

1 MR. WHITNEY: No.

2 THE COURT: Sir, you may step
3 down.

4 THE WITNESS: Thank you.

5 THE COURT: Thank you, sir.

6 (Witness excused.)

7 Do you want to raise your right hand?

8 CLARENCE WILLIAM KENLEY *- prints*

9 a witness herein, called on behalf of the
10 State of Ohio, having been first duly sworn
11 as provided by law, was examined and
12 testified as follows:

13 THE COURT: Officer, please be
14 seated in the witness stand. Use the
15 microphone. Keep your voice up, if you
16 would, please.

17 DIRECT EXAMINATION

18 BY MR. CARROLL:

19 Q. Would you tell us your name and spell your
20 last name, please?

21 A. Charles William Kenley, K-e-n-l-e-y.

22 Q. Where are you employed?

23 A. The Attorney General, State of Ohio, Bureau
24 of Criminal Identification and Investigation
25 northeast laboratories.

1 Q. Located where?

2 A. 333 Brecksville Road, Richfield, Ohio.

3 Q. How long have you been employed, I am going
4 to refer to it as BCI, as we have already
5 talked about?

6 A. Thirteen years.

7 Q. Prior to working at BCI, where were you
8 employed?

9 A. I retired from the Dayton Police Department
10 after 27-and-a-half years, the last nine
11 years of which I was assigned to the
12 identification bureau.

13 Q. And your duties and responsibilities with the
14 Dayton Police Department in the
15 identification bureau, what type of jobs did
16 you do?

17 A. We were responsible for identifying latent
18 prints submitted by the evidence crews of
19 crimes submitted in the city of Dayton, the
20 fingerprinting and photographing of all
21 felony prisoners, toxic laser operators,
22 crime scene investigators.

23 Q. At the BCI, Mr. Kenley, what are your duties
24 and responsibilities?

25 A. I am a latent print examiner.

1 Q. Okay. And why don't you explain, let's start
2 with latent fingerprints, can you explain to
3 the jury what a "latent fingerprint" is?

4 A. A "latent fingerprint" is a fingerprint on an
5 object when it is touched. Latent indicates
6 that it is, it's not visible; therefore, a
7 means must be applied to bring it to the
8 surface; this is done with superglue,
9 powders, other chemicals, fluorescent
10 powders, fluorescing chemicals, depending
11 upon the evidence that's submitted.

12 Q. When we talk about latent fingerprint, Mr.
13 Kenley, is it true to say it's a chance
14 impression?

15 A. It is.

16 Q. What do we mean by that? What are the
17 significant factors in whether or not a
18 fingerprint, a latent fingerprint would be
19 left if my finger touches any particular
20 object? What goes into that?

21 A. The latent print in itself is a reproduction
22 of the valleys and ridges on the joints of
23 the fingers, particularly the bottom side,
24 including the palm and the bottom of the
25 feet.

1 A fingerprint, just because you touch
2 the item doesn't mean you will leave a
3 fingerprint; it depends upon the individual
4 as far as their psychological and
5 physiological makeup at the time, had they
6 been drinking, are they on drugs, do they
7 have a fever; the atmosphere, either inside
8 or outside, was it hot, was it cold; recovery
9 of the evidence at the crime scene, how is it
10 handled by the people recovering the evidence
11 in itself, how was it packaged, how was it
12 sent to the police department in itself, how
13 was it handled at the crime lab, the people
14 that handled it at the crime lab.

15 Q. The last things you talked about, how it's
16 recovered, packaged and handled, does not
17 actually deal with whether or not the latent
18 fingerprint was there, but whether it was
19 there and somehow obliterated due to the
20 packaging and handling.

21 A. That's correct.

22 Q. So when we talk about the latent fingerprint,
23 what goes into actually leaving a latent
24 fingerprint, talk about the surface of the
25 finger and the surface that is touched, Mr.

1 Kenley.

2 A. 98.5 percent, and some give the figure of
3 99.5 percent of a fingerprint is water.

4 The balance of that is the contaminants
5 you may have on your hands by rubbing your
6 forehead where hair was at, the items that
7 you touch like say, for instance, you are
8 eating maybe french fries or potato chips or
9 food of some nature where you put oils on
10 your hands to cause the fingerprint to
11 reproduce.

12 Q. So it's oil that is on your fingers, on your
13 hand that leaves the print.

14 A. Or other contaminants such as blood, oils,
15 yes.

16 Q. How about the surface that is touched?

17 A. That has a lot to do with it, too. If it's a
18 smooth surface such as glass, plastic, it's a
19 very good chance you will leave some prints
20 if you got any contaminants. However,
21 particularly on new automobiles, the dash
22 covers and all of the interior of the car
23 itself is usually made out of vinyl or some
24 kind of a leather, and the patterns in those
25 will destroy the fingerprint when it touches

1 these items because it's not continuous, it
2 destroys the ridge lines, it will give you
3 just maybe a little piece, and because of the
4 cracks that are there, the rest of it falls
5 through.

6 Q. So the smoother the surface, the better the
7 likelihood: is that a fair way to say it?

8 A. That's correct.

9 Q. If a latent fingerprint is developed, Mr.
10 Kenley, can it be compared to known
11 fingerprints to make an identification?

12 A. Yes, sir.

13 Q. Why?

14 A. Sir Francis Dalton in his studies which
15 established the scientific principle for the
16 comparison of latent fingerprints in the late
17 1880s, 1890s, found that a fingerprint in
18 itself is unique to each individual, and also
19 the fingers of the hand of that individual
20 are unique to each other; they are also
21 permanent.

22 You cannot through any other means,
23 once they are developed, remove the print and
24 make it look like something else.

25 Q. And that is scientifically correct, we all

1 have unique fingerprints.

2 A. Yes, sir.

3 Q. Let me start by asking you, in this case your
4 job was to look at items that were brought to
5 you at the lab in Richfield of BCI; is that
6 correct?

7 A. That is correct.

8 Q. And I am going to start with, for our
9 purposes I am calling it State's Exhibit
10 Number 75. I want you to take that, and when
11 you look at the packaging, how do you
12 identify that, Mr. Kenley?

13 A. It has my initials and the date that I
14 started to work on this particular item.

15 Q. Is there a BCI number?

16 A. There is a BCI number.

17 Q. Is the item also identified by a number, do
18 you know what I am referring to, a submission
19 number?

20 A. Yes, sir.

21 Q. What is that, what item?

22 A. Item B 15 is our submission sheet.

23 Q. What's contained in the envelope?

24 A. This is a portable phone that was submitted
25 for processing.

1 Q. And when it's submitted for processing, Mr.
2 Kenley, you did process it; is that correct?

3 A. That's correct.

4 Q. What method did you use to attempt to find
5 latent fingerprints on that telephone?

6 A. First examination was a visual examination to
7 determine if there were any fingerprints that
8 I could see. The second thing I did with it
9 was put it into the superglue tank and
10 superglue it.

