you found the car itself
25 specifically show in any of these photographs marked People's
26 82?

27 A Yes.

28 Q And would you -- is that shown in -- is that area

1 shown in People's 82-D, as in dog, for identification?

2 A Yes, with the square, with my initials in it.

3 Q And is the direction in which the vehicle was
4 facing shown in that photograph?

5 A Yes, it is indicated by the arrow at the rear of
6 the box.

llc fol

11c-1

1 Q The direction of the arrow is the direction in
2 which the car was facing?

3 A Yes.

4 Q Now, directing your attention to another photograph
5 in that series, People's 82-E for identification.

6 Is the location at which you found the car, the
7 vehicle, shown specifically, and is it marked in that photo-
8 graph?

9 A Yes.

10 Q How is it marked in that photograph?

11 A By another green square and an arrow pointing in
12 the direction the vehicle was parked.

13 Q All right. And directing your attention now to
14 another photograph in that series which is People's 82-F
15 for identification.

16 Is the location at which -- the specific location
17 at which you found the vehicle shown in that photograph?

18 A Yes.

19 Q How is it marked?

20 A The same way, with the green square and my
21 initials and the arrow.

22 Q Now, directing your attention to the photograph
23 which has been marked People's 82-C for identification, and
24 in particular to the house which is shown in -- apparently
25 it is the only house shown in the photograph, to the left
26 of the photograph.

27 Does the -- would you tell us where you found the
28 vehicle in relationship to the house as it is shown in that

11c-2

1 photograph, People's 82-C?

2 A It would be, as looking at this photograph,
3 directly in the rear of the house. It would be on the other
4 side.

5 Q All right. And what street are we looking at
6 in the foreground of this photograph?

7 A You're looking at Gresham Street.

8 Q And is the intersection of Gresham and Independence
9 Street shown in the photograph?

10 A Yes, there's a green line showing the approximate
11 location where Independence intersects Gresham.

12 Q All right.

13 Your Honor, at this time I would offer People's
14 82-A through F in evidence, if they have not already been
15 so offered?

16 MR. DENNY: No objection.

17 THE COURT: They're received, 82-A through F.

18 MR. MANZELLA: All right, if I may, with the Court's
19 permission, I would like to give these to the members of the
20 jury for their quick examination of the photographs.

21 MR. DENNY: Your Honor, I believe this is taking a lot
22 of time, looking at the exhibits at this point, your Honor,
23 but I don't think it's really necessary.

24 MR. MANZELLA: The photographs are easily seen in the
25 folder. They are rather small. That's why I asked to pass
26 them throughout the jury and the members of the jury, I
27 would think, could pass them along rather quickly. They're
28 easily read.

82A-F Ev17

11c-3

1 THE COURT: All right, if you would do that.

2 Q BY MR. MANZELLA: Now, the house which you have
3 shown, which is already identified in the color photographs,
4 People's 82, is that house, the location of that house shown
5 in People's 81-A and -B the two black and white aerial
6 photographs?

7 A Yes.

8 Q And is it marked in any way in those photographs?

9 A Yes, in photograph A, it is marked with a circle
10 and "Vance House."

11 And then, photograph B, it says "Vance house."

12 Q All right. And is the location at which you
13 found the vehicle shown in photograph B of People's 81?

14 A Yes, it is.

15 Q How is it -- is it marked in any way?

16 A Yes. There is an X, my initials "PW" and a
17 green arrow.

18 Q And does that X show where the vehicle -- where
19 you discovered the vehicle?

20 A Yes.

21 Q Does the arrow show the direction in which the
22 vehicle was facing in which you discovered it?

23 A Yes.

24 Q Now, Sergeant Whiteley, after you discovered the
25 vehicle, did you -- strike that.

26 Sometime after you discovered the vehicle, did
27 you make a search of the vehicle?

28 A Yes.

11c-4

1 Q Do you recall the date on which you made a search
2 of the vehicle?

3 Strike that.

4 Let me ask you this, did you make a search of
5 the vehicle at the location where you discovered it?

6 A Yes, somewhat of a search.

7 Q A cursory search?

8 A Yes.

9 Q All right. And did you cause that vehicle to be
10 moved from that location to another location sometime after
11 you discovered it?

12 A Yes.

13 Q Do you recall the person who moved the vehicle?

14 A The Calabasas Towing Garage or Garage and Towing
15 Service.

16 Q All right. And was the vehicle towed somewhere?

17 A Yes, it was, to the Calabasas Garage.

18 Q And did you later at the Calabasas Garage make
19 a more complete search of the vehicle?

20 A Yes.

21 Q Now, do you recall the date on which you caused
22 the vehicle to be towed?

23 A December 9, 1969.

24 Q Now, before you caused the vehicle to be towed
25 from the location, and during your examination of the vehicle
26 at the location, where you discovered it, would you tell us
27 what you were able to observe at the location about the
28 condition of the car?

1 A The vehicle was extremely dirty.

2 MR. DENNY: Your Honor, I think this has been asked and
3 answered previously on direct examination, prior direct
4 examination.

12 fls. 5 MR. KAY: No, it hasn't.

12-1

1 THE COURT: I can't recall.

2 Overruled. You may answer.

3 THE WITNESS: The vehicle was extremely dirty. It appeared
4 that it had been there for quite some time.

5 Q BY MR. MANZELLA: Do you recall whether the windows
6 of the vehicle, at the time you discovered it, were opened
7 or closed? Or any of them opened or closed?

8 A Yes.

9 Q And what do you recall about that?

10 A The right front window on the passenger side was
11 open.

12 Q Now, I don't recall if I asked you this or not.
13 You stated that you caused some photographs to be taken of the
14 vehicle.

15 Where were those photographs taken?

16 A At the location where the vehicle was found.

17 Q All right. Now, directing your attention now
18 specifically to the photographs -- that's People's 61-A through
19 J -- do these photographs actually depict the location
20 and condition of the contents of the vehicle at the time that
21 you found it?

22 A No. The -- the dust and dirt all over the car is
23 rather bleached out in these photographs.

24 Q All right. Were these photographs taken in the
25 evening or at night?

26 A Yes, they were.

27 Q Approximately what time, if you recall?

28 A Somewhere around 9:00 o'clock.

12-2

1 Q In the evening?

2 A In the evening.

3 Q All right. Now, with regard specifically to the
4 contents of the vehicle, and just the location of those
5 contents, do those photographs, People's 61-A through J
6 accurately show the location of the contents of the vehicle?

7 A Yes.

8 Q Sergeant Whiteley, directing your attention to the
9 keys and the key ring which have been marked People's 62 for
10 identification, have you ever seen those before?

11 A Yes. These keys were found underneath the driver's
12 seat, on the floorboard.

13 Q And did you find them?

14 A Yes.

15 Q And did you use any of those keys in an attempt to
16 activate the -- the ignition in the vehicle?

17 A Yes.

18 Q And were you successful in activating the
19 ignition?

20 A I was unable to start the vehicle.

21 Q Did the key turn in the ignition switch?

22 A Yes.

23 Q Did you get any response whatsoever when you turned
24 the key in the ignition switch, if you recall?

25 A Uh -- I believe that the -- something -- a solenoid
26 clicked.

27 Q Were you able to start the car with the key?

28 A No.

1 Q Directing your attention to --

2 Your Honor, I have here what appear to be a number
3 of negatives -- or, a strip -- two strips of negatives.

4 May we have them marked People's 78 --

5 THE COURT: So ordered.

6 MR. MANZELLA: -- for identification?

7 Q Sergeant Whiteley, directing your attention to the
8 letter which has been marked People's 64 for identification,
9 have you seen that letter before?

10 A Yes.

11 Q And when and where did you first see it?

12 A December the 10th, 1969, at the Calabasas Garage.

13 Q And did you discover that as a result of your
14 search of the vehicle?

15 A Yes.

16 Q And where did you find that letter?

17 A I believe this was in one of the footlockers in
18 the trunk.

19 Q Directing your attention to these negatives which
20 have been marked People's 78 for identification, have you ever
21 seen those negatives before?

22 A Yes.

23 Q And when and where did you first see them?

24 A December the 10th, at the Calabasas Garage, in the
25 trunk of the vehicle.

26 Q Were the negatives themselves in any container,
27 in the trunk of the vehicle? Or were they lying loose in the
28 trunk, if you recall?

2278 ID

1 A It seems that they were in a white, plain envelope.

2 Q All right.

3 Now, Sergeant Whiteley, directing your attention
4 to the two trunks which are off to the right of the witness
5 stand, which have previously been marked People's 65-F and --
6 -F and -G, I believe, have you seen these trunks before?

7 A Yes.

8 Q And when and where did you first see them?

9 A December the 9th, on Independence Street, where I
10 found the vehicle, in the trunk of the car.

11 Q I take it, then, at the time you were at the
12 location where you found the vehicle on December 9th, you did
13 open the trunk?

14 A Yes.

15 Q And those -- the two footlockers, 65-F and -G,
16 were in the trunk of the vehicle at that time?

17 A Yes.

18 Q And is the location in the trunk of the vehicle,
19 as you've found it, accurately shown in People's 61-I for
20 identification?

