

IN THE DISTRICT COURT OF MAYES COUNTY,

STATE OF OKLAHOMA.

THE STATE OF OKLAHOMA,

Plaintiff,)

-vs-

GENE LEROY HART,

Defendant.)

Case No. CRF-77-131

CRF-77-132

CRF-77-133

FILED IN THE DISTRICT COURT
MAYES COUNTY, OKLAHOMA

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PRELIMINARY HEARING

VOLUME IX

BY Eloise Gist Court Clerk
Deputy

HEARD BEFORE: Honorable Jess B. Clanton, Jr., Special Judge

June 27, 1978

A P P E A R A N C E S

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P R O C E E D I N G S

June 27, 1978

THE COURT: CRF-77-131, 132 and 133, State versus Gene Leroy Hart. Let the record show the Defendant is present with counsel; State is present.

MR. ISAACS: Call John Cavalier.

THE COURT: Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

JOHN CAVALIER,

called as a witness on behalf of the Defendant, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. ISAACS:

Q Mr. Cavalier, would you state your full name for the record, please, sir?

A John Cavalier.

Q Mr. Cavalier, where do you reside?

A About three miles south of Locust Grove.

Q Is that near the Girl Scout camp?

A Near there.

Q Does your property adjoin the Camp Scott area?

A Yes, sir.

Q On the 12th of June, 1977, were you home?

1 A On the 12th?

2 Q Yes, sir.

3 A Well --

4 Q The day before the little girls were killed at
5 Camp Scott?

6 A Oh, yes.

7 Q And on that evening, did you sleep in your house?

8 A Yes, sir.

9 Q Do you have a dog, Mr. Cavalier?

10 A Yes, sir.

11 Q What is that dog's name?

12 A Uh, Hooley.

13 Q And is old Hooley a pretty good watch dog?

14 A Pretty good watch dog.

15 Q Mr. Cavalier, he barks if somebody drives up the
16 driveway, doesn't he?

17 A Yes, sir.

18 Q Did Hooley do any barking on the night of June 12th
19 to the morning of June 13th, to your knowledge?

20 A No.

21 Q On the morning of June 13th, would you tell me what
22 happened when you woke up?

23 A Well, when I -- when we woke up, why we heard some-
24 one scream.

25 Q About what time in the morning was this?

1 A Well, it was about 6:00.

2 Q Did you hear more than one scream?

3 A Yes.

4 Q How many did you hear, Mr. Cavalier?

5 A Heard it twice.

6 Q From which direction did the scream come?

7 A Well, I didn't know which way it come from but we
8 just heard someone scream.

9 Q Did that alarm you?

10 A Well, not exactly because we just -- it should have,
11 I guess, but it didn't.

12 Q Is that because you have heard screaming from the
13 area of the Girl Scout camp in the past?

14 A Yes. But not at 6:00 o'clock in the morning.

15 Q Yes, sir. Now, Mr. Cavalier, you're aware of a
16 little bit later on that there had been three homicides at
17 Camp Scott, were you not?

18 A Yes, sir.

19 Q At any time during the 13th day of June, did you
20 see any investigators come west of the Camp Scott area down
21 that fence road on your property?

22 A I didn't see any.

23 Q On the 14th day of June, which would have been a
24 Tuesday, did you see any investigators come west down your
25 fence line?

1 A Not that I saw.

2 Q On the 15th day of June, did you see anyone come
3 west down the fenceline -- that would have been a Wednesday?

4 A No.

5 Q On Thursday, the 16th day of June, did you see any
6 investigators come west down that fence line that is the
7 border for your property?

8 A I don't think so.

9 Q On Friday, June 17th, did you see any investigators?

10 A Yes, sir. I heard them; I didn't talk with them.

11 Q Did you see any dogs out there?

12 A No, I didn't see any dogs.

13 Q You say you heard them? Where did you hear them?

14 A I was up at my boy's house and they was -- the man
15 that I heard talking was 'way across the branch with timbers
16 between me.

17 Q When you say "across the branch", how far is your
18 boy's house from your house?

19 A Oh, I'd say about -- it's less than a quarter of a
20 mile.

21 Q Which direction?

22 A North.

23 Q You say you heard them. Can you tell me what you
24 heard?

25 A I didn't hear anything. I just heard them talking.

1 I was quite a ways away from them.

2 Q After that time, did you see anybody with any dogs
3 along your fence?

4 A Yes, sir.

5 Q What day was that, Mr. Cavalier, if you can remem-
6 ber?

7 A Well, I think it was on a Sunday.

8 Q What did they do when you saw them?

9 A Well, they come from the camp and come to my gate
10 down there.

11 Q Mr. Cavalier, excuse me for interrupting. You're
12 talking about a gate. Are you talking about the gate into
13 your property from the road from the blacktop road or are
14 you speaking about the gate?