11 Q. You have to explain that to us, what you mean
12 by supergluing.

13 A. Superglue is superglue, just like you would
14 buy at the drugstore, at the pharmacy, hobby
15 shop, whatever. What we do with it, we have
16 a fish tank, ten-gallon fish tank, a light
17 bulb, a piece of water heater, exhaust metal,
18 and we make a cup of aluminum out of aluminum
19 foil putting the aluminum foil on top of the
20 light bulb, then pouring the superglue into
21 the cup. The heat from the light bulb causes
22 it to foam, adhering to the object that's in
23 the tank making visible any latent prints
24 that may be there.

25 In order to aid this, we also put a cup

1 of hot water to give us about 80 percent
2 humidity.

3 Q. And that's what you did with State's Exhibit
4 Number 75, that telephone.

5 A. Also after it's glued, depending on the
6 color, in this case here it's a black phone,
7 I used white fingerprint powder to determine
8 if there were any latent prints on the phone.

9 Q. And did you make a determination, did you
10 find any latent fingerprints on the
11 telephone?

12 A. I found one. It had no value; there was very
13 few ridge detail, Dalton detail that you
14 could make a comparison with.

15 Q. So we're clear on this, when you say you
16 found one, there is what appears to be a
17 latent fingerprint on that telephone that you
18 developed through that process.

19 A. Yes, sir.

20 Q. And when you talk about making a comparison,
21 what do you need to make a comparison?

22 A. I have to have enough of the Dalton detail,
23 and the Dalton detail, I'm sorry, I didn't
24 explain before, are any ridges, dots,
25 islands, bifurcations or combination of those

1 four items that's in a finger that makes them
2 individual to compare with somebody else.

3 Q. Those are all the lines we actually see in
4 our fingers?

5 A. That is correct.

6 Q. Where they swirl, there are dots, islands and
7 things of that nature, you can look at them?

8 A. Yes, sir.

9 Q. When you looked at the latent fingerprint on
10 the telephone, was there sufficient, I am
11 going to say, points of comparison or
12 identifiable features for you to actually try
13 to compare that latent fingerprint to any
14 known fingerprints?

15 A. No, sir, there was none.

16 Q. In that process you found one latent
17 fingerprint on the phone.

18 A. Yes.

19 Q. We have had testimony in this trial that the
20 phone was used by a young girl named Brooke
21 Sutton to make -- strike that.

22 Assume that that phone was used after
23 the incident happened by a young girl to make
24 at least two phone calls and was also used by
25 another man to make a phone call. If the

1 suspect, the young girl and the man used the
2 phone, would you expect to find more than one
3 latent fingerprint on the telephone?

4 A. It's possible.

5 Q. What you are saying about chance impression,
6 maybe there will be more, maybe there won't.

7 A. That's correct.

8 Q. And as to the, in that sequence, the first
9 person, the suspect or the attacker, if
10 another person and then a third party uses
11 the telephone, is it still possible that the
12 first person's latent fingerprints may be on
13 the phone?

14 A. It could be.

15 Q. And you said that in a way it's obviously
16 less likely than if no one else used the
17 phone?

18 A. Usage has a lot to do with it in this case.

19 Q. Of course; but it doesn't totally rule it
20 out.

21 A. No, it does not.

22 Q. I next give you State's Exhibit Number 70.
23 Look at that. What is that, Mr. Kenley?

24 A. It's a bottle from the floor, a Canola oil
25 bottle from the floor in the bedroom which I

1 examined.

2 Q. And, again, what procedure did you use to try
3 to develop latent fingerprints from that?

4 A. Again, it was the visual examination of the
5 item in itself. I then, finding none, put it
6 into the superglue tank to superglue it to
7 see if I could bring up any latent prints
8 that way. There were no visible prints using
9 the superglue method that I could find on the
10 exterior.

11 Then I processed it with another
12 fluorescent chemical called Ardrex, that is,
13 spraying that chemical onto the item itself,
14 leaving it dry and then using what we call an
15 alternate light source which causes the
16 chemical to fluoresce. If I was able to find
17 any at all, then I would have to photograph
18 it, but in this case here I found no latent
19 prints.

20 Q. Tell me about the surface of that bottle, Mr.
21 Kenley, as far as how receptive that is to a
22 latent fingerprint.

23 A. It would be receptive to a latent
24 fingerprint. However, because of a lot of
25 the indentations that you see in the design

1 of the bottle itself, depending upon how the
2 Dalton detail is arranged in the finger
3 itself, you may or may not get sufficient
4 ridge detail for comparison.

5 Q. And the fact is, on that exhibit, State's
6 Exhibit Number 70, there was not a latent
7 fingerprint, even one that didn't even have
8 sufficient ridge detail; you just didn't find
9 a latent fingerprint.

10 A. That's correct.

11 Q. I wonder if we could put that back in the
12 bag.

13 State's Exhibit 71, I am going to hold
14 it up for you over here and I am going to
15 tell you, you know what it is obviously, I
16 call it mayonnaise; I think it's a salad
17 dressing jar. Do you know what I am
18 referring to?

19 A. Yes.

20 Q. Did you receive that, Mr. Kenley?

21 A. Yes, I did.

22 Q. And the condition of that when you received
23 it, what shape was it in?

24 A. It was broken.

25 Q. That didn't have anything to do with you.

1 A. No.

2 Q. Did you make an effort then to determine if
3 there were latent fingerprints on, I guess,
4 the pieces of the jar?

5 A. I did.

6 Q. How did you do that?

7 A. I, again, was able to superglue, and they
8 just asked for, I removed just the lid and
9 part of the glass jar that was in the lid
10 from the packaging that it came in.

11 Putting it into the superglue tank,
12 again, I superglued it and, again, upon
13 finding no visible latent prints after
14 supergluing, put it in, used the Ardrex
15 solution again, the alternate light source
16 again, I was unable to find any prints on the
17 top and the first part of the bottle itself
18 or the jar.

19 Q. What you are saying in contrast to the
20 telephone here, there were no latent
21 fingerprints that you observed.

22 A. That's correct.

23 Q. This is State's Exhibit Number 94. Do you
24 know what that is?

25 A. Yes; this is a latent print that was

1 submitted to our lab for evaluation by one of
2 our crime scene units.

