

STATE OF MICHIGAN

IN THE 22<sup>nd</sup> CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff

Case No. 04-2017 FC

V

GARY EARL LEITERMAN,  
Defendant

JURY TRIAL CONTINUED

BEFOR HONORABLE DONALD E. SHELTON, CIRCUIT COURT JUDGE

Ann Arbor, Michigan - Thursday, July 14, 2005

APPEARANCES:

For the Plaintiff:

Mr. Steven Hiller, P36233  
Deputy Chief Assistant  
Prosecuting Attorney  
P.O. Box 8645  
Ann Arbor, Michigan 48107-8645  
(734) 222-6620

For the Defendant:

Mr. Gary Gabry, P29739  
200 Admiral Ave.  
Portage, Michigan 49002  
(269) 324-6000

RECORDED BY:

Sherry Deeds, CEO 5737  
Certified Electronic Operator

TRANSCRIBED BY:

Katherine E. Tait, CER 7308  
Certified Electronic Recorder  
(734) 222-6934

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2                   Ann Arbor, Michigan

3                   Thursday, July 14, 2005 - at 8:03 a.m.

4                   JUDICIAL ATTORNEY: The Washtenaw County Trial  
5                   Court is now in session. The Honorable Donald E. Shelton  
6                   presiding.

7                   THE COURT: Bring the jury. Good morning.

8                   JUDICIAL ATTORNEY: All rise for the jury,  
9                   please.

10                  THE COURT: Please be seated. Good morning,  
11                  ladies and Gentleman.

12                  THE JURY: Good morning.

13                  THE COURT: Mr. Hiller, call your next witness.

14                  MR. HILLER: Thank you, Your Honor. The People  
15                  call George Hein.

16                  THE COURT: Sir, face the clerk, raise your right  
17                  hand and be sworn.

18                  COURT CLERK: So you solemnly swear or affirm to  
19                  tell the truth, the whole truth and nothing but the truth?

20                  THE WITNESS: I do.

21                  COURT: Have a seat right up there.

22                  (At 8:05 a.m., witness sworn by clerk)

23                  THE COURT: State and spell both you first and  
24                  last names.

1 THE WITNESS: George, G-E-O-R-G-E. Hein, H-E-I-  
2 N.

3 THE COURT: Okay. Thank you. Prosecutor?

4 DIRECT EXAMINATION

5 BY MR. HILLER

6 Q Thank you, Your Honor. Good morning, sir.

7 A Morning.

8 Q Can you tell us in what community you currently reside?

9 Where do you currently live?

10 A I live in Holt, Michigan, 2415 Arrilious Road, Unit #32,  
11 Holt, Michigan.

12 Q And, are you retired?

13 A Yes, I am.

14 Q Where are you retired from?

15 A Michigan State Police.

16 Q When did you start with the Michigan State Police?

17 A 1954.

18 Q And, when did you retire?

19 A 1987.

20 Q During your--well, first of all, what was your rank when  
21 you retired, sir?

22 A First Lieutenant.

23 Q During your time at the State Police laboratory did you--  
24 or pardon me, during your time at the State Police did you  
25 work at their laboratory?

1 A Yes, I did.

2 Q When did you start in the laboratory?

3 A Started in the laboratory July 1961.

4 Q And how long did you work in the lab?

5 A Until I retired in 1987.

6 Q What was your job when you retired?

7 A When I retired I was the laboratory director.

8 Q Did you have a specialty while you were doing casework?

9 A Yes, I did. In 1961 I was assigned to the Latent

10 Fingerprint Bureau--or Unit, excuse me. Dealing primarily

11 with identification of individuals by the use of the

12 fingerprints, palm prints; toe prints, footprints by the

13 characteristics that are exhibited in the ridge structure

14 in those areas.

15 Q What training did you receive for fingerprint

16 identification?

17 A A lot of it was like on the job training from my

18 supervisor who was an expert in the area. But, I also

19 attended two different FBI schools that dealt strictly

20 with latent fingerprint identifications. I attended

21 school schools at the University of Louisville that dealt

22 with investigations and also identifications of

23 individuals by the ridge structure on the areas I

24 previously named.

1 Q Was part of your job to assist in the processing of crime  
2 scenes?

3 A Yes sir. It was.

4 Q When would you assist in processing of crime scenes?

5 THE WITNESS: Pardon me?

6 BY MR. HILLER:

7 Q When would you assist in processing of crime scenes?

8 A When either the State Police Detectives throughout the  
9 "state would request assistance at a crime scene or a--any  
10 other enforcement agency - Sheriff Department, City,  
11 Township, we would go and assist them on an investigation  
12 of a crime scene.

13 Q Do you recall if you were called to a crime scene at the  
14 Denton Cemetery in Van Buren Township in Wayne County on  
15 March 21<sup>st</sup> of 1969?

16 A Yes, we were.

17 Q About what time were you made aware of the situation?

18 A A call came into the laboratory quite early in the  
19 morning. I can't recall exactly what time. I do know  
20 from review that we did arrive at the scene itself at  
21 10:30 a.m. in the morning.

22 Q You said, "we". Who else went down there?

23 A I had my partner - Detective Jack Knobber, also Sergeant  
24 Bennett and Sergeant Versailles and Trooper Dave Larson was  
25 also there.

1 Q Did you have particular duties at--when processing this  
2 crime scene?

3 A We would assist in most any portion of the investigation.  
4 However, like Sergeant Bennett and Versailles have  
5 testified, they had specific duties as far as collection  
6 of certain evidence and photo taking and we would deal  
7 most anything we thought would have--we would obtain  
8 fingerprints from or palm prints. But, we would assist in  
9 the collection of any or all evidence.

10 Q Once you got to the crime scene what did you do?  
11 A We reviewed the area first and it was someone from  
12 Sergeant Bennett's members that did the photography and  
13 then we assisted in the collection of evidence there and  
14 what we thought would be valuable for the latent  
15 fingerprints. We collected that - Trooper Jack Knobber  
16 and myself.

17 Q Did you approach the body?  
18 A Yes, we did.

19 Q What evidence did you collect at the scene?  
20 A At the scene from Detective Taylor, he submitted a large  
21 paper bag that contained items and then also at the scene  
22 we seized a brownish colored like a little overnight bag  
23 that a person would carry if you were going away for just  
24 a short time which ended up containing personal clothing -  
25 blouses, a skirt, underwear, stockings, makeup. That was

1       in that suitcase and also we assisted in securing many  
2       pieces of clothing that were on hangers that we found and  
3       secured that for taking back to the laboratory.

4 Q Where were the clothing on hangers? Where were those  
5 found?

6 THE WITNESS: Pardon me?

7 BY MR. HILLER

8 Q The clothing on the hangers, where were those found?

9 A On--they were on the body after we had removed a--like a  
10 raincoat they were found underneath the raincoat, laying  
11 on the body.

12 Q And what about the overnight bag? Where was that found?

13 A Lying just on her side - laying on the ground but leaning  
14 against her body.

15 Q Were there any shoes that were recovered?

16 A Yes, there was. There was a pair of shoes.

17 Q And did--

18 A Lying on the body also.

19 Q Did you recover those?

20 A Yes, we did.

21 Q How about a brown leather purse?

22 A No, that was--that was taken by Sargent Bennett and his  
23 people.

24 Q Do you recall a cigarette butt?

25 A Yes, I do.

1 Q Where was the cigarette butt?

2 A It was a little ways away from the body and if I remember  
3 correctly it was to the east.

4 Q Was that collected?

5 A Yes it was.

6 Q Do you know what happened to it?

7 A I don't. I wish I could answer you, sir. I don't know.

8 Q Now these items that you've testified were collected at  
9 the scene, did you collect those or was that done by  
10 Trooper Knobber?

11 A Both of us. Right now I can't tell you who collected what  
12 or picked it off the body. I can't tell you that now,  
13 sir.

14 Q Now, you've indicated that the suitcase contains some  
15 articles of clothing. Was the suitcase full or was there  
16 additional room in it?

17 A As I recall it was pretty full. She had quite a few  
18 things in there. I imagine cause she was going home for  
19 the weekend and there was a lot of person items plus her  
20 clothing that was in there.

21 Q How long did you remain at the scene?

22 A I think we departed the scene at about--probably about  
23 3:15 because we arrived for the autopsy at the University  
24 Hospital at 4:00. I would think it would be around 3:15.

1 Q Do you remember were you present when the body was removed  
2 from the scene?

3 A Yes, I was.

4 Q Do you remember if there was one or more officers who  
5 accompanied the body to the hospital? To the morgue?

6 A Trooper Loland attended the body and to the morgue.

7 MR. HILLER: Your Honor at this time with the  
8 Court's permission, I'd like to read the stipulation  
9 regarding the testimony of R.E. Milligan.

10 THE COURT: Okay.

11 MR. HILLER: The parties hereby--

12 THE COURT: And this is the stipulation you've--

13 MR. GABRY: It is, Your Honor.

14 THE COURT: All right.

15 MR. HILLER: The parties hereby stipulate that if  
16 R.E. Milligan were called to testify he would testify that  
17 on March 21, 1969 he was employed as an ambulance driver  
18 by the Superior Ambulance Company and that on the  
19 afternoon of March 21, 1969, he was sent to the Denton  
20 Cemetery where he picked up the body of Jane Louise Mixer  
21 and transported her to the University of Michigan Hospital  
22 Morgue where he turned the body over to the morgue and  
23 that Michigan State Trooper followed his ambulance from  
24 the cemetery to the morgue and that no one tampered with  
25 the body while it was in his custody.

1                   THE COURT: Ladies and gentleman, a stipulation  
2                   is another of those third types of evidence that I told  
3                   you I might tell you you could consider. A stipulation in  
4                   this case is an agreement by the prosecution and the  
5                   defense that certain facts are true. Okay? Mr. Milligan  
6                   is unable to testify here today. The parties have agreed  
7                   that if were to testify he would testify as just read to  
8                   you. You may consider it as evidence in this case. All  
9                   right?

10                  MR. HILLER: Thank you, Your Honor.

11                  THE COURT: Please proceed.

12 BY MR. HILLER:

13 Q Now, you've indicated that you attended the autopsy.

14 A Yes, I did.

15 Q And, for what purpose do you go to the autopsy?

16 A To learn of the means of death for one thing. Also, for  
17 myself and Trooper Jack Knobber, our purpose there was to  
18 fingerprint and palm print the victim for later  
19 comparisons of any fingerprints that we may obtain from  
20 evidence.

21 Q And while you were at the autopsy did you fingerprint Jane  
22 Mixer?

23 A Yes, we did at the completion of the autopsy then we  
24 fingerprinted the body.

- 1 Q Did you--that is, either yourself or Detective Knobber  
2 collect any physical evidence at the autopsy other than  
3 the fingerprints?
- 4 A No, we did not. That was taken care of by Sargent Bennett  
5 and his members.
- 6 Q Did you stay at the autopsy for the entire procedure?
- 7 A Yes, we did.
- 8 Q After that was over what did you do?
- 9 A Following the autopsy we later examined a vehicle at the  
10 Ann Arbor PD. It was an older vehicle. I think--thinking  
11 back I think it was a Rambler or something like that they  
12 called it.
- 13 Q Did you find anything of evidentiary value in that  
14 vehicle?
- 15 A Nothing that would lead us towards the conclusion of this  
16 homicide.
- 17 Q Did you also take fingerprints from Phillip Weitzman?
- 18 A No, I did not, sir. A detective submitted them.
- 19 Q You received those though?
- 20 A Yes, we did.
- 21 Q Do you know if that was Phillip Weitzman's car that you  
22 processed in Ann Arbor?
- 23 A I don't sir. Not no more. (sic)
- 24 Q Do you--were fingerprints of Nancy Grow and Mark Grow also  
25 submitted to you?

1 A Yes, they were.

2 Q During the course of this investigation there were a great  
3 many fingerprints submitted to you for comparison with?

4 A That is correct.

5 Q Latent prints on this and other cases that were at the  
6 time being treated as related, is that right?

7 A Ink impressions were submitted in relationship to not only  
8 just this particular homicide but other ones which  
9 occurred.

10 Q Dozens--dozens of fingerprints?

11 A Many dozens.

12 MR. HILLER: Many dozens.

13 THE WITNESS: Many dozen.

14 BY MR. HILLER:

15 Q Lieutenant Hein, let me show you People's proposed exhibit  
16 35. Inspect that and tell me if you recognize it, sir.

17 A Well, I can't find my initials on it with it wrapped up  
18 like this, sir. But--

19 THE COURT: If you know where they are, point  
20 them out to him.

21 THE WITNESS: Some place on here I will find  
22 them.

23 BY MR. HILLER:

24 Q Going back to the crime scene for a moment, Lieutenant,  
25 was there also a paperback book seized at the crime scene?

1 A Yes there was.

2 Q Do you recall the title of that book?

3 A Catch 22.

4 Q Was there also a coat--wool coat seized?

5 A Yes there was.

6 Q And was that taken by you?

7 A I assisted in the taking of it but it was actually seized

8 and protected by Sargent Bennett and his members.

9 Q Now, the evidence that was seized that day did you process

10 it to look for latent fingerprints?

11 A Yes, myself and Jack Knobber.

12 Q What's a latent fingerprint?

13 A A latent fingerprint is a print that is left on a surface

14 and it's left by the oils and perspiration that exude from

15 the pores of your fingerprints or palm prints and it's

16 processed either chemically or with a powder to make it

17 visible so it's useful to us.

18 Q And have you in your processing of the evidence were you

19 able to find any latent fingerprints?

20 A Yes we were.

21 Q On what items did you find latent fingerprints?

22 A On a bag submitted to us at the scene. Also from the

23 book.

24 Q That would be the bag that Sargent Taylor got you--or gave

25 to you?

1 A The contents of the bag and the Catch 22 book and we  
2 obtained prints also from other items. I can't recall  
3 what they were right now.

4 Q Now, have you testified in court's in the State of  
5 Michigan before regarding the identification of  
6 fingerprints?

7 A Yes I have many times.

8 Q When was--I don't mean to be rude but when was the last  
9 time you testified about fingerprint identification?

10 A I left the Latent Print Unit in October of 1977 when I  
11 became the laboratory director so it would have had to  
12 have been 1977 and backwards.

13 Q But, at the time this was occurring that was your job?

14 A Yes sir. It was.

15 MR. HILLER: Your Honor with that understanding  
16 I'd ask to have Lieutenant Hein testify as an expert in  
17 the field of fingerprint identification regarding the--

18 THE COURT: Regarding this investigation?

19 MR. HILLER: Yes.

20 MR. GABRY: No objection whatsoever.

21 THE COURT: You will be allowed to consider  
22 expert opinion testimony from this witness.

23 BY MR. HILLER:

24 Q Now, Lieutenant Hein, the fingerprint that you found on  
25 the book were you able to make an identification of that?

1 A Yes we were.

2 Q And who's fingerprint was on that book?

3 A I'd have to refer to my notes, sir.

4 Q Do you have your notes with you?

5 A Yes, I do.

6 Q Please do so.

7 A Seven of the latent prints obtained from the paperback  
8 book, this Catch 22 were identified as being made by  
9 Phillip Weitzman.

10 Q You obtained a number of prints off the bag as well?

11 A Yes we did. Off the brown--off the paper bag two of the  
12 latent prints were identified as having been named by  
13 Nancy Ann Grow. One of the prints from the bag was  
14 identified as having been made by Mark Steven Grow.

15 Q And, did you also examine a manila folder that had been in  
16 the bag?

17 A Yes we did and one latent print obtained from that was  
18 identified as having been made by Jane Louise Mixer.

19 Q The suitcase that you examined, did you find any prints on  
20 that?

21 A There was ridge structure which was photographed and  
22 lifted from the handle itself and preserved for evidence.

23 Q Do fingerprints vary--latent fingerprints--let me back up  
24 very quickly, what's the difference between a latent and a  
25 known fingerprint?

- 1 A Well, a known print whether it be finger or palm ink is  
2 applied to the persons hand and then recorded on a card.  
3 Having been away from it now for 20 some odd years, they  
4 have new techniques today where you don't have to put ink  
5 on a persons hand in order to take the impressions. That  
6 was not in practice when I was--excuse me, when I was  
7 still employed.
- 8 Q And what's a latent print?
- 9 A A latent print is a print that is left on a surface or an  
10 object by an individual when they touch it or grab it to  
11 seize it and it is left there like I explained before by  
12 the perspiration or the oils exuding through the pores  
13 that are located in--on the ridge structure. If you look  
14 at your fingers or palm you'll see the very fine ridges.  
15 Within those ridges are pores that secretes different  
16 chemical things that we can work with and leaves an  
17 impression of the fingerprint itself.
- 18 Q Does a fingerprint result every time someone touches  
19 something?
- 20 A Not necessarily. Not nece--A person and I've seen this  
21 over the years, there's people that just do not exude any  
22 perspiration or anything from the pores and the ridge  
23 structures so they don't leave a latent print and this is  
24 just a physical thing of their bodies.
- 25 Q And, what's an identifiable latent print?

1 A Well identifiable print and I don't know about today but,  
2 '20 some odd year ago when I was in it, we like to find  
3 enough ridge characteristics between this latent print  
4 that we obtain and the ink impressions of the individual  
5 that we're looking at and our system in those days we'd  
6 like to have at least 8 similar characteristics between  
7 the latent print and the known ink impressions.

8 Q Are there times when fingerprints are left when they're  
9 not identifiable?

10 A Yes sir. There is of course.

11 Q Can you explain how that happens please?

12 A Well, they could be smudged. A person could touch a  
13 surface and then pull his hand away like that. In other  
14 words, obscuring or dislocating the characteristics that  
15 might be in there and also there may be ridge structure  
16 that do not contain identifying characteristics. So yes,  
17 there's latent prints that are obtained that aren't  
18 identifiable.

19 Q Let me show you again, Lieutenant Hein, I've had Sergeant  
20 Bunchey remove the bag--he overnight bag from the bag that  
21 was marked exhibit 35 if you want to--

22 A No, I don't really need that. Yes sir. That's mine. My  
23 initials are so noted underneath the handle itself on the  
24 left-hand side.

1 Q Is this the bag that was collected from the cemetery in  
2 Denton on March 21, 1969?

3 A Yes, it is.

4 MR. HILLER: Your Honor, I'd moved to the  
5 admission of People's exhibit 35.

6 MR. GABRY: No objection, Your Honor.

7 THE COURT: 35 is admitted.

8 BY MR. HILLER:

9 Q Lieutenant Hein did you find any fingerprints on exhibit  
10 35?

11 A There was a partial print developed on the handle itself  
12 that we photographed and lifted. It looks like a lot of  
13 ridge structure but however up on close examination it  
14 does not contain enough characteristics to apply it to a  
15 certain individual.

16 Q None the less, were you asking for prints in the hopes of  
17 making a match at one point on this?

18 A Back then when I was in the Latent Print Unit I know there  
19 was a few--and I say a few maybe three or four good  
20 starting points of characteristics in that print and  
21 that's what I would look for in the ink impressions that I  
22 examined over many months. But, I later just within the  
23 last three weeks examined that print, two of the ink  
24 impressions of Mr. Leiterman and I come to the conclusion  
25 that the latent print is not identifiable.

1 Q Was there submitted to you during the course of this  
2 "investigation a telephone book that had been seized from  
3 Jane Mixer's room?

4 A A telephone book was submitted to me but Sargent Bennett--  
5 it was my understanding that it was taken from the lobby  
6 but I could be wrong.

7 Q Do you recall if you were able to obtain any fingerprints  
8 off of a telephone book?

9 A Yes there was prints obtained from it.

10 MR. HILLER: If I may have a moment, Your Honor.

11 BY MR. HILLER:

12 Q Do you recall Lieutenant Hein if there was more than one  
13 phonebook submitted to you?

14 A No more than one but there's another book involved from  
15 her room - her room at the dormitory. That book was  
16 turned directly over to I think it was Detective Taylor by  
17 Bennett. That night it was turned over to Detective  
18 Taylor by Bennett.

19 Q Did you look at that phonebook?

20 A Not as far as examining it for fingerprints, no sir.

21 Q Do you know if it was done by another examiner?

22 A It could have been. I don't know.

23 Q If it had been examined by another examiner and the latent  
24 print was developed, what would be the procedure for  
25 preserving that latent print for further examination?

- 1 A Off the telephone book, sir, it would be more than likely  
2 treated with a chemical and it would be photographed and a  
3 permanent photograph made of it for future comparisons.
- 4 Q Of the print?
- 5 A Yes sir.
- 6 Q Now, if there were a piece of evidence that were--that was  
7 to be examined by both the fingerprint unit and the  
8 questioned documents unit, would there be a normal  
9 procedure as to how it would proceed through the  
10 laboratory?
- 11 A Yes there is because on a paper like that we would use a  
12 chemical and a chemical may run the inks if there were  
13 signatures or writing on this document and so we would  
14 submit it to the document unit first so they could  
15 photograph it and then they would do their comparisons  
16 from the photographs. And, after they're done with it  
17 then we could process it and if it did run the inks or  
18 writing whatever there was, we didn't hamper the  
19 handwriting unit.
- 20 Q Now, how was it that you know about this if you didn't  
21 examine the phonebook from Jane Mixer's room, how is it  
22 that you know about it sit?
- 23 A I was there. I observed it and I saw Sargent Bennett give  
24 it to Detective Taylor.

1 Q And, is that a different phonebook than the phonebook  
2 from--that was submitted to you for prints?

3 A It's my understanding that it is. The phonebook that was  
4 submitted to me was told to me that it was seized, I don't  
5 know if it was Detective Krause or Detective Taylor, it  
6 was seized from the lobby area of the dormitory.

7 Q Do you recall when you received that and from whom?

8 A I received it from Sargent Bennett on April 7, 1969 at my  
9 office.

10 Q I'm going to show you People's exhibit 52 and ask you if  
11 that's the photograph of the phonebook.

12 A I don't find my initials but yes it seems to resemble it.  
13 I don't see my initials on it prior to the photograph  
14 being taken.

15 Q Would that be what you would expect if this photograph was  
16 from the questioned documents unit--that your initials  
17 would not be on it?

18 A No, because they would have had it before me. Yes and my  
19 initials wouldn't be on it. In fact, it had been there  
20 before Sargent Bennett even brought it to me. It had been  
21 to the document unit already.

22 Q And your recollection is that you got a fingerprint off  
23 this book?

24 A Yes.

25 Q Was it identified?

1 A Way after I left it's my understanding there was a  
2 fingerprint developed on there and identified through the  
3 new automated fingerprint system that a--in the Michigan  
4 State Police now.

5 Q When you would develop a latent fingerprint, something  
6 that you thought was possible evidentiary value, you've  
7 indicated that it would be photographed and preserved in  
8 that was for future identification?

9 A Yes if the print was made chemically on a paper or surface  
10 such as that it would be photographed and your photograph  
11 then is your permanent evidence. If a print is developed  
12 by a powder then it is photographed and it's also lifted  
13 with a wide, it's called a scotch tape if you wish and  
14 then the tape is placed over the powdered area and then  
15 lifted back up and taking with it the powder that had  
16 adhered to the perspiration left there by the individual  
17 and then that is placed down onto a real thin cellulite  
18 backer. In other words trapping that print between the  
19 tape and the cellulite backer. So, on a print like that  
20 you've got pieces of evidence. You've got the photograph  
21 and you've got the lift.

22 Q So, what you're left with is--is just a record of the  
23 fingerprint either through the lift with using the tape or  
24 the photograph of the print?

25 A That's correct, sir.

1 Q How then is that identified to a particular piece of  
2 evidence from which it was obtained? That was a really  
3 confusing--

4 THE WITNESS: How is it identified to the object  
5 or to the surface?

6 MR. HILLER: Yes.

7 MR. HILLER: Yes.

8 THE WITNESS: We always place an identification  
9 tag in there which has the post or the agencies complaint  
10 number and the date and our initials and where it's  
11 obtained from - if it's a surface, if it's an object--  
12 whatever it might be we record that on a little tag and  
13 that's in our photograph and in our lift.

14 BY MR. HILLER:

15 Q So, the fingerprint--one of the fingerprints off the Catch  
16 22 book for instance, would it been either photographed or  
17 lifted?

18 A On the surface there it was photographed.

19 Q And then on the photograph--or with the photograph you  
20 would--you would have a tag that indicated the lab report  
21 number, your name, probably the date when it was taken and  
22 from the front or back cover of Catch 22 book?

23 A Right. Or, if it was from an inner page it would have the  
24 page number.

1                   MR. HILLER: If I could have a moment, Your  
2 Honor. Now, Lieutenant Hein, the items that you seized at  
3 the crime scene, coat, shopping bag, the items on hangers,  
4 the contents of the suitcase, the paperback book, the  
5 telephone book with the words, "Mixer" and "Muskegon" on  
6 it, this one--

7                   THE WITNESS: Yes sir.

8 BY MR. HILLER:

9 Q     What did you do with those ultimately?

10 A    In the final disposition of them they were turned over to  
11 Detective Taylor on June 2<sup>nd</sup> of 1969. The--I'd like to  
12 make one correction, sir. The little suitcase was turned  
13 over to Trooper Larson on April 9<sup>th</sup> and he subsequently  
14 submitted that to Walter Holz.

15 Q     And, who is Walter Holz?

16 A    Walter Holz at that time was assigned to the Crime  
17 Detection Unit of the Department of Public Health. In  
18 1977 they merged with our laboratory system.

19 Q     Sir, do you recall where on the telephone book the print  
20 that you found was located?

21 A    No, I don't sir. If I had the--all the evidence here with  
22 me that is hopefully on file as evidence I could tell ya,  
23 but I don't have any of that with me.

1 Q When you preserve a fingerprint you've indicated that you  
2 would make notations about where on a particular object it  
3 was found?

4 A Yes sir.

5 Q And that would be stored with the print at the laboratory?

6 A Photographs of the lifts would all be stored within the  
7 jacket--when I say jacket, similar to this would be stored  
8 within that and no longer being with the unit there for  
9 many, many years, I assume it's still with the other  
10 evidence.

11 MR. HILLER: Thank you, sir. I don't have any  
12 further questions for you. Mr. Gabry might have some  
13 questions.

14 THE COURT: Cross-examination.

15 MR. GABRY: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. GABRY:

18 Q Mr. Hein, while testifying I saw that you were referring  
19 to some notes and looking at your notes to determine where  
20 particular latent prints were located in this case.

21 A Yes sir. I have them right here.

22 Q May I review those please?

23 A Sure you can. There's the evidence transfer, a copy of  
24 mine there and I was also using Sergeant Bennett's.

1 Q And when you were--I've seen all of these documents, when  
2 you were responding to Mr. Hiller's question about where  
3 latent prints were seized from you looked at another  
4 document. Can you show me what document?

5 A Oh, it's back within my report, sir - on page four or  
6 something like that.

7 Q Okay.

8 I think I know where you are now.

9 A You think you know where I'm headed, right.

10 Q I have that. Thank you. When you began your testimony in  
11 response to Mr. Hiller's question, you addressed the jury  
12 and you spoke to them about how Detective Bennett and  
13 Detective Versailles had testified. Have you talked to  
14 either one of those officers since they testified  
15 yesterday?

16 A I have not talked to Detective Versailles. I left when he  
17 was through. Very briefly with Sargent Bennett.

18 Q And you and the Sargent Bennett--Sargent Bennett related  
19 to you what he had testified to regarding the jury?

20 A No, no. No sir.

21 Q So, then how did you know how Bennett and Versailles  
22 testified to this jury yesterday?

23 A I didn't testify as to how Versailles.

24 Q Of Bennett and Versailles--?

25 A I--

1 Q That will be the jury's recollection then.

2 A I just know from past experiencing and working for people  
3 for years and years that no matter who was at the crime  
4 scene and whoever was responsible for whatever evidence,  
5 you just become familiar with how they're going to testify  
6 as to the evidence they seized.

7 Q Okay. Let's go back to the cemetery back in 1969, you  
8 arrived with Trooper Jack Knobber, correct?

9 A Yes sir.

10 Q And Jack Knobber's area of responsibility and expertise  
11 was related to latent print collection?

12 A That is correct.

13 Q You related to the jury how I believe it was Detective  
14 Taylor presented you with a bag that had some items  
15 contained in the bag?

16 A That is correct sir.

17 Q Did Detective Taylor or anyone point out to you where that  
18 bag was located or had been acquired from to search that  
19 area?

20 A Not that I recall sir. But, I--just knowing what  
21 transpires between the working detectives and the crime  
22 laboratory personnel I really believe they told me where,  
23 when and how we got this bag.

24 MR. GABRY: Okay.

25 THE WITNESS: But, I can't tell you right now.

1 BY MR. GABRY:

2 Q And so is it fair to deduce that if a witness--a civilian  
3 witness says, I got this item from a certain place that  
4 somebody in this crime scene investigation would have been  
5 pointed out to that place to look there to see if there's  
6 any other evidence?

7 THE WITNESS: You're asking would somebody had  
8 told Detective Taylor that--to look?

9 MR. GABRY: No, I'm going into what you just--  
10 when you were just outlining to the jury about you're  
11 aware from procedures and practices how people handle it.  
12 My question to you is bags found somewhere by a civilian -  
13 okay, a young boy finds this bag that you ultimately got.  
14 Turns it over to his mother who turns it over to Taylor  
15 who turns it over to you.