15 A No, I'm talking about the gate - the gate north of
16 my barn, north of my house that goes into the field.

17 Q Up in the northeast corner there?

18 A Yes, sir.

19 Q That would be a wooden gate, wouldn't it?

20 A No. It was just a wire gate.

21 Q Okay. What did you see by the wire gate?

22 A Well, this dog and some man -- I don't know how many
23 there was. I don't remember, but they come down to this gate
24 and then he come -- the dog and the man come to the house --
25 front gate.

1 Q Did he have anything in his hand?

2 A He had something in his hand.

3 Q Did you see what it was?

4 A No.

5 Q Did anybody find any blunt instrument out there
6 along your fence row?

7 A Not that I know of. I heard they did.

8 Q Who told you that?

9 A I don't know.

10 Q Mr. Cavalier, have you told me everything you know
11 about the homicides at Camp Scott and the investigation?

12 A I didn't understand your question.

13 Q Have you told me everything you know about what you
14 saw during that investigation?

15 A Yes, sir.

16 MR. ISAACS: Thank you for coming this morning.

17 THE COURT: Cross-examination?

18 CROSS EXAMINATION

19 BY MR. WISE:

20 Q Mr. Cavalier, do you know my Assistant District
21 Attorney, Mr. Hobbs, or this Agent, either one of them?

22 A No, I don't.

23 Q Were you at home all the time from the time this
24 murder happened until Sunday?

25 A Yes, I was.

1 Q Okay, you must have been there, then, when both
2 of these men came to your house and got a drink of water that
3 Thursday?

4 A I don't remember them coming there.

5 Q They don't remember seeing you either, frankly.
6 But your wife was there so you must have stepped out some
7 time during that time.

8 A I may have.

9 Q Did Hooley bark last night?

10 A My dog?

11 Q Yes.

12 A Yes.

13 MR. WISE: I have no further questions.

14 MR. ISAACS: Nothing further.

15 THE COURT: You may step down.

16 (WHEREUPON, the witness was excused and withdrew
17 from the hearing room.)

18 MR. ISAACS: Call Johnnie Colvin.

19 THE COURT: Raise your right hand. Do you swear
20 to tell the truth, the whole truth and nothing but the truth,
21 so help you God?

22 THE WITNESS: I do.

23 JOHNNIE RUSSELL COLVIN,

24 Called as a witness on behalf of the Defendant, having been
25 first duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. ISAACS:

Q Mr. Colvin, would you state your full name for the record?

A Johnnie Russell Colvin.

Q Johnnie, on the 17th or 18th of June, 1977, did you go hunting with a friend of yours, W. R. Thompson?

A Yes, sir.

Q When you went hunting, did you go down into an area where there is a cellar and a cave?

A Yes.

Q Would you tell me what happened when you got down into that area that morning?

A Well, we was down there squirrel hunting and the dogs had a tree up there, by there, and we just happened to walk back down a little old gully and there's a cellar there and we seen a bread sack full of flour there.

Q Would you tell me how far, to the best of your recollection, that bread sack was from the cellar when you saw it that morning?

A Probably thirty yards.

Q In which direction, Johnnie?

A It would be east.

Q Is that near the well area that we're talking about?

A It's near the well.

1 Q In other words, it's down from the cellar toward
2 the well area; right?

3 A I don't remember a well there.

4 Q Do you remember a concrete slab on the ground? I
5 don't know if it had sticks down in it then but it does now.

6 A That's a cellar.

7 Q Well, the cellar sits kind of up on the hill, does
8 it not, and there's a cave down the hill from the cellar?

9 A Yes, sir.

10 Q The cave, I believe -- now correct me if I'm mis-
11 taken -- is east of the cellar?

12 A Yes.

13 Q That would be correct?

14 A Yes.

15 Q Now, from the steps, leading down into the cellar,
16 how far was the bread sack from that entrance to the cellar?

17 A The bread sack to the cellar?

18 Q Yes.

19 A To the step?

20 Q Yes.

21 A Around thirty yards.

22 Q Would that be in between the cave and cellar?

23 A It was right in front of the cave.

24 Q In the stream area?

25 A A little old stream runs right there and the cave's

1 there and it was right there in front of the cave.