3 Q. Okay. Charles Snyder has just testified and
4 he indicated that he lifted, removed the
5 latent fingerprint from a chair at the crime
6 scene here --

7 A. Yes, sir.

8 Q. -- and submitted it to you for comparison:
9 is that fair to say?

10 A. Yes, sir.

11 Q. So when you analyze the latent fingerprint,
12 Mr. Kenley, what can you tell us?

13 A. There was insufficient detail, and because of
14 the, looks like some smearing, too, of the
15 print, it had no value for comparison
16 purposes.

17 Q. Okay. Again, there are not enough points to
18 compare, sufficient detail of the ridges, the
19 islands, the dots, for you to even look at
20 known fingerprints to try and compare.

21 A. That is correct.

22 Q. I started this by having some general
23 discussion about fingerprints and surfaces
24 and, you know, oils and all that stuff, but
25 is it fair to say there are ways, I guess,

1 some very obviously, one very obvious in
2 which a fingerprint would never be left at a
3 crime scene?

4 A. Yes, sir.

5 Q. What's that?

6 A. Putting covers over the hands, some kind of a
7 cover, latex gloves, cloth gloves, socks,
8 wiping them down; there's many ways.

9 Q. Okay.

10 MR. CARROLL: That's all the
11 questions I have, Your Honor.

12 THE COURT: Thank you, Mr.
13 Carroll. Mr. Whitney.

14 CROSS-EXAMINATION

15 BY MR. WHITNEY:

16 Q. The bottom line here, sir, there was no
17 prints that could be extracted from any of
18 the items you saw that could be compared to
19 either known prints that you had in your
20 possession.

21 A. That is correct.

22 MR. WHITNEY: Thank you. That's
23 all.

24 THE COURT: Thank you, Mr.
25 Whitney. Sir, you may step down.

(Witness excused.)

Mr. Carroll, Mrs. Doherty, would you call your next witness, please?

Raise your right hand, please.

DALE L. LAUX

DNA

a witness herein, called on behalf of the State of Ohio, having been first duly sworn as provided by law, was examined and testified as follows:

THE COURT: Please be seated in the witness stand. Use the microphone if you would, please.

DIRECT EXAMINATION

BY MRS. DOHERTY:

Q. Could you please state your name and spell your last name for the record?

A. Dale L. Laux, L-a-u-x.

Q. Where are you employed?

A. Employed with the Ohio Bureau of Criminal Identification and Investigation in Richfield, Ohio.

Q. We have referred to that numerously in the past few minutes as BCI; is that correct?

A. Yes.

Q. What exactly do you do at BCI?

1 A. I am a forensic scientist and I work in the
2 DNA laboratory.

3 Q. Could you briefly tell us your background,
4 educational training, that kind of thing,
5 that got you to the point that you are
6 working at BCI?

7 A. Yes. I have received a bachelor's of science
8 degree in biology from Heidelberg College. I
9 received a master's degree in biology from
10 Ohio State University, and I have been with
11 the bureau for over 19 years; and during that
12 time I have attended numerous workshops and
13 seminars, short courses on the isolation,
14 analysis of both proteins and DNA from blood
15 stains and semen and how to type those.

16 Q. So that would be your specialized training,
17 in DNA?

18 A. Yes.

19 Q. Approximately how many times have you
20 performed such an analysis?

21 A. Hundreds of times.

22 Q. Just to, I guess, bring us up-to-date, how
23 long has BCI had the capabilities of doing
24 this type of testing?

25 A. I started doing DNA, and BCI started doing

1 DNA typing and started accepting cases in
2 September of last year.

3 Q. So tell us exactly what your duties are.
4 What do you do at BCI when you do this type
5 of testing?

6 A. Well, I am in the serology DNA unit
7 currently. I specialize in the DNA analysis,
8 so we have serologists, these are people that
9 are trained in the identification of blood
10 stains and semen stains primarily on articles
11 of clothing and rape kits that come in the
12 lab. So these people isolate the stains,
13 determine what the material consists of,
14 whether it's semen or blood, and then retain
15 those items.

16 We have several freezers in the
17 laboratory; the items are marked, labeled,
18 categorized and grouped according to the case
19 number, and then at later dates occasionally
20 officers will bring in additional samples
21 that they want compared with those things
22 that have been collected from, say, a crime
23 scene or a rape kit, and when those standards
24 are submitted, a standard is a known blood
25 stain from an individual or a saliva stain,

1 but it's a known person, we know where that
2 stain came from, when those are submitted,
3 then they are given to me and I do the DNA
4 type.

5 I compare the standards with the
6 unknown stains to determine whether they
7 could have come from a certain individual or
8 whether a person is excluded as being a
9 donor.

10 Q. So basically what we're talking about are
11 agencies, whatever, law enforcement agencies
12 submitting an item to you, to BCI, with some
13 sort of a stain, you said either saliva,
14 blood, that type of thing, and you called
15 that an unknown stain, correct?

16 A. Yes. We are looking for material that may
17 have been left behind at the scene or carried
18 away by the perpetrator on their clothing,
19 for example, an assault or something, and
20 those stains then are analyzed by the
21 serologist in the laboratory.

22 If they are there, they hopefully
23 discover these stains, they are cut out, they
24 are retained, and then the officer will say
25 we'll bring in standards from individuals

1 they believe might be involved, and I do the
2 DNA typing.

3 Q. Could you tell us exactly what DNA is, you
4 have referred to it a couple times, so
5 everybody is clear.

6 A. Well, basically it's a sample molecule; it's
7 an extremely long, thin molecule or structure
8 that we all, human beings, in fact, all
9 living organisms possess.

10 Now, our DNA is different from a
11 grasshopper or a cow, that's what makes us
12 different, so right away we know the DNA
13 codes for information that makes us human
14 beings; and the other, another important
15 factor is that we get our DNA from our mother
16 and father, so they pass that genetic
17 material on to us. And, finally, what is
18 nice about the molecule is that it's unique;
19 except for identical twins, no people on
20 earth will have the same DNA.

21 Now, when I type the DNA, I don't look
22 at the whole long structure because it will
23 be an incredibly difficult thing to do; but
24 there are portions of the DNA structure that
25 are highly variable among individuals and

1 those are the regions that we look at and
2 examine in the forensic laboratory.

3 Q. So when you were saying just a few minutes
4 ago about doing a comparison, DNA comparison,
5 how exactly do you do that and what are you
6 looking for?

7 A. The first thing I do is isolate the DNA from
8 the cells; a cell is a structure, for
9 example, blood cells are round structures
10 that have a nucleus inside them, white blood
11 cells have nuclei inside the cell, and I have
12 to pop those open to get the DNA out.