21 A Yes.

22 Q And sometime after you discovered the vehicle, and
23 before you caused it to be removed from the scene, did you
24 call a fingerprint man or a man from your latent print -- the
25 Latent Fingerprint Section of the Los Angeles County Sheriff's
26 Office to the scene?

27 A Yes.

28

12a fol

12a-1

1 Q And did he come to the location where you found
2 the vehicle, or to some other location?

3 A Where we found the vehicle.

4 Q All right. And at that time, did he dust the
5 vehicle for fingerprints, possible latent fingerprints?

6 A No.

7 Q What was the condition of the vehicle at that time,
8 as far as whether or not it was wet or dry?

9 A It was -- she -- she stated it was too wet, so
10 we had it towed to the garage and put under cover.

11 Q Now, directing your attention to People's 64,
12 the letter that you say you -- you found that in one of the
13 footlockers?

14 A Yes.

15 Q And the footlockers to which you are referring,
16 those are People's 65-F and -G; is that correct?

17 A Yes.

18 Q All right. Now, sometime after the car was
19 towed to the Calabassas Garage, did you again cause a man
20 from the latent print section of your office to go out to
21 the Calabassas Garage?

22 A Yes.

23 Q And were you present when he arrived?

24 A No.

25 Q Were you present during any part -- if any --
26 of his examination of the vehicle? If you recall?

27 A I don't remember him being there.

28 Q All right. Fine. Now, Sergeant Whiteley, let

12a-2

1 me ask you this: Do you recall whether or not the vehicle
2 had an ignition light? In other words, a light which goes on
3 when the key is placed in the ignition switch and the key
4 is turned?

5 A Yes.

6 Q Did that light go on when you turned the keys,
7 about which you've testified, when you turned one of those
8 keys in the ignition switch?

9 A Yes.

10 MR. MANZELLA: May I have just a moment, your Honor?

11 THE COURT: Yes, you may.

12 (Pause in the proceedings while Mr. Manzella
13 produced his notes.)

14 Q BY MR. MANZELLA: All right. Sergeant Whiteley,
15 if you would, perhaps you can see from the witness stand, and
16 you don't have to get down.

17 Directing your attention to -- I am going to open
18 People's 65-G.

19 Perhaps you'd better get down.

20 I would like you to just look briefly through the
21 contents and tell us whether or not the contents, as they are
22 now -- in other words, the items which are in the footlocker
23 now appear to have been in the footlocker when you discovered
24 it in the trunk of the vehicle.

25 A (Pause, while the witness examined the contents
26 of the footlocker.) Yes.

27 Q Does there appear to be anything in the footlocker--
28 that is 65-G -- which was not in there when you discovered the

12a-3

1 vehicle? Other than evidence envelopes and the string used
2 to tie the bundles together, --

3 A No.

4 Q -- does there appear to be any?

5 All right. Directing your attention to --
6 directing your attention briefly, if you will, to the
7 contents of People's 65-F for identification, if you'll
8 look through those just briefly?

9 A (Witness complies.)

10 Q Sergeant Whiteley, the contents you see in the
11 footlocker now -- that's People's 65 -- I believe I said it
12 was -G --

13 MR. DENNY: -F.

14 MR. MANZELLA: I'm sorry. People's 65-F.

15 Q (Continuing) Do those contents appear to be
16 the same contents which were there when you discovered the
17 footlocker in the trunk of the vehicle?

18 A Yes. They're the general type of clothing.

19 Q All right. Does there appear to be any items
20 in there which were not in there when you discovered the --
21 that footlocker, other than string and evidence envelopes,
22 that sort of thing?

23 A No. There seems to be a pair of pants missing
24 out of here that -- striped pants like mine.

25 Q All right.

26 MR. DENNY: May the record reflect -- those pants
27 on Sergeant Whiteley, your Honor?

28 THE COURT: Yes. The record may show that they're

12a-4

1 striped trousers of some type.

2 Let's just refer to them by reference, however,
3 without taking them into custody.

4 (Laughter.)

5 MR. DENNY: About quarter inch stripes, though, if
6 the record may reflect, dark and light strips of about a
7 quarter of an inch in width.

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

9 Are they flared, Sergeant?

10 THE WITNESS: Yes.

11 Q BY MR. MANZELLA: Sergeant Whiteley, directing
12 your attention to this pair of black pinstripe slacks that
13 I've removed from People's 65-F, do these appear to be the
14 trousers that you were speaking of?

15 A No, I remember those. There's another pair that
16 were very bright.

17 THE COURT: We'll recess now, ladies and gentlemen.
18 You have been sitting for about an hour and a half.

19 I will give you a recess.

20 During the recess, you are admonished that you
21 are not to converse amongst yourselves, nor with anyone else,
22 nor permit anyone to converse with you on any subject
23 connected with the matter, nor to form or express any opinion
24 on it until it is finally submitted to you.

25 About 15 minutes.

26 (Mid-afternoon recess.)

13 fls.

1 THE COURT: The defendant is present with counsel. All
2 the jurors are present. You may proceed.

3 MR. MANZELLA: Your Honor, I'm not sure People's 83, the
4 diagram, has been received in evidence. The People so offer it
5 into evidence if it has not been received.

6 THE COURT: It has not yet been.

7 MR. DENNY: There was the objection I raised on that,
8 your Honor, since it was not a scale diagram.

9 THE COURT: Yes.

10 Do you know how far it is from the top of that
11 diagram to the bottom in miles on the ground?

12 THE WITNESS: From the extreme top to the extreme
13 bottom?

14 THE COURT: Yes.

15 THE WITNESS: It is approximately five miles, I believe,
16 up and down.

17 MR. DENNY: Well, your Honor --

18 THE COURT: You're simply showing the -- strike that.
19 The relationship of the streets on the map is the same as the
20 relationship on the ground, is that what you said?

21 THE WITNESS: That's correct.

22 MR. DENNY: Your Honor, I would be willing to offer to
23 stipulate at this time, that based on my examination of the
24 1969 of the Thomas Brothers Los Angeles County Maps -- and my
25 measurement there the scale provided -- that the distance from
26 Spahn Ranch to --

27 MR. MANZELLA: Your Honor, Mr. Denny has not spoken to
28 me about this stipulation. I would appreciate it if he would

1 speak to me first.

2 THE COURT: I believe it is true, it is not to scale, but
3 it does show the relation of the streets to each other. For
4 that purpose the Court would admit it. The relationship of the
5 streets to each other and the relationship of Spahn Ranch and
6 other locations.

7 If you do have -- you two can, if you wish, offer
8 a stipulation.

9 MR. MANZELLA: First, your Honor, People would offer
10 People's 83 into evidence.

11 THE COURT: All right, it is received.

12 MR. MANZELLA: All right, thank you.

13 Q BY MR. MANZELLA: Now, Sergeant Whiteley, directing
14 your attention again to the photograph which is People's 61-I
15 for identification. That shows the two footlockers in the
16 trunk of the vehicle.

17 Can you tell us which footlocker is shown in the
18 photograph is which footlocker as the footlockers are here in
19 the courtroom?

20 A Yes. The one that is on my left over here is the
21 one that is to the left in the photograph.

22 Q All right.

23 Now, when you say to the left over here, are you
24 referring to People's 65-F, this footlocker (indicating)?

25 A Let me see the top.

26 Yes.

27 Q You're saying People's 65-F is which footlocker in
28 the photograph?

83 rec

1 A The furthest one away, the one on the left.

2 Q All right. Would you mark an F on that footlocker,
3 please.

4 And the footlocker on the right, then, is People's
5 65-G, is that correct?

6 A Yes.

7 Q All right. And would you mark, and have you marked
8 a G on that footlocker?

9 A Yes.

10 Q You've marked an F on the footlocker on the left,
11 is that right?

12 A Yes.

13 MR. MANZELLA: Your Honor, I have here --

14 Q All right, and you did that on People's 65-I, I
15 believe, is that correct, Sergeant Whiteley?

16 A Yes.

17 MR. MANZELLA: Your Honor, I have here seven magazines
18 which were previously marked collectively People's 84 in a
19 prior proceeding. May they be so marked for identification at
20 this proceeding?

21 THE COURT: Yes, 84 for identification.

22 Q BY MR. MANZELLA: Now, Sergeant Whiteley, showing
23 you the seven magazines which have been marked collectively
24 as People's 84 for identification.

25 Do you recognize these magazines?

26 A Yes.

27 Q And when and where did you first see them?

28 A In the trunk of the vehicle on December the 9th.

84 ID

1 Q 1969?

2 A 1969.

3 Q Now, Sergeant Whiteley, I would like to direct your
4 attention to this blue suitcase, which has been marked People's
5 65-H for identification.

6 Have you seen this suitcase before?

7 A Yes.

8 Q And when and where did you first see it?

9 A At the Los Angeles Police Department Homicide
10 Bureau.

11 Q All right. And directing your attention to the
12 contents -- if you would step down and just briefly look through
13 the contents of the suitcase, would you tell us whether or not
14 the contents of the suitcase, as they are now, generally appear
15 to be the same contents that were in the suitcase when you
16 first saw it?

