

STATE OF MICHIGAN

WASHTENAW COUNTY CIRCUIT COURT

In The Matter Of:

People v. Gary Leiterman
File No. 04-2017-FC

CRIMINAL TRIAL CONTINUED VOLUME II

BEFORE HONORABLE DONALD E. SHELTON, JUDGE

Ann Arbor, Michigan-Wednesday, July 13, 2005

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14 WITNESS: Defendant

15 NONE

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Ann Arbor, Michigan

Wednesday, July 13, 2005 at 3:08 9.m.

THE LEGAL CLERK: All rise please, the Washenaw

County Trial Court is not back in session, the Honorable
Donald E. Shelton presiding.

THE COURT: Bring the jury. All right, I made some other notes.

THE LEGAL CLERK: All rise for the jury, please.

THE COURT: Please be seated. Presume the stand, please, sir. You were placed under oath earlier, I'll remind you, you are still under oath.

THE WITNESS: Yes.

THE COURT: Mr. Hiller.

MR. HILLER: Thank you, your Honor.

15 CONTINUED DIRECT EXAMINATION OF DONALD BENNETT
16 BY MR. HILLER

17 Q Captain Bennett, I believe when we broke for lunch you had
18 identified the bullet fragments that were recovered at the
19 autopsy?

20 A Yes.

21 Q Now, was there--first of all, would it be typical at an
22 autopsy in a case like this, to take a known sample of the
23 victim's blood?

24 A It would not be difficult.

25 Q I'm sorry, typical--would it be typical?

1 A It would be typical to do so.

2 Q Was that done in this case?

3 A Yes, it was.

4 Q How would--how would the blood have been stored?

5 A We would have brought it back to Lansing in the station wagon
6 that we had. It would have been stored, probably in the
7 refrigerator in our laboratory or at least in our locker room
8 which was cool.

9 Q What sort of container would it have been in?

10 A It would have been drawn in a small vial.

11 Q Was there any other blood recovered at the autopsy?

12 A Yes, there was some blood that I scrapped off the back of the
13 left hand of the victims.

14 Q Can you describe the blood that you scraped off, the
15 appearance on the hand?

16 A It was on the back of the left hand and it was a round dried
17 spot of blood. Not a large spot but it was not a pin prick;
18 about half the size of my little fingernail maybe. It was a
19 small amount and it was dry.

20 Q Do you recall why--Jane Mixer had been shot twice in the
21 head. There was a lot of blood on her body and a towel that
22 was found on her body. Do you recall why you chose to seize
23 this vial of blood on the back of her hand?

24 A There was blood on the inside of her left palm and fingers
25 that was smeared and there were blood spots on her face that

1 had smeared and run. This was a singular spot all by itself.
2 I just took it because I didn't know what value it would be,
3 so I took it in case it was needed later.

4 Q How did you collect the blood from this spot?

5 A It would have been scrapped with the edge of a scalpel into a
6 small paper packet that was tri-folded--a thin white piece of
7 paper--tri-folded into a paper packet and then scrapped into
8 that packet, folded over three times and then slipped inside
9 a brown evidence envelope.

10 Q A coin envelope, that sort of thing?

11 A That is a good description of it.

12 Q When you collect something like this, is there a way that you
13 mark the envelope to identify it in the future?

14 A I guess. I marked it with the laboratory number that I wrote
15 on it, blood from back of left hand.

16 Q What did you do with that piece of evidence?

17 A That was delivered to Walter Holt at the department of Public
18 Health.

19 Q You indicated that you delivered some other evidence to
20 Walter Holt as well?

21 A Yes.

22 Q Was that all delivered at the same time?

23 A Yes, it was all delivered at the same time.

24 Q Did you ever see that packet of dried blood again?

25 A Yes, I did.

1 Q Was that in Court?

2 A Yes.

3 Q Earlier this year?

4 A Yes.

5 Q When you saw the packet, did it have the same marking that

6 you put on it?

7 A Yes, it did.

8 Q When you--did you open the packet?

9 A Yes.

10 Q Was the paper bindle inside?

11 A Yes.

12 Q Did it appear to be the same bindle that you had used to

13 collect the blood off of Jane Mixer's hand?

14 A Yes.

15 Q Did you open the bindle?

16 A No.

17 Q But it was the same packaging that you had used to collect

18 the blood off of Jane Mixer's hand at the autopsy?

19 A That's correct.

20 Q After that Court appearance was that piece of evidence

21 returned to the detectives in charge of that at that time?

22 A It was left here at the Court at that time.

23 Q Also, before lunch we had talked about the medical examiner

24 from Wayne County come out to the crime scene, you indicated

25 that you thought that had been about noon?

1 A That was my best recollection from the stand here.

2 Q During the lunch break did you have an opportunity to review

3 you report again?

4 A Yes, I have.

5 Q Did that help to refresh your recollection about what time

6 the medical examiner arrived at the Denton Cemetery?

7 A My report indicates that the medical examiner was there at

8 1:05 p.m.

9 Q Is there anything in your report about the medical examiner

10 taking a rectal temperature?

11 A No.

12 Q Dr. Bennett, I am going to show you People's exhibits, 33 and

13 33 A through E. 33 E being the envelope. Now People's exhibit

14 33 is this plastic bag, do you remember that?

15 A Yes. That's the plastic bag that I dropped--that I deposited

16 evidence in and I marked it with my lab number 72869.

17 Q Do you know what evidence went into this bag?

18 A Yes. It was the nylon hose ligature taken from the neck of

19 the victims.

20 Q I am going to show you People's exhibit 52--this has been

21 admitted and I ask you if you recognize that?

22 A Yes.

23 Q What is that?

24 A That's a photograph of a front page of a telephone book of

25 Ann Arbor-Ypsilanti.

1 Q Have you seen that particular phonebook before?

2 A Yes, this phonebook was delivered to me by Sergeant Kraus at

3 our laboratory and this is a photograph of that particular

4 phonebook.

5 Q Do you recall when Sergeant Kraus delivered that to you?

6 A Yes. On March 26, 1969 at 3:10 p.m.

7 Q What did you do with this phonebook?

8 A I think we held it in the laboratory because I was concerned

9 with fingerprints on it. There is also some handwriting on it

10 that would have to be identified by the document examiners,

11 but the primary concern would be to have it checked for

12 fingerprints. So, it was turned over to Sergeant Hine for the

13 latent print unit, and I did that on April 7th at 5--4:30

14 p.m.

15 Q April 7, 1969?

16 A Correct.

17 Q The evidence that you collected at the autopsy and at the

18 crime scene, did you--did you--let me start that over. The

19 evidence that you collected at the crime scene and the

20 evidence you collected at the autopsy, what happened to those

21 once you left the autopsy?

22 A They were packaged up, as I said before, and taken back to

23 Lansing, then examined like we would do then turned over to

24 other area of responsibility.

1 Q Was that done immediately after the autopsy or did--did you
2 and your crew perform other work before you went back to
3 Lansing?

4 A My best recollection is that the autopsy concluded at four
5 o'clock in the afternoon and we did go and look at a vehicle
6 that we were requested to go and look at for evidence. We
7 didn't find any. Then we went back to Lansing. The evidence
8 was put away and was no viewed again until the following
9 Monday morning which would have been the 26th. Then later
10 that day that--some of that was taken to the Department of
11 Public Health.

12 Q What was taken to the Department of Public Health?

13 A Nylon stocking ligature removed from the victim.

14 Q Was that the article that was contained in the plastic bag--
15 purposed exhibit 33 that you just saw?

16 A Yes.

17 Q Please continue.

18 A The dried blood scrapped from the back of the left hand,
19 known blood from the victim, one Tampax removed from the
20 vagina of the victim, one pair of brown nylon pantyhose, one
21 yellow flowered nylon short skirt or slip or miniskirt, one
22 pair of yellow flowered nylon panties, a yellow flowered bra,
23 the blue headband, the blue turtleneck shirt with long
24 sleeves, a gray wool full length jumper, a white bath towel
25 with yellow stripes, a blue silk scarf, a the gray wool coat.