13 So I do that, I remove proteins and
14 other extraneous material that I am
15 interested in, and then when I have a pure
16 DNA sample from all the material provided to
17 me in the case, I have to quantitate it, I
18 have to determine how much DNA is there, and
19 I go through a process to do that.

20 Once I know how much DNA is there,
21 there's a process in which we xerox it
22 essentially, we make copies of the molecule
23 and increase it by a billion times, so now I
24 have a small tube with a billion copies of a
25 certain region or regence of DNA that I am

1 interested in, I add this solution to strips
2 that are sent to us from a laboratory, we
3 purchase these, and they have little dots on
4 the strips that have probes; actually it's
5 pieces of DNA, one strand that's open, and I
6 add my solution of DNA to these strips. If
7 the DNA is corresponding to a certain probe
8 that's attached, it will attach and through a
9 process that I go through, it turns the dot
10 blue, and simply if the dot turns blue, I
11 know that particular type of DNA is present;
12 and I compare the strips from the crime scene
13 or the rape kit with the standards that have
14 been submitted to see whether they could be a
15 match or if I can exclude someone.

16 Q. Okay. In this case that we are talking
17 about, were items submitted to you, was an
18 item submitted to you by Barberton Police
19 Department to do such a comparison? And, I
20 guess, let me rephrase that, it eventually
21 got to you, items were submitted to BCI,
22 correct?

23 A. Yes.

24 Q. I guess tell us about the process that allows
25 those items to eventually come to you.

1 Serology looks at them initially, correct?

2 A. Yes. The submitting agency was Barberton
3 Police Department, and on June 8th, 1998,
4 they submitted a pair of slacks; on June 9th,
5 1998, one of our agents, Charlie Snyder,
6 submitted some clothing and some samples from
7 the victim named Sutton; and on June 10,
8 1998, a Detective Jim Weese submitted blood
9 tubes from Clarence Elkins; and finally on
10 September 8th, 1998, Detective Flaker
11 submitted blood from Judith Johnson, so these
12 things were submitted to BCI.

13 One of the analysts found a stain on
14 the denim slacks that I mentioned that were
15 submitted by Charlie Snyder, and that stain
16 was compared with the standards that were
17 submitted.

18 Q. Okay. I am going to hand you what's been
19 marked as State's Exhibit 85. Do you
20 recognize the markings on that bag, first of
21 all?

22 A. Well, no. I did not handle this item, I did
23 not see this item.

24 Q. Okay. The item number you are referring to,
25 it's already been described as the pair of

1 blue denim slacks that Charlie Snyder
2 retrieved from the address.

3 I guess what I am getting at, you
4 actually only look at the blood stain that
5 you have described after it's already been
6 through the procedure at BCI and been
7 isolated basically, correct?

8 A. Yes. I recognize one of the serologists'
9 initials, Brenda Gerardi, I recognize her
10 writing and the case number, our BCI case
11 number in green here; and Brenda was the
12 analyst that gave me the sample in a small
13 manila envelope, a cutting of these pair of
14 pants with a blood stain on it.

15 Q. Once you had -- and we will be hearing from
16 Miss Gerardi at another point -- once you had
17 that particular item, the cutting from those
18 jeans that was isolated, what did you do?

19 A. I extracted DNA from that stain, along with
20 blood or DNA from standards from Sutton,
21 Elkins and Johnson, and I did this at the
22 same time, during the same period of time and
23 proceeded to go through the process that I
24 discussed with the jury, isolating it,
25 purifying it, quantitating it and then typing

1 the stains.

2 Q. Could you tell us the results that you
3 obtained from doing that analysis?

4 A. Yes.

5 Q. Again, I am focusing on the swatch of fabric
6 with the blood stain on it from the denim
7 jeans.

8 A. The DNA on the stain, upon the stain from the
9 pants, State's Exhibit 85, was consistent
10 with the DNA from Elkins.

11 Q. Okay. So what you are telling us is, you
12 compared that swatch and the DNA you were
13 able to retrieve from that spot, you compared
14 it to submissions from Clarence Elkins,
15 Brooke Sutton, and you don't probably have
16 their first name on there and Judith Johnson?

17 A. Judith Johnson.

18 Q. And you were able to determine that the blood
19 stain on those slacks, the origin was from
20 Clarence Elkins.

21 A. The blood did not come from Sutton and
22 Johnson, those individuals were excluded; and
23 the DNA was consistent with the DNA from
24 Clarence Elkins; in other words, it could
25 have originated from that person.

1 Q. Okay. And is there a specific way that you
2 put that information into some type of
3 report?

4 A. Yes. The question then, when we get a match,
5 is how often does this occur in the
6 population. Well, the FBI asked this
7 question years ago and they have a database
8 that we use and they took blood from mostly
9 FBI recruits; and after looking at hundreds
10 of samples of Caucasians, African-Americans
11 and Hispanics, they have a database and they
12 know the frequency at which certain blood
13 types are found in these populations; and in
14 this particular case the blood stain that was
15 found on the pants, State's Exhibit 85, that
16 matches the blood of Clarence Elkins occurs
17 in the Caucasian population 1 in 1,940
18 Caucasians, 1 in 152,000 African-Americans,
19 and 1 in 2,270 Hispanics.

20 Q. And I guess explain to the jury what exactly
21 that means in our terms.

22 A. Well, what I want to stress is that the blood
23 stain, I can't say it came from Clarence
24 Elkins, it's consistent with his blood type,
25 it could not have come from Johnson or

1 Sutton; and those figures I gave you, that's
2 how often you would expect to find that blood
3 stain.

4 For example, in the Caucasians, you
5 expect out of 1,940 Caucasians, if you had
6 that group of people, you would expect to
7 find this blood type one time.

8 Q. Mr. Laux, do you then reduce your findings to
9 writing, into some type of report --

10 A. Yes.

11 Q. -- and indicate on that report exactly what
12 you have told us in the courtroom today?

13 A. Yes.

14 Q. I am going to hand you what's been marked as
15 State's Exhibit 72, do you recognize that?

16 A. Yes. It's a copy of a report that I submitted
17 reference this case to Barberton Police
18 Department.

19 Q. So I guess I am going to ask you, based upon
20 your training, experience, educational
21 background, do you have an opinion as to a
22 reasonable degree of scientific certainty as
23 to whether or not as to where, I guess -- let
24 me rephrase that -- as to whether or not the
25 stain, the blood stain on the item that you

- 1 have been discussing could have come from
2 either Judith Johnson or Brooke Sutton?
- 3 A. Yes, I do.
- 4 Q. What is that opinion?
- 5 A. It could not have come from those
6 individuals.
- 7 Q. Referring you to the report in front of you,
8 State's Exhibit 72, there's an indication,
9 and if you look at the second page, there's
10 an indication as to an item B 16.7.
- 11 A. Yes.
- 12 Q. Just for clarification, you have indicated
13 that the first item is the stain on the denim
14 slacks, correct?
- 15 A. Yes.
- 16 Q. And then there is a stain on the nightgown
17 from Sutton, correct?
- 18 A. Yes.
- 19 Q. And then a blood stain from Sutton?
- 20 A. Yes.
- 21 Q. Blood standard from Elkins?
- 22 A. Yes.
- 23 Q. And blood standard from Johnson.
- 24 A. Correct.
- 25 Q. Just to clarify, could you tell us what the B

1 16.7 item, what that pertains to?