17 A Yes.

18 Q All right.

19 Is there anything which, to your knowledge, has been
20 removed from the suitcase since you first saw it?

21 A Yes.

22 Q What is that?

23 A Checks, a check protector. I can't remember any-
24 thing else.
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13a fol

13a-1

1 Q All right. And can you tell us what was done
2 with those items?

3 A They were kept at the Los Angeles Police Depart-
4 ment for further investigation.

5 Q All right. And directing your attention to
6 People's 54, a brown attache case.

7 Have you seen this before?

8 A Yes.

9 Q When and where did you first see this?

10 A At the same time that I saw the other case.

11 Q The blue suitcase which you've just identified?

12 A Yes.

13 Q All right. And directing your attention, if you
14 would, briefly to the contents of the attache case, People's
15 54 as they are now.

16 Generally do those appear to be the same contents
17 which were in the attache case at the time you first saw it?

18 A Yes.

19 Q Sergeant Whiteley, one last question.

20 Directing your attention again to People's 83.

21 Does the house which is shown in the photographs
22 which you've already identified, does that -- is that house
23 marked in any way on the diagram, People's 83?

24 A Yes.

25 Q Would you come down off the witness stand,
26 please, and show us, using the pointer?

27 A It is the green X (indicating).

28 Q Does that X mark the location of the house?

13a-2

1 A Yes.

2 Q That is the house which you've identified in
3 these photographs, People's -- the 82 series?

4 A Yes.

5 Q Thanks. You can resume the stand.

6 All right, thank you, Sergeant Whiteley. I
7 have no further questions, your Honor.

8 THE COURT: Cross-examination, Mr. Denny.

9 MR. DENNY: Yes.

10
11 CROSS-EXAMINATION

12 BY MR. DENNY:

13 Q Sergeant Whiteley --

14 May I approach the witness a moment?

15 THE COURT: Yes, you may.

16 Q BY MR. DENNY: I want to show you page 20 of
17 the copy of the Sheriff's homicide manual in connection with
18 this case.

19 Are you familiar with that?

20 A Yes.

21 Q What is that report?

22 A It is the report of the Los Angeles Police
23 Department in recovering this property up in Independence.
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14 fls.

14- 1

1 Q All right. And I note that it shows the
2 contents of particular items found in "suitcase" or
3 "briefcase"?

4 MR. MANZELLA: Your Honor, excuse me. I would object
5 on the grounds that it appears that this is hearsay, if we
6 are reading into the record material from the report.

7 THE COURT: It would appear to be so. Sustained.

8 Q BY MR. DENNY: Well, when you first saw these
9 items -- that is, the blue suitcase and the attache case --
10 did you check the LAPD property report, to see that the
11 items listed on their report were in the two suitcases --
12 that is, the suitcase and the attache case -- which the
13 property report reflected were in those two?

14 A No.

15 Q You just took whatever was in them from the
16 custodian of these two items -- the attache case and the
17 suitcase -- and took them over to the Sheriff's homicide?

18 A That's right.

19 Q So that you don't know, then, whether during the
20 course of their rummaging through -- well, strike that.

21 Do you know whether they rummaged through them
22 or not?

23 MR. MANZELLA: Objection. It's vague and ambiguous,
24 your Honor.

25 THE COURT: Do you know whether any of the officers
26 of the LAPD homicide looked into the interior of the attache
27 case and the blue suitcase, before you got them?

28 THE WITNESS: Yes.

14-2

1 Q BY MR. DENNY: And do you know whether they
2 changed the location of any of the items from the attache
3 case into the suitcase, or vice versa?

4 A No, I do not know that.

5 Q Do you know how long they had these two items,
6 the attache case and the suitcase, before you got them?

7 A I think I'd better clear something up here.
8 When the property was found and reported to us, it was also
9 reported to the Los Angeles Police Department, and one of
10 our deputies, along with a Los Angeles Police Department
11 representative, went to Independence and brought it back
12 together.

13 Q I see. So that then, if a report was made up,
14 whether it was made up on the LAPD form or on the Sheriff's
15 form, it didn't matter, as far as what form was used? This
16 was a joint venture of the Sheriff's Department and the LAPD;
17 is that right?

18 A That's correct.

19 Q All right. So that then, that which was reported
20 and appears in the Sheriff's manual as having been found by
21 the Sheriff, and the LAPD representative in the attache
22 case, is reflected in that report, on page 20 and following;
23 is that right?

24 A Yes.

25 Q And that which was found by this joint venture
26 of the Sheriff's Department and the LAPD in the blue suitcase
27 would be reflected in the property report made out concerning
28 that which was found in the blue suitcase; is that right?

14-3

1 A Yes, I would assume so.

2 Q All right. Now, is there some way of determining
3 from the report -- that report does reflect, does it not,
4 both the items found in -- that is, the Donald Shea attache
5 case and the blue suitcase?

6 MR. MANZELLA: Your Honor, I would object on the
7 grounds that it calls for hearsay, --

8 THE COURT: Sustained.

9 MR. MANZELLA: -- in that there's no foundation for the
10 use of it as a business record.

11 Q BY MR. DENNY: Well, Sergeant, are you familiar
12 with the manner, form, preparation of property reports by
13 the Sheriff?

14 A Yes, sir.

15 Q And by the Los Angeles Police Department?

16 A Yes, sir.

17 Q And how are those reports made out, sir?

18 A You itemize whatever you are going to put into
19 the property custodian's office.

20 Q If somebody -- something has been found, you
21 specifically inventory that, put it on a report, along with
22 the DR number, other information about where it was found,
23 at cetera, on the top portion of the report, and then
24 itemize the items found, as a form of inventory; is that
25 correct?

26 A Yes.

27 Q And are the officers making it up -- who are
28 making it out -- are they noted on the bottom, and generally

14-4

1 one or more sign? Is that correct?

2 A Yes.

3 Q And is the form the same -- or, is the procedure
4 the same in the LAPD as with the Sheriff?

5 A Substantially.

6 Q And this property report, this three pages
7 which appears on pages 21 and 22 in the Sheriff's homicide
8 manual, do you know whether that was made out in that manner
9 and in that form, as you've just described it?

10 A Yes.

11 Q Again, then, does the form here indicate
12 whether or not the attache case alone was found, or the
13 suitcase also, --

14 MR. MANZELLA: Objection, your Honor --

15 Q BY MR. DENNY: -- in the inventory?

16 MR. MANZELLA: I'm sorry. Withdraw the objection.
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14a fls.

14a-1

1 THE WITNESS: (Indicating) Yes, it shows that both the
2 attache case and the suitcase were found.

3 Q BY MR. DENNY: All right. Now, is there anything
4 in the report which shows -- well, to go back just one moment.

5 Does the report, to your knowledge, set out those
6 items which were found in each of the two bags here, the attache
7 case and the suitcase?

8 MR. MANZELLA: Objection, your Honor. If it's being
9 sought to be introduced as a business record, the record
10 speaks for itself.

11 THE COURT: Sustained.

12 Q BY MR. DENNY: All right. Is there a way for you
13 to determine, from looking at the records, Sergeant Whiteley,
14 which items were found in the attache case, and which items
15 were found in the blue suitcase?

16 A No.

17 Q In making out such an inventory, where you have two
18 different bags, two different containers, containing property,
19 is it not normal or usual practice to make on the property
20 report some notation, as to where or in which container certain
21 property came from?

22 MR. MANZELLA: Objection. That's argumentative and
23 irrelevant.

24 THE COURT: Sustained.

25 MR. DENNY: It's not argumentative, your Honor.

26 THE COURT: The objection is sustained.

27 Q BY MR. DENNY: Well, Sergeant Whiteley, in your
28 opinion, when you make out a property report where you are

14a-2

1 attempting to show the source of -- well, strike that. In
2 making out a property report, is it the usual practice in the
3 Sheriff's department to attempt to show the source of property,
4 as to the container it was found in? If it was found -- if a
5 number of pieces of property were found in one container?

6 MR. MANZELLA: Objection. It's irrelevant.

7 THE COURT: Sustained.

8 Q BY MR. DENNY: Well, sir, is there any written
9 documentation at all in existence that you know of -- not just
10 someone's memory, but any written documentation -- as to what
11 was found in which of these two items, bags, the attache case
12 and the suitcase?

13 MR. MANZELLA: Objection. It's irrelevant whether there
14 is, your Honor.

15 THE COURT: Sustained.

16 MR. DENNY: Well, your Honor, it's -- it goes to
17 credibility of this witness, who said he knows which was in
18 which bag here.

19 I think this is perfectly proper cross examination.

20 THE COURT: Did you make any notes of such matters,
21 Sergeant?

22 THE WITNESS: No, I did not.

23 THE COURT: The objection is sustained.

24 Q BY MR. DENNY: Well, sir, there was a nightgown,
25 a two-piece pink nightgown. Where was that located?

26 A I --

27 MR. MANZELLA: Objection. It assumes a fact not in
28 evidence, your Honor.

1 THE COURT: Sustained.

2 MR. DENNY: Well, I would like to have the record intro-
3 duced, then, as a business record, your Honor, as Defendant's
4 next in order.