16 THE WITNESS: All right. I'm with you.

17 MR. GABRY: Okay. Wouldn't it be logical that  
18 someone would have told somebody in the crime scene team  
19 where the bag was located when it was first found?

20 THE WITNESS: Yes, I'm--I don't have it in my  
21 notes, sir if Kenny Taylor told me where he obtained this  
22 bag from. I don't have it. But, just past knowledge I'm  
23 sure that Detective Taylor told me where and how he got  
24 this bag.

25 BY MR. GABRY:

1 Q Are you also then sure that you or Knobber or someone from  
2 that crime scene team would have searched in that area for  
3 evidence?

4 A No sir. No sir we would not have because that would be up  
5 to Detective Taylor. If he seized a bag from a civilian  
6 from this mother or whatever to do the background on where  
7 and who he received it from.

8 Q Okay so--but, understanding that the Detectives are not  
9 supposed to do the crime scene survey or investigation,  
10 correct?

11 A But this bag didn't come from the crime scene.

12 Q Well--

13 A Taylor picked it up from some place.

14 Q All right. Define for me then what in your view is the  
15 crime scene.

16 A Okay in this particular instance it would be within the--  
17 the major crime scene would be within the cemetery here  
18 and within the surrounding area around the body. I recall  
19 of making a hands-on knee search of the area around the  
20 body.

21 Q And in fact that's how you found the cigarette butt?

22 A Yes that's probably--that would be more visible than what  
23 we were searching for.

24 Q Is it fair then to say that if a bag that contained blood  
25 spots, personal effects of the murder victims that was

1           found sitting across the road from where her body was that  
2           that location would be included as a search area?

3   A   If that were the case sir and it was pointed out by the  
4           investigating officers then yes, the crime scene crew  
5           would go there. I don't recall that but if you know about  
6           it, I don't. I don't remember it.

7   Q   Obviously it's what the jury is learning and knowing, not  
8           what I know.

9           THE COURT: But, lets not--let's not--

10          MR. GABRY: Certainly. I'm sorry.

11          THE COURT: Let's not try to mislead the witness.  
12          If you want to tell him it was found by the boy and taken  
13           to his house you can do that. But otherwise let's not try  
14           to--

15          MR. GABRY: Certainly, Your Honor.

16          THE COURT: --play ring around the rosy with this  
17           witness.

18   BY MR. GABRY:

19   Q   Okay.

20          Can you tell me as a result of your involvement in  
21           this investigation, we've heard about areas of latent  
22           prints being found on the suitcase or ridge structure on  
23           the bag, were there other latent prints discovered as you  
24           processed all of the material that your unit--the latent  
25           print unit acquired?

1 A Yes, like I testified before on the Catch 22 book and also  
2 the manila folder and the bag. Yes sir. There was.

3 Q Any other ones?

4 THE WITNESS: Pardon me?

5 BY MR. GABRY:

6 Q Any other ones?

7 A On the telephone book, sir.

8 Q All right. What about the articles of clothing, the  
9 yellow raincoat? Were those processed?

10 A Not for fingerprints. No sir. They were examined, looked  
11 at for possible secretions of any type but no.

12 Q Back in 1969 you had been involved in latent print  
13 examination for how many years?

14 A At the time of this nearly eight.

15 Q And, with those eight years of experience you've viewed  
16 this suitcase that we've seen here in court here and  
17 you've lifted ridge structure that you maintained for  
18 purposes of potential identification throughout the time.  
19 Is that correct?

20 A Yes sir.

21 Q And it's your testimony today that upon being presented  
22 with palm prints of Gary Leiterman you have now determined  
23 that there's not enough structure for that to be a good  
24 lift?

25 A Identifiable.

1 Q Identifiable?

2 A Not identifiable, yes sir.

3 Q But, up until then it was your belief that it would be of

4 investigative value?

5 A That's a true statement sir. It's a investigative value.

6 (sic)

7 Q Mr. Hiller asked you questions about items you seized and

8 if I remember correctly you indicated--was there a purse

9 there?

10 A Yes there was.

11 Q Who--

12 A It was noticed when we lifted the raincoat off.

13 Q Okay.

14 Who took the purse?

15 A Sargent Bennett and maybe him or one of his people.

16 Q Let me ask you if the role of the latent print unit is to

17 identify you know, potential latent prints, in an area of

18 a purse that might contain a wallet with money in a

19 homicide would that not go to your unit for processing?

20 A The surface of the purse were not suitable for obtaining

21 latent prints from. But however sir, Sargent Bennett if

22 he was examining the contents of that purse and there was

23 something in there that he thought latent prints could be

24 obtained from, he definitely would have submitted them to

25 me.

1 Q All right. So--and to your recollection and reviewing  
2 your information nothing was submitted to you.

3 A That is a correct statement.

4 Q So, if anyone did an inventory of the purse or its  
5 contents, wallet whether there was any money or anything  
6 that would have been someone in Bennett's team?

7 A Yes. Yes sir.

8 Q Were all of the unknown or latent prints lifted from the  
9 package--the bag that Taylor gave you and its contents,  
10 were all of those then identified?

11 A I cannot answer that sir without having the photographs or  
12 the latent prints themselves right here with me that I  
13 could look at them and tell you that some were identified  
14 and some were not. I wasn't privileged to have them.

15 Q Were you asked to examine Gary Leiterman's prints as to  
16 any other material in this case other than the suitcase  
17 lift?

18 A No. No sir, I did not. The only print I looked at Mr.  
19 Leiterman was the ridge structure obtained from the handle  
20 of the suitcase.

21 Q And this occurred three weeks ago you say?

22 A About three weeks ago, yes sir.

23 Q The phonebook that we see pictured in exhibit 52, based on  
24 your recollection is that book then that would have gone

1 through the chemical process and possibly run the inks and  
2 destroyed the documentary value or the--

3 A Yes sir. As I explained--excuse me, as I explained of  
4 course it goes to the document unit first for any legible  
5 writing that they think they can work with. They  
6 photograph it and then submit it to the latent print unit  
7 for processing.

8 Q Why would you seize a cigarette butt?

9 THE WITNESS: Pardon me, sir?

10 BY MR. GABRY:

11 Q Why would you seize the cigarette butt?

12 A In those days, 30 something odd years ago the purpose of a  
13 cigarette butt would be try to process it in hopes of  
14 getting a fingerprint or you know, a partial print of it.

15 Q Would you then--if not would you destroy it or would you  
16 maintain it as part of the evidence?

17 A It's picked up and seized by us at the crime scene and we  
18 would not destroy it. Today I cannot tell you where that  
19 cigarette butt is.

20 Q As we hear about the movements of pieces of evidence, and  
21 I think in Mr. Hiller's discussion with you, you talked  
22 about and frankly I'm not sure I could follow or repeat it  
23 but where a certain item went to the document unit and  
24 then to the fingerprint unit or back to the detectives to  
25 you, all of that has basically a paper trail?

1 A Yes sir.

2 Q So, if the detective or whomever actually acquired the  
3 phonebook that's depicted in exhibit 52 and that was  
4 submitted to the document examining unit, there would be  
5 some document that would show from whomever to whomever in  
6 the document examining unit?

7 A That's a correct statement, sir.

8 Q And then once they're done with it, it would go somewhere  
9 else but again it would be documented here possibly to go  
10 to you?

11 A Yes sir.

12 Q But you--

13 A I have notes of Sargent Bennett submitting it to me.

14 Q Who did document examining back then?

15 A Oh, way back in them days was Detective Lieutenant Arthur  
16 Kivola who is deceased.

17 Q Is there also an officer name Olney or anything like that?

18 A Yes there is a man that's named at the laboratory named  
19 Herbert Only. But, I can't recall if Herb was in the  
20 document unit at that time or not. I don't know.

21 MR. GABRY: Thank you very much.

22 THE WITNESS: He did later join the document  
23 unit.

24 MR. GABRY: Okay. Thank you, sir.

25 THE COURT: Any further questions?

1 RE-DIRECT EXAMINATION

2 BY MR. HILLER:

3 Q Do you have your report with you, Lieutenant?

4 A Yes I do.

5 Q The report you made concerning your work at the crime  
6 scene on March 21, 1969, report dated May 2, 1969?

7 A Yes sir.

8 Q Can I ask you to refer to page two of that report and read  
9 "the second to the last paragraph under the heading  
10 "Evidence Seized". Just read that to yourself and see if  
11 that helps to refresh your recollection about the purse.

12 THE WITNESS: Under the "Evidence Seized" sir,  
13 excuse me I didn't get your last--what did you want me to  
14 do?

15 MR. HILLER: The second to last paragraph, the  
16 second paragraph from the bottom--

17 THE WITNESS: Okay. The brown leather bag?

18 MR. HILLER: Yes.

19 THE WITNESS: It says on 3/21 of '69 at 11:47  
20 a.m.

21 MR. HILLER: Well--

22 THE WITNESS: --the brown leather bag was seized  
23 from the ground along side the victim.

24 BY MR. HILLER:

1 Q Does that help to refresh your recollection about whether  
2 you seized that bag or not?

3 A I never had doubts in my mind that--about seizing that  
4 overnight bag.

5 Q So, that refers to exhibit 35?

6 A Yes sir.

7 Q This?

8 A Yes sir.

9 Q And your testimony is that does not refer to the brown  
10 leather purse?

11 A That's so noted in Sergeant Bennett's report I'm sure.

12 Q Now, if there had been items submitted to you by Sargent  
13 Bennett or one of his crew from the purse for processing  
14 and had there been any prints found--any latent prints  
15 found, you would have made note to that?

16 A Yes sir - anything that would have came to us from the  
17 other three crime scene people we would have made note of  
18 it. Yes sir and where they obtained it from.

19 Q The telephone book that you received from Sargent Bennett  
20 on April 7<sup>th</sup> of 1969, do you recall how you described that  
21 in your report? Again on page four.

22 A Evidence submitted on 4/7 of '69 at 4:30 p.m. Detective  
23 Sargent Bennett submitted one 1967 Bell Telephone Book  
24 from the Ann Arbor/Ypsilanti area to the latent print  
25 unit.

1 Q You talked to Mr. Gabry about the ridge structure that you  
2 found on the suitcase and you agreed with him that back in  
3 1969 and for sometime after that it was your opinion that  
4 was of investigative value?

5 A Probative value, yes sir.

6 Q And, is that in your mind different from being  
7 identifiable?

8 A Yes sir, because there's not enough ridge characteristics  
9 within it. I was using it as a like an investigative  
10 lead--like the defense attorney asked me.

11 Q How so?

12 A By searching for the characteristics that I could identify  
13 within the ridge structure that's on the handle. I would  
14 look for the same characteristics in the same area of an  
15 ink impression that I was looking at. I--with what I know  
16 and what I see now and having examined it again I wouldn't  
17 have reported it as an identifiable that identified  
18 somebody with it but it could be an investigative lead.

19 MR. HILLER: Thank you, Lieutenant - nothing  
20 further.

21 THE COURT: Further questions?

22 MR. GABRY: Nothing Your Honor.

23 THE COURT: You may step down. You are excused  
24 sir.

25 THE WITNESS: Thank you, sir.

(At 9:12 a.m., witness excused)

2 MR. HILLER: People call Walter Holz, Your Honor.

3 THE COURT: Sir, come up here if you would. Stop  
4 there and face the clerk and raise your right hand.

7 THE WITNESS: I do so help me.

8 COURT CLERK: Have a seat right there.

9 (At 9:12 a.m. witness sworn by clerk)

10 THE COURT: State and spell both your first and  
11 last names.

12 THE WITNESS: Walter L. Holz. W-A-L-T-E-R,  
13 middle initial "L", last name Holz, H-O-L-Z.

14 THE COURT: Prosecutor.

15 MR. HILLER: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. HILLER:

18 Q Mr. Holz, where are you currently living--what community?

19 A I live in Haslett, Michigan.

20 Q And, are you retired?

21 A Yes I am.

22 Q Where are you retired from?

23 A From the State of Michigan.

24 Q In what department of the State of Michigan did you work?

1 A I worked first in the Michigan Department of Public Health  
2 and transferred to the Michigan Department of State Police  
3 and finally retired through the Michigan Department of  
4 Agriculture.

5 Q When did you start with the State of Michigan?

6 A In 1955.

7 Q And that was with the Health Department?

8 A Yes.

9 Q And when did you go to the State Police?

10 A -In 1972. No, I'm sorry - 1977.

11 Q 1977; okay and then you transferred to the Department of  
12 Agriculture?

13 A Yes.

14 Q And when was that?

15 A 1982.

16 Q And when did you finally retire?

17 A 1984.

18 THE COURT: I'm sorry. When were you at the  
19 Health Department?

20 THE WITNESS: From 1955 to 1977.

21 THE COURT: Thank you.

22 BY MR. HILLER:

23 Q In 19--when you were with the Health Department, did you  
24 have a specialty there?

25 A Yes.

1 Q What was that?

2 A I had several but--

3 Q Did--let me ask you this, Did the Health Department at one  
4 time have a criminal laboratory?

5 A Yes.

6 Q Was that during the time that you were there?

7 A Yes.

8 Q And, did you work in that laboratory?

9 A Yes I did.

10 Q And what did you do in the Health Department Laboratory?

11 A I was Cheif of the Criminalistics section of the Crime  
12 Detection Laboratory in the Michigan Department of Public  
13 Health.

14 Q How did the Department of Public Health end up with a  
15 criminal laboratory?

16 A It started back in the late '30's, early '40's under the  
17 head of Dr. Clarence Muleberger who started a toxicology  
18 laboratory and it branched out into doing other things,  
19 serology and many thing related to Criminalistics. That's  
20 how it became a crime detection laboratory.

21 Q And, does the Health Department still have a criminal  
22 laboratory?

23 A No.

24 Q When did that come to an end?

1 A It started coming to an end in 1977 when the section I was  
2 in charge of transferred over to the State Police and it  
3 was followed within a year by the toxicology section. So,  
4 it was terminated pretty much by 1978, 1979.

5 Q And, all of that was merged into the State Police system?

6 A Yes it was.

7 Q When you were with the State Police were you enlisted or  
8 were you a civilian?

9 A I was a civilian.

10 Q When you were working in the laboratory before you became  
11 Chief of the Criminalistics section you said?

12 A That's correct.

13 Q Before you became chief of that section did you have a  
14 specialty did you--that you worked in?

15 A I'm a chemist. And in the Criminalistics section I had the  
16 responsibility for receiving evidence and doing work on  
17 bloodstains, hairs, fibers, arson debris, paint chips and  
18 many other things generally called Criminalistics type  
19 evidence.

20 Q Can you tell me, sir, what your educational background is  
21 that pertains to your profession?

22 A I have a bachelor's science degree in chemistry from  
23 Michigan State University. I have attended numerous  
24 training sessions and various training schools. I have

1           conducted training in various aspects of the forensic  
2           field.

3 Q       Have you testified as an expert witness in the State of  
4           Michigan before in this area?

5 A       Yes I have.

6 Q       Were you working on March--well, following March 21, 1969,  
7           did you receive some evidence pertaining to the murder of  
8           Jane Louise Mixer?

9 A       Yes I did.

10 Q       Did you receive that all in one batch or did you receive  
11           more than one delivery?

12 A       Received more than one delivery.

13           MR. HILLER: If I could have a moment. The first  
14           delivery of evidence that you've received, when was that?

15           THE WITNESS: It was on March 24, 1969.

16 BY MR. HILLER:

17 Q       And what did you receive on March 24, 1969?

18           THE WITNESS: Can I refer to my report? You want  
19           every item.

20           MR. HILLER: If it will help, yes.

21           THE WITNESS: The first item I received was a  
22           gray coat. The second item was a blue scarf. The third  
23           item was a number of lesser items, a plastic vile  
24           containing bloody fluid identified as Jane Mixer, the  
25           third portion of that item three was a item labeled as

1       blood of the left hand that was contained in a blue-lined  
2       white paper packet and the third portion of item three was  
3       a black paper packet labeled as, removed from the back of  
4       skirt by Donald Bennett and it contained numerous white  
5       particles. Item four was a glass jar containing one  
6       bloody tampon. Item five was one pair of brown nylon  
7       pantyhose. Item six was identified as, ladybug--ladybug  
8       all nylon mini slip. Item seven was identified as a  
9       ladybug all nylon flowered panties. Item eight was  
10      identified as a ladybug flowered brassiere. Item nine was  
11      one blue headband. Item ten was a turtleneck shirt. Item  
12      eleven was a gray jumper dress. Item twelve was one  
13      yellow and white striped towel. Those were the items  
14      received on March the 24<sup>th</sup>, 1969.

15     BY MR. HILLER:

16     Q     Are you certain that was all of them, sir.

17     A     That's what my record shows on the 24<sup>th</sup> of March.

18     Q     What would your procedure be when you received evidence  
19     such as this?

20     A     I would identify it with a crime detection laboratory  
21     label and evidence number--item number and a case number  
22     and my initials - each item.

23     Q     You would put the label on the physical article?

24     A     Yes.

25     Q     From whom did you receive these articles on the March 24<sup>th</sup>?

1 A Detective Sargent Donald Bennett from the Michigan State  
2 Police.

3 Q Did you receive a nylon--a ladies nylon hose that had been  
4 cut into pieces?

5 A Yes I did.

6 Q When did you receive that?

7 A I received that on March the 24<sup>th</sup>, 1969.

8 Q And, was that also from Sargent Bennett or--

9 A Yes, it was.

10 Q I was told there are some gloves up there for you. First  
11 of all Mr. Holz, let me show you this article. If you  
12 would inspect that please and tell me if you recognize  
13 that.

14 A Yes, I do.

15 Q What is that?

16 A This is the gray coat, which I identified as my item  
17 number one.

18 Q You received that from Cap--or from at that time Sargent  
19 Bennett?

20 A Yes, that's correct.

21 Q On March 24, 1969?

22 A That's correct.

23 Q Can you inspect that?

24 MR. HILLER: Your Honor, for the record the coat  
25 was marked and admitted as 23.

1                   THE COURT: Yes. Previously. Right.

2                   MR. HILLER: Yes, sir.

3                   THE WITNESS: I can identify this shirt--this  
4                   blue shirt as my item number 10 received on March the 24<sup>th</sup>,  
5                   1969 from then Sargent Donald Bennett.

6                   MR. HILLER: For the record, Your Honor, that's  
7                   marked as People's exhibit 27.

8                   THE COURT: Which one is that? That's not been  
9                   previously admitted, had it?

10                  MR. HILLER: Yes.

11                  THE COURT: All right.

12 BY MR. HILLER:

13 Q                Mr. Holz, let me show you this article which is marked as  
14                People's 24.

15 A                I can identify this as my item number 11 received on March  
16                the 24<sup>th</sup> of 1969 from Sargent Donald Bennett as a gray  
17                jumper.

18 Q                Before you give that back to me could you hold that up for  
19                the jury to see your tag, please, so they can get an idea  
20                of what those look like? Thank you. People's 24A.

21 A                Yes. I recall that was a broach that was attached to the--  
22                this garment here when I received it.

23 Q                People's 25.

- 1 A I can identify this as my item number two, a blue scarf  
2 which I received on March the 24<sup>th</sup>, 1969 from Sargent  
3 Donald Bennett.
- 4 Q Thank you. The side of it is marked as People's 29.
- 5 A People's 29 I identify as my numbered seven received on  
6 March 24, 1969 from again, Sargent Donald Bennett - yellow  
7 panties.
- 8 Q People's 28?
- 9 A People's 28 is my item number six. Again which I received  
10 on March the 24<sup>th</sup>, 1969 from Sargent Donald Bennett.
- 11 Q People's 30?
- 12 A People's 30 I identify as my number eight received on  
13 March 24, 1969 as a yellow brassiere and I received this  
14 from Sargent Donald Bennett.
- 15 Q People's 26?
- 16 A People's 26 is my item number nine which I received on  
17 March the 29<sup>th</sup>--the 24<sup>th</sup>, 1969 from Detective Sargent Donald  
18 Bennett - the headband.
- 19 Q Envelope marked as People's exhibit 46.
- 20 A It contains an envelope identified as item number 10.  
21 Also and labeled as soap removed from left back outside of  
22 shirt. The area was marked with an orange crayon, my  
23 initials on this envelope. Include--this exhibit includes  
24 a 1 by 3--2, 1 by 3 glass slides taped together containing  
25 that white material removed from that shirt.

1 Q Can you hold that up? Did you collect this evidence from  
2 "the shirt?"

3 A Yes I did.

4 MR. HILLER: Your Honor, I move for the admission  
5 of exhibit 46.

6 MR. GABRY: No objection, Your Honor.

7 THE COURT: 46 is admitted.

8 MR. HILLER: Your Honor, with the Court's  
9 permission as I walk back if I could hold this up for the  
10 jury. It is kind of hard to see.

11 THE COURT: How are you marking it?

12 MR. HILLER: I've marked the envelope.

13 THE COURT: All right. You can display it to the  
14 jury. That's the slide from the--

15 THE WITNESS: That's the slide prepared with the  
16 material I removed from that shirt.

17 THE COURT: From the shirt?

18 THE WITNESS: Soap granules.

19 THE COURT: All right. Okay.

20 BY MR. HILLER:

21 Q I have an envelope--manila envelope marked as People's 45.  
22 Can you look at the contents and see if you recognize  
23 those?

24 A People's exhibit 45 contains a smaller manila envelope  
25 with a clasp labeled--my identification is my case number

1       items number 3A, B, and C received on March of 24<sup>th</sup>, 1969  
2       and my initials. The smaller manila envelope contains  
3       only item 3C, which is a black paper packet.

4 Q       And what is contained in the packet?

5 A       It's a--there's some debris in here--brownish particles  
6       material.

7 Q       Where was that obtained from?

8 A       Referring to my report it's identified as removed from the  
9       back of the skirt by Donald--his initials, DWB, Donald W.  
10      Bennett contains numerous particles of white material.

11                    MR. HILLER: Your Honor, I move the admission of  
12      People's 45.

13                    THE COURT: Any objection?

14                    MR. GABRY: No, Your Honor.

15                    THE COURT: 45 is admitted.

16 BY MR. HILLER:

17 Q       Mr. Holz, let me show you a manila envelope that's been  
18       marked as People's exhibit 33e and then there are some  
19       potentially marked packages inside. If you could open  
20       that up and look at that, please.

21 A       What I've removed from People's exhibit 33e is a large  
22       halophen bag with my case number, identifying it as my  
23       item number 13 received on March the 24<sup>th</sup> of 1969, my  
24       initials. Open this large halophen bag--

1 Q Before you do that, do you recall what was in that bag  
2 when you received it?

3 A Referring to my report, it is described as one plastic  
4 bag, 13 inches by 24 inches unsealed containing one  
5 woman's nylon hose tied in a knot, cut into several  
6 pieces.

7 Q And you received that from whom?

8 A From Sergeant Don Bennett.

9 Q On March 24<sup>th</sup>?

10 A March 24, 1969.

11 Q Now, there are several packets--paper packets inside?

12 A Yes.

13 Q Did you provide those or is there (INAUDIBLE) in those?

14 A No, I did not provide all these packets.

15 Q These are each marked on the back, 33a, b, c, and d.

16 A That's correct.

17 Q You're looking at 33a?

18 A It's 33d.

19 Q What was in 33d?

20 A A piece of what appears to be nylon hose. It is not my  
21 labeling on that packet. 33a contains what appears to be  
22 nylon hose. It does contain my identification as item 13,  
23 labeled March 24, 1969, my initials.

24 Q And item 13 was the woman's stocking, knotted, cut into  
25 several pieces?

1 A That's correct and item 33b contains (INAUDIBLE) which it  
2 appears to be nylon hose--stocking. That again is not my  
3 packet and People's exhibit 33c contains another piece of  
4 what appears to be nylon hose or stocking and that yet  
5 again is not my packet. I cannot identify that as my  
6 packet.

7 MR. HILLER: That is not marked. I've marked  
8 this last item as People's proposed 33f. Have you seen  
9 that before?

10 THE WITNESS: I have seen it before but it is not  
11 my packaging. Do you want me to open it up?

12 MR. HILLER: That's not necessary.

13 BY MR. HILLER:

14 Q Now did--when you received the stocking that was your item  
15 13, did you see anything contained within the knot?

16 A Yes.

17 Q What was that?

18 A Numerous hairs.

19 Q Let's go ahead and open up 33f and see what's in there.

20 A 33f contains numerous hairs.

21 MR. HILLER: Your Honor, I'd move for the  
22 admission of People's 33 through 33f inclusive.

23 THE COURT: Any objection? Well, E is the  
24 envelope, right?

25 MR. HILLER: E is the envelope.

1                   MR. GABRY: Is it just F? I--I believe the rest-

2                   --

3                   THE COURT: He's moving A through F.

4                   MR. HILLER: 33a through 33f.

5                   MR. GABRY: And 33f has first been identified

6                   now, correct? Not earlier when we went through--

7                   MR. HILLER: I'm not sure if Captain Bennett

8                   looked at it but it wouldn't have been in the same

9                   condition.

10                  MR. GABRY: We don't have any objection, Your

11                  Honor, based on--

12                  THE COURT: Prosecution's exhibits 33a through f

13                  are admitted.

14                  MR. HILLER: I'm sorry, Your Honor. That--33e is

15                  the envelope.

16                  THE COURT: That's right. Did you want that?

17                  MR. HILLER: 33 is the plastic bag.

18                  THE COURT: That's what I understood.

19                  MR. HILLER: Okay because I thought you said 33a

20                  through f. Not 33--

21                  COURT CLERK: (INAUDIBLE)

22                  MR. HILLER: I just want to make sure the

23                  record's clear that the bag is in, too.

24                  THE COURT: All right.

25                  MR. HILLER: The plastic bag.

1                   THE COURT: All right. So, 33 and 33a through f  
2                   are admitted.

3 BY MR. HILLER:

4 Q I'm going to show you a manila envelope marked as 32a.

5 A People's exhibit 32a contains pantyhose, which I can  
6                   identify as my number five, received on March 24, 1969 from  
7                   then Detective Sargent Donald Bennett.

8 Q The pantyhose I believe are marked as 32, correct?

9 A That's right.

10                  MR. HILLER: Your Honor, I believe 32 and 32a  
11                  were already admitted.

12                  THE COURT: Previously admitted. That's correct.

13 BY MR. HILLER:

14 Q Let me show you a plastic bag that has been marked as  
15                  People's exhibit 31. Can you examine the contents please?

16 A People's exhibit 31 contains a blue and white--yellow and  
17                  white striped towel bearing my identification tag showing  
18                  it to be number 12 received on March 24, 1969 from again  
19                  Sargent Donald Bennett.

20                  MR. HILLER: Your Honor, I believe that exhibit  
21                  has already been admitted.

22                  THE COURT: It has.

23 BY MR. HILLER:

- 1 Q Mr. Holz, you also indicated that you have received on the  
2 "24<sup>th</sup> from Captain Ben--pardon me, from then Sargent Bennett  
3 a--an article that was labeled, blood off left hand.
- 4 A That is correct.
- 5 Q Can you describe the packaging that that was in?
- 6 A It was the part of my item number three--this is my 3b  
7 which is described as one manila envelope, 3 ½ inches by 5  
8 inches, closed with a string tie labeled blood off left  
9 hand containing one blue line, white paper packet, sealed  
10 with MSP evidence tape and containing numerous small  
11 particles of red/brown material.
- 12 Q And, did you do anything with that item? Did you do any  
13 analysis on it?
- 14 A Yes I did.
- 15 Q What analysis did you do on that?
- 16 A My analysis--my report shows that chemical and serological  
17 analyses revealed the present of human blood, typing  
18 studies indicated that the blood to be type A.
- 19 Q Did you test it for A Positive, A Negative?
- 20 A No, I did not.
- 21 Q Now, you also received an item--a vial of blood identified  
22 as having been taken from Jane Mixer. Is that correct?
- 23 A That's correct.
- 24 Q And, did you do any testing on that?
- 25 A Yes I did.

1 Q What testing did you do?

2 A Serological analyses revealed that blood to be type A and

3 some other analysts did some other work on it.

4 Q Now, there was no DNA typing in 1969?

5 A That's correct.

6 Q The other evidence that you've just identified, did you

7 examine that evidence?

8 A Yes, I have.

9 Q And, what findings did you make?

10 A On the gray coat which is my number one, I found red/brown--

11 red/brown stains and like testing revealed this was human

12 blood. It was type A.

13 THE COURT: On which item are you describing now?

14 THE WITNESS: This is my item number one.

15 THE COURT: Which is what?

16 MR. HILLER: Gray coat.

17 THE WITNESS: It was the gray coat.

18 THE COURT: Coat. Okay.

19 THE WITNESS: I also moved debris from that coat

20 which according to my notes were numerous pieces of dark

21 brown material resembling nutshells.

22 BY MR. HILLER:

23 Q Nutshells?

24 A Nutshells. I also removed from that garment, the gray

25 coat; a single bright red/orange fiber embedded in

1 red/brown crust. That fiber was removed, mounted between  
2 glass sides and that fiber was not similar to any fibers  
3 of the clothing of the victim.