2 A. That is a cutting that Brenda Gerardi removed
3 from a nightgown of Sutton, came from Sutton,
4 and she asked that DNA be extracted from the
5 material; and I did attempt to do that and
6 was able to obtain a small amount of human
7 DNA, most of it was bacterial, and under the
8 types of ND, which stands for not determined,
9 I was not able to determine the DNA type;
10 there was not a sufficient amount of DNA to
11 type the material.

12 Q. The substance that you are referring to, do
13 you have any idea what that was and did you
14 get to that point, were you able to determine
15 that?

16 A. Well, I didn't run those tests. Brenda
17 Gerardi would be able to answer that
18 question.

19 Q. Okay. Do you know what the substance was
20 that you are referring to in item B 16.7?

21 A. I know what her results indicated it was.

22 Q. What was that result?

23 A. Fecal material.

24 Q. And then that was provided to you to, in
25 turn, do the further testing on it?

1 A. Yes.

2 Q. You were not able to make a determination as
3 to the DNA origin of that.

4 A. That's correct.

5 MRS. DOHERTY: Your Honor, I would
6 have no further questions.

7 THE COURT: Thank you, Mrs.
8 Doherty. Mr. Whitney.

9 MR. WHITNEY: Yes, thank you,
10 Judge.

11 CROSS-EXAMINATION

12 BY MR. WHITNEY:

13 Q. Just so that I understand this and the jury
14 understands it, it is your opinion then that
15 the samples that you tested from Johnson and
16 Sutton are excluded. In other words, it is
17 your opinion, based upon reasonable
18 scientific certainty, they could not have
19 been the source of the droplet of blood that
20 you examined.

21 A. Correct.

22 Q. That's all.

23 THE COURT: Thank you, Mr.
24 Whitney. Any redirect?

25 MRS. DOHERTY: No, Your Honor.

1 THE COURT: Sir, you may step
2 down.

3 (Witness excused.)

4 Ladies and gentlemen, if you would
5 please turn in your seats. We are going to
6 again adjourn for the day. I would ask that
7 you be back in the jury room Monday morning
8 at 9 a.m. so we can proceed again further.

9 For purposes of your own schedules and
10 scheduling, I will remind you that next
11 Tuesday is what's called my criminal call
12 day, and that's a day in which I have other
13 matters I must deal with, so you will not be
14 here in my court, you will be excused for the
15 day. Next Tuesday, you will not have any
16 proceedings, but we will need you Monday
17 morning at 9 a.m.

18 I am going to admonish you again not to
19 discuss this case among yourselves, with
20 anyone else. Do not permit anybody to
21 discuss this case in your presence. Do not
22 form or express any opinion on this case
23 until you have heard all the evidence and
24 this case has been submitted to you. It's
25 very important not to form an opinion,

1 express an opinion. You have not heard all
2 the evidence that's to be submitted in this
3 case.

4 Additionally, as I admonished you
5 yesterday, I would suggest to you you avoid,
6 be very careful not to read, view or listen
7 to any news accounts and reports in the
8 paper, radio or television regarding this
9 matter. If you do so, it will be highly
10 improper; again, the decision in this matter
11 shall be based solely upon the evidence you
12 hear in this courtroom. Be very careful; in
13 all likelihood, once again, there will be
14 some media coverage in this matter. I trust
15 you will all follow my instructions.

16 We again will be adjourned and we will
17 begin at 9:00 on Monday morning for further
18 proceedings in this matter. We thank you for
19 your attention. We know it's been a long
20 day. We again appreciate your attention in
21 this matter. Thank you.

22 (Court was adjourned.)
23
24
25

DIANA ZALESKI
IN THE COURT OF COMMON PLEAS

COURT OF APPEALS
DIANA ZALESKI

1999 NOV 16 AM 11:45
COUNTY OF SUMMIT

1999 NOV 16 PM 12:36

SUMMIT COUNTY
CLERK OF COURTS

SUMMIT COUNTY
CLERK OF COURTS

STATE OF OHIO,)
Plaintiff,)
vs.) TRANSCRIPT OF PROCEEDINGS
CLARENCE A. ELKINS,) VOLUME III
Defendant.) (of Ten Volumes)
C.A. NO. 19684

* * *

APPEARANCES:

REBECCA L. DOHERTY and MICHAEL E. CARROLL,
Assistant Prosecuting Attorneys,

On behalf of the State of Ohio,

LAWRENCE WHITNEY, Attorney at Law,
JEFFREY D. HAUPT, Attorney at Law,

On behalf of the Defendant.

* * *

BE IT REMEMBERED that upon the hearing
of the above-entitled matter in the Court of Common
Pleas, Summit County, Ohio, commencing on May 20,
1999, before the HONORABLE JOHN ADAMS, the
following proceedings were had:

JANET A. KRULOCK, RPR
Official Court Reporter
Akron, Ohio 44308

FORM CSR - LASER REPORTERS PAPER & MFG. CO. 800-626-6313

1 I N D E X

2
3 OPENING STATEMENTS:

4 Mr. Carroll: 2
5 Mr. Whitney: 19

6	STATE'S WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
7	Patricia Abbott	38	68	---	---
8	Julie Abbott	85	93	---	---
9	April Sutton	97	129	163	---
10	David Sutton	170	184	190	---
11	Peter Maurer	192	209	---	---
12	Richard Steiner	220	244	251	---
13	Marla Kantaras	254	278	288	---
14	Matthew Hudak	292	336	345	346
15	Charles Snyder	347	380	401	---
16	Clarence Kenley	402	417	---	---
17	Dale L. Laux	418	432	---	---
18	Marvin S. Platt	441	493	505	510
19	Anita Matthews	511	524	---	---
20	Cindi Croft	529	548	553	556
21	Brenda Gerardi	557	584	---	---
22	June Varnes	591	596	---	---
23	Tonia Brasiel	597	610	622	623
24	Jeffrey Lynn	624	650	---	---
25	Dawn Lord	664	684	698	---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X
(continued)