1 Q Did you also receive the suit case later from Sergeant Hine?

2 A I don't recall receiving a suitcase from Sergeant Hine. I
3 take that back, my report says I did.

4 Q Do you have a recollection of that?

5 A I recall that it was in our laboratory. I knew that he took
6 it to Lansing. He brought it back to me obviously on April 9,
7 1969.

8 Q Before you took the items that you just described over to the
9 Health department lab and gave them to Walter Holtz; did you
10 perform any examination or analysis on those items?

11 A Well, we looked the clothing over very carefully. If it was
12 damp, it had to be dried, so we let it air dry. We looked it
13 over very carefully for evidence that we might have missed.
14 The it was put back in its original container and then it was
15 took to Mr. Holtz.

16 Q Was any recovered from the evidence?

17 A On the blue jumper of the victim, we found a small amount of
18 white granulated material on the back side of the jumper and
19 also on one of the toes of the nylon stockings, so we noted
20 that and that would have gone along with the jumper to Mr.
21 Holtz.

22 Q Would you have collected that at that time or would you have
23 left that for Mr. Holtz to collect?

24 A Well it would be fragile and might of fallen off, so I
25 presume, I don't recall but would have been logical, that I

collected it in a paper packet and delivered it right along with the coat or jumper.

MR. HILLER: If I could have a minute, your Honor.

BY MR. HILLER

Q How would you have packaged evidence like that when you received it?

A Well, it would have been packaged separately in plastic bags or small packets but all maintained separately from others so we wouldn't contaminate.

10 Q Captain Bennett I handed you two envelopes marked as purpose
11 exhibits 45 and 46 would you--starting with 45 would you open
12 those and tell me if you recognize what's in the packaging?

13 A Yes.

14 Q What do you see there? This is number 45.

15 A Inside People's purposed exhibit 45 is a brown manila
16 envelope with the lab number 72869, says trace, t-r-a-c-e,
17 which means--trace's are small bits of evidence and blood.

18 Q Is that your writing?

19 A My writing is in red, the 72869 trace. What's in--blood is in
20 green and does not appear to be my writing.

21 Q Can you open that?

22 A It's a small folded over paper packet of black paper and it's
23 got the identification of Mr. Holtz on it.

24 Q Did you give him that paper packet?

25 A I could have. I don't remember specifically.

- 1 Q All right. And number 46 if you could do the same thing.
- 2 A Contains a smaller envelope marked from Bureau Laboratories,
- 3 Michigan Department of Public Health, Lansing, Michigan. It's
- 4 got a lab number on it that is not mine but is probably Mr.
- 5 Holtz, says soap removed from left back and outside of shirt-
- 6 -skirt--shirt probably, area marked with orange crayon.
- 7 Q Could you look inside please?
- 8 A There's a glass slide--two glass slides put together with
- 9 some white particles in it and there's some scratched writing
- 10 that says "soap" but I can't make out what else it says.
- 11 Q Did you prepare that?
- 12 A I don't recall doing that.
- 13 Q All right. Captain Bennett when you arrived at the autopsy
- 14 room at the University of Michigan, was Jane's body already
- 15 there?
- 16 A Yes.
- 17 Q Did you inspect her body before the autopsy began?
- 18 A Yes.
- 19 Q You indicated before it had--before Jane's body had left the
- 20 Denton Cemetery a tag had been placed on it for
- 21 identification purposes?
- 22 A Yes.
- 23 Q Did you find that tag in place?
- 24 A I did.
- 25 Q Was it the same body that you had seen at the cemetery?

1 A Yes.

2 Q And in the same condition?

3 A Yes.

4 MR. HILLER: Your Honor, I don't have any further
5 questions for Captain Bennett. I would ask that the Court
6 that at some point this afternoon publish the stipulated
7 testimony of Arey Milligan to the jury.

8 THE COURT: You can do it right now.

9 MR. HILLER: I am going to offer Captain Bennett for
10 cross examination and then I will do that.

11 THE COURT: All right. Cross examination Mr. Gabry?

12 MR. GABRY: Thank you, your Honor.

13 CROSS EXAMINATION

14 BY MR. GABRY

15 Q Good afternoon.

16 A Good afternoon.

17 Q Back in March of 1969, what was your particular training or
18 expertise at what you referred to as the crime lab?

19 A At that time, I would have been assigned to the crime
20 laboratory for three years and four months. During that
21 period, I received training in firearms identification and
22 photography and examination of microscopic evidence such as
23 paint, glass fibers and how to process and receive evidence
24 from a crime scene..

25 Q On March of 1969, were you in a particular area of the lab?

1 A Yes.

2 Q In what area?

3 A That area was called the micro chemical unit.

4 Q Their responsibility and area of expertise includes what?

5 A Examination of small bits of evidence to try to compare

6 questioned with known evidence and render an opinion as to

7 whether it could have come from the same source or not.

8 Q Can you tell me how that differs from the criminal division

9 of the Public Health would be?

10 A In some way, we were alike. For instance, in the examination

11 of glass, we both would have used microscopic examinations,

12 but beyond that they would examine blood specimens, things of

13 different sources that we wouldn't have seen. Like, in this

14 case the soap. That was something that I was not qualified to

15 examine. They had more expertise in hair examination than I

16 had at that time, although that was a responsibility that I

17 was undertaking.

18 Q They would tend to be the department or the lab that would do

19 testing on--I mean, chemical type testing or determination

20 whether an object is blood or not blood, am I correct?

21 A Yes, you are correct.

22 Q On this particular day was this team picked by you or is it

23 on a call out basis as far as who responded when Detective

24 Sergeant Little called for the crime lab?

1 A In this case it would be who was at the laboratory and who
2 could go because it was a daytime call, who would not have a
3 Court commitment that would prevent them from going and you
4 just go down the list of people, and you are looking for
5 experience which in my case would had been myself and
6 Detective Versailles--

7 Q Could you stop there a minute? Can we talk about Detective
8 Versailles? What was his filed of expertise in the lab?

9 A His was much the same as mine, except he did not train--be
10 trained in firearms examination.

11 Q So he would have had no involvement in the examination of the
12 bullet fragments that were obtained at the autopsy, correct?

13 A That's correct.

14 Q Trooper David Larson was in fact trained in firearms
15 identification, was he not, sir?

16 A I don't believe he was at that time, counsel. To my
17 knowledge, he was a trainee and was probably assigned at the
18 laboratory for not very long.

19 Q Is it the habit of the Michigan State Police and in homicide
20 investigations to have trainee's sign off on their laboratory
21 reports?

22 A If he delivered evidence that would be proper. If he was
23 there when we did things and watched what we did, it would be
24 part of his training to sign because he was part of what was
25 going on.

- 1 Q What does signing a report mean?
- 2 A It's authorship, primarily.
- 3 Q By signing a report do you incorporate and agree to the
- 4 conclusions in that report?
- 5 A Yes.
- 6 Q Unless you specifically exempt yourself out, correct?
- 7 A Correct.
- 8 Q In this particular case there was a laboratory report filed,
- 9 the results of your teams analysis, correct?
- 10 A Correct.
- 11 Q In all three of the individuals we just mentioned, signed
- 12 that report, correct?
- 13 A That's right.
- 14 Q I'm sorry, I can't keep all the titles straight over the
- 15 time. There were the two Michigan State Troopers that were
- 16 assigned to the latent print unit, and that would have been a
- 17 George Hine and a Jack Nobley, correct?
- 18 A Correct.
- 19 Q They were not part of your team, is that fair to say?
- 20 A Not necessarily. They would be part of our laboratory. The
- 21 total laboratory in East Lansing, so they had a specific
- 22 function like we had, so they represented their part, but we
- 23 were all considered one team.
- 24 Q They did not sign off on your report?
- 25 A No.