4 Q That was a single fiber?

5 A Yes.

6 Q Were you able to determine any of the characteristics of  
7 the fiber?

8 A I describe it as having come from a garment composed of  
9 fibers of this type which would be very bright and  
10 attractive, could have the tendency to flourest under  
11 ultraviolet light or black light.

12 Q Okay.

13 Did you examine number two which is the blue scarf?

14 A Yes.

15 Q That's People's 25.

16 A I observed red/brown stains. My chemical and serological  
17 analyses of these stains revealed them to be human blood,  
18 typing studies indicated this blood to be type A.

19 Q The black paper packet that you examined for us just a  
20 moment ago, I believe that was People's exhibit number 45,  
21 did you examine the contents of that at that time, back in  
22 1969?

23 A Yes I did.

24 Q And what did you find?

- 1 A My notes indicate that microscopic examinations and  
2 chemical analyses revealed the material to have  
3 characteristics of soap powder.
- 4 Q Did you examine the tampon that was submitted?
- 5 A Yes I did.
- 6 Q And, what did your examination of that reveal?
- 7 A Chemical analyses did not indicate the presence of seminal  
8 fluid.
- 9 Q Now, the pantyhose that you examined, did--or did you  
10 examine the pantyhose that you identified?
- 11 A Yes I did.
- 12 Q That's 33--corrections, 32.
- 13 A Examinations did not reveal any blood or seminal fluid-  
14 like stains.
- 15 Q How would you check for blood or seminal fluid?
- 16 A I have a what we call a presumed test for blood and in  
17 the presence of blood. This material will turn a bright  
18 green color and then we go and if it's indicated that it  
19 is blood then we go through a test called a precipitant  
20 test which will tell us that is it human or not. And,  
21 beyond that we go through a series of test to type it--  
22 type the dried bloodstain.
- 23 Q Is the first step in that procedure to look and see if you  
24 can find a stain to test?
- 25 A That's correct.

- 1 Q What about semen? How do you select an area to test?
- 2 A By visual observation. We look for yellowish, crusty
- 3 stain and we submit it to vibration--sonic vibration to
- 4 remove it from the material it might be attached to. We
- 5 put it into a accrues solution with water and then look at
- 6 it under a microscope.
- 7 Q So, the first step is to look for this yellowish crusty
- 8 stain?
- 9 A Right.
- 10 Q That's characteristic of semen?
- 11 A Right.
- 12 Q On the panties, the slip, the brassiere, did you ever find
- 13 any semen on any of those?
- 14 A I did not.
- 15 Q Did you do any testing on the headband?
- 16 A Yes I did.
- 17 Q And, what testing did you do and what were the results?
- 18 A I did chemical and serological analyses of red/brown
- 19 stains and I found they're human blood and typing studies
- 20 indicated that blood to be type A.
- 21 Q Did you do any testing on the turtleneck shirt--the blue
- 22 turtleneck shirt?
- 23 A Yes. The shirt contained red/brown stains. Also numerous
- 24 hairs. The chemical and serological analyses of the

1 red/brown stains revealed them to be human blood and  
2 typing studies indicated that blood to be type A.

3 Q Now, you found the--you found some white granule material?

4 A yes, I found white granule material adhering to the lower  
5 back outside of the shirt.

6 Q And, did you examine that?

7 A That appears to be similar to the material in which I've  
8 described in one of the other articles previously.

9 THE COURT: The soap powder, is that what you're  
10 talking about?

11 THE WITNESS: That's correct.

12 BY MR. HILLER:

13 Q And were there some hairs on the shirt as well?

14 A There were several long, brown, wavy hairs along with one  
15 short pubic hair removed from that shirt.

16 Q You also looked at the jumper--the dress?

17 A Yes.

18 Q And that was for the record, People's exhibit 24. What  
19 were your results of the examination of the jumper?

20 A Red/brown stains were present on large portions of the  
21 back of the jumper. Chemical and serological analyses of  
22 the red/brown stains reveal the presence of human blood  
23 and the typing studies indicated that blood to be type A.  
24 Further, examinations of debris removed from the dress  
25 revealed six long brown head hairs and a white substance

1                   resembling powdered soap as indicated in the other two  
2                   "items I've indicated previously.

3 Q         The towel that was submitted, did you examine that?

4 A         Yes I did and I did chemical and serialological analyses  
5                   of red/brown stains and this revealed that the stains were  
6                   human blood and the typing studies indicated that blood to  
7                   be type A.

8 Q         The woman's stocking that had been cut into several pieces  
9                   and was knotted, People's 33 and related exhibits, did you  
10                  examine that?

11 A         Yes, I did.

12 Q         And, what was--what did your examination reveal?

13 A         That this item contained numerous hairs held in a knot.  
14                  It also contained red/brown stains. Chemical and  
15                  microscopic examinations did not reveal the presence of  
16                  seminal stains. Examinations did reveal a granule white  
17                  substance similar to the soap-like material I've described  
18                  in these other items.

19 Q         These red/brown stains that you observed. Did you test  
20                  them for human blood?

21 A         My record does not indicate that I did on it.

22 Q         Do you recall--do you have a recollection as to whether or  
23                  not the appearance was consistent with that of dried human  
24                  blood?

25 A         I have no notation on that.

1 Q So, you don't recall?

2 A I don't recall.

3 Q Now, you've indicated that you've received some additional

4 evidence on this case?

5 A Yes.

6 Q And, did some of that come to you on March 26<sup>th</sup> of 1969?

7 A Yes it did.

8 Q What did you receive on that date?

9 A That was my item 14 - was a manila envelope sealed and

10 described as victim Jane Mixer soap particles from a car,

11 contained one paper napkin containing fibers and a mixture

12 of blue, white and green particles resembling soap powder.

13 Microscopic examinations reveal the soap powder and fibers

14 contained to be dissimilar. The soap powder--fibers taken

15 from (INAUDIBLE) of the victim.

16 Q Is there an indication as to who's car that was?

17 A Yes, it'd described--identified as the car of Albert

18 Sellman.

19 Q Now on--

20 THE COURT: Stone did you say?

21 THE WITNESS: Sellman. S-E-L-L-M-A-N.

22 BY MR. HILLER:

23 Q On April 9' 1969, did you receive additional evidence?

24 A Yes I did.

25 Q What did you receive?

1 A I received one brown leather suitcase with a zipper on  
2 three sides and a brown plastic handle.

3 Q And what analysis did you do on that?

4 A I did first a visual and observed red markings on one  
5 corner. These markings had been covered with celaphain.  
6 And celaphain tape. A portion of the handle of that item  
7 was also covered with celaphain tape. Microscopic  
8 examinations and chemical analyses revealed red and  
9 red/brown stains on the outside on the suitcase which  
10 could be red paint and red/brown primer. Two common  
11 things were found inside the suitcase. There were  
12 markings inside the suitcase with either white chalk or  
13 crayon indicating the following, R as in Roger, S as in  
14 Shirley, 390, F as in Fox, 151. Chemical analyses of the  
15 yellowish stains inside the case indicated they did not  
16 originate from seminal fluid but could have originated  
17 from urine.

18 Q Let me show you People's exhibit 35. Let me ask you if  
19 that's the suitcase?

20 A Yes, I can identify this as my item number 15 received on  
21 April 9, 1969.

22 Q Now, did you receive some additional evidence on this case  
23 on May 9<sup>th</sup> of 1969?

24 THE COURT: Before he goes on, did you examine  
25 the stains on the outside of that case, or no.

1 THE WITNESS: Yes I did.

2 THE COURT: That was the paint?

3 THE WITNESS: Yes.

4 THE COURT: I'm sorry. Go Ahead.

5 BY MR. HILLER:

6 Q Thank you, Your Honor.

7 Without going through each individual item that you  
8 received after that, did you receive additional items for  
9 comparison with the items that were collected from the  
10 crime scene?

11 A Yes.

12 Q Did those include samples of soap powder?

13 A Yes.

14 Q Did those include samples of paint from vehicles?

15 A Yes.

16 Q Were you able to identify or associate any of those with  
17 this case?

18 A None of the soap samples were described as being similar  
19 to the soap observed in the case previously. And, item  
20 described as known paint taken from a 1965 red and white  
21 Pontiac showed that microscopic examinations and chemical  
22 analyses revealed this paint to be similar to paint on the  
23 suitcase.

24 Q Now, based on that could you testify that that was in fact  
25 the source of that paint?

- 1 A No.
- 2 Q The items that you received from Don Bennett that had been  
3 seized at the crime scene and autopsy. When you received  
4 them from Sargent Bennett, what did you do with them  
5 physically? I'm not talking about the examination, I'm  
6 talking about handling them and storing them.
- 7 A We have a locked evidence room at the Michigan Department  
8 of Public Health where we stored evidence by their case  
9 number and they were custody to that room until such time  
10 as the examine--further examinations or they were turned  
11 over to--possibly to the submitting agency.
- 12 Q So, when you received them from Sargent Bennett, who put  
13 them in the property room?
- 14 A I did.
- 15 Q So, when you went to examine them, who took them out of  
16 the property room?
- 17 A I did.
- 18 Q When you're done examining them who put it back in the  
19 property room?
- 20 A I did.
- 21 Q Do you recall who you turned these items over to?
- 22 A I turned these over to Lieutenant Earl James subsequently.
- 23 Q Do you remember when that was?
- 24 A On November 26, 1974.

1                   MR. HILLER: MR. Holz, I thank you very much. I  
2                   don't have any further questions.

3                   THE COURT: Before we begin cross-examination,  
4                   we're going to take our morning break at this time and  
5                   maybe she will magically appear and there she goes.  
6                   Please go with Ms. Washington.

7                   JUDICIAL ATTORNEY: All rise, please.

8                   (At 10:14 a.m., court in recess)

9                   (At 10:36 a.m., court reconvenes)

10                  JUDICIAL ATTORNEY: --Trial Court is now back in  
11                  session.

12                  THE COURT: Please be seated. Bring the jury,  
13                  please. Have the witness resume the stand.

14                  JUDICIAL ATTORNEY: All rise for the jury,  
15                  please.

16                  THE COURT: Please be seated. I remind you that  
17                  you're still under oath, sir. Cross-examination.

18                  MR. GABRY: Thank you, Your Honor.

19                   CROSS EXAMINATION

20                  BY MR. GABRY:

21                  Q     Mr. Holz, just by way of some qualifications, back when  
22                  you were in active duty with the State Police, had you  
23                  been called to testify as an expert witness in fields such  
24                  as serology, trace evidence analysis, things of that  
25                  nature?

- 1 A Yes I was.
- 2 Q So, in addition to just making these analysis that Mr.  
3 Hiller listed for you, you would go into court and you  
4 would testify as to what your findings were and to that  
5 nature, correct?
- 6 A That's correct.
- 7 Q Now, I just want to hit a few points about what we saw  
8 this morning and first of all, you mention that in  
9 addition to just examining the coat itself, you checked  
10 the pockets?
- 11 A I have no recollection of checking the pockets.
- 12 Q Where did what you described as nutshells come from then?
- 13 A They were described in my report as being contained on the  
14 garment.
- 15 Q All right. So these weren't in the pockets? These were  
16 something that was affixed to the garment itself?
- 17 A That's my recollection?
- 18 Q And you looked at them I would assume under a microscope?
- 19 A Possibly.
- 20 Q However you looked at them, your conclusion was they  
21 appeared to be like a nutshell?
- 22 A That's correct.
- 23 Q Peanut shell?
- 24 A I did not specify what time.

1 Q You also mentioned this red/orange fiber I think were you  
2 words.

3 A That's correct.

4 Q Again, that was affixed to the gray coat?

5 A Yes it was.

6 Q And it was encrusted in the red/brown stain?

7 A Yes it was.

8 Q Now it's fair to assume you didn't test every red/brown  
9 stain that you saw throughout all of this evidence,  
10 correct?

11 A No I did not.

12 Q You made spot checks on each item.

13 A That's correct.

14 Q Did you ever find a blood type different than A?

15 A No.

16 Q Is there an additional step in the old ABO typing system  
17 that you would have to take to differentiate the  
18 difference between A positive and A negative?

19 A Yes there is.

20 Q So, this blood could be some A positive, some A negative?

21 A Possible.

22 Q Mr. Hiller was unable to show you the--your number and all  
23 these numbers, I'm sorry if I take too much time looking  
24 but, I believe it's your 3a and that deals with the manila

1 envelope with the--entitled blood off left hand? 3--I'm  
2 sorry, 3b. I misspoke myself.

3 A Yes.

4 Q Now, you actually also testified here in this same  
5 courtroom back on I think January 14<sup>th</sup>, correct?

6 A That's correct.

7 Q And you saw that and identified that object at that  
8 hearing, correct?

9 A Yes I did.

10 Q Please correct me if I misunderstand your testimony but we  
11 have a lot of various of articles that have blood on them,  
12 correct?

13 A That's correct.

14 Q Type A blood.

15 A Right.

16 Q A number of those articles had what appeared to be white  
17 particles consistent with soap on them.

18 A Yes.

19 Q Those would be the gray coat? The gray--correct?

20 A That's correct.

21 Q They gray jumper?

22 A Yes. The jumper contained what identified as soap.

23 Q The blue turtleneck - your item 10?

24 A That's correct.

- 1 Q Those articles of clothing and then in addition you found  
2 -this white granular material on the piece of nylon hose.  
3 Is that accurate looking at your number 13?
- 4 A That's correct.
- 5 Q Did you find any of that white and I'll call it soap, if I  
6 can, soap-like material on the towel?
- 7 A My notes do not indicate that.
- 8 Q Do your notes indicate any foreign debris such as hairs,  
9 dirts--anything off of that yellow towel other than the  
10 presence of the red/brown stains?
- 11 A No.
- 12 Q And, had there been hairs or fibers--you obviously would  
13 have noted them, would you not?
- 14 A I should have, yes.
- 15 Q You mentioned that in addition to the fibers--fiber there  
16 were a number of hairs that you observed. Did any of  
17 those hairs from your observation appear to be foreign to  
18 each other?
- 19 A I don't have any notes to indicate that they were.
- 20 Q The suitcase that was examined, you mentioned there was  
21 some writing in it? A stain on it and a stain in it?
- 22 A That's correct.
- 23 Q Could you tell from your examination as to the stain on it  
24 whether it was fresh, old or how long it might have been

1       on the suitcase and I'm referring to what you thought to  
2       be--might be paint?

3   A   I don't have any notes to indicate that and I don't have  
4       any recollection to indicate that.

5   Q   As far as the stain inside it. I believe your testimony  
6       was that it could have originated from urine?

7   A   That's correct.

8   Q   Is that a visual observation that you make?

9   A   It can be a chemical analysis, too.

10   Q   And I don't note that you made a chemical analysis in your  
11       report. Is that correct?

12   A   My report says that a chemical analysis of yellowish  
13       stains inside the case indicated that they did not  
14       originate from seminal fluid but, could have originated  
15       from urine.

16   Q   Okay.

17       So, that one chemical test tell you both things or do  
18       you have to do another test on--

19   A   There's two chemical tests there. There's one for seminal  
20       fluid and another for urine.

21   Q   Okay and did you do the urine test?

22   A   Yes I did.

23   Q   So then in your opinion it was coming from urine?

24   A   Yes.

1 Q Can I ask why you said it could have originated then? Why  
2 would you put that qualifier on that?

3 A These presumptive tests are absolute, sometimes you can  
4 get other items.

5 Q You did examine the pantyhose?

6 A Yes.

7 Q I believe it's number 33. I could be wrong but the full  
8 set of pantyhose was examined and I think that was your  
9 number five--your number five. When you examined those  
10 pantyhose on the date you conducted your examination, did  
11 you know the presence of any dirt or mud or you know,  
12 ground associated with one of the heals of the pantyhose?

13 A My report does not show that.

14 Q Did you note on the end of either one of the legs of the  
15 pantyhose the presence of this white granular substance?

16 A My report does not show that.

17 Q As you visually examined the pantyhose, did you observe  
18 any stains on it?

19 A The only stains I did not observe were blood or seminal  
20 fluid-like stains.

21 Q So were there other stains you saw?

22 A My report does not indicate any others.

23 Q I want to turn our attention as best you can and I realize  
24 it's a long time ago, to what you actually--the procedures  
25 you actually used. You've already testified that it was

1 Captain Bennett or then I'm not sure, Sargent Bennett  
2 maybe then--

3 A Yes.

4 Q That brought these items to you. Do you recall how many  
5 packages they came in and I--by that I mean was--did he  
6 walk in like with everything in a box and individual bags  
7 or were--did he make what - 13?

8 A I can go through my report and tell you that.

9 Q Well, I know what he brought in.

10 A Certainly.

11 Q What I'm asking you is like were all these items  
12 individually packaged in one container?

13 A They may have been?

14 Q It tended to be the way the State Police did things back  
15 then, correct? Tried to keep it together?

16 A Yes.

17 Q And, everything was individually closed off but kept in a  
18 bankers box or a big bag, correct?

19 A That's correct.

20 Q Now, when it's brought to you in one of those two forms,  
21 it has to be logged into your property room. Is that  
22 correct?

23 A I log it in directly.

24 Q Describe for the jury your property room. What does that  
25 actually consist of?

- 1 A It's a locked room with shelving so that when we put the  
2 evidence in there we can put it on a shelf and locate it  
3 by the numbers marked on the items.
- 4 Q Kept there by your lab number or by the detective's  
5 number?
- 6 A By our lab number.
- 7 Q Is your lab number the same as the crime lab's number?
- 8 A No.
- 9 Q So, the crime lab assigns a number, they bring it to you,  
10 you assign a number?
- 11 A That's correct.
- 12 Q And then it's stored for some period of time?
- 13 A Right.
- 14 Q Is this room climate controlled?
- 15 A Yes it is.
- 16 Q Is it--do you recall what temperature it's set at?
- 17 A It would be a normal room temperature in a laboratory.  
18 Approximately 70 degrees Fahrenheit.
- 19 Q Same as your operating--or operating room--same as your  
20 examination room?
- 21 A That's correct.
- 22 Q The examination room is separate from the property room,  
23 correct?
- 24 A Yes, it is.

1 Q Are there--is there more than one specialist that works in  
2 an examination room?

3 A No, I had a separate room to myself being the chief of the  
4 section.

5 Q Okay.

6 So, you had your own examination room?

7 A Yes.

8 Q And I understand there was a big table in that room?

9 A That's correct.

10 Q And you would be able to get this big brown paper and  
11 cover that table?

12 A Yes.

13 Q And then you would begin to get your--your work out?

14 A Yes.

15 Q And put it on this paper and conduct your examinations?

16 A Correct.

17 Q As you would do that work would you do that work case  
18 number specific meaning, I'm going to work on this  
19 particular project today?

20 A Yes.

21 Q Do you know what day you worked on the evidence Captain  
22 Bennett sent to you?

23 A I don't have the notes to show that.

24 Q That is something that would have been contained in notes  
25 that you would have made back then?

- 1 A Yes.
- 2 Q --in '69? Do you have any idea where those notes might be  
3 now?
- 4 A I don't in my own personal knowledge.
- 5 Q Based on your experience, can you tell me a job like this  
6 with the number and--I'm just talking about items through  
7 13, would that be a days work? Would that be a couple of  
8 days work?
- 9 A It would be more than one days work.
- 10 Q So, you would have to get the evidence out of the property  
11 room?
- 12 A Correct.
- 13 Q And was there any progression or any order to what you  
14 would do, like would you examine them first and then if  
15 you would need to do the blood test, do all the blood test  
16 you needed to do or how would you go about it?
- 17 A It would depend somewhat on the submitted agency. In this  
18 case, Sargent Bennett saying go to certain items. I don't  
19 have any recollection of that or any record of that but  
20 that's possible. That might determine the order in which  
21 I examined these items.
- 22 Q Given the tenor at the time, this was considered a pretty  
23 high priority case, wasn't it?
- 24 A That's correct.

1 Q So, they wanted a quick turnaround on whatever you might  
2 be able to share with them from this evidence? It would  
3 not be unusual for you to get the evidence out, to have  
4 some of the Jane Mixer evidence on one part of your table  
5 and another part of your table kept separate but trying to  
6 get the work done. Is that true?

7 A That's correct.

8 Q And it's also true is it not that just as we've witnessed  
9 all morning, when you're handling your evidence you'd be  
10 handling it with a pair of gloves on?

11 A No.

12 Q No? So you would be handling one piece of evidence, doing  
13 whatever it would be and then dealing with another piece  
14 of evidence?

15 A Sure.

16 Q You would not wear gloves back then?

17 A No.

18 Q Why not?

19 A Just didn't. It wasn't part of our normal procedure.

20 Q Okay.

21 And, since this would probably take more than a day,  
22 it has to--would you leave it out on a table and close up  
23 your examination room?

24 A Oh no. Do not leave it unattended. (sic)

1 Q So, you do whatever you can do in one day and then you'd  
2 seal everything up and store it again and bring it out  
3 again the next morning?

4 A That's correct.

5 Q The--and I might have dismissed something but the series  
6 of numbers that basically are pieces of nylon hose that  
7 have apparently been cut up and were in different  
8 packages, when you saw that that was already in several  
9 pieces I think you said?

10 A That's what my notes indicate.

11 Q Did you undo the knot?

12 A No. Not to my recollection.

13 Q So, your observation is that there were hairs in the knot  
14 but you don't recall undoing it or anything of that  
15 nature?

16 A That's right.

17 Q You never made any indication, there's no note or anything  
18 in there of any animal hairs or anything to that nature  
19 found on any of these items. Is that correct?

20 A That's correct.

21 MR. GABRY: Thank you, Your Honor. I have  
22 nothing further.

23 THE COURT: Anything further Mr. Hiller?

24 MR. HILLER: No Your honor. Thank you.

1                   THE COURT: You may step down, sir. Thank you.

2                   You are excused.

3                   (At 10:54 a.m., witness excused)

4                   THE COURT: Call your next witness.

5                   MR. HILLER: Earl James, Your Honor.

6                   THE COURT: Sir, stop there if you would. Raise  
7                   your right hand and be sworn.

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

10                  THE WITNESS: I do.

11                  COURT CLERK: Have a seat right up there.

12                  (At 10:56 a.m., witness sworn by clerk)

13                  THE COURT: State and spell both your first and  
14                  lasts names.

15                  THE WITNESS: My name is Earl James, E-A-R-L J-A-  
16                  M-E-S.

17                  THE COURT: Mr. Hiller?

18                  DIRECT EXAMINATION

19                  BY MR. HILLER:

20   Q   Good morning, Mr. James. Can you tell us in what  
21                  community you now reside?

22   A   I--I live in Delta Township.

23   Q   That's up near Lansing?

24   A   Yes sir.

25   Q   What do you currently do for a living?

1 A I'm the President of International Forensic Services, Inc.

2 Q And what does International Forensic Services, Inc. do?

3 A International Forensic Services helps nursing homes who

4 are in trouble and we help bring them into compliance with

5 state and federal law. We research serial murder. We

6 service consultants for--on polygraph examinations for

7 other police departments.

8 Q Now, before you did this, what was your occupation?

9 A Before I did that I was the Assistant Division Commander

10 of the Emergency Services Division for the Michigan State

11 Police.

12 Q When did you retire from the State Police?

13 A I retired from the State Police on February 19, 1979.

14 Q And when did you start with the State Police?

15 A I started with the State Police on December 5' 1955.

16 Q What was your rank when you retired, sir?

17 A I was a First Lieutenant.

18 Q During your time with the State Police, did you ever work

19 as a detective?

20 A Yes sir I did.

21 Q Did you work as a Detective on the investigation of among

22 other, the death of Jane Mixer?

23 A I did the victimology on that case.

24 Q Now, at some point did you receive an assignment to

25 marshal the evidence from that case - and others?

1 A Yes sir.

2 Q When did you receive that assignment?

3 A I received that assignment on July the 22<sup>nd</sup>, 1974.

4 Q And what specifically was your assignment?

5 A My assignment was to go to Ypsilanti to station 26 which  
6 is the Michigan State Police in Ypsilanti and to make  
7 disposition on all of the property that was held there  
8 regarding all of the cases that were--had been handled by  
9 the what was called the Crime Center, which was a task  
10 force to investigation a series of murders, which was--  
11 which had occurred here in the Ann Arbor/Ypsilanti area.

12 Q And was Jane Mixer's murder investigated as part of that  
13 series at that time?

14 A Yes sir it was.

15 Q Now, by the time you were assigned to go and marshal the  
16 evidence that was at the Ypsilanti Post, was that still  
17 considered an active investigation by the State Police?

18 Was the task force still operating?

19 A The task force was not still operating at that time. No  
20 sir.

21 Q I understand that cases of this kind are never considered  
22 closed but was it actively being investigated?

23 A Only--only when new information would come up would it be  
24 investigated and it's true that a murder case like that is  
25 never closed.

1 Q Now, at that time in 1974 the State Police Post #26, the  
2 "Ypsilanti Post is located where, sir?

3 A It was on Michigan Avenue in Ypsilanti.

4 Q It's in a different location now is it not?

5 A Yes sir.

6 Q Now you were given this assignment on July 22, 1974, how  
7 did you go about your job? What did you do?

8 A The following day I went to Ypsilanti and I began the  
9 process of--of--of identifying the various pieces of  
10 evidence. This process went on for a period of time and  
11 the evidence that was there--some of the items had been  
12 stolen were returned to their rightful owners. Other  
13 evidence that was there was brought to Lansing and placed  
14 into the vault. Other evidence that had been stolen that  
15 we could not return to the owners because we didn't know  
16 who the owners were was sold at auction.

17 Q Let me just clarify something - when you say some of  
18 evidence was stolen, you're talking about it was stolen  
19 property that was taken into evidence? Not that it was  
20 stolen from the State Police?

21 A No. That's correct. It was--it was--it was  
22 property that had been stolen by the perpetrator who had  
23 been convicted on one of the other murders.

24 Q Okay and what was his name?

25 A John Norman Collins.

1 Q And the investigation had determined that he had stolen  
2 property and that was taking into evidence?

3 A Yes sir. It was confiscated.

4 Q To the extent you were able to return that to the rightful  
5 owners?

6 A To the extent that we could identify the rightful owner's  
7 we did return it to the rightful owners.

8 Q Other property was disposed of at auction if it was stolen  
9 property and you couldn't determine who the rightful owner  
10 was?

11 A That's correct sir.

12 Q There was other evidence that wasn't returned to anybody  
13 and wasn't sold at auction but was retained as evidence?

14 A That's correct sir.

15 Q I want to go back to something that you just mentioned a  
16 moment ago. You said in talking about John Norman Collins  
17 you said, it had been stolen by the perpetrator. When you  
18 use that phrase are you referring to John Norman Collins  
19 being the perpetrator on all of these killings, including  
20 Jane Mixers?

21 A No, I'm referring to him as being perpetrator of the  
22 murder of Karen Sue Beineman. He was convicted on that  
23 murder.

24 Q Now, the property that was retained as evidence, how did  
25 you handle that?

1 A The property that was retained as evidence were--were  
2 placed in individual containers and placed into the vault  
3 at the top of the Headquarters building in the Michigan  
4 State Police Headquarters located at 714 S. Harrison Road,  
5 East Lansing, Michigan.

6 Q Are you referring to a report? You were glancing down.  
7 Did you--do you have a report that you're looking at or  
8 did you just glance down at the--

9 A No. I have no report yet that I've been looking at.

10 Q I want to start off by asking you, did you separate the  
11 property that was kept at the State Police Post into  
12 separate cases by victim?

13 A Yes sir I did.

14 Q How much time did you actually spend doing that?

15 A I can only say it was days. The length of time that I  
16 dealt with property ranged from July the 22<sup>nd</sup> until--until--  
17 until the final time that I was finished with dealing  
18 property was on December the 9<sup>th</sup>, 1974. Now, that included  
19 property that did not come from that are but came from the  
20 Michigan Department of Public Health. It's my  
21 recollection that the property that--that the main portion  
22 of the property that came from the Ypsilanti State Police  
23 Post was placed in the vault on July the 29<sup>th</sup>, 1974.

24 Q Okay.

25 That's the--from the State Police Post?

1 A From the State Police Post.

2 Q Now, let me show you something that's been admitted as

3 People's exhibit (INAUDIBLE) 2. Can I ask you if you've

4 seen the object that's depicted in that photograph?

5 A Yes sir I have. This was a telephone book that was in

6 the--in the bomb shelter at the Ypsilanti Post that I

7 observed when I went in there on July 23' 1974.

8 Q Now, when you say the bomb shelter, can you describe that

9 place for us please?

10 A Well, the bomb shelter was--was where the evidence was

11 being held and this was--this was a back-up radio room.

12 There were troopers lockers that were in there and all of

13 the evidence that had been moved from the crime center

14 which had been located on the campus of Eastern Michigan

15 University to that location.

16 Q You saw this book there on the 23<sup>rd</sup> of July?

17 Q When was the next time you went to the bomb shelter?

18 Well, first of all, when you left that day was the book

19 there?

20 A Yes sir it was.

21 Q When you--when was the next time you returned if you

22 recall?