STATE'S WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
Robin Tener	701	742	755	---
Daren Marshall	763	781	784	---
Pamela Karas	787	796	---	---
Danton Adair	798	816	824	---
Brooke Sutton	837	859	876	---
DEFENDANT'S WITNESSES:				
Melinda Elkins	890	938 (990)	1031	1034
Sue Dalton	1039	1053	---	---
Scott Stahlman	1072	1076	---	---
David Vanhorne	1078	1082	---	---
James Bowling	1084	1089	---	---
Tyson Fisher	1094	1108	---	---
Lori Westling	1119	1132	---	---
Shirley Karl	1140	1146	---	---
Susan Kapsner	1153	1159	---	---
Eugene Ackenburgh	1164	1168	1170	---
Marilyn Locker	1171	1174	---	---
Angelica Bersaglini	1176	1181	---	---
Todd Marino	1184	1188	---	---
Kendall Knight	1192	1203	1212	---
Beverly Kask	1214	1240	---	---

1

I N D E X

2

(continued)

3

DEFENDANT'S WITNESSES:

4

DIRECT CROSS REDIRECT RECROSS

5

Marie Ghadiri

1251

1269

1280

6

William Klein

1286

1296

7

Victoria Wilhelm

1305

1309

8

Laura McLendon

1312

1318

9

Bobbi Hughes

1321

1327

1332

10

Anthony Knight

1333

1343

11

John Phillips

1345

12

Clarence Elkins

1354

1398

13

REBUTTAL WITNESS:

14

James Weese

1452

1458

1468

15

STATE'S EXHIBITS:

RECEIVED

16

#1- Photo

886

17

#2- Pink nightgown

886

18

#3- 911 tape

886

19

#4- Photo of Judy Johnson

886

20

#5- Medical records

886

21

#6-14- Photos of Brooke Sutton

886

22

#15- One box with rape evidence

886

23

#16- Photo of Brooke Sutton

886

24

#17 43- Photos of crime scene

886

25

#44- Large diagram

886

1	#45-56- Photos of crime scene	886
2	#57- Button found next to body	886
3	#58- White button found next to body	886
4	#59- White button from underneath body	886
5	#60- Button	886
6	#61- Denture	886
7	#62- One broken fingernail	886
8	#63- Pink panties	886
9	#64- Long strands of hair	886
10	#65- Hair	886
11	#66- One earring found in living room	886
12	#67- One earring found next to body	886
13	#68- Jump rope	886
14	#69- Antenna wire	886
15	#70- Empty bottle of Canola oil	886
16	#71-Three items	886
17	#72- BCI report	886
18	#73- One black hair from rectum	886
19	#74- One yellow metal earring back	886
20	#75- Cordless telephone	886
21	#76 and #77- Purses	886
22	#78-81 - Photos	886
23	#82- Maroon washcloth	886
24	#83- Men's brief underwear	886
25	#84- Red bath towel	886

1	#85- Denim slacks	886
2	#86- Photo of white Taurus	886
3	#87- Photo	886
4	#88- Five sticky tape lifts from car interior	886
5	#89- Photo of car interior	886
6	#90- Three sticky tape lifts from car	886
7	#91- Photo of car interior	886
8	#92- Fingernail scrapings from Clarence Elkins	886
9	#93- Photo of eyeglasses	886
10	#94- Latent print from chair frame	886
11	#95-96- Photos of hand	886
12	#97-121- Slides	886
13	#122- Three envelopes containing vaginal	
14	and rectal DNA	886
15	#123- Housecoat	886
16	#124- Autopsy protocol	886
17	#125- Medical records	886
18	#126-129- Photos of Brooke Sutton	886
19	#130- Clothing items from rape evidence	886
20	#131- Sheet	886
21	#132-133- Cassette from June Varnes'	
22	answering machine	886
23	#134- Photo of Mr. Dorner	886
24	#135- Letter	886
25		

1 I N D E X
2 (continued)

3	STATE'S EXHIBITS:	RECEIVED
4	#137-138- Photos of car trunk	886
5	#139- Newspaper photo of Clarence Elkins	886
6	#140-	excluded

7
8 DEFENDANT'S EXHIBITS:

9	A- Tape recording of defendant and	
10	Charlie Snyder	
11	B- Listing of BCI evidence	1446
12	C- Newspaper photo of Clarence Elkins	1446

13 M O T I O N S

14	Discussion with Juror Talbot-Russ:	760
15	State rests:	886
16	State's motion to admit exhibits:	878
17	Defendant's Rule 29 Motion for Acquittal:	887
18	Defendant's Rule 29 Motion for Acquittal	
19	Renewed:	1449
20	Defendant rests:	1469
21	Objections to Jury Charge:	1470

22 CLOSING ARGUMENTS:

23	Mr. Carroll:	1476, 1534
	Mr. Whitney:	1504
24		
25	CHARGE OF THE COURT:	1545

1 May 24, 1999

2 P R O C E E D I N G S

3 * * *

4 (The following proceedings were had in
5 the Court's chambers:)

6 THE COURT: We're here this
7 morning with regard to the issue of the tape
8 that we discussed on Friday. It is a
9 videotape of the examination of the
10 defendant's hands and fingernails and certain
11 samples being taken from his fingernails.

12 The court has conducted an in camera
13 review of the tape over the weekend, and at
14 this time the court will exclude the tape.
15 We will not permit it to be viewed by the
16 jury for the following reasons.

17 First of all, the tape contains various
18 hearsay statements made by the defendant
19 which do not fall within any of the
20 exceptions to the hearsay rule under the
21 Rules of Evidence.

22 Secondly, it contains other types of
23 irrelevant statements. For instance, there
24 are some comments being made on the tape by
25 law enforcement on first talking about some

1 prior crime, some prior murder, and I believe
2 those statements may indeed even be
3 prejudicial to the defendant.

4 Lastly, the court will exclude it based
5 upon the fact the evidence -- the reason for
6 which it's being offered is somewhat
7 cumulative or is indeed cumulative.

8 It's my understanding, counsel -- you
9 can correct me if I am wrong -- the tape is
10 being offered to show the defendant
11 voluntarily consented to have the testing of
12 his hands done, to have the samples from his
13 fingernails removed; and, for the record, I
14 believe Mr. Snyder testified that indeed the
15 defendant did consent to this procedure, so
16 to that degree we believe that the testimony
17 of the -- the purpose for which the tape is
18 offered may in fact -- it is, in fact,
19 cumulative.