5 MR. MANZELLA: The People have no objection to this being
6 marked for identification.

7 We would object to its introduction at this time,
8 on the grounds that there is no foundation for it.

9 MR. DENNY: I think the foundation has been established,
10 your Honor.

11 THE COURT: Sustained. I'll permit it to be introduced --
12 strike that. I will permit it to be marked for identification.
13 It would be Defendant's X for identification.

14 MR. DENNY: Your Honor, may I have it stipulated that
15 the clerk make photocopies of three pages here, from my own
16 records --

17 THE COURT: What is it, a three-page police report?

18 MR. DENNY: A three-page police property report of the
19 Los Angeles Police Department, DR 69-620323.

20 THE COURT: Is there such a stipulation?

21 MR. MANZELLA: I don't think Mr. Denny finished his
22 stipulation, your Honor.

23 MR. DENNY: That the clerk may have this three-page
24 document photocopied and return my own copy to me, and
25 substitute the photocopy of the document marked for identifica-
26 tion,

27 MR. MANZELLA: So stipulated.

28 MR. DENNY: Thank you, sir.

X ID

1 Q BY MR. DENNY: All right. Again, to your knowledge,
2 was a pink two-piece nightgown in either one of those two
3 exhibits, the attache case or the suitcase?

4 A I don't recall.

5 Q And were checkbooks containing 25 checks printed
6 in the name of Dwayne E. Schwarm, 7340 Northeast Sandy Road,
7 Portland, California, found in the attache case?

8 MR. MANZELLA: Your Honor, excuse me. I believe that
9 would call for speculation on the part of the witness,
10 depending on what Mr. Denny means by "found."

11 It's vague and ambiguous as to time, your Honor.

14b fol

14b-1

1 Q BY MR. DENNY: Did you see them there, in the
2 attache case?

3 A I saw them in one of the cases. I don't remember
4 what was in -- I remember the ink eradicator being in the
5 attache case, and I remember a drill bit in the suitcase.

6 The checks, though -- there were checks in both
7 of them. And I don't recall which ones were in the attache
8 case and which were in the gray suitcase.

9 Q All right. How about an envelope with the address,
10 "Dwayne E. Schwarz, 1109 West Victory Boulevard, rear,
11 Burbank, Calif. Zip, 91502."

12 Do you know whether that was in either the
13 attache case or the blue suitcase?

14 A Can I have the address again?

15 Q 1109 West Victory Boulevard, Burbank, Calif.

16 A Yes.

17 Q Which one was that in?

18 A I don't remember, but it was in one of them.

19 Q How about cash register tapes? Dated October
20 3rd, with the name Dale's, and the amount of \$21.23; and
21 the cash register tape from Continental Markets, receipt,
22 dated October 3rd, 1969?

23 A I don't recall that.

24 Q You don't recall them being in either one?

25 A That's right.

26 MR. DENNY: May I approach the witness, your Honor?

27 THE COURT: Yes.

28 Q BY MR. DENNY: Showing you page 2 of the Exhibit,

14b-2

1 Item 24, does that refresh your recollection?

2 A No.

3 Q How about checks drawn on the Spahn Movie Ranch,
4 all made out with check protector, all dated October 3rd,
5 1969, "Pay to the order of William Rex Cole"?

6 It's got down here "Cox."

7 A It's "Cole, C-o-l-e".

8 Q You do remember seeing those?

9 A Yes.

10 Q And with the signature of George C. Spahn?

11 A Yes.

12 Q How about a key from the Tahiti Motel, 951
13 Sepulveda Boulevard, in Sepulveda, California? Do you
14 recall that one?

15 A No, I do not recall that.

16 Q Well, is it your testimony that it -- are you
17 saying that you are sure it was not in one of these two
18 bags? Or you just simply do not recall having seen it?

19 A The latter.

20 Q You simply do not recall specifically having seen
21 it?

22 A That's correct.

23 Q Well, in the course of your investigation,
24 Sergeant Whiteley, did you attempt to run down the names of,
25 for instance, Bill Vance, or Danny DeCarlo, at the Tahiti
26 Motel, 951 Sepulveda Boulevard, in Sepulveda, California?

27 A No, I did not.

28 Q Or Dwayne Schwarm? Or William Rex Cole?

14b-3

1 MR. MANZELLA: Objection. It's irrelevant.

2 THE WITNESS: At that address?

3 MR. MANZELLA: Excuse me. I object on the grounds that
4 it's not relevant.

5 THE COURT: Sustained.

6 MR. DENNY: Your Honor, if the Court please, I believe
7 it's relevant to his earlier testimony, on the subject of
8 his attempts to contact various people in connection
9 with this case.

10 THE COURT: All right. I'll permit the question.

11 Q BY MR. DENNY: Did you attempt to locate, in
12 the course of your investigation, sir, either a Dwayne
13 Schwarm or a William Rex Cole, through the records of the
14 Tahiti Motel, 951 Sepulveda Boulevard in Sepulveda, California?

15 MR. MANZELLA: Objection. The question is compound,
16 your Honor, whether he tried to locate the people, and
17 whether he located them at a specific location?

18 THE COURT: Overruled. You may answer.

19 Q BY MR. DENNY: Did you try to locate --

20 A Those are not two people. They're one person.

21 Q Well, that's --

22 A To start with.

23 Q That's actually Bill Vance; is that right?

24 A Yes.

25 Q Or William Van Sickle?

26 A Yes.

27 Q All right. Did you attempt to locate him at
28 the -- or by means of a review of the records of the Tahiti

1 Motel, 951 Sepulveda Boulevard?

2 MR. MANZELLA: Objection. It's not relevant.

3 THE COURT: Sustained.

4 Q BY MR. DENNY: Were the checks also made out to
5 a Diane Marie Von Han, V-o-n H-a-n?

6 A Yes, I believe so.

7 Q Did you make any effort, in your investigation,
8 to locate Diane Marie Von Han?

9 A Yes. I spoke to her several times.

10 Q All right. Did you arrest her, sir?

11 MR. MANZELLA: Objection. It's not relevant.

12 THE COURT: Sustained.

13 Q BY MR. DENNY: In the course of your work as a
14 police officer, you determined that all of these checks that
15 you found were forged documents; is that correct?

16 MR. MANZELLA: Objection. It calls for hearsay.

17 THE COURT: Sustained.

18 Q BY MR. DENNY: Well, did you --

19 That's not hearsay.

20 Did you check to determine, sir, whether the
21 checks listed in Item 26, drawn on the Spahn Movie Ranch,
22 dated October 3rd, 1969, "Pay to the order of William Rex
23 Cole," all for \$137.35, did you check to determine that
24 the signature appearing on those checks "George C. Spahn,"
25 was his signature?

26 MR. MANZELLA: Objection. It's irrelevant.

27 MR. DENNY: Again, it goes to --

28 THE COURT: Overruled. You may answer.

29 THE WITNESS: Yes.

15-1

1 Q Did you determine whether he had or not?

2 MR. MANZELLA: Objection, it calls for hearsay.

3 THE COURT: Sustained.

4 Q BY MR. DENNY: Did you make any effort, other than
5 speaking to him, to determine whether it was his signature or
6 not?

7 MR. MANZELLA: Objection, it is irrelevant.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: No, I did not.

10 Q BY MR. DENNY: Based on your investigation, did you
11 determine that they were forgeries?

12 MR. MANZELLA: Objection, calls for hearsay.

13 THE COURT: Sustained.

14 Q BY MR. DENNY: And there was a certificate of
15 ownership for a 1955 Mercury, serial number 55LA3825AM, and a
16 registration slip for the same vehicle for 1967; is that
17 correct?

18 MR. MANZELLA: Excuse me, my only objection is I don't
19 understand what the question is. It is vague and ambiguous.

20 Q BY MR. DENNY: In one of these two containers, the
21 attache case or the blue suitcase, is that correct?

22 A Does it have the registered owner's name or the
23 legal owner's name?

24 Q No, it doesn't. Item 35.

25 A I don't recall it.

26 Q Well, is it your testimony you simply do not
27 remember seeing it or you're saying for sure it was not there
28 or these were not there since they appear to be two items?

15-2

1 A The former.

2 Q And there was a green cord belt; do you remember

3 that?

4 A No, I don't.

5 Q In neither one of these two items?

6 A No, sir, I cannot recall.

7 Q Or a cloth bag containing cufflinks?

8 A I don't recall those either.

9 Q And ear plugs for a transistor radio?

10 A Possibly that was in one of them. I remember some-

11 thing with a wire.

12 Q How about a white shawl?

13 A Yes, I believe there's one in there.

14 Q In the blue suitcase?

15 A I can't recall which one it is in.

16 Q And a package of Rizla, R-i-z-l-a, licorice

17 paper, cigarette paper?

18 A Yes, I recall that. It is in one of them.

19 Q Do you remember which one?

20 A I believe it was in the attache case.

21 Q And a ledger with ten checks between the pages,

22 drawn on the H. B. Irwin Plumbing Company, made out to Dwayne

23 E. Schwara, all for \$113.35, and all dated 9-26-69?

24 A Yes, I recall that, and I believe it was in

25 the suitcase.

26 MR. DENNY: Your Honor, at this time I would ask that

27 the property report be received into evidence.