23 A I would like to refer to my journal that I kept at that--

24 Q If that will help you refresh your recollection.

25 A That will help me refresh my recollection on this.

1 Q That's fine. These are journal entries you made at the  
2 time?

3 A Yes sir. I maintained a journal for years in the State  
4 Police. Now I worked there on July the 23<sup>rd</sup>. I worked  
5 there on July the 24<sup>th</sup>, 1974. I worked there on July the  
6 25<sup>th</sup>, 1974

7 Q At some point did you become aware that the book was no  
8 longer there?

9 A Yes sir. I became aware of that on July the--on July the  
10 30<sup>th</sup>.

11 Q Okay so it was there on the 23<sup>rd</sup> and you noticed it gone on  
12 the 30<sup>th</sup>?

13 A That is correct sir and I ascertained from interviewing  
14 various people there at the post that the janitor had  
15 destroyed the book and then on July the 31<sup>st</sup> I made--  
16 personally made a report to Major Mirror, the Chief of  
17 Detectives that the--that the book had been destroyed.

18 Q Now, is the janitor still living as far as you know?

19 A As far as I know I don't think he is living. I don't  
20 think he's alive.

21 Q What was his name?

22 A He name escapes me sir. I can't remember what his name  
23 was.

1 Q That's fine. Now, you indicated that you also received  
2 some evidence from places other than the State Police Post  
3 - the Bomb Shelter at the State Police Post.

4 A Yes sir.

5 Q And, I believe you said that one of those places was the  
6 Health Department Laboratory?

7 A That's correct sir.

8 Q When did you go to the Health Department Laboratory?

9 A I went to the Health Department Laboratory on November--my  
10 recollection is that it was November the 26<sup>th</sup>, 1974 to just  
11 review the--what was being held there. I went back again  
12 on November the 27<sup>th</sup> and at 2 p.m. on that date took into  
13 custody all of the evidence that was being held there  
14 except items that were being held in cold storage.

15 Q Refriger--was that refrigerated items?

16 A Yes sir.

17 Q All right. Now, do you--do you recall and did you list at  
18 that time what the items were that you received and who  
19 you received them from?

20 A Yes sir I did.

21 Q Who did you receive these items from?

22 A From Mr. Walter Holz.

23 Q Do you see Mr. Holz in the courtroom?

24 A He's the gentleman sitting back there.

1                   MR. HILLER: Your Honor, may the record reflect  
2                   that Mr. James has identified the previous witness?

3                   THE COURT: Was his hair that color when you got  
4                   it from him?

5                   THE WITNESS: No, sir.

6                   THE COURT: Oh I didn't think so. Okay.

7                   THE WITNESS: Mine wasn't either.

8                   THE COURT: He did.

9                   MR. HILLER: For the record I wouldn't have asked  
10                  either of those questions.

11                  BY MR. HILLER:

12                  Q      Now, Mr--Lieutenant James, what items did you receive from  
13                  Walter Holz on November 27, 1974?

14                  A      I received one ladies gray coat worn by the victim, Jane  
15                  Mixer. I received two glass mounts. I received an  
16                  envelope containing debre. I received one blue scarf, one  
17                  black paper packet with scrape materials, one packed with  
18                  blood off the left hand of the victim, one pair of nylon  
19                  pantyhose, one ladybug all nylon 9 yellow mini slip, one  
20                  pair of nylon panties size 7, one yellow brassiere, one  
21                  knotted blue headband, one turtleneck shirt turned inside  
22                  out, one envelope containing soap from shirt above, one  
23                  packet containing hairs found on shirt above, one gray  
24                  jumper dress with gold and white jewelry piece, one packet  
25                  of debris from the dress, one yellow and white striped

1           towel, one woman's nylon hose with knot, with blood stain,  
2           one glass mount of stain, envelope - soap particles from  
3           Albert Sellman's car, one brown leather suitcase with red  
4           paint, three vial's of soap samples, an envelope with--  
5           with skim from trunk of Dale Winston's car, three packets  
6           of paint samples from '66 Chevrolet - CT9479, three  
7           packets of paint samples from the '68 Chevrolet VW6520,  
8           three packets of paint samples from a Camaro, an envelope  
9           with paint samples from - and I'll spell this--C-I-A-M-P-  
10          A's red over black mustang, one envelope containing paint  
11          sample from a '65 red and white Pontiac.

12         Q      All right--

13         A      To my recollection that was it.

14         Q      And, for the record and in order to help your  
15          recollection, were you reading from a document?

16         A      Yes sir I was and I know this document was accurate at the  
17          time I created it?

18         Q      And what is that document called?

19         A      This document is a Michigan State Police Property Report  
20          that--that--that was with the property that was also  
21          verified by Detective Sargent Shotnick who was in charge  
22          of the vault and Sargent Shotnick photographed and  
23          verified everything that was on this particular document.

24         Q      Did you create this document?

25         A      Yes sir I did.

1 Q Is that also sometimes referred to as a UD14?

2 A Yes sir it is.

3 Q I'd like to show you some articles and ask you if those  
4 were among the articles that you've just listed for us as  
5 having collected from multiples.

6 MR. GABRY: Your Honor, if it's Mr. Hiller's  
7 intention to show all of that, we'll agree that all the  
8 items listed on the UD14, if they are what we did this  
9 morning went to the next spot, we don't need to--

10 THE COURT: This was a chain of custody witness  
11 in that regard?

12 MR. HILLER: In that regard he is, Your Honor.

13 THE COURT: So, there's no dispute about the  
14 items and Mr. Holz identified being transferred to this  
15 witness?

16 MR. GABRY: Just so we have an opportunity to ask  
17 him about how it happened.

18 THE COURT: That's fine.

19 MR. HILLER: Thank you, Mr. Gabry.

20 BY MR. HILLER:

21 Q Now, when Walter Holz turned that evidence over to you,  
22 what did you do with it? How--did you handle it? Did you  
23 inspect it?

24 A I did indeed sir. It took--I examined it for--and  
25 reviewed the various items for a period of three days

1 before--on the third day I made arrangements with  
2 Detective Sargent Shotnick to come to the State Police  
3 Pose and that would have been on December the 9<sup>th</sup> to place  
4 these items into the--into the vault or the storage area.

5 Q And what is the--what was the long-term storage area? Can  
6 you describe that?

7 A The long-term storage area was the--as we called it, we  
8 called it the vault. It's located at the top floor of the  
9 Headquarters building there at 714 S. Harrison Road. And,  
10 this was an area where the evidence was long--where  
11 evidence on the cases were placed where there were caged  
12 in areas where it was locked and that's where evidence was  
13 kept.

14 Q And, what was the particular purpose of that evidence  
15 room?

16 A The particular purpose was to keep evidence that may be  
17 needed year and years later. That was the purpose of it.

18 Q When you did your inspection of these items that you  
19 received from Mr. Holz, did you inspect them to see if  
20 there was any evidence that he missed or did you just  
21 check them to be sure that you were getting what he said  
22 you were getting?

23 A I--I just--I just checked the evidence over to make sure  
24 that what was going into the vault was going--was as--was  
25 what I received from him.

1 Q Now, Lieutenant James, I want to show you what's been  
2 "marked as People's proposed exhibit 34 and when I show you  
3 this I'm referring to the box itself, not the contents.  
4 I'd like to ask you if you've seen that article before,  
5 please?

6 A Yes sir. This is the box that I--that I--one of five  
7 boxes that I used that I obtained from the printing and  
8 mailing section of the State Police had only had been--  
9 they were clean. They had only been used to store paper  
10 materials in there. I wanted a perfectly clean boxes so  
11 that there would be no contamination and this handwriting  
12 here where it indicates the complaint number and where it  
13 says, evidence received from Walter Holz, Michigan  
14 Department of Public Health, 11/27/74 is my handwriting.  
15 I wrote that on there.

16 Q Is this one of the boxes that you placed the evidence in  
17 to put it into long-term storage?

18 A Yes.

19 MR. HILLER: Your Honor, I'd move the admission  
20 of People's 34.

21 MR. GABRY: As an empty box, correct?

22 MR. HILLER: As an empty box. The contents have  
23 already been admitted.

24 MR. GABRY: All right. No objection, Your Honor.

25 THE COURT: 34 is admitted.

1 BY MR. HILLER:

2 Q If I could have just a moment, Your Honor.

3 Detective James, you've indicated that you've  
4 participated in the task force to an extent?

5 A Yes sir.

6 Q You've investigated this series of crimes and I believe  
7 you've also continued to pursue an interest in these  
8 crimes?

9 A That's correct sir.

10 Q Even past retirement?

11 A That's correct sir.

12 Q Can you tell us a little bit about this series of crimes  
13 and the circumstances that these victims were found in?

14 A Yes sir.

15 Q You're able to do that?

16 A Yes sir. The series actually began on July the 9<sup>th</sup>, 1967  
17 when a young lady, a sophomore at Eastern Michigan  
18 University named Mary Fleezer--Mary Theresa Fleezer  
19 disappeared that evening. She was last seen walking  
20 around--walking in Ypsilanti about 9:00 at night. Her  
21 body was later recovered on August the 7<sup>th</sup>, 1967 at an  
22 abandoned farm on a--her body was found on the garbage  
23 pile on an abandoned farm just off Geddes Road about 500  
24 feet west of the intersection of Leforge Road. The next--  
25 the next case that occurred was a woman named Joan Shell.

1           Joan Shell was a--was last seen alive by witnesses  
2           crossing the street. She had been trying to catch a bus  
3           at the McKinney Student Union Building. Three people  
4           picked her up there and--three young men picked her up  
5           there and took her back but she was last seen alive  
6           crossing the street between as I recall it was Emmett--  
7           Emmett Place or College Place and Emmett Street. Her  
8           place was on one side of the street and John Norman  
9           Collins' apartment was on the other and they were seen  
10          crossing the street at about 11:30 at night and that was  
11          the last time she was ever seen alive. And, her body was  
12          recovered on July the 5<sup>th</sup>, 1968. This--the--now we've  
13          jumped into 1968. The last time she was seen was on June  
14          the 30<sup>th</sup>, 1968 and her body was recovered on July the 5<sup>th</sup>,  
15          1968 in Ann Arbor lying along the side of the street. A  
16          clump of dirt was placed on top of her. It was obvious  
17          that she had been moved there - that she had been kept in  
18          one place for a period of time where it was cool. The  
19          lower portion of her body was cool and the upper portion  
20          was exposed to the sun. The third case that we worked as  
21          part of this series was the case of Jane Mixer.

22 Q        And Lieutenant we've spent a couple of days learning about  
23        how her body was found and so forth--

24 A        All right, sir.

25 Q        So, perhaps you could move on to the fourth case.

1 A Okay. The next case--the next case was the case of  
2 Marilyn Skeleton. That case she was--she was--she was--  
3 her parents were--she was 16 years old. She had dropped  
4 out of school. Her parents had moved from the Romulus area  
5 to the Flint area and her brother had given her a ride  
6 down to her--this this area off 23. He dropped her off at  
7 the--at the Standard Station that was located there at the  
8 time. She later called friends from the McKinney Student  
9 Union building trying to locate a couple of people. Her  
10 body was also recovered in Ann Arbor and she had--she had  
11 been severely beaten. Her--she had also been whipped with  
12 a belt at least 10, 12 times. A stick had been placed in  
13 the vaginal vault while she was still alive. And, this--  
14 her body was recovered on March the 25<sup>th</sup> of 1969. The next  
15 case in--was involving a young girl, 13-year-old girl.  
16 Her name was Dawn Mason. That little girl was going home  
17 on April 15<sup>th</sup> along the railroad tracks and disappeared.  
18 She was taken to a farmhouse - down in the basement of a  
19 farmhouse where she was raped and strangled with a copper  
20 wire then placed along side of the road - on Gale Road,  
21 northwest of where her--her clothing had been ripped off  
22 her. She had been stabbed in the left chest and it looked  
23 like a knife had been used to scrape at least three or  
24 four times. Probably to make that--probably post-mortem  
25 to make sure she was dead after she was murdered. The

1 next case we had involved a--involved a woman named Alice  
2 Kaylem. Alice Kaylem was--Alice Kaylem was--this was on  
3 June 7, 1969. She had been going to a--she was going to a  
4 dance at the Depot House and she was last seen in John  
5 Norman Collins' room running from the room and from  
6 according to a witness and--and Collins had later told his  
7 roommate that she had gotten--that she ran away from him  
8 and her body was recovered as I recall on June the 9<sup>th</sup>.  
9 Now, the next case that we--that was part--that we  
10 considered as part of the series did not happen in  
11 Michigan. It happened in Selenas, California. It was  
12 named--a little girl named--17-year-old girl named Roxanne  
13 Phillips was going to mail a letter. The person who had  
14 contacted her and said that people that she knew the day  
15 before said was from--he was driving a car with Michigan  
16 plates. It strongly indicated that John Norman Collins  
17 had picked her up also. Her body, this was on June the  
18 30<sup>th</sup>, 1969. On--and she disappeared. On July the 13<sup>th</sup> her  
19 body was recovered in a brush pile--her arm was sticking  
20 out of a brush pile there and as I recall it was near  
21 Caramel, California. And, she was naked except for the  
22 part of her dress that she had pant--she had a belt that  
23 had been used to strangle her with. And, we found 22  
24 pubic hair on John Norman Collins' sweater. We found--  
25 that was similar in all respects to her pubic hair and we

1 found a piece of her dress inside John Norman Collins' car  
2 when we executed the search warrant. The State of  
3 California issued a warrant for his arrest but he was  
4 never extradited there because of legal reasons because  
5 his appeals lasted for 10 years. Now, while all of this  
6 was going on out in California, what John Norman Collins  
7 was not aware of was back here in Michigan another case  
8 that was handled as part of the series occurred on July  
9 "the 4<sup>th</sup>. And this was a case involving Margaret Phillips  
10 here in Ann Arbor. Phillips was consulting with a--was  
11 doing graduate work on violent criminal offenders. One of  
12 the people that she was dealing with--one of the offenders  
13 that she was interviewing and working with was a man named  
14 Ernie Bishop who was on parole for rape. Ernie Bishop  
15 came there around midnight on July the 4<sup>th</sup> - around 11:30,  
16 12:00 and shot her as I recall three times. And, he was  
17 subsequently identified from a fingerprint on a coffee cup  
18 where she had prepared him coffee. He was arrested then  
19 on that and pled not guilty by reason of insanity. And  
20 then, the final case was the murder of Karen Sue Beineman  
21 who was walking to a wig shop to buy a hair fall that she  
22 had ordered the day previously and she was picked up by  
23 John Norman Collins and--and stopped and got the hair  
24 piece but she road off with him to his uncle's house where  
25 she was murdered there in the basement of the uncle's

1 house. And, Collins was ultimately arrested and convicted  
2 of that murder and is still in prison today. Beineman's  
3 body was recovered off--I believe it was off Huron River  
4 Drive is my recollection. She was--this murder occurred--  
5 she disappeared on - this was July the 23<sup>rd</sup>, 1969 and her  
6 body was recovered on July the 26<sup>th</sup>, 1969 at about 4:30 in  
7 the afternoon. I believe that completes the series.

8 Q Now, Jane Mixer's murder was investigated as part of this  
9 series. It was included in the work that the task force  
10 was doing?

11 A Yes sir.

12 Q Were there differences between the murder of Jane Mixer  
13 and the other murders that were part of what was regarded  
14 as a series?

15 A Yes sir there were. The major difference between--the  
16 major difference between the murder of Jane Mixer and the  
17 others was that in the case of the murder of Jane Mixer,  
18 it almost looked like the perpetrator of that murder had  
19 compassion for the victim.

20 MR. GABRY: Your Honor, could I--I mean if Mr.  
21 James is going to testify as to facts that's fine. But--

22 THE WITNESS: All right. I'll--I understand.

23 I'll--

24 THE COURT: Sir, just wait.

1                   MR. GABRY: But, I would object to the opinion  
2                   unless we have something - the characterization of it.

3                   THE COURT: Well, your response?

4                   MR. HILLER: Well, Your Honor, I think it's a lay  
5                   opinion based upon his observations which I think is  
6                   permissible. But, I think the observations will suffice  
7                   and I'm happy asking Lieutenant James--

8                   THE COURT: I'll let him testify as to his  
9                   observations. Obviously he's compared all of these and he  
10                  can offer his conclusions about those comparisons subject  
11                  to cross-examination. We'll leave it to the jury to see  
12                  whether the facts are accurate.

13                  BY MR. HILLER:

14                  Q     Lieutenant James, what based upon your work with the task  
15                  force and your subsequent study of these homicides, and  
16                  let me ask you this, to the extent that you weren't at the  
17                  crime scene, did you study crime scene photos and all of  
18                  the available important evidence on these?

19                  A     Yes sir I did.

20                  Q     Thoroughly, what observations did you make that  
21                  distinguish Jane Mixer's murder from the other murders?

22                  A     Well, if we take the case of Jane Mixer, a coat had been  
23                  used to cover her body almost as if she were alive to keep  
24                  her warm. Her clothing was in order contrasting that to  
25                  the murder of Joan Shell where her clothing had 17--her

1           dress had 17 stab wounds--17 stab holes in her blue crazy  
2           horse dress that she wore. Contrast that to every--to  
3           every victim who was either--her clothing had been ripped  
4           up to use, to form, to shove in her mouth to form a gag or  
5           they were nude. Beineman's--Beineman had obviously been  
6           thrown--had been thrown off an embankment--down an  
7           embankment--had rolled down the embankment. She was nude  
8           except for her sandals. Skeleton was--had been beaten and  
9           whipped with a belt. And every case that I--where the  
10          clothing was there--Fleezer--we recovered Fleezer's dress  
11          that had been ripped down the middle. Her panties had  
12          been ripped from the top. A brassiere--her brassiere had  
13          been ripped open and several instances the crotch of the  
14          woman's panties had been apparently cut with a knife or  
15          sharp instrument. There were--there were--another thing  
16          that was significant I thought was the location of the--  
17          where the victims had been placed. The victims had been  
18          placed in a northeasterly direction from the--from the--  
19          Ypsilanti. And, from Ypsilanti and in a northeasterly  
20          direction from Ann Arbor - in the northern part of Ann  
21          Arbor. So, those were some of the--some of the  
22          significant differences that come to my mind.

23 Q       Now--

24 A       Another significant difference. I might interject this  
25       also that another significant difference is where the

1           victims were placed and where these crimes occurred. We  
2           have two victims in the series that were placed--one woman  
3           was placed in the garbage pile and another woman was  
4           placed in a pile where there were--there was a brush pile  
5           with refues and another victim was found in an abandoned  
6           farm. None of them were placed in a place like a  
7           cemetery.

8       Q      Were the other victims placed in such a way that the  
9           discovery of their bodies would have been inevitably  
10          quick?

11      A      Well, they were rel--they were--with the exception of  
12           Fleezer, the--most of the bodies were placed in a place  
13           where--where they would have been--where they would have  
14           been relatively found quickly.

15      Q      And, how does that differ from the Denton Cemetery where  
16           Jane Mixer was found?

17      A      Well, it wasn't quite that noticeable. The bodies were,  
18           with the exception of--with the--with the exception--it  
19           appeared that the bodies were primarily just dumped along  
20           the road or a place where they were just dumped whereas it  
21           appeared that Mixer had been placed in the cemetery with  
22           care and whoever did that took great personal risk doing  
23           it.

24      Q      Other than having been murdered by gunshot, Jane Mixer,  
25           she was not beaten?

1 A Not to my knowledge, no sir.

2 Q How does that compare with the other victims?

3 A It appears--it appeared that the other victims did have  
4 violence done to their bodies, especially after--in some  
5 cases especially after they were dead. I should also  
6 mention this, that--once--another significance difference  
7 in this case is--is where contact was made with the  
8 victim--with the victims. (sic) Most of the series the  
9 contact was made with the respective victims while they  
10 were on the street walking, exceptions being of course,  
11 Margaret Phillips here in Ann Arbor who was murdered by  
12 Ernie Bishop.

13 Q And, I believe of the victims, only one other was shot?

14 A Yes sir. That's correct.

15 Q I believe that was Alice Kaylam?

16 A That was Alice Kaylam and also the--Margaret Phillips was  
17 also shot but with an entirely different type of pistol  
18 and by Ernie Bishop.

19 MR. HILLER: All right, sir. I don't have any  
20 further questions.

21 THE COURT: Cross-examination.

22 MR. GABRY: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. GABRY:

25 Q Okay.

1                   Mr. James, the--in 1969 when you were conducting  
2                   this--I'm sorry, not '69, I guess it was '74, the  
3                   evidence, I guess gathering process--

4 A               Yes sir.

5 Q               Where were you stationed out of?

6 A               I was the Commanding Officer of the Polygraph Unit in  
7                   Lansing.

8 Q               All right. And you got designated to do this job, why?  
9                   Is there a particular reason? Was it your interest in the  
10                  case?

11 A               No sir. I was--I had done the victimology. I lead the  
12                  team that put together the prosecution report to prosecute  
13                  John Norman Collins and I was the officer in charge in the  
14                  courtroom during that time. Although, I was not in charge  
15                  of the property the Chief of Detectives wanted me to go  
16                  down there and straighten it out.

17 Q               You've mentioned this twice - victimology to the jury.  
18                   What is a victimology?

19 A               Victimology essentially is a--is a--I guess a way to  
20                  define it would be a biography of the victim who learn as  
21                  much about her as possible, who her associates were, etc.

22 Q               And, so you gathered much as you testified to gathering  
23                  information about the different murders and reviewing  
24                  reports and talking to witnesses, you do that same type of  
25                  thing to get a background or picture of the victim?

1 A To--this as far as I knew at this time, yes sir. And, as  
2 " far as I knew at that time this had never been done  
3 before. So, so--I was kind of plawing new ground here.  
4 And, that considered--that considered where they went to  
5 school, who they're doctors--who the doctor was, all--many  
6 different--every aspect of their life that I could think  
7 of.

8 Q Kind of--like you've even indicated that Joan would  
9 grocery shop at the K-Mart foodstore in Arborland.

10 A That's correct sir.

11 Q And that's information that you learned about her?

12 A That's correct sir.

13 Q Dawn Mason was kidnapped or grabbed or whatever when she  
14 was hitchhiking by Arborland on April 15<sup>th</sup>, is that  
15 correct?

16 A No sir. That's not correct.

17 Q What's incorrect about it?

18 A First of all, Dawn Mason's the 13-year-old girl. And Dawn  
19 Mason was apparently kidnapped while she was running along  
20 the railroad tracks or near the area of the railroad  
21 tracks on April the 15<sup>th</sup>, 1969.

22 Q Okay, so I had the right date but the location? What  
23 about Marilyn Skelton, was she hitchhiking in front of  
24 Arborland?

1 A Well, we--well we--we don't--we don't know that she was  
2 hitchhiking. We do know that she did a lot of  
3 hitchhiking. We do know that she was dropped off in that  
4 area by her brother.

5 Q Arborland?

6 A In that area. Right. Right. Now, we don't know--we do  
7 know that she did do a lot of hitchhiking but we really  
8 don't know that she was hitchhiking. This was on--that  
9 particular date--that particular date was March the 22<sup>nd</sup>,  
10 1969. March 22<sup>nd</sup>.

11 Q Not the 24<sup>th</sup>?

12 A No sir. Her body was found on March 25<sup>th</sup>.

13 Q So, by your recollection Marilyn, and we don't need to go  
14 there that long, but Marilyn disappeared the day after  
15 Jane Mixer's body was found?

16 A That's correct sir.

17 Q In doing your evidence, and we heard about the box and the  
18 information from Mr. Holz - the evidence that you obtained  
19 from Mr. Holz.

20 A Yes sir.

21 Q You indicated that you opened it, verified the accuracy of  
22 it's I guess markings to make sure that you were obtaining  
23 what it was supposed to be?

24 A That is correct sir.

25 Q Where did you do all of that?

1 A I did that in my office at East Lansing.

2 Q Okay, so you took the evidence from the Public Health

3 storage room - or property room?

4 A From them, yes.

5 Q And you took it to your office?

6 A Correct.

7 Q And, was it all in--how many boxes did you get from Mr.

8 Holz?

9 A I don't remember but I do remember one thing. I remember

10 that I was very cautious about--about to make sure that

11 there would be no contamination of the evidence and

12 therefore--therefore, I--anything that--every case was

13 kept separate from itself. I did not want to see a repeat

14 of what happened at Ypsilanti.

15 Q Okay, and by repeat of Ypsilanti are you talking about the

16 phonebook?

17 A No, I'm not talking about the phonebook. I'm talking

18 about the evidence there--how the evidence there had been

19 co-mingled and contaminated and consequently I did not

20 want to see that happen with any evidence coming from the

21 Health Department.

22 Q All right and when you speak to the contamination, the

23 evidence co-mingling, are you talking about evidence

24 within this series of cases?

1 A I'm talking about the evidence that was at the bomb  
2 -shelter at Ypsilanti that had been taken from the crime  
3 center at Eastern Michigan University and transferred to  
4 the bomb shelter at Eastern--or at the Ypsilanti State  
5 Police Post.

6 Q Okay, and you're going to have to help me here--

7 A Okay. I'll--I shall do that sir.

8 Q That evidence--was that just related--the evidence that  
9 you just talked about from the crime center to the bomb  
10 shelter, was that evidence just relative to Jane Mixer's  
11 case?

12 A No sir. It was relevant to all of the cases.

13 Q Thank you. All right. So, that's what you're talking  
14 about, co-mingling?

15 A Exactly.

16 Q So you had--how much time did you--you spent months at the  
17 bomb shelter?

18 A I spent--I spent, I'd have to go back through my journal  
19 but I spent--I spent months working on this case off and  
20 on and I was--I also had other duties. I was also, in  
21 addition to being the Commanding Office of the Polygraph  
22 Section, I was also the vice-chairman of the State Board  
23 of the Forensic Polygraph Examiners.

1 Q This bomb shelter in the old Ypsilanti State Police Post,  
2 is that--did it have a secured door? Was it locked? How  
3 was it?

4 A It was--it was--no sir, it was not locked. It was not  
5 locked. There were Troopers lockers that were inside the  
6 bomb shelter. There was a radio room in there. But,  
7 after the loss of the--after the destruction of the  
8 telephone book, it was locked. I secured it after that.

9 Q Now, let me--

10 A I should also point out that before that happened--that  
11 before that happened I had put a sign on the door outside  
12 the bomb shelter and kept the light on that nothing was to  
13 be disturbed in there.

14 Q All right. But, even with that precaution somehow from  
15 what you've indicated, somebody got a hold of a piece of  
16 evidence in the Mixer case and threw it away?

17 A The janitor did.

18 Q So, you're telling me that this piece of evidence wasn't  
19 in a bag?

20 A No, it was not.

21 Q It wasn't in any kind of plastic--

22 A No.

23 Q Protective shield to maintain the integrity of the  
24 handwriting that was on it?

1 A No sir. That's why I noticed it immediately when I came  
2 back.

3 Q Just laying on the shelf somewhere?

4 A It was laying--I'm not--I don't even think it was laying  
5 on a shelf. I think it was laying on a floor.

6 Q Of the room they used for their property?

7 A It was the bomb shelter.

8 Q Was that the property room for the entire post?

9 A No sir.

10 Q It was just the place where they were putting this stuff?

11 A That came from the crime center.

12 Q Okay.

13 Now, okay. I, having heard your testimony would  
14 gather that when you came and you saw that phonebook  
15 laying on the floor you saw it on the 23<sup>rd</sup>, you probably  
16 saw it on the floor before that?

17 A I came there on the 23<sup>rd</sup>.

18 Q Okay.

19 A That was the day I arrived. I--the Major had called me to  
20 his office on the 22<sup>nd</sup> and I did see the phonebook at that  
21 time.

22 Q You did?

23 A On the 23<sup>rd</sup>.

24 Q You saw it on the 23<sup>rd</sup>?

25 A That's correct sir.

1 Q Laying on the floor?

2 A I'm not saying it was laying on the floor. I saw it. I  
3 don't recall where it was.

4 Q Obviously wherever it was, you didn't secure it anymore  
5 safely than just having it laying around somewhere then.  
6 Is that correct?

7 A That is correct, sir, because I'm dealing with evidence  
8 from all--from many different cases and my job at that  
9 point in time was to separate the various--the various  
10 items into the various cases before I started--before I  
11 started making out property reports.

12 Q Now let me ask you this, Mr. James, when you saw it laying  
13 on the floor, what did you do then as an officer with  
14 interest in the series of murders to preserve it and  
15 protect it so someone couldn't throw it away?

16 A Well, I didn't do anything other than to separate it and  
17 put it in the same pile where everything else was going in  
18 relative to this particular case.

19 Q So--

20 A I was in the process now of separating the various--the  
21 items from the various cases.

22 Q Under that definition then whoever the janitor was would  
23 have had to fumble through this pile you have separated to  
24 pull out--

1 A No, it was quite obvious. It wasn't something that he'd  
2 have to shuffle through. He--it would have been very  
3 obvious to him.

4 Q Let me ask you another thing, the photograph that Mr.  
5 Hiller showed you--

6 A Yes.

7 Q And the phonebook that you saw in the bomb shelter, did  
8 that appear if you know to show any signs that it had been  
9 analyzed by the Latent Print Unit?

10 A I don't recall. I don't recall seeing any signs that it  
11 had been analyzed by the Latent Print Unit.

12 Q Do you recall the finding in your processing of all of  
13 this evidence and your inventory of it all another  
14 phonebook?