20 So, therefore, for all those reasons,
21 the tape will be excluded and not be
22 permitted to be viewed by the jury in this
23 case. You are welcome to note anything for
24 the record you might like at this point.

25 MR. WHITNEY: No. We had

1 discussion about it Friday. I think we aired
2 our points.

3 THE COURT: All right.
4 Anything further I need to know through our
5 scheduling here today, things of that
6 nature?

7 MR. CARROLL: The medical
8 examiner is the first witness. I am going to
9 show slides from the autopsy, and I told
10 Larry they are all external. I have selected
11 25 out of, I don't know, 100 some slides, and
12 they are all external in an effort to show
13 the face, side of face, side of face, neck,
14 chest, leg. There's a graphic picture, I
15 guess, of her anus showing the laceration.
16 And there is one internal picture in which
17 she has been opened in the back where
18 externally there's a linear bruise across the
19 base of her back and when she was opened, the
20 hemorrhage; this is much broader and larger
21 than the external bruise, so the reason I
22 show that internal picture is an example of
23 that hemorrhaging caused by that bruise.

24 I mean, basically that's it. I didn't
25 show any other internal pictures of the rest

1 of it, even though there's lots of hemorrhage
2 all over the place about her head, neck,
3 chest, et cetera.

4 MR. WHITNEY: I don't know what
5 to say, Your Honor, but I know the state of
6 the law regarding these gruesome kind of
7 pictures. If they bear some evidentiary
8 value, they are going to be admitted no
9 matter how gruesome.

10 They are -- I always ask they not be
11 cumulative, and Mr. Carroll has always in the
12 past done a good job of trying to permit me
13 at least my input in the selection of the
14 slides, and I agree that some of these are
15 very gruesome, but I also agree they have
16 evidentiary value.

17 So I don't know what we can say about
18 their gruesomeness other than they are
19 gruesome and we just got to live with them.
20 Hopefully they won't be cumulative.

21 THE COURT: You have had a
22 chance to review these I take it?

23 MR. WHITNEY: I have seen the
24 pictures. I haven't seen all those slides,
25 but I have watched him this morning select

1 the ones and he has told me what he selected;
2 and as far as my understanding of them, they
3 are not cumulative, and I think for the
4 record I will have to say they do have
5 evidentiary value.

6 THE COURT: All right.

7 Anything further, counsel?

8 MR. CARROLL: No.

9 THE COURT: All right. I will
10 try to do the best I can with the lights.

11 (The following proceedings were had
12 in open court out of the presence of the
13 jury:)

14 THE COURT: Ladies and
15 gentlemen, before we bring the jury into the
16 courtroom, I want to forewarn you that the
17 next witness -- the state will be presenting
18 evidence which may be disturbing and graphic
19 in detail in some of the injuries suffered by
20 one of the victims in this matter, so I want
21 to forewarn you in advance that if you are
22 likely to become disturbed or emotional or
23 upset in viewing some of these, some of this
24 evidence, I would ask you to leave the
25 courtroom now because, in fact, again, some

1 of this evidence will indeed be graphic, it
2 will be disturbing. If you cannot control
3 your emotions, the fact there are any
4 outbursts during the presentation of this
5 evidence, the deputy will remove you from the
6 courtroom and you will not be permitted to
7 return. You have fair warning.

8 Some of the slides we are going to see
9 this morning are indeed going to be extremely
10 difficult and graphic to view. If I hear any
11 sounds or any outward signs of emotion -- I
12 hope we don't have that problem -- in
13 fairness to all involved, if you do, you will
14 be removed from the courtroom forthwith. So
15 you all have fair warning. Do you
16 understand?

17 At this time we are ready to proceed.

18 (The following proceedings were had in
19 the presence of the jury:)

20 THE COURT: Mr. Carroll, would
21 you call your next witness, please?

22 MR. CARROLL: Dr. Platt, Your
23 Honor.

24 THE COURT: Would you raise
25 your right hand? Do you swear or affirm?

1 THE WITNESS: I do.

2 MARVIN S. PLATT

3 a witness herein, called on behalf of the
4 State of Ohio, having been first duly sworn
5 as provided by law, was examined and
6 testified as follows:

7 THE COURT: Please be seated in
8 the witness stand, Doctor.

9 DIRECT EXAMINATION

10 BY MR. CARROLL:

11 Q. Doctor, would you tell us your name, please.

12 A. Marvin S. Platt, P-l-a-t-t.

13 Q. Can you tell us the position that you hold in
14 Summit County?

15 A. I am the medical examiner for Summit County.

16 Q. And, Dr. Platt, how long have you been the
17 medical examiner of Summit County?

18 A. Since January 5, 1997.

19 Q. Can you explain to the ladies and gentlemen
20 the duties and responsibilities of the
21 medical examiner?

22 A. Medical examiner of Summit County is
23 responsible for adhering to Ohio law and is
24 responsible for investigating cases in which
25 they are a result of a homicide, suicide,

1 unexplained natural death, accident, or if a
2 body is unclaimed.

3 Q. Doctor, you have used the term "homicide."
4 Would you explain to the jury what that is?

5 A. Homicide is the death of an individual as a
6 result of an action of another party.

7 Q. I am going to ask you, if you would, to
8 explain to the jury your education, training
9 and experience for this position, Doctor.

10 A. I graduated medical school in 1956,
11 University of Maryland. I took residency in
12 Pediatric University Hospitals in Baltimore,
13 Maryland.

14 In 1958, I went in the service, served
15 as pediatrician, was discharged honorably in
16 1960, returned to Maryland, had a fellowship
17 in pediatrics. Upon leaving the fellowship,
18 I then went to Albuquerque and practiced as a
19 pediatrician until 1966.

20 At that point in my career I decided to
21 go into pathology, and I went to Santa Clara
22 Valley Medical Center in San Jose, California
23 and took a training program in pathology.

24 In 1969, I went to the University of
25 Washington in Seattle and continued my

1 training program in pathology adding on a
2 program in pediatric pathology and
3 immunopathology.

4 In 1970, I came to Akron, Ohio, and
5 took my second year of pediatric pathology.
6 In 1971, I served as a pediatric pathologist
7 at the Children's Hospital, District of
8 Columbia.

9 In 1972, I elected to take a fellowship
10 in forensic pathology at the medical
11 examiner's office in Baltimore; the medical
12 examiner's office is a statewide program for
13 the state of Maryland.

14 I served one year in the fellowship and
15 sat for the examinations and passed the
16 examination in 1973 and returned to Akron,
17 Ohio, and served as a pediatric pathologist
18 and forensic pathologist from 1973 to 1990.