28 MR. MANZELLA: People would object on the grounds there

1 is no foundation for its introduction as a business record,
2 your Honor.

3 THE COURT: Sustained.

4 Q BY MR. DENNY: Now, Sergeant, this record -- when --
5 strike that.

6 When was it that you received the two containers
7 here, the pieces of luggage, the attache case and the suitcase?

8 A It seems that it was in February of 1970.

9 Q Approximately February 20?

10 A It seemed to me it was a little later than that.

11 Q Well, would looking at the property report refresh
12 your recollection as to the date that you received it?

13 A I can come within a day.

14 Q All right.

15 A Yes.

16 Yes, on February 19, 1970.

17 Q You received it on the 19th?

18 A That's correct.

19 Q And the property was taken into custody when, to
20 your knowledge?

21 A By who?

22 Q By the Sheriff or the L. A. P. D. officer?

23 A On the 18th, at approximately 1:00 o'clock.

24 Q And to your knowledge, sir, was this report, then,
25 made out at or about the time -- between the time that the
26 property was taken into custody and the time that you received
27 it?

28 A Yes, approximately. The report was made out on the

1 20th.

2 Q The report was prepared or reproduced on the 20th?

3 A It appears here that the report was made on the
4 20th and it is talking of events that happened prior.

5 Q All right. The report was then made in the
6 ordinary course of business, was it?

7 A It appears that way.

8 Q All right. And it is an official document of the
9 Los Angeles Police Department, is that correct?

10 A Yes.

11 MR. DENNY: I would offer that it be received into
12 evidence, your Honor.

13 MR. MANZELLA: People would object on the grounds there's
14 no foundation, your Honor, for its receipt as a business
15 record.

16 THE COURT: May I see it?

17 You're offering the three pages, are you?

18 MR. DENNY: Yes, your Honor.

19 THE COURT: Were you present when this inventory was
20 prepared?

21 THE WITNESS: No.

22 THE COURT: The objection is sustained.
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15a fol

15a-1

1 Q BY MR. DENNY: Well, Sergeant Whiteley, who is
2 D. E. Brown?

3 A I don't know him.

4 Q And E. N. Kamidoi, K-a-m-i-d-o-i?

5 A I don't know him either.

6 Q Now, Officer, when a report is made up, made out
7 by an officer who has received the evidence, you say the
8 items are inventoried and placed on the report?

9 A On this type of a report, yes.

10 Q All right, fine.

11 Your Honor, may we approach the bench?

12 THE COURT: No, I think not. Not if it is about the
13 report. The Court doesn't believe that it conforms with the
14 Section 1271(b) or (c) and, therefore, it would not be
15 admissible.

16 Q BY MR. DENNY: Now, I wonder if you could look
17 in the suitcase or the attache case, Sergeant Whiteley,
18 and see if you can find some tapes from Dale's Market
19 dated October 3, 1969; would you do that?

20 A All right.

21 (Whereupon, the witness stepped down from the
22 witness stand and commenced looking through the
23 attache case.)

24 THE WITNESS: Sale tapes?

25 Q BY MR. DENNY: White sale slips, such as you get
26 when you go to the market.

27 (Whereupon, the witness commenced looking
28 again.)

15a-2

1 THE COURT: Have you ever seen such tapes, Sergeant?

2 THE WITNESS: I don't recall.

3 MR. MANZELLA: I'm sorry, I didn't understand. The
4 People object on the grounds --

5 THE COURT: Sustained.

6 MR. MANZELLA: -- the material is in the suitcase.

7 MR. DENNY: Well, excuse me, your Honor, may we
8 approach the bench and be heard on this?

9 THE COURT: Yes.

10 Sergeant Whiteley, you may desist.

11 (Laughter.)

12 (Whereupon, the following proceedings were
13 had at the bench among Court and counsel, outside
14 the hearing of the jury:)

15 MR. DENNY: Your Honor, first, I am somewhat appalled
16 that the People object to the introduction of a business
17 record which is part of the Sheriff's homicide manual which
18 has obviously been made out in the ordinary and normal course
19 of business, but I will subpoena in the officers that made
20 it out, if that's going to be the approach that's necessary
21 here, and I will make an offer of proof that it was made
22 out by Officer Kamidol and Brown at or about the time that
23 they took the property into custody, and that it is a regular
24 business record and that by that business record it will show
25 that on page 2, Item 24, there was an envelope, white,
26 containing blue chip stamps and cash register tapes.
27 Tapes dated October 3 with the name "Dale's." Amount
28 \$21.32.

1 Another from the Continental Markets, receipt,
2 dated October 3, 1969.

3 The relevancy and materiality of this, is to
4 show obviously that these were in the hands of someone else
5 other than the defendant at that time. That I would submit
6 that they were in the hands of Mr. Bill Vance and this is
7 what I am simply going to urge to the jury, because I think
8 all the evidence shows that. And it is certainly relevant
9 material as to whether my client had anything to do with the
10 disappearance of Mr. Shea and the car and anything in the
11 car and anything connected with Mr. Shea.

12 So it is certainly relevant and material. And
13 to argue that the --

14 THE COURT: Why are you at the bench, just to make an
15 offer?

16 MR. DENNY: Yes. I want the record to show, your
17 Honor.

18 THE COURT: Well, you haven't established --

19 MR. DENNY: Well, your Honor --

20 THE COURT: -- the necessary background.

21 MR. DENNY: I want the record to show that those tapes
22 are not in these pieces of luggage, the attache case. That
23 they are not now. It is relevant evidence in the defense
24 of my client that those tapes were in existence and were
25 there.

26 THE COURT: Well, then, you establish it in the right
27 way.

28 MR. DENNY: Well, I'm just asking him to look for them

1 right now. That's why I am attempting to establish it.

2 THE COURT: Is it stipulated that those tapes are not
3 in there?

4 MR. KAY: We don't know.

5 MR. MANZELLA: I don't know, your Honor.

6 MR. KAY: We don't know if they ever were, originally.

7 MR. MANZELLA: We don't know if they were or not.

8 MR. DENNY: Well, their official record shows --

9 MR. MANZELLA: I didn't get that from Sergeant Whiteley's
10 testimony, which is my objection to the introduction of it as
11 a business record. I have no objection to you calling the
12 officers that prepared it and establishing the proper
13 foundation.

15b fls.

15b-1

1 THE COURT: Let's proceed.

2 MR. DENNY: Your Honor --

3 THE COURT: Resume your place at the counsel table and
4 let's proceed.

5 MR. DENNY: Can I have him look through it to determine
6 they're not there?

7 THE COURT: No, I don't think it would be material or
8 relevant at this time. I don't know that they were there.

9 MR. DENNY: Your Honor, I've got -- have I got to call him
10 back for that?

11 THE COURT: Let's proceed, Mr. Denny.

12 MR. DENNY: All right.

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

15 Q BY MR. DENNY: All right, Officer Whiteley,
16 you've testified now that you don't remember whether there
17 are -- there were certain checks in the suitcase or the attache
18 case; you don't remember whether there are certain cash
19 register tapes in either the suitcase or the attache case; you
20 don't remember whether there was a key from the Tahiti Motel --

21 MR. MANZELLA: I believe these questions have been
22 asked and answered, your Honor.

23 THE COURT: Yes.

24 MR. DENNY: Well, this is foundational.

25 Q Is it your testimony that you remember everything
26 that was in both of those footlockers?

27 A No.

28 Q Well, when you just looked through the footlockers

155-2

1 and testified before this jury that everything that was in those
2 footlockers when you initially examined them, that the contents
3 appears to be generally the same now, did you mean to imply by
4 that answer that there might be some things missing from the
5 footlockers?

6 MR. MANZELLA: Objection, your Honor, Sergeant
7 Whiteley's testimony speaks for itself. I object to the
8 characterization of his testimony by Mr. Denny. It assumes
9 facts not in evidence.

10 THE COURT: Sustained. You may rephrase your question.

11 Q BY MR. DENNY: Well, Sergeant, are you at this
12 time stating that for a fact everything you saw in the two
13 footlockers, 65-F and G, everything that you saw in those
14 footlockers on December 9, other than those striped pants that
15 you talked about, now are in those footlockers?

16 A No.

17 Q What's missing?

18 A Well, there's quite a bit of stuff missing.

19 Q What?

20 A Letters.

21 Q What letters?

22 A Letters that were in the footlockers.

23 Q What letters? From whom to whom?

24 A They were from someone in Vietnam to -- I think it
25 was a relative of Mr. Enfield.

26 Q Mr. Enfield is the registered owner or his
27 daughter the registered owner of that car?

28 A No.

15b-3

1 MR. MANZELLA: Objection, calls for hearsay.

2 THE COURT: The objection is overruled. The answer may
3 remain.

4 Q BY MR. DENNY: Well, then, Mr. Enfield is the
5 former registered owner?

6 MR. MANZELLA: Objection.

7 THE COURT: Sustained.

8 Q BY MR. DENNY: All right, letters from someone in
9 Vietnam to Mr. Enfield.

10 Which locker? Which footlocker?

11 A The one on your right.

12 Q As we're facing it?

13 It would be 65-F?

14 What else is missing from the footlockers?

15 A The tops of the insides.

16 Q The trays?

17 A Yes.

18 Q What else is missing from the footlockers?

19 MR. MANZELLA: Objection, your Honor, it is vague and
20 ambiguous, exactly what Mr. Denny means, missing from what
21 point to what?