1 Q They had specific duties different than yours and your two
2 associates that morning, correct?

3 A That's correct.

4 Q You arrived in separate cars?

5 A Yes, we did.

6 Q You arrived first?

7 A Probably, I can't say that did.

8 MR. GABRY: Mr. Hiller, where are the photographs of
9 the exhibit?

10 BY MR. GABRY

11 Q Mr. Hiller--you'll recall before our break went through a
12 series of exhibits. I started number that group four,
13 possibly--four through sixteen if I remember correctly.

14 A Yes.

15 Q Those being a series of photograph as I believe you said, the
16 scene before you arrived?

17 A Yes.

18 Q People's exhibit number four, then, describe for the jury
19 what you are seeing?

20 A It's a picture of the body lying in the fences area of the
21 cemetery covered with a yellow rain coat and a grey coat.

22 Q So, when you arrived that was the condition of the body?

23 A No, not exactly.

24 Q Okay.

1 A I recall when we got there; there was a blue, light paper of
2 the State Police blanket over everything.

3 Q And a bucket holder everything down?

4 A Well, It could be. There was a bucket underneath that pump
5 right there. I can't remember if it was holding everything
6 down or not, but it may well have been.

7 Q I'm showing you, Captain, as what I have marked as
8 defendant's purposed exhibit number two. I ask you to please
9 look at that photograph and tell me if that accurately
10 depicts how the scene appeared when you arrived?

11 A It does depict a paper blanket over the victim. I don't
12 necessarily see a bucket, but it does show a paper blanket
13 over the victim.

14 Q Does that accurately portray the view that met you when you
15 got down from Lansing?

16 A Yes.

17 MR. GABRY: Your Honor, I would move for the
18 admission of exhibit two.

19 MR. HILLER: May I see it?

20 MR. GABRY: Yes, of course.

21 THE COURT: Any objection?

22 MR. HILLER: No objection.

23 THE COURT: Defendant's exhibit two is admitted.

1 MR. HILLER: Your Honor, I have no objection to
2 People's--excuse me, defendant's exhibit three, either. I
3 assume that is where we were headed.

4 MR. GABRY: Yes.

5 THE COURT: Without objection, three is admitted.

6 BY MR. GABRY

7 Q Captain Bennett can you take a look at that photograph and
8 describe it for the jury, please?

9 A This is a photograph of the body covered with a blue paper
10 blanket and on one corner there is a bucket sitting, that I
11 could not see in the previous photograph that you showed me.

12 Q This is a close up?

13 A This is a closer view.

14 Q Now, when you arrived do you recall whether or not there was
15 a squad car--a marked patrol car in the entrance to the
16 cemetery?

17 A I do not recall a patrol car being in that entrance.

18 Q Had there been testimony that there was one there, it had
19 obviously been moved before the crime team arrived?

20 A Yes.

21 Q And, in the condition then that the crime lab found Ms.
22 Mixer's body with the additional coverings that we didn't go
23 through, through Mr. Hiller's presentation, obviously this
24 one had to be moved first, correct?

25 A You're right.

1 Q Along with the bucket?

2 A Yes.

3 Q Do you remember who did that?

4 A No, but I remember the bucket being seen later under a pump

5 near by, but I don't know who did it.

6 Q As you began to remove the items from--the blue paper comes

7 over, and I think you testified previously that you tried to

8 do it in layers, correct?

9 A Correct.

10 Q Who removed these layers?

11 A Versailles and I probably removed the layers of clothing off

12 of the victim. I can't tell you who removed the blue paper

13 blanket.

14 Q As far as you recall, Trooper Lawson would not have been

15 involved in the gathering of these items off of Ms. Mixer's

16 body?

17 A As far as I recall, he would not have been.

18 Q Is it fair to say that based on your degree of seniority, it

19 was your crime scene?

20 A You could say that.

21 Q So, any actions that were being taken by officers were under

22 your direction?

23 A Yes.

24 Q Do you recall whether any officer wore gloves of any fashion

25 while items were being removed from Ms. Mixer's body?

1 A No.

2 Q You don't recall, or gloves were not being used?

3 A We did not use gloves at that time.

4 Q So, someone removed the blue paper blanket, we call it, and

5 then someone, you don't know who, picked up the rain coat?

6 A No.

7 Q Okay, correct me then, please.

8 A We did that--I did that with probably Versailles.

9 Q So you picked up the rain coat first?

10 A Correct.

11 Q I understand the raincoat was taken away from the scene by

12 someone other than, what I will call, your team?

13 A It was--he was a member of our team, Sergeant Hine,

14 Q It was not your three man unit--

15 A Our five man unit.

16 Q --it was Sergeant Hine, because of the possibility of prints?

17 A That's his expertise, and you're correct.

18 Q You gave that to him?

19 A Yes.

20 Q Then there was the grey wool coat that we have seen here in

21 court today. That would have had to of been removed next?

22 A Yes.

23 Q And you would have grabbed that, picked that up?

24 A Yes.

25 Q Do you recall what you did with that coat at that time?

1 A My recall, was that we put it in a paper bag and we brought
2 it back to the laboratory.

3 Q What was the next items that were removed?

4 A Underneath there were the garments on hangers, laying across
5 the victims chest. I --either I removed them and gave them to
6 Sergeant Hine or he removed them. I don't recall one hundred
7 percent but they would have gone to Sergeant Hine at that
8 time.

9 Q I would expect back then, just as now, if one sees obvious
10 signs of blood or any other kind of substance when ones
11 removing things, they don't grab that area. Fair enough?

12 A That's fair.

13 Q But you--nothing is done to sterilize, wash or clean hands
14 between the time one item is grabbed and another is, is that
15 correct?

16 A Yes, that's correct.

17 Q Are these items put together or are you using as you
18 described to Mr. Hiller's testimony, like you did at the
19 autopsy; each item going into its own plastic bag?

20 A We wanted to put them into their own plastic container so
21 each one didn't touch the others.

22 Q But as to the larger outer garments, like you said, this coat
23 wasn't put in plastic it was just in paper?

24 A Right.

1 Q Now, as the items were removed, we get down to the towel. We
2 don't need to go through the headband, but all of these items
3 are being picked up by you, placed securely in some kind of
4 container; bag or plastic, and then marked there at the scene
5 or marked later?

6 A Well, we had the laboratory number on hand so it should have
7 been marked at the scene, that would be what I suspect that
8 we did.

9 Q People's exhibit number fourteen, for the jury, Captain would
10 be described as what view?

11 A It was a view of the lower extremity of the victim with
12 several articles of clothing resting on her legs and between
13 her legs.

14 Q When you say several articles, we see the silk scarf and the
15 yellow towel, is that correct--along with the shoe?

16 A Yes, in this photograph.

17 Q Do you see anything else other than those items?
18 A Well her half skirt was pulled up and sort of affixed to her
19 body.

20 Q I understand, but her pantyhose were on?

21 A He pantyhose were on. I can't say that I see anything else in
22 this picture.

23 Q As I look at the photograph, this area here, which would be
24 along the left--I believe the left leg of Ms. Mixer, that is
25 part of the towel, is that correct?

- 1 A Yes.
- 2 Q That towel then wraps over to the right leg and comes back
- 3 down the right leg and in between, is that correct?
- 4 A In this view, that would be correct.
- 5 Q Is that how you remember the positioning of the towel after
- 6 all of those items had been removed?
- 7 A Yes.
- 8 Q Captain Bennett I am going to show you what I have had marked
- 9 as Defendant's exhibit number four. I ask you if you
- 10 recognize that enlargement of some photographs you may have
- 11 seen today?
- 12 A This appears to be an enlargement of what we had just talked
- 13 about. Only in this view, there's a book that couldn't be
- 14 seen before and what I think it is the end of a shoe which
- 15 couldn't be seen in the other picture.
- 16 Q I think if you look at the--it's show it right there.
- 17 A You're right.
- 18 Q That shows how the towel appeared to be either laying on or
- 19 positioned on Ms. Mixer's lower body when everything was
- 20 uncovered, correct?
- 21 A That is correct.
- 22 Q No one would have moved the position of the towel before that
- 23 is taken, is that also correct?
- 24 A That is correct.
- 25 Q What were the weather conditions like out there that morning?