19 I retired in 1990 to take care of my
20 elderly mother in Baltimore. I worked
21 part-time during that time at the medical
22 examiner's office until 1994.

23 Following her passing away, I moved to
24 New Hampshire and worked part-time at
25 Dartmouth Medical School, and in 1996 I was

1 advised that a position was open for medical
2 examiner for Summit County. And since this
3 was a new experience in that all the other
4 counties have coroners, I chose to take the
5 challenge and came to Akron, Ohio, and I have
6 served as medical examiner for Summit County
7 since that time.

8 Q. Doctor, you spoke of taking examinations and
9 things. Are you board certified in areas of
10 medical specialty?

11 A. I am. I am board certified in pediatrics,
12 board certified in anatomical and clinical
13 pathology and board certified in forensic
14 pathology.

15 Q. And we have heard testimony about this
16 before, Doctor, if you could briefly explain
17 what "board certification" means.

18 A. "Board certification" means that the
19 candidate has taken a training program at
20 areas or entities like either a hospital or
21 in a forensic -- one had to take it in a
22 forensic office spending a certain number of
23 years which are required for the given
24 training program in pathology. In those days
25 it was a four-year training program and an

1 additional year in forensic.

2 Upon completion of that training
3 program, in order to acquire experience in
4 the areas of specialty, one sits for an
5 examination, examination in anatomical,
6 clinical was a three-day exam as I remember,
7 and in forensic it was a full-day exam.

8 Upon completion in passing the
9 examination, the board in the case of
10 pediatrics, American Board of Pediatrics, in
11 regard to the various subspecialties of
12 pathology of the American Board of Pathology,
13 that then grants a certificate to the
14 candidate signifying that that person has
15 passed the examination.

16 Q. Doctor, you have used the terms "pathology"
17 and "forensic pathology." Could you explain
18 what is meant by "pathology" and how
19 "forensic pathology" applies in your
20 position?

21 A. "Pathology" is that discipline of medicine
22 which undertakes the study of the cause and
23 explanation of disease and injury.

24 "Forensic pathology" delves into the
25 area of, more explicitly, to deal with the

1 experience of handling cases that arises from
2 homicide, suicide, unexplained natural death,
3 accident, and one spends his entire year
4 doing a large number of cases, particularly
5 cases of homicide cases.

6 Q. You indicated, Dr. Platt, that the medical
7 examiner position is relatively new here in
8 Summit County. Can you explain the
9 difference between the coroner system that
10 exists throughout the state and the medical
11 examiner system here in Summit County?

12 A. Coroners are elected every four years by Ohio
13 Constitution. Medical examiner system,
14 because Summit has a charter-type government,
15 the citizens of Summit County have elected to
16 have that position as an appointed position.

17 The position is then recommended by the
18 executive of the county and then approved by
19 council of Summit County, and that person
20 needs to be, by tradition and by election of
21 the council, that person has to be board
22 certified in forensic pathology.

23 Q. So the specialist, the expertise in that area
24 of forensic pathology is required here in
25 Summit County?

1 A. Yes.

2 Q. Not required in the other counties, however;
3 is that correct?

4 A. My colleagues are very good, but they may not
5 be a pathologist; they, because of the
6 smaller counties, may be surgeons or general
7 practitioners; they need to be physicians.

8 Ohio requires that the coroner in all
9 the other counties have to be physicians, but
10 they are not trained in pathology, per se;
11 some are.

12 Q. Dr. Platt, are you licensed to practice
13 medicine in the State of Ohio?

14 A. Yes.

15 Q. As part of your duties, Doctor, do you
16 determine cause and manner of death?

17 A. I do.

18 Q. Could you explain to the jury what is meant
19 by "cause and manner of death"?

20 A. Cause of death is the mechanism by which the
21 person met the death; it would be such as
22 having crushing injury to the chest, a heart
23 attack, a stroke. These are the mechanisms
24 that cause the death of the person.

25 Manner of death relates to the how of

1 that death and is basically defined in five
2 categories which we have discussed:
3 homicide, suicide, natural death, heart
4 attack. Some people expiring having had no
5 medical care, they are found dead at the
6 home. We do an examination finding they had
7 a heart attack, that would be a natural
8 death; and accident, if someone were in a
9 motor vehicle accident and expired, I would
10 sign them out.

11 The fifth category is undetermined;
12 that is a category where it is difficult to
13 determine the manner; it occurs uncommonly,
14 usually less than half percent of the cases.

15 Q. Doctor, in making that determination, is an
16 autopsy part of what goes into that
17 determination?

18 A. In most of the cases, particularly in all
19 homicide cases, an autopsy is part of the
20 examination.

21 Q. And would you explain to the jury what an
22 autopsy is?

23 A. An autopsy is the sensitive examination,
24 surgical procedure by which the decedent is
25 examined externally and then an internal

1 examination of all the organs is undertaken;
2 this is done by a sensitive surgical incision
3 where the organs are able to be examined and
4 portions of the organs are retained, hardened
5 in formaldehyde and examined under a
6 microscope.

7 In addition, tissue, fluids are
8 obtained at the autopsy so that certain
9 toxicological studies can be undertaken to
10 determine if the person has been into some
11 type of medication or drug.

12 Upon the conclusion of the autopsy
13 examination and the incorporation of any
14 scene examination and investigation from
15 other parties, the office then executes a
16 report which is written and typed and then
17 filed.

18 Q. Doctor, does your office also have
19 investigators?

20 A. It does.

21 Q. What's the function of the investigators?

22 A. The investigators are trained to receive
23 phone calls from various parties within the
24 county wherein cases are reported.

25 In each of the cases I have described

1 to the members of the jury, we would get a
2 telephone call. In case of a homicide, the
3 investigator would be required to go to the
4 scene and take pictures and describe some of
5 the findings at the scene and generate a
6 report from the scene, which would be part of
7 the autopsy report; it's a supplement to the
8 autopsy report.

9 In the homicide circumstances, I
10 frequently accompany the investigators and
11 did so in the present case.

12 Q. So let's go to the present case, Dr. Platt.
13 Did you go to 110 West Summit Street, the
14 actual scene of the death of Judy Johnson?

15 A. I did.

16 Q. Do you know the date and time that you went
17 to that location?

18 A. Well, it was the 7th of June, as I recollect,
19 and we arrived somewhere about 8:56 in the
20 morning.

21 Q. So about 9:00 in the morning.

22 A. Yes.

23 Q. You say "we." Who went with you?

24 A. The investigator and I.

25 Q. What do you do there at the scene, Dr. Platt?