22 Q BY MR. DENNY: What else is not in those foot-
23 lockers now that was in those footlockers when you saw them on
24 October, 1969?

25 A More negatives.

26 Q What else?

27 A Some address books.

28 Q Did you determine whose address books?

1 A Yes.

2 Q Where are those address books?

3 A I have no idea.

4 Q Well, were those footlockers inventoried?

5 A Yes.

6 Q Where is the inventory report on those foot-

7 lockers?

8 A With the trays and the things that are missing.

9 Q With the trays and the things that are missing?

10 A Yes.

11 Q Are the trays missing?

12 A I believe so. I don't remember seeing the trays

13 when we opened them.

14 Q I'm sorry, you don't remember seeing the trays when

15 you opened them?

16 A When they were opened right here.

17 Q Well, you remember seeing the trays on December

18 9, when you opened the foot locker?

19 A Yes.

20 Q All right. And when was the property report

21 made out on the contents of these two trunks?

22 A Shortly after that. I can't remember the exact

23 date.

24 Q By whom?

25 A Charles Guenther and myself.

26 Q Made in the ordinary course of business?

27 A Yes.

28 Q As an official Sheriff's record?

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A No.

Q It was not an official Sheriff's record?

A No.

Q It was just a private record that you were making
of it?

A More or less, yes.

Q Well, you've indicated in connection with the attache
case and the suitcase, haven't you, that it is standard
procedure to inventory the contents of such items when they're
booked as evidence?

15c fol

15c-1

1 MR. MANZELLA: Objection, it doesn't appear to be
2 relevant.

3 THE COURT: Sustained.

4 Q BY MR. DENNY: Well, where is the property
5 report that you and Sergeant Guenther made up on the
6 contents of these two footlockers?

7 A I have absolutely no idea.

8 Q Well, is there anything other than your memory
9 and perhaps Sergeant Guenther's memory to memorialize or
10 to in any way establish actually what was in those footlockers
11 on December 9, 1969?

12 MR. MANZELLA: Objection, it is irrelevant whether we
13 memorialized it.

14 THE COURT: Sustained.

15 MR. DENNY: We have a right to determine that, your
16 Honor.

17 THE COURT: Sustained.

18 You may rephrase your question.

19 Is there an existing list that you know of made
20 by either you or Sergeant Guenther?

21 THE WITNESS: No, sir.

22 Q BY MR. DENNY: Well, is there anything to show
23 what was in which locker?

24 A No, sir.

25 Q Other than your memory or that of Sergeant
26 Guenther?

27 A No, sir.

28 Q Sir, is there anything in existence that a man

15c-2

1 who is charged with murder --

2 MR. MANZELLA: Objection, this is argumentative.

3 Q BY MR. DENNY: -- with murder can find out what
4 was in those footlockers on December 9, 1969?

5 MR. MANZELLA: This is argumentative and it is irrele-
6 vant, your Honor.

7 THE COURT: Sustained.

8 (Whereupon, Mr. Denny conferred with Mr.
9 Manzella and Mr. Kay at the counsel table, out
10 of the hearing of the jury.)

11 (Whereupon, Mr. Denny conferred with the clerk.)

16 fls.

16-1

1 Q BY MR. DENNY: Sergeant Whiteley, I notice that
2 the -- the locks on both of these footlockers, 65-F and -G,
3 have been broken open, the hasps.

4 Who did that?

5 A I did.

6 Q Was that before or after you found the keys under
7 the seat?

8 A That was before.

9 Q When was it you tried to start the car?

10 A December the 9th.

11 Q And when was it you found the footlockers?

12 A December the 9th.

13 Q Well, did you try to start the car before it was
14 pulled, or was after it was towed?

15 A Before.

16 Q And when was it towed?

17 A December 9th.

18 Q Well, how did you get in the trunk of the car,
19 to get to these footlockers?

20 A Popped it.

21 Q You forced that trunk?

22 A Um-hmm.

23 THE COURT: "Yes"?

24 THE WITNESS: Yes, sir.

25 Q BY MR. DENNY: And you didn't attempt to get
26 into the footlockers until they had been dusted for prints, did
27 you?

28 A Yes, I did.

16-2

1 Q How did you do that? Did you take them out?

2 A No.

3 (Pause in the proceedings while a discussion
4 off the record ensued at the clerk's desk between
5 Mr. Denny and the clerk.)

6 Q BY MR. DENNY: Showing you 61-I for identifica-
7 tion, the two trunks, the two footlockers in the trunk of
8 the car, are those trunks in the condition that you saw
9 them, at the time you popped the lid of the trunk?

10 A Yes, sir.

11 Q And could you tell me how you tried to get into
12 the footlocker that we've designated -F? Without taking it
13 out of the car?

14 A It was just moved over (indicating) a little
15 bit, enough to get the -- the bar in there, to snap it.

16 Q Well, you had to move both -G over and -F over,
17 in order to get the bar in to snap it, didn't you?

18 A No. -F stayed where it was, I believe, and -G
19 was just moved over.

20 Q Well, -F is right up against the left rear
21 quarter panel of the car; isn't that right? As it's
22 pictured there?

23 A I don't know.

24 Q 61-J, perhaps, shows a closeup here, indicating
25 that there is a little space between the left portion of
26 the trunk and the footlocker.

27 Is that how you got into it?

28 A Yes.

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Q There was that much space, and you --

A I remember just putting a -- a bar down in there and snapping that.

Q All right. And then you raised the lid of the footlocker to look inside?

A Yes.

Q Now, there were some other things inside the trunk of the car besides these two footlockers; is that correct?

A Yes.

Q What other things?

A There was some clothes, and some more papers belonging to Barbara Enfield.

I think there was some tools.

Q And a messy interior back there, of the trunk?

A Yes.

Q Stuff that appeared to you to have accumulated over a period of time, would you say?

A (Pause) That's hard -- hard to say.

Q Well, old dirty papers that had been pushed back and forth (indicating), apparently by the lifting in and out of these footlockers?

Marks all over them?

A I cannot remember --

Q Crumpled up?

A I can't remember. I know that there was a mess in the back.

Q All right. Well, then, by the time you got the

1 keys here, which are People's Exhibit 62, you had already
2 popped the trunk and forced open the hasps here, so you
3 didn't have to determine whether this particular key
4 (indicating) -- it looks like Kiefer DA USA -- would fit
5 the locks on either of these two footlockers; is that right?

6 A That's right. I found the keys later.

7 Q All right.

8 A I knew -- well.

9 Q All right.

10 Did you later determine that this key did fit
11 the footlockers?

12 A I didn't. I think my partner did.

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16a fls.

16a-1

1 Q All right. Now, going to these --

2 (Pause in the proceedings while a discussion off
3 the record ensued among counsel at the counsel table, and then
4 a further discussion off the record between Mr. Denny and
5 the clerk at the clerk's desk.)

6 MR. DENNY: 81-A and -B.

7 THE CLERK: Here it is.

8 MR. DENNY: Thank you.

9 Q Sergeant Whiteley, if you could bring that hand --
10 well, I guess you don't need the hand-mike any more than I
11 do. Just bring the pointer down here, if you will.

12 And looking again at the chart here that has been
13 received as People's 83, there's a green X indicated here, on
14 Gresham Street, just around the corner from Independence
15 Street.

16 What does that green X represent?

17 A The -- what we call it, the Gresham Street house?

18 Q That's also called the Bill Vance house; isn't
19 that right?

20 A Yes. Also the Vance house.

21 Q All right. You determined that it had been
22 rented by Bill Vance; is that correct?

23 MR. MANZELLA: Objection. Calls for hearsay.

24 THE COURT: Sustained.

25 Q BY MR. DENNY: Well, in the course of your
26 checking out the various records that you checked out to
27 determine -- records to locate Shorty Shea -- you made a
28 check of utility companies -- isn't that right?

1 MR. MANZELLA: I think that's been asked and answered
2 during previous testimony.

3 MR. DENNY: Well, I'm just attempting to establish a
4 foundation for --

5 THE COURT: I can't recall that that was asked and
6 answered. Overruled.

7 You may answer.

8 Q BY MR. DENNY: You made a check of utility
9 companies to determine whether there were any utilities
10 in the name of Donald J. Shea; is that correct?

11 A That's correct.

12 Q Or phone records in the name of Donald J. Shea;
13 is that correct?

14 A (No response.)

15 Q Or did you go to the phone company?

16 A I can't recall the phone company, not specifically.

17 Q All right. Did you make a check to determine,
18 by utility records, the renter of the Gresham Street house?

19 MR. MANZELLA: Objection. It's irrelevant.

20 THE COURT: Overruled. You may answer yes or no.

21 THE WITNESS: I -- no.

22 Q BY MR. DENNY: All right. What is the address of
23 the Gresham Street house?

24 A I can't recall. I believe it's 20819 or -31.

25 Q Is there anything that would refresh your
26 recollection, sir? Any report that you made, anything of the
27 kind?

28 A Yes.

1 Q What report would that be?

2 A Hmmm --

3 THE COURT: Part of the Sheriff's homicide manual?

4 THE WITNESS: Yes. It's probably where I was interviewing
5 Lee Saunooke.

6 Q BY MR. DENNY: Well, let me give you my copy, if
7 you'd like to leaf through it.

8 (Pause in the proceedings while Mr. Whiteley
9 leafed through the notebook.)