1 A It was chilly, it was overcast. It was not raining; there was
2 no snow on the ground. My pictures show detectives wearing
3 their overcoats--their raincoats, so it was chilly that
4 morning.

5 Q Was the ground damp and wet?

6 A Not necessarily, it was not like a rainstorm had come down.
7 It was moist, but not over--not soggy with rain or anything
8 like that.

9 Q No indication, that you observed, that would have been
10 consistent with a heavy rain storm during the evening?

11 A Well, if there was, it had seeped in the ground by that time,
12 because we didn't wear goulashes or rubbers.

13 Q I don't recall hearing in your direct testimony, anyone
14 making reference to a Hudson bag or a bag with some items in
15 it. Was that brought to your attention?

16 A I only learned it through discussion thereafter. I didn't--it
17 was not there when we were there.

18 Q Once you learned of it, as far as through that discussion,
19 did you identify where a civilian had picked up that bag?

20 A No, I never knew anything about that bag.

21 Q So, no one ever surveyed or looked around that area for
22 evidence?

23 A We did no find any evidence--I don't know where that bag was
24 found, counselor.

1 Q Neither one of the detectives interviewed you--introduced you
2 to a young kid--a young man?

3 A No, that was--I don't know anything about that.

4 Q Okay. As you described how you go about doing your scene
5 search, I guess that's what I'll call it. You talked about
6 setting up an outer perimeter and shrinking down the
7 perimeter. Are all members--all five members of the crime lab
8 involved in that, or do you incorporate some of the
9 detectives that were involved?

10 A No, it would have been ourselves and it would have been only
11 two of us, myself and Detective Versailles.

12 Q Sergeant Hine wouldn't have been involved in that?

13 A If he was, I don't recall it, because we try to keep as many
14 people away from walking into that area as you can.

15 Q So, those items that would have been identified would have
16 been by you and Sergeant Versailles?

17 A Yes.

18 Q Do you recall seeing a cigarette butt laying in the area just
19 southeast of the body?

20 A I have no recollection of a cigarette butt at all.

21 Q Has anyone shown you a police report of Sergeant Hine, to see
22 if that refreshes your memory?

23 A No.

1 Q In your direct testimony didn't you indicate that you were
2 familiar with the phone book being turned over on a certain
3 date, April, I think you mentioned?

4 A Yes, my record recall, at least was that phonebook was turned
5 over to--I received it from Sergeant Kraus on March 26, 1969
6 at 3:10 p.m. and turned it over to the latent print unit on
7 April 7th at 4:30 p.m.

8 Q That's in your report?

9 A That's my report.

10 Q I am going to show you a report of Sergeant George Hine and
11 Zac Davis. I just ask that you read this to yourself. I
12 brought you the entire report so that you review it all, but
13 to be expedient I highlighted something and just tell me if
14 that helps refresh your recollection?

15 A You know I have absolutely no recall of that, I'm sorry.

16 Q Is it fair to say that in most crime scenes this evidence
17 would be considered relatively important?

18 A Yes.

19 Q Sorry. You mentioned to Mr. Hiller, that you took a cast of a
20 heel and a tire track through a heel?

21 A Yes.

22 Q Did that amount to being of any evidentiary value so long as
23 you were associated with the case?

1 A Well it has evidentiary value in that it showed something. It
2 was only compared to one heel print submitted, and that heel
3 print was eliminated.

4 Q As far as you know, no other heel prints were presented to
5 you for comparison purposes?

6 A You're right, no others.

7 Q That's where that would have went, correct?

8 A Yes.

9 Q As the various articles are removed from Jane Mixer's body,
10 they've been out there all night, do you recall the towel.
11 How was that packages and removed from the scene?

12 A How was the towel take away from the scene?

13 Q Correct.

14 A It would have been deposited in a plastic bag and taken with
15 us along with everything else and taken in our station wagon
16 as we went about out business that day.

17 Q So the towel with blood, would have been put in a plastic
18 bag?

19 A Yes.

20 Q The grey coat, however was kept in paper, correct?

21 A By size, counselor, is probably why.

22 Q The smaller the item--your preference for preserving the
23 evidence at that time, whether it is wet or dry, is to get it
24 into plastic so it doesn't come into contact with other
25 things, correct?

1 A You're right.

2 Q And it is sealed, correct?

3 A Right.

4 Q All of this items--all of these items are removed to

5 ultimately Ms. Mixer's body being removed from the scene?

6 A Yes.

7 Q I have a question before I forget. The items that Mr. Hiller

8 has you identify, but have not be admitted, I believe, items

9 45 and 46, I know you identified 45 with a lab number and

10 mentioned red handwriting, where was that obtained from. We

11 have an envelope with some trace small bits and blood, where

12 does this come from?

13 A That would have come off the back of her jumper, back in the

14 laboratory when we examined it in the laboratory.

15 Q When you examined it?

16 A When we were preparing the clothes for the health lab, we

17 noticed this granulated material, and what was loose, we

18 collected. That was the loose material we collected,

19 Q I want to make sure I understand everything, when you

20 mentioned seeing some white granular material, and maybe some

21 point in time somebody told you it was soap, you mentioned

22 that just now--you mentioned it was on the nylon stockings,

23 you use plural, was that--

24 A No, I said stocking a toe of--one of the toes on the

25 stocking. I don't remember which.

1 Q That's why I wanted to make certain I understood. Are we
2 talking about, then--we have pantyhose and we have stocking,
3 singular, was this white granular material on the--on one of
4 the toes of the pantyhose?

5 A Yes.

6 Q Do you recall there being some dispute over moving Ms.
7 Mixer's body from the scene to one ambulance and then she had
8 to be moved to another ambulance before she was ultimately
9 taken to the morgue?

10 A I remember hearing about that.

11 Q Were you not present at the time?

12 A Well, I was present when the medical examiner was there, but
13 we left before the body left and I have no recall of any
14 dispute between the first ambulance people. I just know that
15 happened but I don't--I wasn't aware of it at that time.

16 Q Now, we move to the morgue and the conduction of the autopsy,
17 correct?

18 A Right.

19 Q In this setting, now that we are in a more sterile
20 environment, I understand that you are using gloves?

21 A Yes.

22 Q You told the jury about rubber gloves?

23 A Yes.

24 Q In Dr. Hendricks autopsy reports, that has been admitted,
25 there is an indication in there that the officers tell him

1 that the clothing had been--let me make sure I get this
2 right--they had readjusting the clothing to some extent. Do
3 you recall anything to support that statement?

4 A No.

5 Q You did not state that then?

6 A I did not state that.

7 Q But there were other officers present correct?

8 A Beyond our five crime laboratory people, there were other
9 officers present.

10 Q That would include inspector Ron, Detective Taylor, Ann Arbor
11 police?

12 A Yes.

13 Q Ypsilanti police?

14 A Yes.

15 Q And the university security?

16 A I knew most of all those people, but Dr. Hendricks would have
17 listed all those people, I would imagine, for his report.

18 Q Did you have help in removing the articles of clothing from
19 Ms. Mixer's body for preservation?

20 A My recall, would be that Dr. Hendericks helped me do that. He
21 had gloves, I had gloves.

22 Q So the rest of the officers, step back and allow you two to
23 begin to remove the clothing?

24 A Yes.

1 Q We've seen, I believe all of it marked and admitted here, was
2 that removed in the same kind of layer by layer fashion?
3 A Yes.
4 Q Was that removed while you wore one set of gloves?
5 A You're right, it would have been.
6 Q Dr. Hendericks would have removed, done that will you also,
7 wearing his one set of gloves?
8 A That would be my recall.
9 Q You talked about the fact that the stocking was cut off of
10 Ms. Mixer by one cut, correct?
11 A I testified that Dr. Hendricks cut it off, and my best recall
12 is that he cut it off in one cut.
13 Q That was in order to preserve the knot, correct?
14 A Yes.
15 Q When you received the nylon--stocking, was the knot intact?
16 A The know was intact.
17 Q Do you examine the knot?
18 A No, I just looked at it.
19 Q Did you not describe it as being a regular granny knot?
20 A I looked at it and if that's what I put there, that's what I
21 determined.
22 Q So that's what it looked like?
23 A Yes.