15 A No sir.

16 Q Do you recall in the processing and inventorying of all of  
17 this evidence a cigarette butt?

18 A No sir.

19 Q What is post-mortem signature?

20 A What is post-mortem signature--

21 Q You have heard that term, have you not?

22 A No, I've never heard the term post-mortem signature. I'm  
23 familiar with the so-called signature, signature  
24 (INAUDIBLE) which is really--which is something that's

1           came--what it's really is part of the, what was formerly  
2           known as part of the modeceperendi under peculiarities.  
3   Q       All right. Was Karen Sue Beineman strangled?  
4   A       Karen Sue Beineman was beaten severely--  
5   Q       The question was--  
6   A       According to the pathologist report, a pathologist thought  
7           that she was strangled, yes.  
8   Q       Do you recall what was--what she was strangled with?  
9   A       As I recall there were--that was an electrical cord that  
10          was--that was--electrical cord marks on the back of her  
11          neck.  
12   Q       She was discovered--  
13   A       There was also a plastic substance that had been poured  
14          around her--  
15   Q       Lieutenant, my question was if you knew what she was if  
16          you knew what she was strangled with.  
17   A       Well, I don't know what she as strangled with. I know  
18          that there was--there were--there was an electrical cord  
19          mark on the back of her neck. They presumed she was  
20          strangled with that same cord.  
21   Q       The pathologist thought she was strangled, correct?  
22   A       Correct.  
23   Q       And that murder, she was discovered July 23' 1969?  
24   A       No, no--  
25   Q       I'm off on my date.

- 1 A She was kidnapped on 1969--July 23, 1969. She was found  
2 "at 4:30 in the afternoon on July the 26<sup>th</sup>.
- 3 Q 7/26/69. Moving closer now in time to March of 1969, we  
4 have Rocky Phillips out in California?
- 5 A Roxanne.
- 6 Q And she had a belt wrapped around her neck, is that  
7 correct?
- 8 A That's right. She was strangled with a belt.
- 9 Q Alice Kaylem was shot is that--along with being stabbed.  
10 Is that correct?
- 11 A That--that is--that is--she was shot first.
- 12 Q And she was shot, is it not true with a 22 caliber pistol?
- 13 A That's correct.
- 14 Q Dawn Bassim was also strangled with I believe some form of  
15 wire?
- 16 A Heavy copper wire. There was post-mortem stab marks into  
17 her breast and it appeared that the knife--
- 18 Q I know. I think the jury has heard that. My question was  
19 about the strangulation, sir.
- 20 A Yes, she was strangled.
- 21 Q Marilyn Skelton was found and discovered to have a guarder  
22 belt wrapped around her neck, correct?
- 23 A No, the guarder belt--no, well, the guarder belt was just  
24 lying there. She had been beaten to death.

1 Q David Johnson was a name that was familiar to John Norman  
2 Collins. Is that correct?

3 A That's correct.

4 Q They in fact lived in the same--I'll just call it a  
5 structure because you might know it better than I do,  
6 prior--do you remember when that would have been?

7 A No, I don't really remember when it would have been. It  
8 would have been probably sometime probably in--no, sir. I  
9 don't remember. But, it is correct. They did live  
10 together.

11 Q So, there was a David H. Johnson that lived with John  
12 Norman Collins when they were both attending EMU. Is that  
13 correct?

14 A That's true.

15 MR. GABRY: One second, Your Honor. Thank you,  
16 sir.

17 THE COURT: Further questions?

18 RE-DIRECT EXAMINATION

19 BY MR. HILLER:

20 Q To your knowledge, Lieutenant James, the David Johnson  
21 that was acquainted with John Norman Collins, was he  
22 looked at in connection with this case?

23 A Yes sir he--yes sir he was. He was polygraphed and he  
24 also was not only that but he had an excellent alibi. He  
25 was an actor and at the very time that the murder

1           occurred, or that she was missing, he was involved in a  
2           performance or preparing for as a performance as I  
3           understand it.

4   Q   Are you sure you're not getting him mixed up with a  
5           different David Johnson?

6   A   Well, that's my recollection that he--at least one David  
7           Johnson and perhaps there were several but one David  
8           Johnson was I thought--my recollection was that he was an  
9           actor or that he was involved in that kind of thing and  
10          had an alibi but he was also--my recollection is that he  
11          was also polygraphed.

12   Q   Could those have been separate David Johnson's is my  
13          question?

14   A   It's possible.

15   Q   Could the David Johnson who was acquainted with John  
16           Norman Collins had been a separate David Johnson from the  
17           one who was an actor and was on stage at the time Jane  
18           Mixer was killed?

19   A   That's possible. I don't know sir.

20   Q   John Norman Collins at this time lived in Ypsilanti?

21   A   Yes sir.

22   Q   Attended Eastern Michigan University?

23   A   Yes sir.

1 Q The, Mr. Gabry asked you a lot about the way the evidence  
2 was stored in the bomb shelter at the post and that was  
3 not good police procedure, you'd agree with that?

4 A I certainly agree with that. In fact, I brought that to  
5 the attention of the Major at the same time when I  
6 reported to him that the telephone book had been  
7 destroyed. I was greatly concerned about that.

8 Q Now, you also picked up evidence from Walter Holz at the  
9 Health Department Crime Lab?

10 A Yes sir.

11 Q And when you did that, did you have an occasion to observe  
12 how they stored their evidence?

13 A They always stored their evidence properly as far as I  
14 knew.

15 Q Have you dealt with that laboratory before?

16 A Yes sir, I did during the trial of John Norman Collins.  
17 That was the time I met Mr. Holz.

18 Q You had worked with Mr. Holz before?

19 A Yes sir.

20 Q You're familiar with his method of doing things?

21 A Yes.

22 Q And, from what you observed, was there anything  
23 substandard about the way the Health Department Laboratory  
24 maintained the evidence that was stored at their facility?

1 A No, sir. I never observed anything substandard at the  
2 Health Department.

3 MR. HILLER: Nothing further.

4 THE COURT: Further questions?

5 MR. GABRY: No, Your Honor. Thank you.

6 THE COURT: You may step down, sir, and you're  
7 excused.

8 (At 12:08 p.m., witness excused)

9 THE COURT: We're going to break for lunch at  
10 this time, ladies and gentleman. A little early. We'll  
11 be back--we'll resume promptly at 1:30. Please follow my  
12 directions yesterday about lunch. Report back here ready  
13 to resume at 1:30. Please go with Ms. Washington.

14 JUDICIAL ATTORNEY: All rise, please.

15 (At 12:09 p.m., court in recess)

16 (At 1:36 p.m., court reconvenes)

17 JUDICIAL ATTORNEY: --The Honorable Donald E.  
18 Shelton, presiding. Bring the jury.

19 THE COURT: Mr. Hiller, counsel, could I see you  
20 just a moment while they're coming out?

21 (At 1:37 p.m., bench conference)

22 (At 1:38 p.m., court resumes)

23 THE COURT: Please be seated. Call your next  
24 witness, prosecutor.

1                   MR. HILLER: Thank you, Your Honor. The People  
2                   "call David Minzey.

3                   THE COURT: Sir, come forward if you would. Stop  
4                   there, face the clerk and raise your right hand.

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

7                   THE WITNESS: Yes I do.

8                   COURT CLERK: Have a seat right up there.

9                   THE COURT: State and spell both your first and  
10                  last names.

11                  THE WITNESS: David Minzey, D-A-V-I-D M-I-N-Z-E-  
12                  Y.

13                  THE COURT: Prosecutor?

14                  MR. HILLER: Thank you, Your Honor.

15                  DIRECT EXAMINATION

16                  BY MR. HILLER:

17                  Q     Good afternoon.

18                  A     Good afternoon.

19                  Q     Can you tell us please in what community you currently  
20                  reside?

21                  A     I live in Dewitt, Michigan.

22                  Q     And what is your current occupation?

23                  A     I'm retired.

24                  Q     Where are you retired from?

25                  A     Michigan State Police.

1 Q When did you start with the State Police?

2 A 1978.

3 Q And, when did you retire?

4 A 2001.

5 Q What were you ranked when you retired?

6 A I was a Detective First Lieutenant.

7 Q When you retired what was your assignment?

8 A I was the Commanding Officer of the investigative  
9 resource's section.

10 Q Where is that section located?

11 A In the Lansing area?

12 Q Are you familiar with the long-term evidence storage  
13 facility that the State Police maintains?

14 A Yes sir.

15 Q Was that something that fell within your command?

16 A Yes it did.

17 Q Were you familiar with it when it was maintained at the  
18 Harrison Road State Police Headquarters in East Lansing?

19 A Yes.

20 Q Did there come a time when that evidence, storage facility  
21 the property kept there was moved to a different facility?

22 A Yes.

23 Q And who supervised that move?

24 A I did.

25 Q When did that move take place?

- 1 A That was in September of 1990.
- 2 Q And, where was the property moved from?
- 3 A It was moved from the Headquarters compound there at 714 S
- 4 Harrison to Lake Lansing Road which is also in East
- 5 Lansing.
- 6 Q When that move was--when that move took place, was all of
- 7 the evidence kept in that long-term storage facility moved
- 8 to the new facility on Lake Lansing Road?
- 9 A Yes it was.
- 10 Q And, was it done by State Police personnel?
- 11 A Yes.
- 12 Q And you supervised that move?
- 13 A Yes.
- 14 Q Was any of the evidence tampered with in any way during
- 15 the move?
- 16 A No.
- 17 Q Was that long-term evidence storage facility then moved
- 18 again at some point?
- 19 A Yes it was.
- 20 Q Where was it moved to?
- 21 A It was moved to the Collins Road facility.
- 22 Q And when did that take place?
- 23 A That was in November of '96.
- 24 Q And who supervised that moved?
- 25 A I did.

1 Q Again, when that move was made was it done by State Police  
2 "personnel?"

3 A Yes.

4 Q And did you supervise that?

5 A Yes.

6 Q The evidence that was kept at the Lake Lansing Road  
7 facility and moved to the Collins Road facility, was any  
8 of that opened or tampered with in any way by the people  
9 who were moving it?

10 A No.

11 Q So, basically they just took the evidence and moved it  
12 from one place to the next?

13 A Yes sir.

14 Q And moved it to the next place?

15 A Yes sir.

16 Q And all three of the storage facilities that I've just--  
17 that we've been talking about, were those all-secure  
18 facilities?

19 A Yes they were.

20 Q And, as the supervisor of those moves, did you insure that  
21 all of the evidence that was stored first in the East  
22 Lansing Harrison Road facility, then the Lake Lansing Road  
23 facility that all of those--all of the evidence stored  
24 there was accounted for in each move?

25 A Yes.

1                   MR. HILLER: Thank you, Lieutenant I don't have  
2                   any further questions for you.

3                   THE COURT: Cross-examination.

4                   MR. GABRY: Thank you.

5                   CROSS EXAMINATION

6 BY MR. GABRY:

7 Q                 Lieutenant, was there a paper trail kept on each, I guess,  
8                   case or lab number from one move to another move, to the  
9                   third move?

10 A               No.

11 Q               So, basically when moving day came were like van's used?

12 A               We used a departmental truck that would be equivalent to a  
13                 Uhaul type vehicle>

14 Q               So, you had a group of other officers and they go in and  
15                 get whatever, whether it was boxes or--the items and they  
16                 just load them in the van?

17 A               We used only personnel in the Violent Crime Unit, yes.

18 Q               Which is about how many people?

19 A               There were I believe three of is.

20 Q               The first place that we heard you moved evidence from, the  
21                 oldest in time long-storage facility, that's at Harrison -  
22                 the old State Police Headquarters across from Michigan  
23                 Stage University?

24 A               Yes.

25 Q               What kind of a room was this long-term storage facility?

1 A It was an old, almost bunker-like building. The backstop,  
2 or the southern side of it actually used to be the firing  
3 range when training occurred on sight at the headquarters.  
4 It was a brick block--brick building.

5 Q Were there other offices in this building?

6 A Not in that building. Adjacent to it were some other  
7 offices.

8 Q Was this building heated and cooled?

9 A Yes.

10 Q Was there a particular temperature it was maintained at?

11 A We tried to keep it at about 70, 75 degrees.

12 Q Was the trip to Lake Lansing a half-way point or did you  
13 actually set up a long-term storage facility there in  
14 1990?

15 A We actually built a new facility or had move of it built  
16 for us prior to the move.

17 Q What kind of a facility was over there?

18 A This was more of a modern office building. One you might  
19 see a doctors office. But, the storage facility itself  
20 was in the basement of that building.

21 Q When Mr. Hiller asked you and you mentioned that these  
22 were secure facilities in what way? How were they secure?

23 A They--714 S. Harrison Road was, first of all, within the  
24 State Police compound so of course that's gated and there  
25 are personnel there 24 hours a day. The building itself

1           was alarmed which rang into operations, which was only a  
2           few feet away. The key to that building was kept in a  
3           safe in the Violent Crime Unit.

4       Q      The basement of the Lake Lansing Road?

5       A      The key again was kept in the safe that we had in the  
6           Violent Crime Unit. There were actually two alarm systems  
7           for that. There was a general alarm system for the office  
8           part to get into the building itself and then the property  
9           room had a separate alarm system.

10      Q      And then at Collins Road facility, anything unique about  
11           that security system?

12      A      Other than it was a little bit bigger than the one that we  
13           had on Lake Lansing Road. Again, there were two alarm  
14           systems and we also had in addition to the key you had to  
15           use a credit card type swipe mechanism like you might see  
16           at a motel. Those were encoded and only certain people  
17           had the code--that reader would allow them access to the  
18           property room.

19      Q      Were there any special provisions in any of these three  
20           facilities for the holding of biological material?

21      A      Not specifically. We primarily kept the evidence in the  
22           containers that it came in.

23      Q      So, there was no refrigeration unit or walk-in place to  
24           keep certain items?

25      A      That's correct.

1 Q Were the items ever marked by your staff as to being, I  
2 think we've seen them in different cases, let's say  
3 hazardous? Either biochemical hazard or something like  
4 that in any of the boxes or the material?

5 A I don't recall that. The only markings that I do recall  
6 is when we left the Harrison Road facility and moved to  
7 the Lake Lansing that was a larger facility which allowed  
8 us to--more room to spread the evidence out so bin numbers  
9 were changed on the property forms themselves so that  
10 would have been an indicator there and the more recent  
11 evidence that came in, we did require that there would be  
12 some biohazard label on it. But, that was something that  
13 was relatively new to extend back probably more than five,  
14 six years.

15 MR. GABRY: Thank you, sir. Thank you, Your  
16 Honor.

17 THE COURT: Anything further?

18 MR. HILLER: Nothing further, Your Honor.

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

21 MR. HILLER: Your Honor, the People call Julie  
22 French.

23 THE COURT: Come forward, ma'am. Stop there if  
24 you wound, face the clerk and raise your right hand.

1                   COURT CLERK: Do you solemnly swear or affirm to  
2                   tell the truth, the whole truth and nothing but the truth.

3                   THE WITNESS: Yes I do.

4                   COURT CLERK: Have a seat right up there.

5                   THE COURT: State and spell both your first and  
6                   last names.

7                   THE WITNESS: Julie, J-U-L-I-E. French, F-R-E-N-  
8                   C-H.

9                   THE COURT: Prosecutor.

10                  MR. HILLER: Thank you.

11                  DIRECT EXAMINATION

12                  BY MR. HILLER:

13                  Q     Good afternoon ma'am. Can you tell me by whom you're  
14                  employed?

15                  A     I'm employed by the Michigan State Police.

16                  Q     Are you a civilian or are you enlisted?

17                  A     I'm a civilian.

18                  Q     How long have you worked for the State Police.

19                  A     I've worked for the State Police for 3 ½ years.

20                  Q     And, so lets see you started then--help me out.

21                  A     In January of 2002.

22                  Q     What is your current position?

23                  A     I'm a Forensic Scientist 12 in the CODIS Unit and I act as  
24                  the Unit Supervisor and I am also the State Administrator

1           of CODIS, which is an acronym C-O-D-I-S, which stands for  
2           the Combined DNA Index System.

3   Q       And what is the Combined DNA index System?

4   A       The system is a electronic database that contained DNA  
5           profiles from forensic samples collected from crime scenes  
6           and also DNA profiles from convicted offenders and the  
7           database is searched and matches are generated.

8   Q       And the purpose of the CODIS unit is to do what?

9   A       The FBI sponsors the CODIS program. It's a federal  
10          program in which Michigan is a participant. The overall  
11          goal of the program is to solve crimes. It's to link  
12          convicted offenders to unsolved crimes or to match up  
13          unsolved crimes that weren't previously linked. And,  
14          Michigan participates in the program and Lansing  
15          Laboratory is the State Hub for the program.

16   Q       Now, how does a DNA profile from an offender, a convicted  
17          offender end up getting into the State CODIS system?

18   A       The Lansing Laboratory does all of the DNA testing for  
19          convicted offenders for the entire State of Michigan. So,  
20          the samples are sent to the Lansing laboratory and the  
21          staff of the CODIS Unit generates a DNA profile and  
22          electronically enters it into the database.

23   Q       Where does that profile come from? Or, what are you  
24          physically using to obtain the profile?

1 A Each convicted offender has their sample collected on a  
2 "standardized card that the lab has designed. That card  
3 consists of areas where they can enter the personal  
4 information so the collector at the prison or the jail or  
5 the Sheriff's office, whoever's collecting the sample can  
6 enter the personal information. The sample type that we  
7 collect is, buckle swap, which is basically a swab of the  
8 cheek. There are lollipop shaped swabs that are used and  
9 "they are rubbed inside the mouth of the offender and then  
10 pressed onto paper and the DNA is transferred to the  
11 paper. The entire card, including the paper containing  
12 the DNA is then sent to the laboratory.

13 Q What about the swabs?

14 A The swabs are not required to be returned to the  
15 laboratory. We asked that the collector dispose of them.  
16 If they do return them we immediately just dispose of  
17 them.

18 Q Throw them out?

19 A Yes.

20 Q Now, the paper that's used to collect CODIS samples, is  
21 there something special about that paper?

22 A Yes, the paper that is used is called, FTA Paper. That's  
23 a trademarked paper from a company called Watman. That  
24 paper has special chemicals in the matrix of the paper.  
25 Those chemicals are there to bind the DNA to the paper.

1           That's their purpose. What happens when the saliva is  
2           pushed down onto the paper is that the moisture activates  
3           chemicals that are already in the paper. Those chemicals  
4           cause the cells that were on the person's cheek to burst  
5           open. DNA is found within cells. So, when the cells  
6           burst open, the DNA comes out of the cells. Since DNA is  
7           a long helico molecule, it gets stuck in the matrix of the  
8           paper. Once the paper is dry, the DNA is bound into that  
9           paper. That's the purpose of using FTA paper and that's  
10          the paper that we use for our convicted offender samples.

11         Q       So, the FTA paper is made to catch the DNA?

12         A       Correct.

13         Q       Is it also made to hold it?

14         A       Yes.

15         Q       When a sample is submitted on this FTA paper, it's  
16          received by your unit at the laboratory?

17         A       Yeah, most of the samples come via US Mail and some of  
18          them are hand delivered. Either way they're just brought  
19          back into the laboratory.

20         Q       Now, do they also do casework at the Lansing Laboratory?

21         A       Yes sir.

22         Q       Is that in the same place or is that in a separate place  
23          from the CODIS Unit?

24         A       The CODIS unit has their own laboratory. They have their  
25          own room in which they do processing. As far as receiving

1           the samples and the initial steps of the processing, the  
2           CODIS unit uses its own laboratory. Some of the later  
3           steps of processing are shares--are performed in shared  
4           space with the casework scientist.

5   Q   Now, when you say it's performed in shared space, what  
6           steps of the process are performed in shared space?

7   A   When you do DNA testing you amplify the DNA which makes  
8           additional copies of the DNA, what we call amplification  
9           set up which is the step where you add the reagins that  
10          will cause that amplification. That is done in shared  
11         space. Additionally, once the DNA is amplified and we're  
12          ready to generate a DNA profile on it that is done in a  
13         shared room. However, in both shared spaces there's  
14         designated bench areas and equipment.

15   Q   So, there are CODIS benches and equipment and their are  
16         casework benches and equipment and you don't do CODIS work  
17         on a casework bench and you don't do casework bench on a  
18         CODIS bench?

19   A   Correct and they're all--the lab is set up so the benches  
20         are just in a row. But, we have designated to separate  
21         them for convenience and so you can tell if there's room  
22         available for you to get in and do your processing.

23   Q   The people who work in the CODIS unit, do they also do  
24         casework?

25   A   No.

1 Q Now, is this the way that things were done back in 2001,  
2 2003 as well?

3 A The set up with the lab was the same.

4 Q What about storage of the FTA paper that the CODIS samples  
5 are submitted on?

6 A After we've taken a small piece of sample for testing, the  
7 small pieces of FTA paper are stored in small envelopes  
8 which are stored in boxes which are stored in larger  
9 containers for ease of storage. At the time they were  
10 stored on benches in the laboratory. Currently they are  
11 stored in a different room.

12 Q At the time that we're going to be talking about--I'll  
13 defer that question for a little bit. The actual analysis  
14 of the DNA, is that equipment, the genetic analyzer,  
15 shared equipment with the casework side?

16 A No, it is not.

17 Q So, the CODIS work is done on separate genetic analyzers  
18 from the genetic analyzers that are used for the criminal  
19 investigation work?

20 A The CODIS unit does what we call high-three put testing so  
21 we're pushing a lot more samples through the process in a  
22 given amount of time. So, our genetic analyzer, it has  
23 the same capabilities and the same technology but it  
24 allows more samples to go through faster. So, we actually  
25 have a different piece of equipment.

1 Q When a--once the analysis of the DNA is done and you've  
2 "got a--you've got a profile that comes from the genetic  
3 analyzer and related software, what happens to that  
4 profile then?

5 A After the profile is reviewed, it's uploaded to the CODIS  
6 database.

7 Q And then how is a match made from a profile--a known  
8 profile to a piece of evidence say--or between two pieces  
9 of evidence?

10 A At the time that we're speaking of, the searches were  
11 performed monthly. So, every month we asked the database  
12 to search itself and tell us if there were any specimens  
13 in the database that matched any other specimens in the  
14 database and it produces what we term a match. It's  
15 basically one line across the screen that tells you the  
16 two specimen I.D.'s that it determines are the same  
17 genetic profile.

18 Q Do you get some kind of a notification from the system  
19 that there has been a match?

20 A Yes sir.

21 Q And, what do you do when you get that notification?

22 A The CODIS unit performs a variety of confirmation steps  
23 before we release any information about the match. These  
24 confirmation steps include re-testing the convicted  
25 offender so we develop a new genetic profile for the

1 individual. We also verify--we have the Latent Print Unit  
2 verify the thumbprint that was on the back of the  
3 collection card. We also verify that they had a  
4 qualifying offense. We double-check name and state  
5 identification number. We basically perform all of those  
6 steps before releasing their name to ensure that we're  
7 releasing the correct name.

8 Q And who does the name go to? Who do you release this  
9 information to?

10 A We release the offenders name back to the scientist who  
11 entered the sample that it matched in the database. So,  
12 if a particular scientist enters a specimen from a B&E for  
13 example, if we determine that a particular offender has  
14 matched the sample then a CODIS match report would be  
15 issued from our unit back to the scientist that put the  
16 sample in the database.

17 Q And then is--for core purposes, is separate DNA testing  
18 done by the casework side of the lab?

19 A Yes, the sole function of the CODIS unit is to be an  
20 investigative aid. We provide a tip to the case if you  
21 want to look at it like that. We provide them with a name  
22 of someone that has matched the profile they put in and we  
23 think it may aid the investigation of the case that they  
24 entered into the database.

1 Q Now, does the CODIS unit keep track of when things are  
2 submitted and when things are submitted and when the  
3 different steps of the process are undertaken?

4 A Yes.

5 Q How is that information maintained?

6 A Unlike typical casework, a convicted offender sample isn't  
7 recognized by the State as a piece of evidence. We do  
8 maintain dates about when tests were performed but we  
9 don't typically generate any paperwork when we just  
10 process a convicted offender sample to go into CODIS. So,  
11 any dates regarding when a sample was handled are stored  
12 in various databases at the stations where the action  
13 would be performed.

14 Q And, how is it stored? How is the information stored?

15 A Most of the information is in a Microsoft Access database.

16 Q Stored electronically on the computers within the unit?

17 A Correct. All of the information is electronic. We don't  
18 generate any paperwork from the receipt of an offender  
19 sample through the input into CODIS.

20 Q And you do this on every sample that's processed?

21 A The samples are batched together when we receive them.

22 So, we record information regarding what was occurring to  
23 a particular batch. So, if we know a sample was that  
24 batch then we can extrapolate that that's what was  
25 happening to that sample.

1 Q Now, have you occasion to review your records within the  
2 unit that you supervise before coming to court today?

3 A Yes sir.

4 Q And, let me ask you first of all, did the CODIS unit  
5 report a hit on December 17, 2003 involving a man by the  
6 name of John David Ruelas?

7 THE WITNESS: May I consult my notes to confirm  
8 the date?

9 MR. HILLER: Yes if that will help to refresh  
10 your recollection.

11 THE WITNESS: The match date was December 9,  
12 2003.

13 BY MR. HILLER:

14 Q Now, have you looked at the records concerning when  
15 different steps of the process was done in connection with  
16 that match?

17 A Yes I have.

18 Q Can you tell us when the FTA card with that DNA sample was  
19 received by the laboratory?

20 A Because all of the information is stored in electronic  
21 databases, I individually retrieved the items that would  
22 be of concern for this case so referring to the chart that  
23 I made earlier based on the databases, we received the  
24 sample on July 19, 2002.

25 Q And what was the next step in the process in that case?

1 A In the sample that you're referring to, we did not process  
2 that sample in-house. At the time we had a tremendous  
3 backlog and we were part of a program that allowed us to  
4 send samples to another laboratory to have the testing  
5 performed there and so when that sample was received  
6 nothing was done to it until August when we sent it to the  
7 outsourcing lab.

8 Q So, August of 2002 it got sent to an outside private  
9 laboratory?

10 A Let me clarify, that was August of 2003.

11 Q 2003 - pardon me.

12 Where was the--where was the sample between the time  
13 it arrived on July 19, 2002 until August of 2003?

14 A The sample would have been stored in the CODIS laboratory.

15 Q What is the--what's the packaging like these CODIS samples  
16 arrive in?

17 A The packaging - would you like me to show you the example?

18 Q Did you bring an example? Is this a--is this someone's  
19 card or is this a blank card?

20 A No, this is a blank card.

21 MR. HILLER: All right.

22 THE WITNESS: When the sample arrives at our  
23 laboratory--

24 MR. HILLER: (INAUDIBLE)

25 THE WITNESS: --yes. Absolutely.

1 BY MR. HILLER:

2 Q Is this the whole kit here?

3 A Yes.

4 MR. HILLER: If I could just take a moment, Your  
5 Honor. All right. Ms. French, I'd had the entire packet  
6 marked as People's proposed exhibit number 77. Is this  
7 the packet that is used by the CODIS unit at the State  
8 Police for collection of samples?

9 THE WITNESS: Yes. This is the packet that we  
10 distribute to the jails and the prisons and anyone who  
11 needs to collect from an offender.

12 BY MR. HILLER:

13 Q Do you accept CODIS samples on anything but that?

14 A No sir.

15 MR. HILLER: Your Honor, I'd move 77's admission  
16 as demonstrative evidence.

17 THE COURT: Any objection?

18 MR. GABRY: Just one question. Is that  
19 consistent with what you used in 2002 when the program  
20 first started?

21 THE WITNESS: Yes sir. In 2002 we changed to  
22 this technology.

23 MR. GABRY: Thank you. No objection, Your Honor.

24 THE COURT: 77 is admitted for demonstrative  
25 purposes.

1 BY MR. HILLER:

2 Q Now Ms. French, can you explain what is contained within  
3 People's exhibit 77?

4 A Sure. The first item is the actual collection card. It  
5 has multiple parts to it. On the front all there is, is  
6 instructions - so this tells the collector what to do. On  
7 the back there's an area for the collector to indicate the  
8 race and sex of the offender. Also the offender signs the  
9 card. The collector signs the card and then the offender  
10 puts their thumbprint in the box on the top right corner.

11 Q Now, does that card contain the special FTA paper?

12 A Yes. On the inside of the card if you open the top flap  
13 here, there's some additional instructions on the top.  
14 But, then you can see the pink paper here. The pink paper  
15 is the FTA paper. So, that's where the DNA is going to be  
16 put. Because we collect "buckle" or "cheek" swabs,  
17 they're clear in color so we wouldn't be able to tell once  
18 it dried where the sample was. So the paper is pink so  
19 that when it gets wet it turns white and that allows the  
20 scientist at the laboratory to know where the DNA was  
21 deposited. There's two areas and we ask that they collect  
22 one swab from each of their cheeks. The samples are pre-  
23 bar coded which means that the barcode is applied at the  
24 printing company. The bar code is in multiple places on  
25 the card. This allows us to separate parts of the card

1 and insure that there was no human error when separating  
2 the card. The personal information of the offender is put  
3 below and the card is folded back over and it's--once it's  
4 dry it's ready to be returned to the lab. Other contents  
5 within the envelope include the mailing envelope. We ask  
6 that all convicted offender samples get mailed back to the  
7 laboratory in this envelope. This allows us to easily see  
8 that it's a convicted offender sample and it also--it just  
9 allows for standardization.