10 MR. MANZELLA: May I approach the witness box, your
11 Honor?

12 THE COURT: Yes, you may.

13 MR. DENNY: Thank you.

14 Q Was it 21019 Gresham Street?

15 A That sounds like it.

16 Q All right. Fine.

17 A It's probably in here somewhere.

18 Q Well, it will save a little time, I think.

19 If Counsel will offer to stipulate, I will so
20 stipulate.

21 MR. MANZELLA: So stipulated, your Honor.

22 MR. DENNY: All right.

23 THE COURT: The stipulation is received.

24 21019?

25 MR. MANZELLA: Yes, your Honor.

26 Q BY MR. DENNY: All right. Now, sir, is this black
27 dot that appears on People's 83 the place where you say the car
28 was located?

1 A Yes.

2 Q All right. Now, there appeared to be two other
3 squares drawn in here, one on Grasham Street, just almost
4 directly opposite -- perhaps a little kitty-corner -- from the
5 Vance house.

6 Did you determine the ownership of that property?

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1 MR. MANZELLA: Objection. It calls for hearsay and
2 speculation on the part of the witness.

3 THE COURT: Sustained.

4 Q BY MR. DENNY: Well, in the course of your inves-
5 tigation, did you locate Lee Saunooke?

6 MR. MANZELLA: Objection.

7 THE WITNESS: Yes.

8 MR. MANZELLA: It doesn't appear to be relevant.

9 MR. DENNY: It is relevant, your Honor, to establish
10 the markings they have got here.

11 THE COURT: The answer may remain in the record. The
12 objection is overruled.

13 Q BY MR. DENNY: Now, is the box that I have
14 indicated the Lee Saunooke residence?

15 MR. MANZELLA: Objection; calls for speculation and
16 conclusion on the part of the witness.

17 Q BY MR. DENNY: If you know, sir.

18 THE COURT: Sustained.

19 Q BY MR. DENNY: Well, sir, under that box, there
20 is an arrow, and a circle, with the initials "LS" and "PW,"

21 Who put those there?

22 A I did.

23 MR. MANZELLA: Objection. That's irrelevant. Ask
24 that the answer be stricken.

25 THE COURT: The answer may remain in the record.

26 The objection's overruled.

27 Q BY MR. DENNY: And when did you put that there?

28 MR. MANZELLA: Objection. It's irrelevant.

16b-2

1 MR. DENNY: It appears on an exhibit.

2 THE COURT: Sustained.

3 Q BY MR. DENNY: What do those signify?

4 MR. MANZELLA: Objection. It's irrelevant.

5 MR. DENNY: I think we have a right to know -- the jury
6 has a right to know what these signify on here.

7 THE COURT: The objection is sustained.

8 MR. DENNY: Your Honor, this has been received in
9 evidence, and there is writing on it that should be
10 explained.

11 THE COURT: The objection is sustained.

12 Q BY MR. DENNY: Well, Mr. Whiteley, there's another
13 box that appears on Independence Street or Avenue.

14 What does that represent?

15 MR. MANZELLA: Objection. That's irrelevant.

16 THE COURT: Let me see what you are referring to.

17 (Pause in the proceedings while Mr. Denny
18 approached the bench, exhibiting a photograph to
19 the Court.)

20 THE COURT: Overruled. You may answer.

21 THE WITNESS: What does the second box represent?

22 Q BY MR. DENNY: Yes.

23 A Lee Saunooke's present -- I shouldn't say
24 "present." Present at the last time I was out to her house,
25 where she lives.

26 Q Her residence, the last time you were out there, --

27 A Yes.

28 Q -- was that?

16b-3

1 MR. MANZELLA: Objection.

2 That's irrelevant.

3 THE COURT: Sustained.

4 MR. DENNY: Your Honor, it's -- I --

5 THE COURT: The objection is sustained.

6 You may also tell the jury what the other box
7 was Mr. Denny was asking you about.

8 The Court will overrule the objection to the
9 first question.

10 Q BY MR. DENNY: The first box on Gresham Street
11 (indicating)?

12 A That is Lee Saunooke's previous address. She
13 lived at Gresham Street first, and then moved over to
14 Independence.

15 Q Did you determine whether she was living on
16 Independence at the time that you recovered the car on
17 Independence?

18 MR. MANZELLA: Objection. It's irrelevant, and calls
19 for hearsay.

20 THE COURT: Sustained.

21 Q BY MR. DENNY: Did you see her there at that
22 house on Independence Street, at the time you discovered
23 the car on December 8, 1969?

24 A No.

25 Q Did you see her at the other house on Gresham
26 Street?

27 A No.

28 Q When's the first time you did see her?

1 MR. MANZELLA: Objection. It doesn't appear to be
2 relevant.

3 THE COURT: Sustained.

4 Q BY MR. DENNY: And to your knowledge, sir, wasn't
5 Miss Lee Saunooke a cousin of Mr. Shea?

6 MR. MANZELLA: Obviously calls for hearsay and specula-
7 tion on the part of the witness, your Honor.

8 THE COURT: Sustained.

9 Q BY MR. DENNY: Directing your attention now to
10 People's 81-A -- I wonder if you could come over here, so
11 that the jury could see?

12 There's something circled here.

13 What is that that is circled?

14 A The Vance house, or the Gresham Street house.

15 Q And the X just above and to the right of that
16 circle, what is that?

17 A Lee Saunooke's previous address.

18c fls.

16C-1

1 Q All right. And on 81-B, there appears to be some
2 writing over a rooftop there.

3 What is that?

4 A The Vance house.

5 Q And there's an X down in the lower right-hand
6 corner.

7 What is that?

8 A Lee Saunooke's previous address.

9 Q And then there appears to be an X in ballpoint ink
10 with a "P. W." under it and a green arrow pointing to that.

11 What is that?

12 A That's the approximate location that the car was
13 found.

14 Q And in 82-E, there is a dirt road depicted; is
15 that correct? Or a dirt berm and a macadam road or what? Is
16 it all dirt, all macadam, part dirt, part macadam? What?

17 A It's part of each. Further north on the street,
18 it turned into dirt. There was construction work going on.

19 The portion where the vehicle was was all on dirt.

20 Q All right. Now, I notice above the automobile,
21 and about the middle of the picture, there appears a circle,
22 and inside the circle, "L. S." and "P. W." and there's an
23 arrow pointing down. What does that represent?

24 A That would be where Lee Saunooke last lived, when
25 I was out there.

26 Q All right. And over on the right, there appears
27 to be a circle, with a "L. S." and a "P. W." inside the circle,
28 and an arrow pointing down. What would that represent?

1 A That would be her previous address, Lee Saunooke's.

2 Q All right. Thank you, sir. You may resume the
3 stand, if you'd like.

4 Now, when you testified that the distance was
5 approximately five miles between the Spahn Ranch and the
6 Gresham Street house or the Vance house, it's approximately the
7 same distance to either of the Saunooke residences; is that
8 right?

9 A (No response.)

10 Q From the Spahn Ranch?

11 A Oh, yes. Yes.

12 (Pause in the proceedings while a discussion off
13 the record ensued at the clerk's desk between Mr. Denny and the
14 clerk.)

15 Q BY MR. DENNY: Now, showing you 61-F, which appears
16 to be the left-front seat, the driver's section, where does the
17 key fit? Is it shown there, where the key fits in the
18 ignition?

19 Is the ignition switch shown there?

20 A It appears to be, in the left side (indicating).

21 Q Would you like to circle that with one of the
22 pens that's here? Perhaps that red pen.

23 A (Witness complies.)

24 Q And draw "P. W.," indicating that you have circled
25 that.

26 A (Witness complies.)

27 Q All right. Now, where is this light that you say
28 lighted the ignition switch, when you turned the ignition

1 switch on?

2 A It was up in here somewhere (indicating), a light
3 came on.

4 Q Oh. You mean along the instrument panel, along
5 the speedometer?

6 A Yes.

7 Q And when you turned the ignition switch, the
8 instrument panel goes on?

9 A No. I tried the lights also.

10 Q Oh. Well, then, you were testifying that the light
11 came on by virtue of turning the key in the ignition switch;
12 is that right?

13 A No. I don't remember any light coming on, on the
14 ignition -- I mean, off this panel here.

15 Q All right. You attempted to make the lights work by
16 pulling on the light switch, and there was a dim light from the
17 instrument panel; is that right?

18 A Yes.

19 Q Were there any lights from the headlights?

20 A No.

21 Q Did you try to honk the horn?

22 A (Pause) Yes.

23 Q Did that work?

24 A No.

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17-1

1 Q Is there some way you have, Sergeant Whiteley,
2 of determining in which position, which footlocker was in
3 the trunk of the car?