1 Q The items that Mr. Hiller showed you that constitute the
2 stocking--I couldn't see as you were looking at them, was the
3 knot still there?

4 A No, there was no knot there.

5 Q Now it's getting late, not only today, but that Thursday, the
6 autopsy would have been completed about what time?

7 A About four o'clock. I think it might have been a Friday. Am I
8 mistaken on that?

9 Q Friday, you are correct, thank you. Do you recall taking the
10 clothing to the Ann Arbor Police Department and examining it
11 with members of your team?

12 A No, I don't recall doing that.

13 Q If that had been noted in a police report, would you take
14 acceptation that that had happened?

15 A I'd have to because I don't remember doing that.

16 Q After the autopsy, then by your recollection, the evidence in
17 its various plastic bags, would have gone with the other
18 evidence you secured from the place where Ms. Mixer's body
19 was found and kept in your van?

20 A Yes.

21 Q I know we are going back a lot of time here and three and a
22 half years you probably done a lot of crime scene
23 investigations by that time, is that correct?

24 A By myself in that period of time?

25 Q In one capacity or another by 1969?

1 A That's a fair statement.

2 Q A number of the homicides?

3 A Yes.

4 Q Was there anything about your observations of where Ms.

5 Mixer's body was found that would lead you to believe that

6 that was in fact where she was killed?

7 A I didn't believe that she was killed at that site. I believe

8 she was killed elsewhere and deposited at that location.

9 Q Can you tell the jury, briefly, what observations you made to

10 make you come to that conclusion?

11 A The act that the blood from the head womb went down her face

12 and then went down towards her--as it dried it went towards

13 her cheek. That wouldn't be consistent with finding her

14 laying on her back, necessarily, on a grave cemetery. That's

15 one thing. The fact that she was--I did say that there were

16 drag marks on the ground to her heal of one of her feet that

17 would indicate she was moved into that location. Those are

18 the main thoughts I would have.

19 Q Were those shared with the investigators?

20 A I am sure we did.

21 Q So that they were also in the processes of finding out where

22 she may have been killed?

23 A That would have been very important.

24 Q I think you relayed to the jury that after the autopsy, you

25 examined a vehicle, a car of some kind?

1 A I recall that we looked at a vehicle somewhere that day
2 before we came back to Lansing?

3 Q Captain Bennett, if you need to refresh your memory, I direct
4 your attention to page three of you report.

5 A Thank you.

6 Q Just for the record, you are refreshing your memory, correct?

7 A Thank you. According to my memory--my report, we examined a
8 two tone maroon 1961 Rambler American 440 Coupe, allegedly
9 belonging to the boyfriend of the victims. It was processed
10 at the Ann Arbor Police garage. The vehicle bore an
11 identification number of E065238 with a Michigan registration
12 NCE3541, no relevant evidence was found, inside or around the
13 vehicle.

14 Q I realize that from time to time you may have to review the
15 report, but to the extent can you try to tell the jury what
16 you remember versus reading the report I would appreciate it.

17 A Thank you.

18 Q After that, you indicated to Mr. Hiller that you then
19 returned to Lansing?

20 A No, we went to the victims room at the law quadrangle--her
21 dorm room.

22 Q I know that. Again, now you are looking at your report, now
23 you know that?

24 A I knew that before?

25 Q What did you do in her room?

1 A We looked for--we were looking primarily for a single
2 stocking that could match to a pair to a ligature that was
3 around her neck. We did not find any. If we find stockings--
4 found stockings to my recall, we found other pantyhose. We
5 were looking for a hair brush that would have known hair from
6 her. I don't know why, but we were looking for that as a
7 piece of evidence. While were there, we saw a phone book in
8 her room that had a name of someone in it and it was checked
9 off and than then was noted as evidence.

10 Q You were involved then in all of that?

11 A The latent print people would have been with us, primarily
12 for that.

13 Q Detective Little and Taylor to your memory?

14 A I don't recall them being there, they might have been, but I
15 don't remember.

16 Q As you examined the room with intent on looking for a
17 possible match to the nylon, I'll call it, around Ms. Mixer's
18 neck, you did discovery other pantyhose?

19 A We saw other pantyhose, we saw a roll of film and that was
20 taken to be processed for whatever it may have contained.

21 Q Did you ever find, or note in your report that you found a
22 packaging that might be consistent of a recently purchased
23 pair of pantyhose?

1 A I don't recall that. We also looked for yellow and white
2 towel, a mate maybe, but we didn't find anything like that
3 either.

4 Q It is fair to say that having assessed a number of crime
5 scenes, there didn't appear to be any signs of a conflict or
6 a fight or any kind of forced entry into the room?

7 A The room was not disheveled, it was just as you would expect
8 a young lady lived there.

9 Q That pretty much wrapped up your day--your Friday?

10 A Yes.

11 Q Now you went back to the lab--crime lab in Lansing. You have
12 a van--a crime van with some paper bags for the bigger
13 articles--are the plastic bags placed in one paper bag to
14 limit the number of containers you have?

15 A Probably would have been like that.

16 Q So, it's late, probably almost in to Saturday morning, what
17 happens to these items then?

18 A Well, they are put in the property room. The known blood from
19 the victim would have been put in the refrigerator of our
20 laboratory. The garments, in this case, the yellow and white
21 towel that was wet with blood and the blue scarf would have
22 laid across an evidence bag in the property room to air dry
23 until we came back on Monday morning to continue our
24 examination.

1 Q Today, it's recollection that you opened up those plastic
2 bags and air dried those wet articles on that Fri--actually
3 early Saturday morning or late Friday?

4 A To be honest with you counselor, that is what I thought we
5 would do. I don't actually recall doing it, but that would be
6 a good procedure that we should have done.

7 Q Do you recall being asked at the preliminary exam conducted
8 on January 14, 2004, the question as to what became of the
9 evidence and your answer being, well the following Monday
10 morning--it would have been a Friday that this occurred and
11 the following Monday morning we began examining the evidence
12 that we had and blood had to be--bloody clothing had to be
13 fully dried and so forth so it could be examined, we examined
14 it that day?

15 A That must be correct.

16 Q The after the examination, the evidence goes to Mr. Holtz?

17 A Back in the original bags we collected it in, to Mr. Holtz.

18 Q I can't--I'll be honest with you, I can't recall all the bags
19 and everything we saw, do you remember if the jumper was
20 packaged, if the grey jumper was packaged in plastic or in
21 paper?

22 A I don't remember, but in the size of the jumper, it probably
23 would have fit in a paper bag easier than a plastic bag, but
24 that's conjecture at this point.

1 Q There was discussion about observation about, I'll call it
2 unique, it was unique to you, spot of blood on the top part
3 of Ms. Mixer's left hand, is that correct?

4 A Yes.

5 Q You observed that at the scene, correct?

6 A I can't tell you I observed it at the scene. I could have, I
7 don't recall seeing it at the scene. I recall, vividly seeing
8 it at the autopsy.

9 Q People's exhibit 73 (INAUDIABLE) before we do that, do you
10 recognize 73? It is a black and white photograph taken from
11 the top looking down on Ms. Mixer, is that correct?

12 A Yes.

13 Q And her left hand and part of her left hand is visible in
14 that photograph, correct?

15 A It is. From her finger--her little finger leading into the
16 back of her hand.

17 Q Do you see the dark circle there, that's kind of just south
18 of her elbow, correct?

19 A I see it.

20 Q Does that appear to be consistent with the area that you then
21 noticed at the autopsy that you scrapped the blood away from?