10 Q And that envelope doesn't appear to be a regular paper  
11 business envelope. What is that made out of?

12 A It Mylar. It is a plastic type material that the postal  
13 service has approved as acceptable outer packaging to mail  
14 this type of sample. Also within the package that we so  
15 apply the collector are two foam swabs. We ask that they  
16 collect a swab from each cheek so we provided them with  
17 two. I'll open this to show you. It looks like a  
18 lollipop basically. So, we're asking that they rub this  
19 inside of the offender's mouth and then as you saw in the  
20 FTA card, we have drawn a circle for them. We basically  
21 want them to push the circular part of the swab onto the  
22 circle when they're done.

23 Q Does that need to be done while it's still wet?

24 A Yes. The application of the swab to the paper has to be  
25 done while it's wet.

- 1 Q Okay.
- 2 Is that because the chemicals need to be activated--
- 3 need the saliva to activate the chemicals that grab and
- 4 pull the DNA?
- 5 A Right. Having the wetness is what activates the FTA paper
- 6 to work. Additionally there's a notice that we add into
- 7 the kits reminding people that they don't need to return
- 8 the swabs. So, like I said, we ask that they don't return
- 9 the swabs. If they do we just dispose of them. That is
- 10 all the contents of the collection kit.
- 11 Q And, when you say that their rubbing the cheeks, can you
- 12 show to the jury where they would--
- 13 A Sure.
- 14 Q Where on the cheeks they would rub?
- 15 A Yeah. We ask that they insert it on the inside of their
- 16 cheek in their mouth, rub it in a circular motion and then
- 17 when they pull it out we ask that they kind of pull it
- 18 along their lower jaw and soak up the additional saliva
- 19 that's in the bottom of the mouth.
- 20 Q Now, when that package is--arrives at the lab, in what
- 21 part of the lab is it opened and when is it opened?
- 22 A The mail is opened daily and it is all opened in the CODIS
- 23 lab.
- 24 Q And what's the purpose of opening the mail right away when
- 25 it gets there?

1 A We want to enter the personal information of the offender  
2 into the database as soon as possible because our database  
3 is linked to L.E.I.N. which is a electronic database tool  
4 that's available to law enforcement and once we receive  
5 the sample we acknowledge in this L.E.I.N. database that  
6 we've received the sample. We do that in hopes of not  
7 receiving multiple samples for the same individual if they  
8 were convicted more than once or transferred between  
9 facilities. So, we make an effort to open the mail each  
10 day and get the personal information entered in.

11 Q Does that mean that it is--that that sample has been  
12 processed for DNA that day or does that wait for later  
13 typically?

14 A No, opening the mail does not constitute testing the  
15 sample. It often occurs on later dates.

16 Q Assuming that a CODIS sample is received, the data is  
17 entered into the database but the processing is going to  
18 take place later, where does the sample go?

19 A The time that we're referring to here, it would have been  
20 stored in a large, what we call a bin - basically a  
21 plastic storage container on a shelf in the CODIS lab.

22 Q Now, is there a--is there a--are there evidence storage  
23 areas for the other--the casework evidence that comes into  
24 the laboratory for blood, saliva, semen and then drugs,

1           guns, all the other things that the crime lab gets on a  
2           regular basis?

3   A    Yeah. Yes. The Lansing lab has an evidence storage area  
4           and the CODIS unit does not utilize that because the  
5           offender samples are not considered evidence and we  
6           receive so many of them that we're storing them in our  
7           laboratory.

8   Q    So they're stored physically some place else than evidence  
9           is stored?

10   A    Correct.

11   Q    Okay.

12           Now, you've indicated that the Ruelas sample was  
13           received on July 19, 2002 and that it was stored until  
14           August of 2003?

15   A    Yes sir.

16   Q    And then it was sent out to a private lab?

17   A    Yes.

18   Q    And, when these samples are sent out to private labs, did-  
19           --what did you receive back from the lab?

20   A    After the testing was complete we received an electronic  
21           file which contained the profile. We also received any  
22           other documentation that we ask for such as who had  
23           processed the sample. We had a contract with them so they  
24           would supply the electronic data back in the batches that  
25           we asked for. After all of the testing was done for a

1           particular set of samples that we agreed to, they would  
2           return the physical samples to us. Since we had two  
3           sections referring back to the card, we had two sections  
4           for each individual we only sent them one. So, at any  
5           point we still had a sample for an offender in our lab.

6 Q           I'm sorry, was the sample then returned by the lab?

7 A           Yes.

8 Q           Okay.

9           When a--when a--the sample is processed how much of  
10          the paper is used?

11 A          1.2 millimeters which is equivalent to if you press a pen  
12          down and made a tiny little circle, maybe just a hair  
13          bigger than a ballpoint of a pen.

14 Q          And how is that removed from the card?

15 A          We use what's called a semi-automated punch. It basically  
16          is a semi-automated coring device. So, it's equivalent to  
17          what you would think of as a handheld punch that you might  
18          punch a piece of paper with to put into a notebook. It's  
19          very similar to that. It's just has a much smaller coring  
20          device that can core just 1.2 millimeters. It drops it  
21          into a 96 well plate and it maps the location of each  
22          sample it dropped. So, we scan the bar code of the sample  
23          that we're going to collect a 1.2 millimeter punch from  
24          and the computer records that bar code and then the

1 instrument puts it in a particular well and the computer  
2 links those two up.

3 Q Okay.

4 And, that's not equipment that's used by the casework  
5 side?

6 A Correct. That's equipment that's just specific to the  
7 CODIS unit.

8 Q All right. Once the sample is received back from the  
9 private lab, and what was the name of the private lab by  
10 the way?

11 A The Bodhi Technology Group.

12 Q Once the sample was received back from the private lab,  
13 what became of the sample? Where was it stored?

14 A The sample is stored in the same location as the rest of  
15 the samples. When a shipment was returned from the out-  
16 source laboratory, we simply re-filed the samples back  
17 into the original box that they came out of.

18 Q Did your unit also generate information regarding a match  
19 involving evidence related to the murder of Jane Mixer and  
20 a person by the name of Gary Earl Leiterman?

21 A Yes sir.

22 Q And, if you can check your records and tell me, please,  
23 when that sample was received from the police agency.

24 A The sample was received on February 22, 2002.

25 Q And what happened to it at that point?

1 A After it was received in so--it was taken out of its outer  
2 packaging it was stored until July 17, 2002 when it was  
3 pulled to be processed.

4 THE COURT: Excuse me, counsel could I see you at  
5 the bench please?

6 (At 2:24 p.m., bench conference)

7 (At 2:24 p.m., court resumes)

8 THE COURT: Excuse the interruption. Please  
9 proceed.

10 BY MR. HILLER:

11 Q Thank you, Your Honor.

12 I'm sorry, it was pulled for processing on July 17 of  
13 2002?

14 A Yes.

15 Q All right. And do your records indicate when the  
16 processing was complete and the card was returned to  
17 storage?

18 A The first time the card was processed it did not yield a  
19 DNA profile. This is not completely uncommon because we  
20 are using saliva. We're using those cheek cells.  
21 Sometimes there's an area that was colored white that  
22 really contains mostly saliva and very few cells. It's  
23 one of the downfalls of moving to buckle collection. So,  
24 the sample did not pass on its original batch and it was

1 re-batched on January 20, 2004. In between the time it  
2 would have been stored in the CODIS laboratory.

3 THE COURT: When was the first time it was  
4 processed?

5 THE WITNESS: It was first processed on July 17,  
6 2002.

7 THE COURT: Thank you.

8 THE WITNESS: Yes sir.

9 BY MR. HILLER:

10 Q And--and when was the match reported?

11 A Referring to the jacket - the match date was July 7, 2004.

12 Q Following the re-processing on January 20, 2004, was the  
13 Leiterman sample then again returned to storage in the  
14 CODIS unit?

15 A Yes.

16 MR. HILLER: Ms. French, thank you very much. I  
17 don't have any further questions for you.

18 THE COURT: Cross-examination.

19 MR. GABRY: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. GABRY:

22 Q Ms. French, did you bring a copy of, I guess, the card  
23 with you today?

24 A Which card, I'm sorry?

1 Q Mr.--Thank you. The card relative to my client, Gary  
2 Leiterman.

3 A A copy of the card is in the case jacket that I have with  
4 me.

5 Q The actual card is kept also, correct? I mean, you didn't  
6 bring the actual card with you today?

7 A No sir.

8 Q I'm going to slide this in here (INAUDIBLE)--defendant's  
9 proposed exhibit one. Through Mr. Hiller's help I  
10 requested some information relative to this CODIS and I  
11 received by way of letter directly I believe from you,  
12 some information. I've had marked and slipped a two-sided  
13 piece of paper into this envelope that's been marked.  
14 People's exhibit--Defendant's exhibit number one and I'd  
15 ask you, could you look at that and I realize that might  
16 not be a complete copy of the card, it doesn't have the  
17 two circles on it but do you recognize that?

18 A Yes sir.

19 Q And what is that a copy of?

20 A This is a photocopy of the collection card that came to  
21 our laboratory.

22 Q Okay.

23 And that shows the date then that it was received by  
24 the laboratory. Is that correct?

25 A Yes.

1                   MR. GABRY: Your Honor, can we move for  
2                   Defendant's exhibit one?

3                   THE COURT: Any objection?

4                   MR. HILLER: No, Your Honor. I think it's a  
5                   business record.

6                   THE COURT: Admitted.

7 BY MR. GABRY:

8 Q         I need you to help me out here a little bit because I find  
9               it easier to try to visualize things. All of the mail  
10              comes into the lab at the same place?

11 A         Yes.

12 Q         All right. Now, there are other areas where officers can  
13              actually walk-in evidence, is that correct?

14 A         The area where the officers would walk-in evidence is the  
15              same area where the postal individuals would bring the  
16              mail.

17 Q         So, irrespective of whether the officer brought it in or  
18              it was in the mail, it would come into the actual facility  
19              the same way?

20 A         Yes.

21 Q         Do we know whether it was mailed or whether it was walked-  
22              in?

23 A         No, we don't keep record of that.

24 Q         And then it's opened there? Or in the CODIS lab?

- 1 A It's brought back to the CODIS lab sealed and it's opened  
2 in the laboratory.
- 3 Q Can you try to describe that set-up for the jury? What--  
4 the CODIS lab--what does it look like?
- 5 A The CODIS lab looks like what you think of as your  
6 chemistry laboratory may be in high school or college.  
7 It's a medium sized room with come "U"-shaped bench top  
8 counters. There's a--some computers for data entry,  
9 chairs for individuals to sit in, lab coat rack, a typical  
10 laboratory area.
- 11 Q So, the benches are not long and narrow, they're kind of  
12 horseshoed like?
- 13 A Our--the CODIS laboratory abuts up to one of the walls in  
14 the main hallway so the counter does run along the wall.  
15 So, so--it's more horseshoe shaped, yes.
- 16 Q Where is the CODIS lab physically in relationship to the  
17 evidence processing DNA lab?
- 18 A The DNA lab area has a couple different rooms but they are  
19 in the same hallway as the CODIS laboratory and they do  
20 share an access door if you chose to use that access door.  
21 Once you came into the laboratory space from the hallway  
22 you could enter either laboratory.
- 23 Q Okay.

1                   So, you enter in and can go into the CODIS lab and  
2                   then I can go through a door and go right into the DNA  
3                   lab?

4 A                Correct.

5 Q                Do you use a genetic analyzer, the 310 that has the 16  
6                   capillary?

7 A                Yes.

8 Q                And that's bigger than then the regular evidence slab that  
9                   has--is it three?

10 A               We use a genetic analyzer called a 3100.

11 Q               Right.

12 A               And, that's where we do the initial testing. We do use a  
13                 310 for other purposes but we have designated specific  
14                 310's for our use.

15 Q               The envelope's then come down from the mailroom down into  
16                 the--this whole area, it's kind of like a biotech area  
17                 then? You've got the regular lab. We've got your lab.  
18                 Are there other functions of the lab in that area?

19 A               The hallway of the laboratory contains both toxicology and  
20                 what we term biology and biology would encompass both  
21                 areas, CODIS and casework type processing.

22 Q               Now, I was trying to follow along as you were explaining  
23                 the process, once the envelope's are open, the mylar  
24                 envelopes open we have cards. Those cards are then put in  
25                 plastic bins?

- 1 A Yes.
- 2 Q Are they sheathed in any way?
- 3 A If the sample hasn't been processed yet, then it's not  
4 sheathed in any way. The sample remains attached to the  
5 main card until after it's been punched. After its been  
6 punched we no longer will need the components and we put  
7 them in envelopes and we put the larger white cards  
8 batched together in a plastic bag.
- 9 Q Okay.
- 10 So, then when the lollipops pressed on the pink  
11 spots, is the card folded over so that the pink spots  
12 where the lollipops pressed isn't up against the envelope?  
13 Is there some kind of a covering for that?
- 14 A Referring to the card, there's an outside covering that  
15 can come over. If they do choose to tear off the  
16 instructions, we've put an additional perforation here to  
17 prohibit them from pulling off the covering and that's to  
18 protect the DNA sample.
- 19 Q Okay, so now--hold that up for me for a minute and  
20 something--what comes into the lab then is either that  
21 card with the full page covering or the--it might be  
22 ripped off.
- 23 A Correct.
- 24 Q And we don't know in Mr. Leiterman's case how it occurred,  
25 do we?

- 1 A We don't know if this bottom flap was torn off similar to  
2 throwing away swabs if they choose to return them. If  
3 they choose to leave the instructions on, which we  
4 encourage them to do so they don't make a mistake, we tear  
5 it off so we can fit more in an individual package.
- 6 Q Okay and that's where I'm trying to go at this point in  
7 time. So, once it's now brought down, the mail is open,  
8 you've got the card with the two pink spots. Does that go  
9 "in like a card file so that it's one next to another, next  
10 "to another, next to another or are they slid into like  
11 individual, I don't know, jackets?
- 12 A Before processing the flap would be folded over and they  
13 would be stacked together - but no separators.
- 14 Q So, if the flap wasn't--you could have situations where  
15 DNA from one card would have contact with another card in  
16 the filing process?
- 17 A The DNA would be bound to the FTA paper. The FTA paper,  
18 if somehow the flap got flipped up, the FTA could come in  
19 contact with the back of - we put them all in order so it  
20 could come in contact with the back of a subsequent card.  
21 But, the DNA would be bound to the paper.
- 22 Q When you say it would be bound, if I took my fingernail  
23 and scraped it on that pink spot, would I have DNA on my  
24 fingernail?

- 1 A If you actually forcefully removed some of the fibers of  
2 "the paper you will remove some of the DNA.
- 3 Q And you--obviously there's no tensile strength. I mean we  
4 don't know how hard we would have to rub the nail depends-  
5 -do we? When you say bound, I'm trying to get a concept  
6 of how tightly that holds the DNA to the card?
- 7 A We haven't done any specific studies about how hard you  
8 would have to push to get the DNA back off the FTA paper  
9 but we do series of washes in which pressurized liquid is  
10 shot at the punch in a small well and the DNA stays bound.
- 11 Q Okay.
- 12 So, in Mr. Leiterman's case, that card would have  
13 remained stored in one of these bins in the CODIS lab  
14 until July 17<sup>th</sup>?
- 15 A of 2002.
- 16 Q Correct?
- 17 A Yes.
- 18 Q Okay and what happens with it then?
- 19 A Once it's pulled for processing we do the first step is  
20 the punch which we talked about earlier which is taking a  
21 small coring out of the material and then it is processed  
22 through the entire DNA process.
- 23 Q Okay, help me here when Mr. Hiller was going through this  
24 process I recalled that you indicated that there were some

1 steps and if I remember correctly you said, amplification  
2 set-up is done in a shared space.

3 A Amplification set-up is done in a shared space, yes.

4 Q Okay.

5 Even though I've read a lot about it, I still am not  
6 sure I understand it and I'm not sure, could you take a  
7 moment and what do you mean by that - amplification set-  
8 up?

9 A When you generate a DNA profile, you're looking at  
10 specific locations on the DNA. So, we amplify or make  
11 additional copies of sections of the DNA. That allows us  
12 to be able to see them later on this genetic analyzer that  
13 they're referring to. So, when the DNA is bound to the  
14 FTA paper, we add reagins or chemicals to the paper. The  
15 chemicals allow additional copies of certain sections of  
16 the DNA to be made. Those additional copies will now be  
17 free in solution. They'll be loose in the tube with the  
18 liquid. The original strand of DNA that came in on the  
19 FTA paper will stay bound.

20 Q Okay.

21 Now, when the testing was done on July 17, 2002, is  
22 the determination made then that it didn't yield or that  
23 you didn't get the yield that you expected?

- 1 A The determination for that would have been made on July  
2 23, 2002. The difference being the time it took for the  
3 sample to make it through the process.
- 4 Q And, would that have been then done in the--the attempt to  
5 amplify it? Would that have been done in the shared space  
6 - the realization that it was insufficient?
- 7 A The realization that we didn't generate a profile would  
8 have occurred in the PCR lab which stands for, Polymerase  
9 Chain Reaction. It's basically just an acronym we use to  
10 refer to the room because that's what's occurring back  
11 there. That is also a room that is shared and that we  
12 both have genetic analyzers in that room and the data is  
13 reviewed in that room. So, that's when the determination  
14 would have been made whether or not a sample has yielded a  
15 profile.
- 16 Q Okay.
- 17 The card doesn't follow the sample into that shared  
18 room or does it?
- 19 A The card does not leave the CODIS lab.
- 20 Q What happens with the sample once the amplification  
21 process occurs? 
- 22 A The sample is set up to run on a genetic analyzer.
- 23 Q And then goes back into the CODIS lab?

- 1 A No, it's a one-way traffic flow basically. So, you would  
2 go from the CODIS laboratory to the amplification set-up  
3 laboratory, to the PCR laboratory.
- 4 Q And the PCR laboratory is where we run the DNA through the  
5 analyzer and then do you read it then using GenoTyper and  
6 GeneScan software?
- 7 A The data that comes off the instruments is electronic so  
8 we can view it at a variety of stations. There is a  
9 station in the PCR lab but it could also be viewed at  
10 other locations like the office area.
- 11 Q Who actually handled Gary Leiterman's DNA sample or buckle  
12 sample?
- 13 A We record information about what individual was processing  
14 a particular set of plates. In this instance, the  
15 information that I retrieved from the databases to bring  
16 with me today indicates the date that certain samples were  
17 handled but it doesn't give me any indication as to which  
18 individual handled the sample.
- 19 Q Now you've referred to a couple of times to this as being  
20 a convicted offender database. There was actually some  
21 issues that arose in that in regard to Mr. Leiterman, is  
22 that correct?
- 23 A The database contains both forensic and convicted offender  
24 samples.

1 Q And, there had to be some communication on verification  
2 that it--Mr. Leiterman did not in fact have a conviction  
3 in place the time you were running these samples, correct?

4 THE COURT: I already ruled on this issue,  
5 counsel. What are we doing here?

6 MR. GABRY: Well, it's just information that--

7 THE COURT: No, it's not. I ruled on this  
8 earlier.

9 MR. GABRY: Just clarifying that he--

10 THE COURT: All right. Well, no part of that is  
11 relevant to this issue, ladies and gentleman. Disregard  
12 that information.

13 MR. GABRY: That's all I have then. Thank you,  
14 Your Honor.

15 THE COURT: Anything further?

16 MR. HILLER: I have no further questions, Your  
17 Honor. Thank you.

18 THE COURT: Thank you, Ms. French. You are  
19 excused.

20 (At 2:44 p.m., witness excused)

21 THE COURT: Call your next witness.

22 MR. HILLER: Sarah Thivault, Your Honor.

23 MS. FRENCH: Sir, what would you like me to do  
24 with these?

1                   THE COURT: Give it to the officer right there if  
2 you would. Ma'am, come forward please. If you would stop  
3 right there and face the clerk and raise your right hand.

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

6                   MS. THIVAUXT: Yes I do.

7                   COURT CLERK: Have a seat right up there.

8                   THE COURT: Would you state and spell both your  
9 first and last names?

10                  THE WITNESS: My name is Sarah Thivault. The  
11 first name is spelled, S-A-R-A-H and the last name is  
12 spelled T-H-I-V-A-U-L-T.

13                  THE COURT: Prosecutor.

14                  MR. HILLER: Thank you, Your Honor.

15                   DIRECT EXAMINATION

16 BY MR. HILLER:

17 Q Good afternoon, Ms. Thivault.

18 A Good afternoon.

19 Q I'm going to mispronounce your name at least three or four  
20 times and I apologize for that. Please be patient and  
21 helpful with me on that. Ma'am, can you tell me where  
22 you're employed?

23 A I work for the Michigan State Police Forensic Science  
24 Division in the Grand Rapids laboratory.

25 Q And what is your job?

- 1 A I'm a Forensic Scientist within the Biology and DNA unit.
- 2 Q Can you tell the Court and jury please what education and
- 3 training you've had that qualifies you for your job?
- 4 A Yes. I received a bachelor of arts degree from Hope
- 5 College, which is in Holland, Michigan. I went to work
- 6 for the Illinois State Police after graduating from Hope.
- 7 I worked in the city of Springfield, Illinois before I
- 8 worked in the city of Chicago, Illinois. When working for
- 9 the Illinois State Police I completed an approximate 18-
- 10 month training program, which consisted of--with emphasis
- 11 on DNA analysis. It had lectures, lecture exams,
- 12 laboratory work, laboratory practical exams which was all
- 13 taught by a Senior Forensic Scientist with many years of
- 14 experience. I worked four years for the Illinois State
- 15 Police before I came back to the state of Michigan where I
- 16 worked in the Lansing Laboratory and again I went through
- 17 approximately 9 months to a year - another training period
- 18 where I completed laboratory work and a written exam to
- 19 show proficiency in DNA testing. I also completed
- 20 approximately a year--six months to a year of training in
- 21 forensic biology, which would be the identification in
- 22 analysis of bodily fluids such as blood, semen, urine,
- 23 feces.
- 24 Q You conduct DNA tests?
- 25 A Yes I do.

1 Q Can you estimate for us how many DNA test you've done both  
2 "for the State of Illinois and now the State of Michigan?  
3 A I've been working as a Forensic Scientist since 1995 so  
4 I've completed thousands of tests on involving DNA  
5 analysis.  
6 Q I'm sorry I neglected to ask you, are you a civilian or  
7 are you enlisted?  
8 A I'm a civilian, sir.  
9 Q Have you testified as an expert in the field of DNA  
10 Identification in any courts in the State of Michigan?  
11 A Yes I have.  
12 Q On approximately how many occasions?  
13 A Approximately 30.  
14 Q And did you testify at all when you were in Illinois?  
15 A Yes I did.  
16 Q And approximately how many occasions?  
17 A That would be included in the 30 but I believe of those 30  
18 it was about 5 of 6.  
19 MR. HILLER: Your Honor, I'd move for the  
20 admission--or I'd move for the Court to accept rather Ms.  
21 Thivault for testimony as an expert in the field of DNA  
22 identification.  
23 MR. GABRY: No questions, Your Honor.  
24 THE COURT: I will allow her to so testify.  
25 BY MR. HILLER:

1 Q Ms. Thivault, you work in the Grand Rapids lab now?

2 A That's correct.

3 Q How many labs are there around the state - State Police

4 Laboratories that is?

5 A For DNA testing there are three laboratories in addition

6 to those three for the Michigan State Police they have an

7 additional three more I believe.

8 Q Three that do DNA testing, three labs that do other work?

9 A Yes.

10 Q You work in the Grand Rapids lab which obviously does DNA

11 testing, have you worked in any other labs for the

12 Michigan State Police?

13 A Yes I have.

14 Q When was that and where was that?

15 A I worked in the Lansing Forensic Laboratory from 1999

16 until oh I think it was 2002.

17 Q Do you remember when in 2002?

18 A It was right around Thanksgiving and the year slips my

19 mind. They're all blending together.

20 Q Did you while you were working in the Lansing Lab have

21 occasion to analyze some submitted samples, both known and

22 forensic samples submitted to you by the Jackson Police

23 Department in connection with case--their case number 02-

24 1973?

25 A Yes I did.

1 Q And, can you briefly tell us what was the nature of that  
2 investigation?  
3 A The evidence that was submitted to me was evidence from a  
4 homicide. It consisted of some clothing from the suspect  
5 as well as a reference sample or a known sample from the  
6 victim of the homicide.  
7 Q As identified to you from the Jackson City Police, who was  
8 the victim in that homicide?  
9 A Margaret Ruelas.  
10 Q You--can you spell it?  
11 A R-U-E-L-A-S, I believe.  
12 Q And who was the suspect as identified to you by the  
13 Jackson Police?  
14 A John Ruelas.  
15 Q Can you tell me when the evidence was submitted?  
16 A The evidence was submitted to the laboratory, I believe in  
17 February of 2002.  
18 Q Do you recall specifically on what date or do you have  
19 information with you that will help you to refresh your  
20 memory?  
21 A Yes if I could refer to my laboratory report I could have  
22 the date.  
23 Q That's fine. Do you have it with you?  
24 A Yes I do. I'm ready.  
25 Q Okay.

1                   What date was the evidence on the Ruelas homicide  
2                   submitted by the Jackson City Police?

3 A               On January 29, 2002.

4 Q               I'm sorry, did you say January 20--oh, January 29<sup>th</sup>, okay.

5                   THE COURT January 29, 2002.

6                   MR. HILLER: Thank you.

7 BY MR. HILLER:

8 Q               And, what happened once that--once the Jackson Police  
9                   brought in that evidence, what happened to it?

10 A               The evidence was stored in our property room in the  
11                  laboratory.

12 Q               Now, does the DNA unit have a separate property room from  
13                  the remainder of the lab?

14 A               Samples that are submitted for DNA analysis are kept in a  
15                  separate location than analysis brought in from generally  
16                  police agencies for general serology or biology testing.

17 Q               And, at the lab they also test for things like firearms  
18                  identification and explosives and drug analysis and things  
19                  of that--lots of different evidence is submitted?

20 A               That's correct.

21 Q               The DNA evidence stored separately?

22 A               Yes.

23 Q               And was it back at that time back in 2002?

24 A               Yes.

1 Q So, this sample arrives on January 29, 2002 and it's  
2 placed into the DNA evidence room.

3 A No.

4 Q Correct me.

5 A When the evidence is--was received on January 29<sup>th</sup> it was  
6 placed into the property room and because of the nature of  
7 our testing, the biological samples need to be  
8 refrigerated so we transfer them to a refrigerator that is  
9 back in the unit separate from the main property room of  
10 the laboratory and it is stored in that refrigerator until  
11 it is ready for us to complete our testing.

12 Q So, this evidence went into the refrigerator?

13 A Right.

14 Q Okay.

15 And, how is it packaged in the refrigerator?

16 A In a sealed container.

17 Q When did it come out of the refrigerator?

18 A I removed the evidence for my biology testing on February  
19 20, 2002.

20 Q What biology testing did you do that day?

21 A On that day I examined the evidence submitted in this  
22 homicide. It was clothing of--taken from the suspect in  
23 the case. I believe it existed of a tee shirt, a pair of  
24 pants, a belt, some shoes and some socks as well as a vial  
25 of blood taken from the victim, Margaret Ruelas.

1                   THE COURT: What's the date of this again?

2                   THE WITNESS: February 20<sup>th</sup>.

3 BY MR. HILLER:

4 Q       Was there a known blood sample from the defendant, John  
5                   Ruelas included in this evidence?

6 A       No, there was not.

7 Q       Now, when a police agency submits evidence to you, do they  
8                   give you some idea of what it is they'd like you to check  
9                   for?

10 A      They submit a sheet along with the evidence as to a  
11                   request for analysis, yes.

12 Q      And, what were you asked to look for on this evidence?

13 A      I was asked to examine the clothing for the presence of  
14                   blood.

15 Q      How do you go about doing an analysis like that?

16 A      You take the clothing and you lay it out on a table on  
17                   top--on top of a piece of clean paper. Wear lab coats  
18                   and--lab coat and a glove--lab coat and gloves. You lay  
19                   the item out. You observe it visually for the presence of  
20                   any red/brown stains. Sometimes it's necessary if the  
21                   clothing is dark as in this case, the items submitted were  
22                   black, to use a strong light source - a very bright light  
23                   bulb. It will help you visualize the red/brown stains  
24                   against the black fabric. And in this case I examined the  
25                   clothing, I found some red/brown stains. I did a

1 preliminary test, which is a test done with a heating  
2 stick. It's a little--a little white plastic stick with a  
3 piece of filter paper on the end of it and you put some  
4 sterile water on that and you touch it to the red/brown  
5 stain and if it--if the stain indicates that it's blood,  
6 the testing strip turns green - like a bright teal green  
7 immediately. If that testing is positive you do a  
8 confirmatory test or a second test where you would try to  
9 determine if the red/brown stain that you suspect is that  
10 human in nature. And to do this you do a hemotrace card  
11 which is submit--we purchase commercially in our  
12 laboratory and they look like for lack of a better term,  
13 they look like a little pregnancy test and you make up a  
14 little solution with your red/brown stain and some buffer  
15 that they submit and then you drop with a little eye  
16 dropper onto the card and it goes across the card and you  
17 get two lines if it's positive and one line if its  
18 negative.