4 A Yes.

5 Q How is that?

6 A By the scratches on the top.

7 Q One is scratched more than another?

8 A Yes.

9 Q Which one was scratched more than the other?

10 As you face the trunk of the car, having opened
11 the trunk and looking in.

12 A Uh-huh.

13 Q Which one was scratched more?

14 A The one to your left.

15 Q And you indicated, I think, that they are now
16 in the same position if we were facing them?

17 A To the left.

18 Q In other words, the trunk I am touching now
19 would have been the right-hand side, is that correct?

20 A I can't see the top.

21 Q Well, you testified previously, you just testi-
22 fied when Mr. Manzella just asked you and you indicated that
23 65-F was on the right?

24 A No.

25 MR. MANZELLA: No, that's not correct, your Honor.

26 THE WITNESS: No, it was on the left.

27 Q BY MR. DENNY: 65-F was on the left?

28 A Yes.

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1 Q All right.

2 A I believe I stated that the flocker --
3 your right -- way on the left.

4 Q All right. And that top is more scratched, then,
5 than the other one?

6 A Yes.

7 Q All right. Then, that's the way you make the
8 determination, fine. Then, again, you have no way of
9 determining, however, which item of clothing or whatever
10 was in which one of those footlockers on December 9, 1969,
11 is that right?

12 MR. MANZELLA: The question has been asked and
13 answered, your Honor.

14 THE COURT: Sustained. The objection is sustained.

15 MR. DENNY: I have no further questions.

16 MR. MANZELLA: I have just one question.

17
18 REDIRECT EXAMINATION

19 BY MR. MANZELLA:

20 Q Sergeant Whiteley, why did you force the trunk
21 of the vehicle and force the footlockers before searching
22 for keys?

23 A I thought Mr. Shea might be inside one of them.

24 MR. MANZELLA: No further questions, your Honor.

25 THE COURT: Ladies and gentlemen, we'll recess now
26 until 9:30 tomorrow morning, and during the recess you are
27 obliged not to converse amongst yourselves, nor with anyone
28 else, nor permit anyone to converse with you on any subject

1 connected with the matter, nor form or express any opinion
2 on it until it is finally submitted to you.

3 Good night, and see you tomorrow morning at
4 9:30.

5 MR. DENNY: Your Honor, could we have Mr. Whiteley
6 remain for just a moment.

7 (Whereupon, the jury retired from the courtroom,
8 and the following proceedings were had:)

9 THE COURT: The Court will have to start promptly
10 at 9:30. Let's all try to have your witnesses.

11 MR. KAY: We still have three witnesses outside.

12 THE COURT: Do you want them ordered back for tomorrow
13 morning at 9:30?

14 MR. KAY: No, no. They'll be back at 9:30.

15 MR. MANZELLA: We could work later tonight.

16 THE COURT: Have them ready tomorrow morning.

17 Tony, I thought of it.

18 MR. MANZELLA: I did, too, but I couldn't talk him
19 into it.

20 THE COURT: The jury looked a little weary, though.

21 MR. DENNY: Your Honor, in view of the conversation
22 that was had either last night or the night before with
23 regard to Sergeant Whiteley being on all as a witness for
24 the defense, I don't know when the People are going to
25 conclude their evidence, if they will conclude tomorrow.

26 MR. MANZELLA: Probably.

27 MR. DENNY: I do intend to call Sergeant Whiteley and
28 I would like to have him ordered back or be on call. He has

1 previously not been ordered back, or just be on call either
2 Monday so I can put him on either Monday or Tuesday.

3 MR. MANZELLA: Sergeant Whiteley is available, as I
4 said yesterday, available to testify for the prosecution or
5 the defense.

6 MR. DENNY: You can find him if he is going to testify
7 for the prosecution or defense, but not if he is going to
8 testify for frivolous motions?

9 MR. MANZELLA: Exactly. That's exactly what I said
10 yesterday.

11 (Laughter.)

12 THE COURT: Sergeant, you don't anticipate being out
13 of the County, do you?

14 SERGEANT WHITELEY: No, sir. I am starting another
15 trial tomorrow, so I'll be around.

16 THE COURT: Where will you be?

17 SERGEANT WHITELEY: 115, I believe.

18 THE COURT: Keep in touch with Mr. Manzella, then.

19 MR. MANZELLA: Sergeant Whiteley has been on vacation
20 for the last two days and his vacation is over, so he goes
21 back to work.

22 THE COURT: That's a marvelous vacation to see the
23 interior of Department 106.

24 MR. DENNY: Your Honor, there is just one other thing
25 that I am apprised by Mr. Davis that apparently there has
26 been a change in policy of the jail -- excuse me for talking
27 with my mouth full of candy, if I may.

28 THE COURT: That's all right.

1 MR. DENNY: That the visiting restrictions that were
2 heretofore in effect, keeping all but relatives from visiting
3 defendants have been lifted. That is lifted as to everyone
4 but Manson related Family members, period, is up, as I
5 understand it.

6 The Black Panthers who are in the same tank,
7 same area with Mr. Davis and some other new members of the
8 Manson Family or so designated as defendants, are the only
9 ones who apparently are getting this rather preferential
10 treatment. And I would request that the Court make an order
11 permitting Mr. Davis to have the same privileges, no greater,
12 but no lesser than that which is accorded any other defendant
13 who is in, at least, the same facility with him. It is a
14 high power facility.

15 THE COURT: The Court will check with the jail, find
16 out what the situation is, and if the Court believes that it
17 is proper to do so, I will ask the Sheriff to change his
18 handling of that problem.

19 However, it is quite likely that I will not
20 interfere, even should I find that to be true, because of
21 what has occurred in the past in connection with Manson
22 Family people and this case of Mr. Como.

23 MR. DENNY: That's certainly guilt by association, if
24 ever I heard it.

25 THE COURT: I think that's a matter for the jail to
26 determine. The Court is not going to interfere with the jail
27 policy generally. However, if I think that it is at all
28 depriving the defendant of any great privilege or rights,
I'll ask the Sheriff to change it.

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1 MR. DENNY: Well, your Honor, if I could just make one
2 more request, and that is if the Court is going to maintain
3 a policy of not interfering, not changing, not doing anything,
4 I would request to have a hearing to at least put on the record
5 what the Sheriff's position is.

6 THE COURT: I'll make it a part of the record, Mr. Denny.

7 MR. DENNY: Thank you, your Honor.

8 Oh, your Honor, one other thing.

9 Your Honor, the Court stated at the bench it would
10 appoint a photographer, an expert photographer if I could get
11 one. And I have spoken to Mr. Lloyd Matlovsky who is the
12 photographer at the USC County Medical Center to whom I took
13 the other photographs, who is a recognized expert in the
14 country as far as his photography goes and I have spoken to
15 him on the phone just during the afternoon break and he said he
16 could look at them, he could make a determination as to whether
17 or not --

18 THE COURT: Mrs. Holt, would you made them available to
19 him if he comes in the courtroom.

20 MR. DENNY: Well, your Honor, he would have to have them
21 there to look at them, again, under a microscope to determine
22 whether or not the impressions were made by impressions being
23 pressed on the negatives before they were developed, in which
24 case certain silver nitrate residue would show as the
25 impression or whether they were made with ink afterwards.

26 MR. KAY: Your Honor, I think we're getting far afield.
27 I don't see the relevance of this.

28 THE COURT: Very minute. It is to test the credibility

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of Mr. Christensen.

MR. KAY: I don't think it does test his credibility.
He didn't --

THE COURT: He testified both ways on the subject.

MR. KAY: He didn't know. How does it test --

THE COURT: He didn't know.

MR. KAY: He did say he didn't know. He wasn't the one
that did the marking.

MR. DENNY: Let me just read 4860, Line 25:

"Q If they are duplicates, Sergeant,
why are not they given the same serial number to
show that they are duplicates?

"A Because the numbers were placed on
the photo pack prior to the picture being taken
and showed the order in which the pictures were
taken."

MR. KAY: Well, what's a photo pack? I don't know that
that's a negative.

MR. DENNY: Well, it is.

MR. KAY: I don't know that.

MR. DENNY: Well, I do and I think the jury does.

MR. KAY: Well, then, why do you need an expert?

MR. DENNY: To show that they were not placed on there,
on the photo pack before they were taken.

MR. KAY: I think it is irrelevant. I think we're
getting into minute detail and I think under 352 the Court has
to exercise some discretion sometime, you know, to keep --

MR. DENNY: Well, your Honor, if this man had money,

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1 I'd have no hesitancy, whatsoever, in going out and getting
2 Mr. Matlovsky and the Court --

3 THE COURT: Well, the Court is not going to release those
4 negatives. He can come and take a look at them under a hand-
5 held microscope and the Court believes, again, that it is not
6 a subject for expert testimony, but if, after he's held them and
7 looked at them under the microscope here in court, a magnifying
8 glass here in court rather, he needs to have them removed,
9 then, he may ask the Court.

10 MR. DENNY: Thank you, your Honor.

11 MR. KAY: Good night, your Honor.

12 (Whereupon, at 4:40 P. M., an adjournment was
13 taken in this matter.)
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