22 A Yes, because the rounder part was the dry spot. I don't know
23 what the other was, maybe a dribble.

24 Q This picture does show the blood spot that you subsequently
25 saw?

1 A Yes.

2 THE COURT: Is that the enlargement?

3 MR. GABRY: 73 is Mr. Hiller's exhibit 73.

4 THE COURT: Was that previously admitted?

5 MR. HILLER: (INAUDIABLE)

6 THE COURT: Go ahead and use it, I will confirm it.

7 All right, it has been admitted, go ahead. Turn the lights
8 down a little bit.

9 BY MR. GABRY

10 Q I realize our contrast is a little bad. If you need to step
11 down here to view that, I would appreciate it, unless you are
12 able to make out the area that you removed the blood at the
13 autopsy from? Could you point out the area for the jury, so
14 when they see exhibit 73, they will--

15 A Could be, if what we are talking about, would be at this
16 point on the back of the hand a little bit in towards the
17 little finger.

18 Q Thank you Captain. Do I understand, Captain Bennett, from
19 your testimony that as to your knowledge of this picture of a
20 phone book cover depicted in exhibit 52, the first you were
21 made aware of that was on the 20--I believe you said, the
22 26th, when it was brought to you by Detective Kraus?

23 A Yes, March 26 of '69.

24 Q Five days after the body was found?

25 A Yeah five days, you're right.

1 Q Now, I would like to turn your attention to your report, the
2 actual results of your analysis. You examined the actual
3 phonebook, is that correct? Maybe I should be more
4 particular. You examined the phonebook in exhibit 52?

5 A We examined the phonebook that exhibit 52 is a picture of.

6 Q All right, since all we have is a picture, can you tell me
7 what you actually saw and what you found when you examined
8 the actual phonebook?

9 A When we were looking at the phonebook, we were careful
10 because we were consider with latent prints. We looked at it
11 and on the side, along the margin, there was some handprint
12 or some handwriting that said, "Muskegon" "Mixer".

13 Q How was it--in what kind of form was used to write it--I
14 don't mean form, I mean object. Could you tell?

15 A Either a pen--a dark pen or a fine lined marker.

16 Q Back in 1969 we probably didn't have a lot of the gel markers
17 and a lot of the different things. We had ball point pens and
18 do you recall having fine point markers being available?

19 A Yes, we had markers, because we used markers in the
20 laboratory.

21 Q You had an opportunity to examine the towel before you turned
22 it over to Mr. Holtz?

23 A Yes.

24 Q Did you find any markings or identified marks on the towel?

25 A I don't recall seeing anything on the towel other than blood.

1 Q I see in reference to your report, you examined or had
2 pointed out to you something on the outside surface of the
3 brown leather overnight case, is that correct? If you need to
4 refresh your memory it looks like I am looking at the last
5 half of paragraph three of the result of laboratory analysis.

6 A It says that for further analysis--the brown leather
7 overnight case received from Sergeant Hine which bears
8 smudges on the outside surface.

9 Q Were you able to determine what those brown smudges were?

10 A No, I wasn't.

11 Q Do I--again, not to belabor things--the evidence is kind of--
12 you have what you collected, the latent people have what
13 they've collected. They give some of it to you, you give it
14 to Holtz. You give some of it to them and they look at it and
15 they give it back to you or someone else, fair enough? We had
16 some discussion earlier about the knot and I refer you, if
17 you need to refresh your memory, to the fourth paragraph of
18 your report in which I believe you, or all three of you , say
19 something about that knot.

20 A Yes, we did. We looked at it. We did not open the granny
21 knot. We described how we found the towel--the stocking to be
22 in its cover and what the general size was and about its
23 sheeress and I can't tell you, counselor, but we must have
24 talked to someone--some hosier representative to merely say
25 that stocking was common with young people.

1 Q But no match found in Jane Mixer's apartment?

2 A That's correct.

3 Q The next portion of your laboratory analysis which is the next
4 portions that you gave out to the investigator deals with the
5 firearms identification or examination of what was marked and
6 admitted just before we broke for lunch, which I believe is
7 exhibits 41, 42, 43, correct?

8 A Yes.

9 Q Who examined those, I'll call them fragments of bullet?

10 A I would have.

11 Q Tell me about firearms identification as far as what you
12 would have done with those bullets?

13 A We look at the microscopically first--you look at them
14 microscopically to see if you can find something--if the
15 bullet has a lead interior then it has a harder surface on
16 the outside. Different manufacturers manufacture bullets in
17 different fashion. In this case, I thought that I saw--I did
18 see what was characteristic of Remington Gold ammunition.
19 They make it a certain way and that's what I observed on what
20 I could see as a portion of this bullet.

21 Q That would have been the larger bullet or the portion--in
22 your report you only talk about the fragments of two fired
23 bullets. One of them was apparently more intact than the
24 other, is that correct?

25 A That's correct.

1 Q I think, I'm not sure where they are, but exhibit 43 or what
2 have been marked as F-1 would have been the more intact
3 bullet?

4 A One of them, the more intact one, would have had a base of a
5 bullet still visible.

6 Q That base is important to you as you examine the bullet,
7 correct?

8 A It is.

9 Q As you look at it under the microscope to determine the
10 number of marking that might be placed on the bullet as a
11 result of the tooling inside the barrel arm?

12 A You're right.

13 MR. HILLER: Your Honor, for purposes of the record,
14 I'll stipulate to Captain Bennett's qualifications as a
15 firearms expert.

16 THE COURT: Well apparently he is anyway, so go
17 ahead.

18 BY MR GABRY

19 Q And you examine that under the microscope?

20 A Yes.

21 Q And you made a determination that it had six lands and six
22 grooves?

23 A Yes.

1 Q You also were unable to determine whether or not those lands
2 and grooves twisted to the right or twisted to the left as
3 they went down the barrel of the gun, correct?

4 A I could not determine that.

5 Q At that time, back in 1969, as far as firearms that left six
6 lands and six grooves, could you give the jury some idea as to
7 the number of manufactures that made 22 firearms?

8 A The major manufactures would have made them. Ruger would have
9 made them, Colt would have made 22 barrels with twists within
10 the barrel. Smith and Wesson would have, I can't recall, it's
11 been a long time, how many others might have.

12 Q Just about every hand gun manufacture would have made a 22
13 wouldn't they?

14 A It is a very common handgun.

15 Q There would have been thousands of them in the market place,
16 back in 1969?

17 A Right.

18 Q In light of the lack of markings on the firearm, you made a
19 representation to the investigators that they should look for
20 any 22, correct?

21 A Right. You shouldn't over look anyone. If you have an
22 opportunity to seize it.

23 Q I don't know if anyone in the jury is familiar with
24 ammunition, but when you talk about characteristic of a
25 Remington Gold tone bullet, that's because Remington would

1 make one that almost appeared gold in coloration when
2 examined, correct?

3 A There would be a clad surface put on the outside of their
4 bullets that had this burnish or gold color to make it
5 attractive or hardened. Other manufactures might have done
6 that too, but I do recall that Remington did.

7 Q Can you give me the name of one other manufactures that made
8 gold tone ammunition back in 1969?

9 A No, I can't. I can't do that.

10 Q Trooper Larson in his capacity as a representative of the
11 crime lab was in fact involved in firearms identification,
12 was he not?

13 A At that time--my recall would be that he was not assigned to
14 the laboratory very long and that he was beginning to be
15 trained as a firearms identification officer.

16 Q Charlie Myers was the head of the lab back then?

17 A Yes, he was.

18 Q He was a firearms trainer of expert was he not?

19 A He was as well as others.

20 Q When you make this determination about this firearm that's up
21 for identification, is that just yours or it is cooberated or
22 do you have other analysts look at it? How did it operate
23 back then?

24 A I would have--in this case there was nothing on those--on
25 that bullet fragment that would really allow you to identify

it with a rifle because there wasn't many lans--a gun--there
wasn't many lans and grooves, so you're talking about what
it's composed of and what it looks like and what kind of gun
it could have been fired from. I surly would have talked and
cooberated with some of the senior firearms examiner before I
issued this report.

Q. Now, I just want to clarify. There's nothing from that bullet that does allow you to determine whether it was fired by a 22 rifle or a 22 handgun, is that correct?

A You're right. You're right.