19 Q Physically in the laboratory where is the work that you've  
20 just described performed?

21 A Biology laboratory is a separate room. There's an access  
22 door on one side. There's four very large tables in the  
23 laboratory. I worked with eight other analyst and we all  
24 have our own space on those tables where we would lay out  
25 our evidence for testing. We all have our own tools and

1           utensils that we maintain in a container separate and  
2           under our care. We--there's a refrigerated storage on one  
3           side and opposite that would be some windows which would  
4           face into the DNA laboratory where the DNA testing is  
5           done.

6 Q       So, you had your own bench?

7 A       Yes.

8 Q       The other laboratory scientists had their own benches?

9 A       Yes.

10 Q       Do you know Dr. Steven Milligan?

11 A       Yes I do.

12 Q       And who is Dr. Steven Milligan?

13 A       He is one of my co-workers, or was one of my co-workers at  
14          the Lansing Laboratory.

15 Q       He had his own bench in that room?

16 A       Yes.

17 Q       You had your own tools that you worked with at your bench?

18 A       Yes.

19 Q       The other laboratory scientists had their own tools?

20 A       Yes.

21 Q       Anybody ever share tools?

22 A       No.

23 Q       Is it allowed to share tools?

24 A       Yes.

25 Q       Does it ever happen?

1 A I wouldn't say it never happens but there isn't a need for  
2 "it because we all have our own.

3 Q Now, in between tests if you're testing evidence from  
4 crime scene number one and move on to test for evidence  
5 for crime scene number two. Do you do anything do your  
6 work space or your tools?

7 A Absolutely.

8 Q In between?

9 A Absolutely. We take our bench top and we wipe it off with  
10 a 10% bleach solution that's made up fresh daily. We put  
11 the brown paper--the butcher paper down that we lay the  
12 evidence on top of. Each item that is reviewed, the paper  
13 that's underneath it is discarded after each individual  
14 item is looked at. For example, in this case I looked at  
15 a tee shirt and a belt and shoes and pants and socks. As  
16 I pulled out each item there would be a new piece of paper  
17 that would go down for that evidence would be laid on top  
18 of it. It's to prevent a transfer of any of that material  
19 to my bench top or as a precaution to prevent from  
20 contamination from happening to other evidentiary items.  
21 The utensils we use, we either use sterile scalpel blades  
22 to take cuttings for our tests or we use scissors and  
23 forceps. Forceps is a fancy word for tweezers. We clean  
24 that between each item that we test also with a bleach  
25 solution and then rinse that in water. We wear gloves on

1 "our hands that we change between every item that we test  
2 and if for some reason we suspect--like we've touched some  
3 item of evidence and are concerned about transferring that  
4 to another item we would take off those gloves and again  
5 put on fresh gloves. There is great care and  
6 consideration in our laboratory taken to prevent  
7 contamination or cross-contamination from one case to  
8 another or from one sample to another within a case.

9 Q The setup of having different laboratory scientists at  
10 different benches but in the same room, is that also the  
11 setup that you have at Grand Rapids?

12 A Yes.

13 Q Did you have a similar setup in Illinois?

14 A Yes.

15 Q Now you've indicated that you took out the evidence from  
16 the Jackson homicide on February 20, 2002 out of the  
17 refrigerator?

18 A That's correct.

19 Q And you did that to check for bloodstains and do to  
20 further processing if necessary?

21 A Correct.

22 Q As you--did you also take the known blood of Margaret  
23 Ruelas out of the refrigerator?

24 A Yes I did.

1 Q Did you, in checking the clothing that was submitted, did  
2 you locate any bloodstains that were--that were then  
3 tested further?

4 A Yes I did.

5 Q And how do you go about further testing once you found  
6 blood stains?

7 A Once we identify a stain as being blood of suspected of  
8 being human blood we take the stain and take a cutting,  
9 place that into a coin envelope and seal that. If you are  
10 going to--from the items that we take from the bulk  
11 evidence, say I have a shirt and a pair of pants and I  
12 find blood stains on both, I will take a cutting from say  
13 the shirt and take a smaller cutting of that circle--say  
14 the circle is the size of a quarter. I'll take a smaller  
15 cutting from that, say the size of--say the size of a  
16 pinhead and put that into a DNA extraction tube and then  
17 those coin envelopes would be processed--turned over for  
18 DNA but only the evidence in the tube would be processed  
19 for DNA testing initially.

20 Q Just to make sure that I understand the process. When you  
21 identified a stain you would cut some of it out?

22 A Correct.

23 Q So, lets say you're working on the tee-shirt and you find  
24 a stain. Did you find a stain on the tee shirt in this  
25 case?

1 A On the tee shirt--yes, I believe I did.

2 Q So, you made a cutting of that?

3 A Yes.

4 Q Of that stain?

5 A Yes.

6 Q And put the cutting where?

7 A Into a coin envelope that was sealed and when all of the  
8 evidence was reviewed for the case it's turned over  
9 together to--for DNA testing. We'll take evidentiary  
10 cuttings from the socks, the shirt and the pants that were  
11 all positive for blood and we'll turn that--we'll package  
12 that for DNA testing, process the paperwork and place that  
13 into a different refrigerator where we all have our own  
14 storage bins and they're placed chronologically for  
15 processing for DNA testing.

16 Q Ok, you take the cutting, you put it into an envelope, you  
17 seal the envelope. Do you mark the envelope in some way  
18 to identify it?

19 A Correct.

20 Q How do you do that?

21 A Each coin envelope is marked with the laboratory number,  
22 the record number--the laboratory is--number is specific  
23 to a particular incident. The record number is specific  
24 to a particular submission of evidence to the laboratory  
25 and an item number would be specific to the item that was

1 submitted. So, if I receive a shirt, a belt and shoes,  
2 I'm going to call them all from the same incident.  
3 They're going to have the same laboratory number, the same  
4 record number and be called items a, b and c. So then,  
5 that information be placed on the coin envelope as well as  
6 my initials and the date they were placed in the envelope  
7 and the envelope is sealed.

8 Q You also make record either on the envelope or some place  
9 else of where the stuff in that envelope came from?

10 A That information is contained usually within the notes.  
11 However, in indicating where the sample was taken from is  
12 usually in part of the description as well that's placed  
13 on the envelope.

14 Q So, you take whatever cuttings you're going to take from  
15 the shirt, you put them in the envelopes. What happens to  
16 those envelopes?

17 A Those envelopes are placed into a larger envelope, sealed  
18 and turned over for DNA testing.

19 Q As you--when you finish taking all the cuttings out of--  
20 off the article that you're working - tee-shirt whatever.  
21 Let's stick with tee shirt. You're done with that  
22 article. What did you do?

23 A The tee shirt was folded back up and placed into the bag  
24 it was submitted in and sealed.

1 Q And assuming that you got something else to test, what is  
2 your procedure at that point?

3 A You take the paper that was laying on the desk, fold it  
4 up, and place it in the biohazard trash. You wipe down  
5 your bench top and place another piece of paper out on the  
6 table prior to opening another item of evidence.

7 Q What about gloves?

8 A Same. You would take off the gloves you have on and put  
9 "on new gloves."

10 Q And then the same procedure you follow with each  
11 additional item?

12 A Yes.

13 Q Now you've done all of your testing and you collected all  
14 of the samples - the cuttings, they've been placed in coin  
15 envelopes, put in a bigger envelope. That bigger envelope  
16 is marked somehow I assume?

17 A Yes.

18 Q How is it marked?

19 A They're marked as samples for DNA testing. They're  
20 submitted to the property room laboratory information  
21 system. They're given a new record number because it's a  
22 different submission of evidence and then that record  
23 number is what is carried. At that time I believe that  
24 would be the record number that was carried through for  
25 DNA.

1 Q The evidence that you took out on 2/20 of 2002, did you  
2 process it that day?

3 A Yes I did.

4 Q And, when you were done processing it, what became of it?

5 A The same day that I opened it up and did my examination, I  
6 completed my examination of all of the items. I closed  
7 them, sealed them and placed them into the property room  
8 for return to the agency that had submitted them.

9 Q Now, when you say the property room, is that different  
10 from the DNA refrigerator where you took them out of that  
11 day?

12 A Yes.

13 Q In the property room, is incoming evidence and outgoing  
14 evidence, is that in the same room?

15 A Yes it is.

16 Q And is it in the same place?

17 A No.

18 Q Separated somehow?

19 A Yes. One half of the property room has the incoming  
20 evidence and the other half of the property room has the  
21 outgoing evidence.

22 Q Okay.

23 And the envelope that contained the smaller envelopes  
24 of the cuttings that you took from the clothing that was  
25 submitted by the Jackson Police, you did what with?

1 A I placed them into the DNA refrigerator for further DNA  
2 testing at a later date.

3 Q Was that also done on 2/20?

4 THE WITNESS: The placing of the coin envelopes  
5 into the DNA refrigerator?

6 MR. HILLER: Yes

7 THE WITNESS: Yes it was.

8 BY MR. HILLER:

9 Q So, the evidence came out of the refrigerator on 2/20, you  
10 did your work, made whatever cuttings you were going to  
11 make, package those up, re-package the evidence, one at a  
12 time as you were working through, put the cuttings in the  
13 refrigerator and put the submitted evidence into the  
14 outgoing portion of the property room?

15 A That's correct.

16 Q All on the same day?

17 A Correct.

18 Q All right. Now, the stuff that you--the cuttings that you  
19 had taken that were to be tested for DNA and put in the  
20 separate refrigerator--

21 A Yes.

22 Q When did you take the--when did you then take those out?

23 A I believe it was February 27, 2002.

24 Q Do you need to check your report to refresh your memory on  
25 that?

1 A Sure.

2 Q Did that help?

3 A Yes it did.

4 Q And when did you take those out of the biology

5 refrigerator--the DNA refrigerator rather?

6 A The cuttings that I made I removed from the DNA

7 refrigerator on February 27<sup>th</sup>. I did note on this report

8 that I misspoke about the date I--the date and time they

9 were turned over for--through the paperwork for the placed

10 in the DNA refrigerator. My report states that I logged

11 them into the computer on February 21<sup>st</sup>. So, I completed

12 the evidence--I completed the testing of the bulk evidence

13 - the shirt, the tee shirt, the pants, the shoes on the

14 20<sup>th</sup>, put that into the property room. The following day

15 is when turn--I did the paperwork, which turned over the

16 cuttings for DNA testing.

17 Q Where were the cuttings in the meantime?

18 A On my laboratory bench sealed.

19 THE COURT: We're going to stop there for an

20 afternoon break. We'll take a recess for approximately 15

21 minutes and then we'll resume this testimony. Please go

22 with Ms. Washington.

23 JUDICIAL ATTORNEY: All rise, please.

24 (At 3:14 p.m., court in recess)

25 (At 3:45 p.m., court reconvenes)

1                   THE COURT: Bring the jury. Ms. Thivault resume  
2                   the stand.

3                   MR. HILLER: Sargent Bungey is going to bring her  
4                   out as soon as--

5                   THE COURT: Okay.

6                   JUDICIAL ATTORNEY: All rise for the jury,  
7                   please.

8                   THE COURT: Please be seated. Ms. Thivault, I  
9                   remind you you're still under oath.

10                  THE WITNESS: Yes sir.

11                  THE COURT: Prosecutor--

12                  MR. HILLER: Thank you, Your Honor.

13                  THE COURT: Continue please.

14 BY MR. HILLER:

15 Q    Ms. Thivault, I think before the break the evidence--the  
16       cuttings that you had made were now in the DNA  
17       refrigerator and when did you take them out of the DNA  
18       refrigerator?

19 A    I removed the samples for DNA from the refrigerator on  
20       February 27<sup>th</sup> of 2002.

21 Q    And, when you take them out of the refrigerator what do  
22       you do with them?

23 A    When the samples are removed from the refrigerator for DNA  
24       testing we inventory the evidence that we receive and  
25       start the DNA extraction procedure.

1 Q Now you say receive. You put it into the refrigerator and  
2 you took it out of the refrigerator but in the lab  
3 vernacular that is a reception?

4 A Yes. We also receive evidence from other laboratories  
5 that don't perform DNA testing so it's just the way we  
6 talk about the different items of evidence.

7 Q I just want to clarify that--it didn't necessarily mean  
8 that it had been somewhere else in the meantime?

9 A Oh, correct.

10 Q And when you put it in there, do you seal the envelope?

11 A Yes.

12 Q And do you check when you take something out of the  
13 refrigerator, make sure the seal is in the same condition  
14 as when you put it in?

15 A Yes.

16 Q And in this case it was?

17 A Yes.

18 Q All right.  
19 Now, what's the next step in the process? What did  
20 you do next?

21 A The DNA testing procedure is a three step procedure. We  
22 perform a DNA extractions where we add chemicals to the  
23 individual tubes that are--that hold the cuttings in the  
24 envelopes. We take the--after we do the extractions of  
25 the chemicals we do a quantitation stage. Once we extract

1       the DNA we want to find out how much we have and what  
2       shape it's in so we do a quantitation of it. After we do  
3       we do an amplification of the DNA. This is called the  
4       Polymerase Chain Reaction, or PCR testing. Basically we  
5       take the tracked DNA and place tho--that liquid sample  
6       into different test tubes and place that into an  
7       instrument which acts like a photocopy machine to exactly  
8       duplicate the DNA that's already present in the tube.  
9       Once we do that the amplification we do what's called,  
10      Capillary Electrophoresis and this is a visualization of  
11      the DNA profile. If you can remember back in high school  
12      to your science classes with your magnets how opposites  
13      attract. We use that principle. DNA has a negative  
14      charge. So, what we do is we take--we take a jello-like  
15      substance and you put the DNA in that jello-like substance  
16      and you add electricity and because DNA has a negative  
17      charge it moves through the jello towards the positive end  
18      and because little pieces of DNA move quicker than bigger  
19      pieces of DNA, we--it enables us to separate the DNA out  
20      by size and this is how we visualize the DNA profiles.  
21      Then, once we find a DNA profile we compare the DNA  
22      profile from the crime scene sample or the evidence sample  
23      to the known sample or reference sample that we received  
24      from a victim or a suspect from the crime. If the two DNA  
25      profiles match, we--or I say that the DNA comparison is a

1       match and perform statistical analysis to tell how common  
2       or how rare that DNA profile would be expected in the  
3       population. If the evidence sample, the DNA profile does  
4       not match the DNA profile from the known sample submitted,  
5       the comparison is considered an exclusion and we report  
6       that out as such.

7   Q   Now, let's take a step back to right after you get the  
8       envelopes out of the refrigerator.

9   A   Yes.

10   Q   The next thing I think you said is that you do an  
11       extraction?

12   A   Yes.

13   Q   All right. Now, you had spoken earlier about taking a  
14       smaller cutting of the--you take a cutting and then you  
15       take a smaller cutting of that. Has that cutting--that  
16       second cutting already been done at this point?

17   A   Yes.

18   Q   Or is that yet to be done? When do you do that second  
19       cutting?

20   A   When the cutting that we take and place in the tube, we do  
21       at the same time we cut the stain out of the shirt. So,  
22       if I identify a blood stain on a shirt I'm going to cut  
23       out the quarter sized stain for example - I'm just using  
24       that as a relative size, and from that quarter sized stain  
25       we take the cutting about the size of a pinhead, a half

- 1 centimeter squared is generally what we take and we place  
2 that into a tube and seal that tube and that tube is what  
3 we add the chemicals to for the DNA extraction and the DNA  
4 testing procedure.
- 5 Q Now the other--the remainder of the cutting that you take,  
6 what happens to that?
- 7 A That is placed into a different envelope and sealed as  
8 well and that is transferred along with the tube for DNA  
9 testing. The reason being that if the cutting I take for  
10 some reason doesn't work where the DNA profiling procedure  
11 that I perform doesn't give me results, then I have more  
12 sample that I can go back to and I can repeat that  
13 procedure and try to figure out why it is that my testing  
14 didn't work and didn't produce results.
- 15 Q Now, the cutting that you take and put in the tube that's  
16 going to be tested, do you mark that in some way to  
17 identify it?
- 18 A Yes we do.
- 19 Q How do you mark it?
- 20 A The tube is marked with the letter identifier, the record  
21 number, the laboratory number, the date it was placed in  
22 the tube and the initials of the person who put it in  
23 there.
- 24 Q Okay.

1           So, when this stuff comes out of the DNA refrigerator  
2         "and in this case that was on 2/27/2002, you then go to  
3         work on the tubes?

4   A   Yes.

5   Q   And what physically do you have to do with those tubes?

6   A   The DNA extraction procedure is an overnight procedure.  
7       So, what I do typically in the laboratory is add the  
8       chemicals at the end of the day and then let them sit in  
9       the oven or the incubator overnight to extract and then in  
10      the morning--the next morning when I come in the samples  
11      are ready for that clean-up stage and that next stage  
12      which is that quantitation to tell me how much DNA that I  
13      have present in my tubes.

14   Q   And, what do you have to do to add the chemicals to the  
15      tubes?

16   A   You--when you open the envelopes you place them in a rack.  
17      The individual tubes are placed in a rack. You wear  
18      gloves, lab coat, safety glasses. You open the tubes  
19      individually. You take the chemicals and add them with  
20      sterile pipette tubes into the tubes and then you seal  
21      that tube and go down the line of the samples that you're  
22      processing.

23   Q   Now, does the pipette tube physically go into where the D-  
24      --into the--is there any liquid in that tube before the  
25      chemicals are added?

- 1 A No.
- 2 Q So you've got a tube and in the bottom of the tube you  
3 have a small cutting from the piece--the article of  
4 clothing or whatever it is?
- 5 A Yes.
- 6 Q Do you--do you have to put the pipette all the way down in  
7 there so it actually touches that DNA in order to add the  
8 chemicals?
- 9 A No.
- 10 Q Is there any genetic material in the chemicals itself?
- 11 A No.
- 12 Q Do you use the same pipette tube for each of the samples  
13 that you have in front of you?
- 14 A No.
- 15 Q You use a different one?
- 16 A Correct.
- 17 Q For each one?
- 18 A Yes.
- 19 Q All right.
- 20 Then can we assume from that that you don't use the  
21 same pipette tube on other cases as well?
- 22 A Yes.
- 23 Q It's all--each tube gets its own pipette?
- 24 A Correct.
- 25 Q As you finish working on a tube, what do you do with it?

- 1 A You close it and move it in the rack to indicate that  
2 you've already processed the sample or added the chemicals  
3 to the tube.
- 4 Q Do you close the tube before you open the next one?
- 5 A Yes.
- 6 Q You go down and do that to each of the samples?
- 7 A Yes.
- 8 Q Did you do that in this case?
- 9 A Yes.
- 10 Q Once you have added the chemicals using a separate pipette  
11 to each of the tubes and stoppered up the last of the  
12 tubes and is stoppering a right word to use or--
- 13 A That's fine. Closing. That's fine to.
- 14 Q Once the tubes are closed, what do you do then?
- 15 A They're placed into an incubator for the overnight  
16 extraction of the bloodstain.
- 17 Q Now, what about the other samples that are--the larger  
18 cuttings that were in the envelope?
- 19 A They remain unopened and are inventoried in our notes and  
20 are returned to the original envelope - the larger  
21 envelope that they came in with the other tubes.
- 22 Q What other tubes?
- 23 A In a large manila envelope, say 8  $\frac{1}{2}$  by 11, will have for  
24 example, say six smaller coin envelopes which are the 2  $\frac{1}{2}$   
25 by 3 size and say you'll have six of those and they'll be-

1           -three of them are marked a, b, c and they have one tube  
2           in each from your cuttings that you're using for your DNA  
3           testing and then you'll have another set of coin envelopes  
4           that will also say a, b, c and that is just the cutting  
5           that you took the sample for the DNA testing and placed  
6           into the tube. And, those samples--those original  
7           envelopes would be then inventoried in your notes. You  
8           would note that they're still sealed and they will be  
9           placed back into the larger 8 1/2 by 11 envelope and re-  
10          sealed and returned to the--the DNA refrigerator.

11         Q      The place where they had been taken out of to start this  
12          process?

13         A      They're--each analyst has a working area where they store  
14          their evidence that's in process and it's separate from  
15          the incoming evidence for the initial DNA testing. So,  
16          once I take something out of the DNA refrigerator and open  
17          it up, inventory it, take the samples that I'm going to do  
18          my DNA testing on, I will take that other envelope and put  
19          it into a different refrigerator and this one happened to  
20          be right across from my laboratory bench where it would be  
21          stored until the case is completed and then that will be  
22          placed into the property room for return to the agency.

23         Q      So, when you do that--when you put that back into the  
24          refrigerator, would you put it back that day - same day?

25         A      Yes.

- 1 Q Okay.
- 2 And, did you do that in this case?
- 3 A Yes.
- 4 Q When you put that back in there, what was in the large
- 5 envelope?
- 6 A The large envelope in this example I mentioned six coin
- 7 envelopes. So, there would be three empty coin envelopes
- 8 which contained the three tubes I removed for DNA testing
- 9 and then there would be the other three coin envelopes
- 10 that remained sealed and that I did not open for testing.
- 11 Q Okay.
- 12 And you don't touch that envelope again until the
- 13 case is over and it gets returned to the agency?
- 14 A Correct.
- 15 Q Or, if you have to for some reason re-test something
- 16 that's in there?
- 17 A Correct.
- 18 Q Now you've then got your test tubes that are being--where
- 19 the extraction process is going on in the incubator.
- 20 A Yes.
- 21 Q incubator?
- 22 A Yes.
- 23 Q Okay. They're in the incubator overnight. So then you
- 24 would come back in on 2/28?
- 25 A Correct.

1 Q And--do you ever put these in on Friday and take them out  
2 on Monday?

3 A No.

4 Q Too long in the incubator?

5 A There is a danger for--yes. To answer your question, yes.

6 Q So, you come back in on 2/28--

7 A Yes.

8 Q And what did you do?

9 A I removed those test tube racks from the oven and would do  
10 the cleanup stage which is another chemical wash where we  
11 add DNA when it's--your DNA is found in the nucleus of the  
12 cell. And, when we do the extraction we're putting  
13 chemicals into the tube that acts to release the DNA from  
14 the cell much like you'd crack the shell of an egg to  
15 release the yolk. But, your DNA is bound up with proteins  
16 and we can't get to it once it's released so like your  
17 yolk would be contained - what we need to do is break,  
18 like you would break the yolk to release the DNA so that  
19 it's free in the solution so that we can see what's there.  
20 So, we perform a series of chemical washes in order to  
21 purify the DNA that's present so that we can quantitate it  
22 or see how much is present in order to perform our  
23 amplification and DNA profiling.

24 Q So, the tubes come out and you perform these series of  
25 washes?

- 1 A Yes.
- 2 Q And, how are those washes performed? Does the DNA remain  
3 in the tubes or does it go somewhere?
- 4 A The DNA is present in the tube and it doesn't come out.  
5 The chemicals that you add, it's an organic--inorganic  
6 extraction so you have like a line that for in your test  
7 tube and the junk that you don't need stays in the bottom  
8 of the tube and the DNA that you need stays in the top.  
9 So, you'll take that out and put that into the tube where  
10 you wash it and then that is a filter system where the DNA  
11 is maintained on the filter and after it's washed, that  
12 tube would be inverted to collect the DNA sample from the  
13 filter.
- 14 Q I'm sorry you lost me.
- 15 THE WITNESS: I--
- 16 MR. HILLER: Let's start back and kind of do it  
17 step by step. You take the tube out, do you work on one  
18 tube at a time again?
- 19 THE WITNESS: Yes.
- 20 BY MR. HILLER:
- 21 Q All right. You open up the tube, what do you do next.
- 22 A You do the chemical extraction that forms the line in the  
23 tube. It's a--
- 24 Q Do you add something to the tube?
- 25 A You add a chemical to the tube.

1 Q Okay.

2 And that causes the--

3 A a separation of the DNA from the--the chemical that you've  
4 added to the tube.

5 MR. HILLER: Okay.

6 THE WITNESS: That's to clean the DNA that's in  
7 the tube. So, we'll take that sample, put that into a  
8 different tube which is labeled--

9 BY MR. HILLER:

10 Q How do you get that out?

11 A Pipette--with the same thing you do before, an individual  
12 sterile pipette - a different one used for each tube.  
13 You'd put that into one sample at a time - the filter  
14 tubes where you again would add the washing chemicals or  
15 reagents to those individual tubes one at a time with a  
16 different, clean sterile pipette each time until you  
17 perform three to five washes per the protocol that we  
18 follow and once the washes are complete the filter is then  
19 inverted and the DNA is collected from the filter into a  
20 different tube which is individually labeled for storage.

21 Q Okay, where did the filter come from?

22 A It's a--the second step of cleaning up the DNA.

23 Q Okay so you do the pipette, you add the chemicals--

24 A Yes.

1 Q You take a different pipette and suction off what's at the  
2 top--what's risen to the top?

3 A Yes.

4 Q Put that in a separate tube, add more chemicals?

5 A Yes.

6 Q More stuff rises to the top?

7 A No.

8 MR. HILLER: Oh, okay.

9 THE WITNESS: The second tube that you're  
10 putting into is a different kind of tube and you're adding  
11 different chemicals so you don't have separating. This  
12 is--you put your DNA solution on the top of a tube--it's a  
13 tube that has a little basket on the top of it and then  
14 the bottom of the basket sits a filter and the filter  
15 let's the liquid pass through but keeps the DNA on top of  
16 the paper and then once you do perform your washes on  
17 individual tubes you can collect the clean DNA that was  
18 present in the filter into a different tube.

19 BY MR. HILLER:

20 Q Okay.

21 So, you pipette the stuff that rose to the top. You  
22 put it into this, and it sounds kind of like a Mr. Coffee  
23 to me--

24 A Sure.

25 Q And you put it through the filter?

- 1 A Sure.
- 2 Q And the liquid drains out and then you out put more
- 3 chemicals on top of that?
- 4 A Yes.
- 5 Q Same tube?
- 6 A Yes.
- 7 Q Sterile pipettes?
- 8 A Yes.
- 9 Q And the--and the liquid that you're putting on the--the
- 10 chemicals you're putting on there run through and clean it
- 11 and it stays on top--the DNA stays on top of the filter.
- 12 A Yes.
- 13 Q More chemicals on top of that then?
- 14 A You do that three to five times
- 15 Q Three to five times--
- 16 A Up to the same filter.
- 17 Q And I assume that we're talking about a sterile filter and
- 18 a sterile tube that you're putting it into and--
- 19 A Yes.
- 20 Q Okay.
- 21 Now, once you've done that what do you do?
- 22 A Once you've performed the washes then you collect your DNA
- 23 sample into the--you invert it to collect the DNA sample
- 24 from the top of the filter into a tube.
- 25 Q Take the filter off the tube and--?

1 A You add a small amount of chemical to the--to the basket  
2 tube and instead of spinning it in a center fugue so that  
3 the liquid goes through it, you take the basket out of the  
4 tube, invert it into a different tube and then you spin it  
5 upside down so that the DNA can be collected off of the  
6 filter into the new tube.

7 Q Okay, so you take the basket, turn it upside down, put it  
8 on a tube, put the tube on a centrifuged--

9 A Yes.

10 Q Sterile tube?

11 A Yes.

12 Q And it shoots the DNA into that tube?

13 A Yes.

14 Q Okay.

15 Now, what's happened to the other tubes? Are they  
16 just kind of sitting there sealed up?

17 A Yes.

18 Q But they're with you?

19 A Yes.

20 Q Now, once we have the DNA in that tube that's been  
21 centrifuged out, what happens next?

22 A Once you collect the DNA in the inverted tube, you perform  
23 a quantitation, excuse me, and in this--in this case you  
24 perform a yield gel--a yield test. It's a agarose gel,  
25 electrophoresis test where you run your questioned samples

1           against a series of samples of known concentration and you  
2           visually compare the intensity of the band on the gel to  
3           that of the standard in order to estimate how much DNA you  
4           have in your sample. The agarose gel--yield gel system  
5           that we use is not specific for human DNA so it just tells  
6           you how much DNA you've recovered. So, because of that we  
7           need to do an additional quantitation, which is specific  
8           for humans and upper primates to figure out how much of  
9           the DNA that you've collected is human or what you need so  
10          that you can distinguish between your bacterial DNA that  
11          might be present in your forensic samples, which is very  
12          typical of forensic samples in the laboratory setting.

13         Q      Do you go through all of these steps with one tube and  
14           then go back and do the second tube?

15         A      It's--it's kind of a staging procedure where the--when  
16           you're adding the chemicals you'll go--you'll have a rack  
17           of tubes and you'll individually open and add the  
18           chemicals to the tubes. You--

19         Q      Seal them up again after you put that in?

20         A      Yes. You mix them on a vortex and then you put them all  
21           together in the centrifuged so they can spin and then you  
22           take them all out and then you add your next step with the  
23           chemicals and then you'll mix them again on the vortex,  
24           put them in the centrifuged again, spin them--it's kind of  
25           a departmentalized procedure where you're doing the same

1           thing to--the same thing but individually to different  
2           tubes at the--sequentially and then processing them,  
3           moving them kind of along together in stages.

4 Q        But, all the way through you're doing sterile pipettes?

5 A        Yes.

6 Q        If you're taking something out and putting it into a  
7           different tube it's a sterile tube it's going into?

8 A        Yes.

9 Q        Everything is clean? Everything is sterile?

10 A       Yes.

11 Q       And not just dumping it all in together and then mixing it  
12           up--

13 A       Correct.

14 Q       --hoping it sorts itself out. You're keeping everything  
15           separate and sterile and clean.

16 A       Yes.

17 Q       Now once you determine how much DNA you have, what's the  
18           next step?

19 A       After you quantitate the DNA that you have or determine  
20           how much you have you proceed with your DNA amplification.  
21           That this stage we take a dilution of the DNA that's  
22           present, add that into a tube with different chemicals.  
23           You place those individual tubes into a instrument called  
24           a thermocycler that acts like a photocopy machine to copy

1           the DNA that's present and then from there we can  
2        visualize the DNA with the electrophoresis procedure.

3 Q       Again, everything goes--if it goes into a different  
4        container, it goes into a sterile container?

5 A       Yes.

6 Q       The tubes aren't opened--more than one tube is not opened  
7        at a time?

8 A       Correct.

9 Q       Sterile pipettes if you're using pipette - any equipment  
10      is sterilized?

11 A       Yes.

12 Q       And, so far is this all being done on the same day?

13 A       No.

14 Q       Okay.

15           Let's talk about that. You take it out of the  
16      incubator and the next thing you start to do is the  
17      extraction?

18 A       The cleaning and the washing.

19 Q       Is that done all in one day?

20 A       Generally yes.

21 Q       If it isn't done in one day what becomes of--when you go  
22      home at night what do you do with the stuff you haven't  
23      finished?

24 A       Place that into the refrigerator.

25 Q       Again, sealed up?

1 A Yes.

2 Q And you check to make sure it's sealed when you take it  
3 out the next day?

4 A The individual tubes you make sure they're all closed and  
5 placed into your location in your refrigerator.

6 Q How many days might you spend going through the process  
7 that we have--from getting it out of the incubator, how  
8 many days might be spent getting--

9 A It depends upon the number of samples that you're  
10 processing at one time. Because this DNA testing is so  
11 labor intensive we routinely analyze more than one case at  
12 a time and this is just to make it more time effective.  
13 We use a series of controls to ensure that there's no  
14 sample to sample contamination or case to case  
15 contamination so the procedure that I've described from  
16 the extraction up through the amplification can take  
17 anywhere from a couple days to a couple weeks. It just  
18 depends on what you're doing in the laboratory at that  
19 time. You can--when you're working on more samples with  
20 more cases that obviously will take you more time to  
21 complete an individual step. So, sometimes it may take  
22 you an entire day to complete one step and in another  
23 sense it may take you two or three days to complete the  
24 same tests just because you're completing it with more  
25 individual items. The samples--you also are--can be

1           called away to testify for example, like I am today, from  
2           your pro--what you're doing in the laboratory and when  
3           you're not in the laboratory you're responsible for taking  
4           your items, making sure that they're secure and by that I  
5           mean the individual tubes are closed and they're placed  
6           into your location in your refrigerator or your freezer  
7           where other people won't mistake your items for theirs and  
8           we also have a color coded system with the laboratory  
9           racks so that someone inadvertently doesn't grab the wrong  
10          rack of tubes. The tubes are all labeled to prevent that  
11          as well. So, while they're not in my hands or I'm not  
12          looking at them 100% of the time, they are secure in that  
13          they are in an individual secured location in the  
14          laboratory and contained within just the DNA unit where  
15          only the DNA analysts have access to.

16         Q       And, you said that you have a color-coded rack system so  
17          you have your own color of rack?

18         A       Yes.

19         Q       And, the other analysts each have their own color and you  
20          know that you are not to touch their stuff?

21         A       Yes.

22         Q       And you know they're not to touch your stuff?

23         A       Well, not necessarily that but yes. You know what's yours  
24          so that you don't inadvertently grab something by mistake  
25          that's not yours.

1 Q Now, once you have visualized the DNA, and you have  
2 determined how much is there, the next step is what?  
3 A The--are you talk--the quant--  
4 Q I'm sorry. I guess that's quantitation is what you--  
5 A Once we have found out or dis--completed the quantitation  
6 we do the amplification which I discussed with the  
7 thermocycler that's like the photocopier and then we  
8 perform electrophoresis to visualize the DNA profiles.  
9 Q So, blowing it through the tube with the charge and seeing  
10 how fast it moves?  
11 A Yes.  
12 Q And, when you use--that is a machine called a genetic  
13 analyzer?  
14 A Yes.  
15 Q Now, we've heard testimony earlier today about the CODIS  
16 unit.  
17 A Yes.  
18 Q Do the--does the genetic analyzer that--that you would use  
19 would that be used by the CODIS unit ever?  
20 A No, they have--they maintain their own equipment that they  
21 use.  
22 Q Is the genetic analyzer cleaned and sterilized in between  
23 batches? Is--how do we know that there isn't  
24 contamination from going through the genetic analyzer?

1 A The --the way the electrophoresis system is set up, the--  
2 the electrophoresis that I described like the jello-like  
3 substance is actually all performed in a capillary which  
4 is not a whole lot bigger than a piece of hair and inside  
5 that capillary there is a polymer and every--as every  
6 sample is injected and allowed to electrophorus or pass  
7 through the capillary, the polymer is replaced between the  
8 sample so that each--each sample is processed  
9 individually. The--they're all placed into tubes or  
10 plates with individual wells and they're closed in a  
11 manner that the system is clean in the sense that there's  
12 no contamination from one sample to the next or one case  
13 to the next and you know this because of the control  
14 samples that you use when you process the electrophoresis.

15 Q And, can you explain the control samples to us?

16 A We use a--a stain control which is a sample that doesn't  
17 contain any DNA and it's processed from when you first  
18 start the initial extraction, you take a tube and you--  
19 well, you take an empty tube and you process that along  
20 with your evidence and when you get to the end, that empty  
21 tube needs to not contain a DNA profile. We also have a  
22 known sample, which is an internal laboratory control  
23 sample, which is a bloodstain, that's processed along  
24 right from the beginning of the extraction all the way  
25 through the end that has a known profile. When you

1 complete your procedure you need to have that--that known  
2 profile and it must not have any extraneous peaks or  
3 contamination or anything that would indicate to you that  
4 there were contamination. You also use an amplification  
5 control. There's a positive control and a negative  
6 control at this stage when you use the thermocycler or the  
7 copy machine for the DNA. The positive and negative  
8 controls--the negative control would be a sample that  
9 "doesn't contain DNA and the positive control would be a  
10 sample that contains DNA of a known type and again, at the  
11 end of the profiling procedure your negative controls must  
12 be negative or not contain DNA and your positive controls  
13 must contain the correct profile and only that profile.

14 Q And, once it goes through the genetic analyzer are we at  
15 the end of the process in terms of handling this evidence?

16 A Yes.

17 Q The genetic analyzer then gives you what?

18 A The genetic analyzer will give you your DNA profile.

19 Q And that's an electronic file that can then be read using  
20 software?

21 A Correct.

22 Q Now, is it--the procedure of the laboratory to retain a  
23 portion of the extracted DNA for future testing?

- 1 A Whenever possible, we are instructed to maintain a sample  
2 of the extract in--in any case that someone would want to  
3 re-test the sample that we already tested.
- 4 Q And where is that retained extract kept?
- 5 A In a--the closed tubes would be in a box that's also  
6 closed and placed into a storage freezer. At this time  
7 that is what we did.
- 8 Q The box is sealed?
- 9 A Closed. Not sealed with tape. They're closed and placed--  
10 --and again, we have individual locations and freezers  
11 where you would put your extracted DNA.
- 12 Q But, the idea of putting it in the freezer is that it's  
13 frozen.
- 14 A Yes.
- 15 Q And, all the way along are the tubes there used marked so  
16 that you can identify where the contents came from?
- 17 A Yes.
- 18 Q And the procedures and the controls that you've just  
19 described for us and thank you for being so patient with  
20 me and walking me through this, are those common to all of  
21 the DNA scientists who work in the lab?
- 22 A Yes.
- 23 Q Every--and you received training on how to go about  
24 properly conducting tests?
- 25 A Yes.

1 Q Are you expected to follow those procedures every time?

2 A Yes.

3 Q And, are there audits at the laboratory to ensure that

4 you're doing that every time?

5 A Yes.

6 Q Now, turning back to the Ruelas homicide from Jackson.

7 Did you go through all of these steps with the cuttings

8 that you made from the clothing that was submitted by the

9 "Jackson Police Department?"

10 A Yes I did.

11 Q And, at the end, after it had gone through the genetic

12 analyzer did you--were you able to have--did you find DNA

13 profiles on any of these pieces of evidence?

14 A Yes I did.

15 Q I think I--I neglected to ask you up until now, did you

16 also try and get a DNA profile from the blood that had

17 been submitted - the known blood sample of Margaret

18 Ruelas?

19 A Yes I did.

20 Q And, when you're testing a known sample of blood, is there

21 a procedure or an order of testing that you follow?

22 A Yes there is.

23 Q What is that?

24 A When we receive samples for a case we process the

25 evidentiary items of the items from the crime scene before

1           we test any known samples or reference samples from a case  
2           and this is to ensure that we don't contaminate the item  
3           of evidence with the known sample inadvertently.

4 Q         How many samples off of the evidence that was submitted  
5           did you get from the Ruelas case?

6                           THE WITNESS: That I tested for DNA?

7                           MR. HILLER: Yes, and I'm not talking about now  
8                          the known sample. I'm talking about the evidence--from  
9                          the cuttings.

10                          THE WITNESS: Are you asking me how many cuttings  
11                          I developed DNA profiles for in this case?

12                          MR. HILLER: Yes.

13                          THE WITNESS: I believe it was three.

14 BY MR. HILLER:

15 Q         And, of those DNA profiles, were you able to identify  
16                  anyone or any profile as matching?

17 A         Yes.

18 Q         Whose DNA profile did you find on the evidence?

19 A         The results of my testing an identification persay was  
20                  not--can I refer to my notes so that I don't mis-speak?

21 Q         Please do.

22 A         There were two evidentiary items that I profiled for DNA  
23                  analysis and one reference sample. So, there were three  
24                  total items that I performed DNA analysis on. Of the two  
25                  evidentiary items that I received, one of them was a blood

1 stain from a sock and there was a female DNA profile that  
2 was identified on the sock that matched the known DNA  
3 profile from Margaret Ruelas. There was a tee-shirt--a  
4 blood stain from a tee-shirt which would be the second  
5 evidentiary item that I tested and the--there was a  
6 mixture of DNA profile's identified from the tee-shirt and  
7 Margaret Ruelas couldn't be excluded as a contributor to  
8 the mixture of DNA profiles that was identified on the  
9 blood stain from the tee-shirt.

10 Q Now, the tee-shirt had been identified to you as coming  
11 form John Ruelas?

12 A Correct.

13 Q The mixture of DNA that you got from the tee shirt may  
14 have included Margaret Ruelas? You could not eliminate  
15 her?

16 A Correct.

17 Q Was it a--could you tell whether or not the other  
18 contributor was a male or female?

19 A Yes.

20 Q Was it a male or female?

21 A In this case the additional donor appeared to be male.

22 Q And how do we know that? How do we tell?

23 A You--we profile a locus which is called, amlogenin which  
24 is on the x and y chromosome and females have 2 x's--two x  
25 chromosomes and males have an x and a y chromosome and

when we look at the DNA profile we're looking at peaks on  
a graph and we're looking at the height of the--the height  
of the peak on the graph. And, for a female DNA profile  
we're going to get just one peak for the x and it's--we'll  
just have the one peak for the x. When you have a male  
DNA profile, you'll have to peaks which would be one for  
the x and one for the y and they will be equal in balance  
or equal in height. When you have a mixture of DNA  
profiles, the height of the two peaks is--is so that one  
peak will be markedly higher than the other and this is an  
indicator that you have DNA present from more than one  
individual or indicative of a mixture.

13 Q And, off the tee shirt there was a--you found that there  
14 was a mixture of DNA, male and female?

15 A Yes.

16 Q Now--

17 (At 4:31 p.m., recording stopped. Off record)

18 (At 4:31 p.m., court resumes)

19 THE COURT: All right. Go ahead.

20 MR. HILLER: Thank you.

MR. HILLER: Thank you.

BY MR. HILLER:

22 Q I think you testified earlier you did not receive a known  
23 sample from John Ruelas with this evidence?

24 A That's correct.

1 Q Have you at any time since then had occasion to compare a  
2 known DNA profile from John Ruelas with the results of the  
3 mixture in the case you've just testified about?

4 A No, I have not.

5 MR. HILLER: Ms. Thivault, thank you very much.

6 I don't have any further questions.

7 THE COURT: Cross-examination.

8 MR. GABRY: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. GABRY:

11 Q Let me begin by asking if you know, in the passed few  
12 months has it come to your attention that there was some  
13 activity at your lab back in 2002 in which at a time you  
14 were working on the evidence in this case another lab  
15 analyst was working on evidence in the Jane Mixer case?

16 A Yes.

17 Q Can you tell the jury what was your step in the process  
18 when that timing occurred?

19 A My supervisor telephoned me and asked me to come to  
20 Lansing to review my notes from my analysis from this  
21 homicide that I received from Jackson and to make a  
22 timeline as to when I performed the steps of my analysis  
23 in order to--for him to make a comparison to the timing of  
24 the analysis of the samples for the Mixer case.

1 Q All right and are you aware of when there was an overlap  
2 in those timelines?

3 A I believe there was an overlap in some of the sample  
4 handling but I'm not exactly sure what the dates are or  
5 what the overlap of the sampling would be.

6 Q Who is the supervisor who asked you to put together that  
7 data?

8 A Jeff Nye.

9 Q Was Jeff Nye to your knowledge was he involved in any of  
10 the testing in lets call it the Jackson Homicide with Mrs.  
11 Ruelas if you know?

12 A I don't--I think so but I don't recall offhand for sure.

13 Q You were not involved in any of the testing or any of the  
14 evidentiary samples in the Jane Mixer evidence, correct?

15 A Correct.

16 Q Now, physically actually performing the work it's all done  
17 in the same room. Is that accurate as far as--maybe it's  
18 not all done in the same room because of all of the steps  
19 that you take but by in large, is the DNA extraction,  
20 cleaning, quantification all done in a particular lab  
21 area?

22 A Yes.

23 Q So, if you're working on one particular case say where you  
24 are there, then someone else may be over in another desk  
25 or work table next to you?

- 1 A Yes.
- 2 Q Are these set up in rows or are they along the wall with a  
3 open area in the middle or what?
- 4 A There are bench areas along the exterior perimeter of the  
5 laboratory. There is also laboratory--in the center  
6 there's a--they're kind of like u-shaped cubbies where the  
7 analysts sit to or stand, to perform their testing. The  
8 main, in one u-shape there would be two analyst working  
9 back to back and then the extraction and--takes place  
10 there. The purification would take place in a different  
11 hood because the chemicals you use are caustic and need to  
12 be vented with a special fume hood. The spinning that I  
13 described would be done back at your bench where you did  
14 the extraction. The yield gels are performed in a  
15 different location. The--the quantitation the--that I  
16 spoke about to specify if it was human would be done at a  
17 different location. But, all of those things are done in  
18 the same larger room if that makes sense.
- 19 Q Is that room ventilated or to some extent where there's a  
20 constant circulation of air to try to keep air moving  
21 through it?
- 22 A Yes.
- 23 Q So there's an air flow throughout that?
- 24 A Yes.

- 1 Q Now, we started out going through this long process and I  
2 think you talked about looking at particular articles of  
3 evidence. When you're doing DNA analysis it begins with a  
4 human cell, does it not?
- 5 A Yes.
- 6 Q Now, the human cell can be in different forms of media  
7 associated with different types of evidence, correct?
- 8 A Yes.
- 9 Q Could you give the jury a range of--of the way a human  
10 being gives off these cells?
- 11 A DNA is found in all nucleated cells of the body. So, it  
12 is found in blood, saliva--any kind of secretions - nasal  
13 secretions, vaginal secretions, semen, white blood cells,  
14 your tissue, your skin would have DNA--your saliva if I  
15 didn't say that would have DNA. But, all of the cells in  
16 one person would have the DNA. And by that I mean the DNA  
17 that's found in my blood, the DNA type would be the same  
18 as the DNA type found in my saliva.
- 19 Q What about sweat?
- 20 A There is DNA in sweat, yes.
- 21 Q Now, when you examine an item of evidence like you did in  
22 this case, you're looking at a tee-shirt - let's talk  
23 about the tee-shirt for now. It was black and you were  
24 looking for stains?
- 25 A Yes.

1 Q And that's because that's the quickest way to try to find  
2 some kind of a human cell on a visual stand. Is that fair  
3 to say?

4 A Yes.

5 Q We're not saying, I don't believe we're saying that John  
6 Ruelas's pure DNA was not associated with that tee-shirt?

7 A I don't know that.

8 Q This was the tee shirt that was associated with him--  
9 identified as being associated with him, correct?

10 A Correct.

11 Q Along with other items associated with Mr. Ruelas such as  
12 his belt?

13 A Yes, that's how they were described to me. Yes.

14 Q His shoes?

15 A Yes.

16 Q Some mens athletic socks?

17 A Yes.

18 Q Now, while the DNA--let me strike that. The human cells  
19 that you identify and drew from the particular cuttings  
20 you made or swabbings you made--whatever you made, well  
21 that as you went through the process you identified as  
22 being a mixture. You cannot rule out the possibility that  
23 there were human cells associated solely with John Ruelas  
24 on his clothing, correct?

25 A I would not have made that kind of analysis.

- 1 Q Because when we look at an article we don't look at every  
2 possible place on that article where a human cell may  
3 linger.
- 4 A I'm not looking at individual cells. I can't see  
5 individual cells. I'm looking for the presence of blood  
6 and there are cells contained within that but that's not  
7 what I'm specifically looking for.
- 8 Q Okay.
- 9 But, you do remove into this laboratory setting an  
10 object which has been associated with a human being?
- 11 A Yes.
- 12 Q Such as a tee-shirt that one might expect could contain  
13 DNA?
- 14 A Yes.
- 15 Q Correct? If I sweat through this shirt like I have been  
16 doing the past few days, there's a good chance my DNA is  
17 going to be on my shirt, fair enough?
- 18 A I would expect that, yes.
- 19 Q If I handed you this pen and asked you to check it out  
20 because I'm pretty sweaty here, you would find human cells  
21 on a pen?
- 22 A It's possible, yes.
- 23 Q And that's--the way we would do something like that is we  
24 would swab the pen, correct?
- 25 A Yes.

1 Q And then through that long process you talked about we'd  
2 identify those cells. Now, we've heard for quite a while  
3 how cautious you are and I assume everyone with the lab  
4 is, once they have identified their cutting and they are  
5 now going to start the DNA process or trying to extract a  
6 DNA and identify something from it?

7 A Yes.

8 Q It's been very detailed, Mr. Hiller's talked about all the  
9 pipettes, all the sterile techniques that you seek to use  
10 but we're still stuck with what gets brought into the lab.  
11 Is that fair to say?

12 THE WITNESS: I'm not sure I understand your  
13 question.

14 MR. GABRY: Is anything done to change or alter  
15 the evidence that comes into the lab before you begin your  
16 examination of it?

17 THE WITNESS: I'm not sure what you mean by  
18 change or alter.

19 MR. GABRY: Did you do anything to change or  
20 alter Mr. Ruelas's tee-shirt other than to remove it from  
21 the bag it was brought in?

22 THE WITNESS: Yes, I took a cutting from that tee  
23 shirt.

24 BY MR. GABRY:

- 1 Q My point was before you chose to cut in that area, you  
2 didn't do anything?
- 3 A Yes, that's correct.
- 4 Q So, the success in which an individual is able to develop  
5 a profile or find DNA is largely going to be related back  
6 to how that object was acquired? How it was preserved in  
7 the field before it came to the lab?
- 8 A Yes.
- 9 Q In fact DNA while very--I guess the word robust has been  
10 used. It does degrade?
- 11 A Yes.
- 12 Q It does breakdown with environmental factors?
- 13 A Yes.
- 14 Q And, we really haven't gone into--we've spent a lot of  
15 time on the procedures but, the concept of this DNA  
16 profiling results in the fact that my mom and my dad had a  
17 particular--have a particular DNA profile?
- 18 A Yes.
- 19 Q And when they got together and had Gary, some of dad's  
20 genes and mom's genes came together and made me.
- 21 A Yes.
- 22 Q That's why if we're identical twins there's a little more  
23 of a problem here, correct?
- 24 A In distinguishing between them yes.

- 1 Q And so that is called a hetero-genotype or a hetero-zogas  
2 genotype when there are two alleles showing up at a place  
3 on the chromosome?
- 4 A Yes.
- 5 Q And there will be times when because one parent has say  
6 the frequency level and I don't know if we want to get  
7 into that at this time. But, State Police when they do  
8 their DNA profiling seek to map the genetic activity by  
9 way of the alleles at 13 spots along the chromosome?
- 10 A Yes.
- 11 Q Those spots are called loci?
- 12 A Yes.
- 13 Q Or Greek for place?
- 14 A Yes.
- 15 Q So those 13 places are looked at in every case? I mean  
16 that's their protocol to look into those 13 loci. If for  
17 example one parent--let me strike that--and what we look  
18 for at those loci's are the repeating of the frequency of  
19 certain--is it amino acid appears? One of the base pairs--  
20 --the A's and T's and C's and G's?
- 21 A Yes.
- 22 Q What are A's and T's and C's and G's for the jury?
- 23 A Adenine would be A; Guanine would be G; Thymine is T and  
24 Cytosine is C.

1 Q Okay and when we see profiles and I suspect some maybe  
2 shown by later scientist possibly, we'll see at each loci  
3 certain numbers, right? We might see a 10 and 11?  
4 A Yes.  
5 Q What is 10 stand for? What is 11 stand for?  
6 A The number of core repeats.  
7 Q What is a core repeat?  
8 A With STR's we look at a length--there are two different  
9 kinds of DNA profiling distinctions. There's a sequence  
10 polymorphism and a length polymorphism. What we look at  
11 with STR's are length polymorphisms. And by polymorphism  
12 I mean where you're different--many places where you're  
13 different. Poly means many. And the best way to explain  
14 this is you're looking at the repeats of those four bases  
15 - the Adning, the guaning, the thyming, the cidazine. To  
16 try and simplify it if you are sitting on the highway in a  
17 traffic jam and there are only say white cars, black cars,  
18 red cars and green cars and you look over in the right  
19 lane and you have a black, a white, a red, a green, a  
20 black, a white, a red, a green, a black, a white, a red, a  
21 green. You have that same sequence - core sequence  
22 repeated three times. So, that's where the number three  
23 comes. And that's where--the STR is exactly what we're  
24 looking at. We're looking at the same base pair repeat, x  
25 number of times. And the difference in the length of the

1 DNA is what we look at and that number is significant and  
2 that it tells us how many repeats there are of that  
3 sequence.

4 Q Okay so if at a place on the chromosome, say the D3 spot--

5 A Yes.

6 Q All right. My DNA profile would show a 15 and a 17 that  
7 would mean that there would be this one repeat 15 times  
8 and the other one 17 times?

9 A Yes.

10 Q And we would tend to look at my parents and expect to find  
11 that dad might have a 15 and a 17 or he could have a 17  
12 and a 18 and I get his 17 and the same for mom?

13 A Yes.

14 Q But there are going to be situations in which instead of  
15 me having two alleles at that loci I might only have one,  
16 correct?

17 A Yes.

18 Q And that happens how?

19 A When your mother gives you the same repeat or the same  
20 allele that your father gives you.

21 Q Now, there's another way that on an evidentiary sample it  
22 may appear that there's only one allele other than that  
23 kind of homo or I don't know when I try to say that word,  
24 homoz--z--homozyganis?

25 A Homozygous.

1 Q Okay.

2 And that would be if the DNA degraded--it can degrade  
3 one of those alleles down, can it not?

4 A Yes.

5 Q And, therefore what might appear to be a profile showing  
6 at D3 a 15 because of the way the evidence was handled in  
7 the field or because of the environmental conditions in  
8 which it was stored, there could be a degrading of what  
9 "should have been my 17 allele?

10 A Yes.

11 Q Now, this is even--it gets more complicated when we deal  
12 with a type of situation that Mr. Hiller asked you about  
13 and that's a mixture, correct?

14 A Yes.

15 Q Can you assume in a situation where you've identified the  
16 presence of a mixture that it is a mixture of only two  
17 people?

18 A When you are reviewing a DNA profile you don't look at the  
19 individual loci or locus alone, you're looking at the  
20 overall profile. And, you would--if you had degradation  
21 in a sample you would expect to see it across the profile  
22 and therefore from the pattern of the peaks at the  
23 different loci you--with your experience in looking at the  
24 profiles would be able to tell whether or not degradation  
25 is present in a sample or not present in a sample.

1 Q Thank you. And that's a point that I want to make sure--  
2 so I understand that there's a component of this whole  
3 process that requires a human being to look at the output  
4 of this data and make some judgement calls?

5 A Yes.

6 Q And that's something we didn't talk about here today but  
7 that's actually what you do after it goes through the  
8 genetic analyzer, correct?

9 A Yes.

10 Q It doesn't just pop out of the computer like where the  
11 coffee light goes on because now we have coffee. It  
12 requires a trained analyst to look at it and make some  
13 interpretations?

14 A Yes.

15 Q It certainly sounds like a lot of effort goes into trying  
16 to be as accurate as possible. As human beings however,  
17 mistakes are made are they not?

18 A Yes.

19 Q You've made mistakes in the processing of DNA, have you  
20 not?

21 A Yes.

22 Q How does the Michigan State Police Forensic Services  
23 Division of the Michigan State Police keep track of their  
24 mistakes in the DNA lab?

1 A We--we review with our supervisor when the results of our  
2 analysis are not what we would expect or seem unusual,  
3 particularly unusual you go to your supervisor and  
4 frequently your co-workers and discuss your results and  
5 get their opinion as to whether or not they think  
6 something is strange or different or a problem. You sit  
7 down with your supervisor and you review the data and  
8 decide with their guidance what--whether or not a re-  
9 analysis would--of the entire case would be necessary or  
10 whether or not the data that you have is acceptable for  
11 interpretation and presentation to your submitting agency  
12 and to the court.

13 Q And then when all of that is done I would assume that  
14 there is then a log kept or some kind of overall record to  
15 show the lab's proficiency in handling these samples?

16 A I'm not certain that an error log is kept. I've never  
17 seen one in the laboratory.

18 Q Who was your supervisor in 2002?

19 A Mr. Charles Barna.

20 Q Were you with the Michigan State Police lab in Lansing how  
21 long?

22 A I came in 1999 in May.

23 Q And then I think you said it was like maybe 2003?

1 A I left the Lansing laboratory for the Grand Rapids  
2 laboratory in November and it would be--there would be--  
3 let me try to figure out what year, I believe it was 2003.

4 Q And so during the time of the Ruelas testing if you look  
5 at 2002 in any event of a problem your supervisor that you  
6 would have gone to, this process of examining whether  
7 there was an error or not would be Charles Barna?

8 A If at that time I suspected a problem he would have been  
9 who I would have gone to.

10 MR. HILLER: Can we approach, Your Honor?

11 THE COURT: Yes.

12 (At 4:55 p.m., bench conference)

13 (At 4:57 p.m., court resumes)

14 THE COURT: We're going to stop for the day  
15 there, ladies and gentleman. It's 5:00. We will resume  
16 in the morning. You may step down ma'am. Ladies and  
17 gentleman, you are excused for the evening. We will  
18 reconvene tomorrow morning promptly at 8:00 and have what  
19 I expect to be another full day. Thank you for your  
20 attention today. We appreciate it. Remember my  
21 instructions about the case. Please go with Ms.  
22 Washington.

23 JUDICIAL ATTORNEY: All rise, please.

24 THE COURT: Please be seated. Counsel approach  
25 now?

(At 4:58 p.m., bench conference)

(At 5:00 p.m., court resumes)

THE COURT: We're adjourned.

COURT OFFICER: All rise.

(At 5:00 p.m., proceedings concluded)

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1 STATE OF MICHIGAN )

2 COUNTY OF WASHTENAW )

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5 I certify that this transcript, consisting of 223 pages,  
6 is a complete, true and correct transcript to the best of  
7 my ability, of the proceedings held in this case on  
8 Thursday, July 14, 2005, before the Honorable Donald E.  
9 Shelton, Circuit Court Judge.

10

11 Dated: November 28, 2005

12

Katherine Tait

13

Katherine Tait (CER 7308)

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Washtenaw County Trial Court - Family Division

15

2270 Platt Road

16

Ann Arbor, Michigan 48104

17

(734) 222-6934

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