MR. GABRY: Thank you, your Honor, I have no further questions.

THE COURT: Anything further Mr. Hiller?

RE-DIRECT EXAMINATION

BY MR. HILLER

Q Captain Bennett, Mr. Gabry asked you about what circumstance one of your crew would sign a report. In particular he was talking about Detective Larson--Trooper Larson. I believe you indicated that if he had been there, if he had participated even to the extent of observing or even holding one end of the tape that he would be expected to sign the report, is that correct?

A Yes, because everybody who is there signs the report to say that you're a potential witness for what you did.

1 Q Do you recall if Trooper Larson also participated in taking
2 the evidence to the--the evidence that you took to Walter
3 Holtz at the Public Health laboratory, did Trooper Larson
4 participate in that as well?

5 A Yes.

6 Q What about Detective Versailles?

7 A Yes.

8 Q All three of you took it over there together?

9 A Yes.

10 Q Do you recall--when you looked at the ligature, when you
11 looked at the stocking that had been cut off Jane Mixer's
12 neck, whether there was anything caught in the knot?

13 A I don't recall at that time seeing anything caught in the
14 knot.

15 Q May I ask that another way. Do you recall nothing in the
16 knot?

17 A I don't recall seeing anything in the knot.

18 Q How long did you do firearms examination?

19 A I have to think about that because I can into the lab in
20 January of 1966, and in the summer I visited firearm
21 factories with another officer at that time of that year as
22 part of the training we'd had for doing firearms
23 identifications--gun factories and ammunition factories to
24 get background information. I visited other laboratories and
25 at some point in time, probably eighteen months after I

1 started this type of endeavor, I was qualified and did
2 testify as a firearms identification officer in several
3 cases. It would have been, maybe a year at the time, give or
4 take, when this happened.

5 Q How long did you continue to do firearms identification after
6 this--when did you--when did you move on to other deals?

7 A We had trainees coming in at that time and a need for
8 additional firearms officer wasn't as great. At that time I
9 had gone to college and had a chemical and biological and
10 chemistry casework and I was going and attending Michigan
11 State University to get a degree in chemistry and biology
12 with the idea of going into microanalysis, which I did. That
13 was my purpose in taking those classes and going in that
14 direction and not doing anymore firearms work.

15 Q Do you recall when you stopped doing firearms work?

16 A No, I can't specifically.

17 Q But you retired from the State Police in 1979, correct?

18 A Correct.

19 Q By that time you were a Captain, were you working in the lab
20 at that time?

21 A No, I stayed in the laboratory--I was head of the micro
22 chemical unit at detective sergeant. I became the laboratory
23 directory for the East Lansing lieutenant and then in 1977 I
24 was promoted to Captain and I went out of the laboratory into
25 the executive office of the Department of State Police.

1 Q I assume that when you were in the executive office of the
2 Department of State Police, you were not doing firearms
3 examination at that point?

4 A You're correct.

5 Q Were you still doing them when you were the lab director?

6 A No.

7 Q I'm sorry that started--when did you get promoted to
8 lieutenant?

9 A I don't think I told you because I don't think I can
10 remember.

11 Q Ball park?

12 A Well, I would say by 1971, I had stopped doing crime scene
13 work because I was a unit commander and probably a lab
14 directory shortly thereafter.

15 Q Would a 22 caliber firearm, either a revolver or a
16 semiautomatic--would it be possible to have two different
17 brands of 22-caliber ammunition in the gun at the same time
18 and have it work properly?

19 A If they are 22-caliber ammunition and a chamber in the
20 weapon, it could be a variety of manufacturers.

21 Q So, if you had a revolver that holds six bullets, you could
22 have six different ammunition as long as they are the right
23 caliber?

24 A Yes, you probably could.

1 Q Captain Bennett thank you very much. It has been a long day.
2 I really appreciate it.

3 THE COURT: Mr. Gabry, anything further?

4 MR. GABRY: No, your Honor, I do not.

5 THE COURT: I am just curious, you retired in 1979?

6 THE WITNESS: That's right.

7 THE COURT: You have been retired for over 25 years?

8 THE WITNESS: That's right.

9 THE COURT: How many times have you been called back
10 to testify?

11 THE WITNESS: Probably three times. This is the
12 longest I've gone back in my memory, and I have to tell you,
13 it's not easy.

14 THE COURT: How old are you now, sir?

15 THE WITNESS: I'm 77 and a half years old.

16 THE COURT: Well great. Thank you very much and you
17 may step down.

18 THE WITNESS: Am I excused?

19 THE COURT: Yes, you are.

20 (witness excused at 4:41 p.m.)

21 THE COURT: Call your next witness.

22 MR. HILLER: Your Honor, the people call John
23 Versailles.

24 THE COURT: Sir, if you would face the clerk right
25 over here and raise your right hand.

THE COURT CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth?

MR. VERSAILLES: I do.

(witness sworn at 4:42 p.m.)

THE COURT CLERK: Have a seat right up there.

THE COURT: Please state and spell both your first and last names.

THE WITNESS: First name John, J-o-h-n last name is Versailles V-e-r-s-a-i-l-l-e-s.

THE COURT: Prosecutor.

MR. HILLER: Thank you, your Honor.

JOHN VERSAILLES

DIRECT EXAMINATION

BY MR. HILLER

Q In what community do you currently live?

A I'm currently living in Salem, Michigan.

Q What did you do for a living?

A I'm a retired State police officer.

Q When did you start with the state police?

A September of 1963.

Q When did you retire?

A November of 1991.

Q What was your rank when you retired?

A Captain.

Q Captain Versailles, did you ever work in the crime lab?

1 A Yes, I did.

2 Q When did you start in crime laboratory?

3 A Christmas day of 1966.

4 Q How long did you work there?

5 A I worked there the rest of my career.

6 Q As a Captain, you must have been quit high up in the chain of

7 command in the laboratory system?

8 A I was a division director when I retired.

9 Q When you started out in the laboratory did you train in any

10 specialties?

11 A Yes. I was training in trace evidence which would include

12 analysis of glass fragments in vehicle accidents or

13 burglaries, safe insulation, hairs, fibers, footwear--prints

14 of impression and I had a special interest in tool marks, and

15 so I decided to dig into those as well.

16 Q Did you ever do firearms examination?

17 A I did not.

18 Q Do you recall if you were called to help process a scene

19 where a body was found in the Denton Cemetery in Van Buren

20 Township in Wayne County on March 21, 1969?

21 A Yes, I was.

22 Q About what time did you leave Lansing to go down there?

23 A I don't recall the time we left, but my recollection was in

24 the evening hours.

1 Q What were your responsibilities when you got to the crime
2 scene, sir?

3 A I was part of a team that consisted of Sergeant Donald
4 Bennett and Trooper David Larson and myself and we were there
5 to assist the Ypsilanti post detectives in processing the
6 crime scene and for any evidence that might be there which
7 would be of laboratory value.

8 Q Do you recall, specifically what your responsibilities were
9 when you were at the crime scene?

10 A As I recall, I was assigned to take photographs.

11 Q Was Trooper Larson also there with you?

12 A He was, yes.

13 Q Do you recall what his responsibilities were?

14 A I think Trooper Larson was taking the notes.

15 Q What about Detective Sergeant Bennett?

16 A As I recall Sergeant Bennett was collecting and marking and
17 packaging any evidence that we found.

18 Q Did you also attend the autopsy of Jane Mixer?

19 A I believe that I did.

20 Q Were the duties divided up the same way at the autopsy?

21 A Ordinarily that is our routine and I would assume that I was
22 still taking photographs.

23 Q After the autopsy concluded did you go anywhere else before
24 you returned to Lansing?

1 A Yes, we went to the law building on University of Michigan
2 campus.

3 Q What did you do at the law building?

4 A We looked at the apartment of Ms. Mixer and we also looked
5 around the lobby of the law building.

6 Q I'll show you what has been admitted as People's exhibit 52
7 and ask you if you recognize it?

8 A Yes, I believe I do.

9 Q Where do you recall seeing this?

10 A I saw it in the lobby of the law building on the University
11 of Michigan campus.

12 Q Can you describe that location for us please?

13 A As I recall the lobby had some pay phones on the far wall
14 after you come into the lobby itself and were looking at the
15 far wall. There were one and possibly two pay telephones.
16 Beneath these pay phones was a particular phonebook, which I
17 assumed was probably a director for anyone that used those
18 phones.

19 Q What day did you see this?

20 A I think it was the morning after we had been to the cemetery.

21 Q Now, did you--when you came down to do this crime scene, did
22 you come down, return to Lansing and then return to Ann Arbor
23 to continue to look for evidence, or did you just make the
24 one trip?

25 A I can't say for certain but I believe we did it in one trip.

1 Q Could you be mistaken on having it been at night that you
2 were called out?

3 A Could I be mistaken? Absolutely.

4 Q I am going to show you document (INAUDIBLE)

5 A Thank you. According to this document, I was badly mistaken.
6 It says that we arrived at the scene at 10:35 in the morning.

7 Q Does that help refresh your recollection?

8 A It's been so long, not really.

9 Q Okay. Do you remember who collected this phone book?

10 A No, sir, I do not.

11 Q You do remember seeing it in the law school?

12 A Absolutely.

13 Q Thank you Captain. I don't have any further questions for
14 you. Mr. Gabry may.

15 THE COURT: Cross examination.

16 MR. GABRY: Thank you.

17 CROSS EXAMINATION

18 BY MR. GABRY

19 Q Mr. Versailles?

20 A Yes.

21 Q Good afternoon.

22 A Thank you.

23 Q As a member of the crime lab that went down to the cemetery,
24 your main area of responsibility was to photograph the scene?

25 A That's what I was assigned to do that particular day, yes.

1 Q Okay. A subsequent laboratory report was completed and
2 offered to you to sign, is that correct?

3 A Yes.

4 Q When a Trooper--a professional at the Michigan State Police
5 lab signs off on the report, they're indicating to whomever
6 that they believe in the accuracy in that report, is that
7 correct?

8 A That would be correct.

9 Q At this time you were not a firearms examiner, is that
10 correct?

11 A Correct.

12 Q Captain Bennett was, correct?

13 A Yes. Yes, he was.

14 Q Trooper Larson was, correct?

15 A Yes.

16 Q Their representation--or Captain Bennett's representation
17 from what we've heard that they bullet fragments received at
18 the autopsy represented 22 caliber ammunition, one fragment
19 being able to discern six lands and six grooves with no twist,
20 characteristic of Remington gold tone ammunition. Him making
21 that representation, you signing that report, indicates to
22 the world that you accept his opinion, correct?

23 A Correct.

1 Q You found him to be a trained expert in that field? He didn't
2 go to you to ask you to agree with it or anything like that,
3 is that fair to say?

4 A No sir, he did not.

5 Q Let's talk a little about exhibit 52. Exhibit 52 for the
6 record, is actually a picture, right?

7 A Right.

8 Q It is a picture of something?

9 A Yes.

10 Q And that something is what you testified you saw somewhere
11 that day, meaning the 21st?

12 A Well, during the course of the investigation. I don't recall
13 if it was that same day or the following morning or when it
14 was.

15 Q Do you remember who you were with when you left Jane Mixer's
16 room, the actual sleeping area, and went around the law
17 school?

18 A I believe George Hine was there, I believe Jack Nobert,
19 another latent print expert was there, and I think Detective
20 Ken Kraus was there. I'm not positive if Sergeant Bennett was
21 there with us in the lobby or if he was doing something else.

22 Q When you are talking about the lobby, Mr. Versailles, is that
23 the lobby that one enters--are you familiar with the law quad
24 as we called it back in the late '60's?

1 A That particular time was the one and only time I had ever
2 been in that building.

3 Q Let me ask you this, when you arrived from--do you remember
4 were you were coming from when you arrived at the law quad?

5 A I'm not--absolutely--no, I don't.

6 Q Did you have an occasion somewhere on the street?

7 A I would assume we did.

8 Q Go through an arch way into a courtyard?

9 A That sounds vaguely familiar.

10 Q Is there a particular building that has kind of an opposing
11 front when you are in the courtyard that has a series of
12 steps on the outside that you go up to.

13 A I don't recall, I'm sorry.

14 Q This lobby that you are referring to, isn't it true that in
15 order to reach that lobby, one has to go into a particular
16 building, making up part of what we call the law quad, and
17 then go down some stairs into a student common area?

18 A Yes, I think that's correct.

19 Q So, it's not where a member of the public going into this
20 building would open the doors and see the phones right there?

21 A I don't believe so.

22 Q And then going downstairs there was a bank--a group of phone
23 booths?

24 A There were phone booths. I don't remember how many, at least
25 two in my opinion.

1 Q Do you recall if there was a ride board in that area? By a
2 ride board I mean some kind of bulletin board or something
3 where people would post--

4 A Post thing.

5 Q --post things for sale--

6 A I don't recollect whether there was.

7 Q Did you ever--once you came into that building, before you
8 went down, did you keep going into the huge big room? Ringing
9 any bells?

10 A I recall going specifically going and looking at the
11 telephones.

12 Q And that would have been downstairs.

13 A Yes.

14 MR. GABRY: Nothing further, your Honor.

15 THE COURT: Anything further?

16 RE-DIRECT EXAMINATION

17 BY MR. HILLER

18 Q Do you recall why you went to look at those telephones?

19 A I do. At that particular time, we were having a rush of
20 break-ins in pay telephones. People were devising unique
21 little tools in which they could pull the face plates from
22 public pay telephones, extract the coin boxes and take the
23 money. There were just an awful lot of these occurring all
24 around the state occurring when this crime scene and other
25 cases were going on. I was assigned to work on these

telephones to see if we could determine to see how these tools were made and how they were used. Every time I saw a public telephone, I was gravitated towards it to see if one of these instruments have been mounted on it and if so were there any scratches in any particular areas. Just how of interest is why I happen to go and look at these phones.

7 Q Do you recall at the law school whether or not Detective Ken
8 Taylor was there?

9 A I don't remember Taylor being there, but I believe Ken Krause
10 was, I'm not positive.

11 MR. HILLER: Thank you, nothing further.

RE-CROSS EXAMINATION

13 BY MR. GABRY

14 Q So, you're just off looking at phones because you've got some
15 freedom from the regular homicide investigation?

16 A No, on my way into this lobby, the phones struck my interest,
17 so I went to take a peak at them and seen that phonebook.

18 MR. GABRY: Thank you.

RE-DIRECT EXAMINATION

20 BY MR. HILLER

21 Q What were you going into the lobby to look for?

22 A We were going to have a look at Ms. Mixer's apartment.

23 MR. HILLER: Nothing further.

24 THE COURT: Anything further Mr. Gabry?

25 MR. GABRY: No, your Honor, that's fine.

1 THE COURT: You may step down, sir. You are excused.

2 THE WITNESS: Thank you, your Honor.

3 (witness excused at 5:01 p.m.)

4 THE COURT: We are going to stop for the day. Ladies
5 and gentleman, I appreciate your attention today. I realize
6 it's been a long day. It will be a long one tomorrow without
7 the big break in the middle. Please remember my instructions
8 about this case and not discussing this case or having any
9 contact with the media. Do you have any questions about our
10 schedule? You are excused until eight a.m. tomorrow morning.
11 Please go with Ms. Washington.

12 THE LEGAL CLERK: All rise please.

13 (Court in recess at 5:01 p.m.)

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1 STATE OF MICHIGAN)

2 COUNTY OF WASHTENAW)

3

4

5 I certify that this transcript, consisting of 63 pages, is a
6 complete, true, and correct transcript to the best of my ability,
7 of the proceedings held in this case on Wednesday, July 13, 2005
8 before the Honorable Donald E. Shelton, Circuit Court Judge.

9

10 DATED: March 3, 2006

11

12

13 Amy White (CER 7307)

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