2 Q After you found that bread sack there in front of
3 the cave, what did you do, Johnnie?

4 A Come to -- me and my brother-in-law, W. R. Thompson,
5 brought it to the Girl Scout camp.

6 Q Did you see anything else before you went up to the
7 Girl Scout camp?

8 A No.

9 Q Did you think it was unusual that that sack of
10 flour be there in front of that cave?

11 A Yes.

12 Q Why was that?

13 A I don't know what a bread sack would be doing down
14 there.

15 Q All right. How long were you and W. R. there in
16 the cave-cellar area when you saw that bread sack?

17 A Oh, probably - we just -- we just happened to walk
18 by and seen it there. We just got there and seen it.

19 Q How did you get from the cave-cellar area back to
20 Camp Scott?

21 A Well, we had a pickup parked up there on the high-
22 way and we just walked up the holler and just drove up there.

23 Q When you got to Camp Scott, who did you meet?

24 A I think it was an FBI man. I don't really remember.

25 Q Some law enforcement officer?

1 A Yes.

2 Q What happened when you went to Camp Scott?

3 A Well, there was three or four of us that went back
4 down there looking around and that's when we walked up there,
5 where that cellar was at.

6 Q Mr. Newton, Mr. Rice and W. R. Thompson; is that
7 correct?

8 A Yes.

9 Q You fellows went back down in the cave-cellar area?

10 A Yes.

11 Q About what time of day was it when you went back
12 to the cave-cellar area?

13 A It was probably 3:00 or 4:00 o'clock.

14 Q When you arrived back, describe for me the events
15 that followed?

16 A Well, we went back down there. We thought we'd
17 just look around and we'd seen where somebody had built a fire
18 on the cellar.

19 Q Would you describe that fire for me, please, sir?

20 A Well, it was just where somebody had built a fire
21 on that cellar. I couldn't tell you how long ago it was or
22 anything but it had been placed there, where they'd built one
23 two or three times.

24 Q Did you see anybody in the cave-cellar area on your
25 first trip there when you were squirrel hunting?

1 A No.

2 Q You don't know how long the fire's been there; is
3 that correct?

4 A That's correct.

5 Q Now Johnnie, is that a place where hunters go to
6 hunt squirrels?

7 A I imagine there's squirrel hunting around in there.

8 Q Is it good hunting?

9 A Yes.

10 Q Did you see any signs of squirrel hunters having
11 been there in the past?

12 A No.

13 Q Well, that fire, of course, is a sign.

14 MR. FALLIS: If it please the Court, we're going
15 to object.

16 THE COURT: Sustained; leading.

17 Q Were there any signs there that would lead you to
18 believe that somebody might have been there in the past?

19 A Definitely had been somebody there.

20 Q Did you see any ammunition boxes?

21 A No.

22 Q After you got back to the cave-cellar area, did you
23 pair up with one of the law officers and search the area?

24 A No, we just spread out and just looked.

25 Q All right. Which direction did you go when you got

1 back to the cave-cellar area?

2 A Well, we just -- we just all circled around there.
3 We went all -- went in all directions.

4 Q Did you find anything else?

5 A Well, there was a bean-flip, a pair of woman's
6 panties.

7 Q Where did you first see the bean-flip?

8 A It was close to the cellar.

9 Q Who is the person that discovered the bean-flip
10 close to the cellar?

11 A It was me.

12 Q Would you describe the distance and direction of
13 that bean-flip was from the entrance to the cellar?

14 A It was east of the cellar, probably twenty yards.

15 Q Was there anything lying there with the bean-flip?

16 A I don't remember. It's been so long ago.

17 Q After you saw the bean-flip, what was the next
18 piece of evidence that you viewed?

19 A It was either newspaper or them panties.

20 Q Where were the panties?

21 A They was all -- all of this was within twenty yards
22 around the -- that cellar.

23 Q Would you describe the panties for me?

24 A They was red with black lace.

25 Q All right. Were you the first person to see the

1 panties?

2 A Yes.

3 Q Were they in the trees, in the cellar or just in
4 the grass?

5 A I think they were just -- they were just laying
6 out there, out there on the ground.

7 Q Where did you see the newspaper?

8 A It was out there on the ground. It had been rained
9 on.

10 Q It had been rained on?

11 A Yes.

12 Q Was it wet?

13 A It was - wasn't wet. You could see where it had
14 been rained on.

15 Q We've heard about a pile of human excrement some-
16 wheres near the newspaper. Would you describe for us its
17 location in reference to the newspaper and bean-flip and pan-
18 ties?

19 A It was in front of the cellar, I mean the front of
20 the cave. It would be on the east side.

21 Q About how far from the front of the cave?

22 A Probably five, ten foot.

23 Q How far from that pile of human excrement was the
24 newspaper that you saw?

25 A It would be -- it was just pieces of that there but

1 the newspaper, it was between the cave and the cellar, the --

2 Q Up on the hill?

3 A Yes.

4 Q Now, you said there was pieces of newspaper there.
5 How many pieces did you see?

6 A I'd say there was two or three, you know, that had
7 just been tore off.

8 Q Had those been used as toilet tissue?

9 A Yes.

10 Q What other items did you view there in the cave-
11 cellar area?

12 A Well, there was -- there was a sack there full, that
13 had groceries in it like orange juice drink and Prince Albert
14 can. They'd have been there quite awhile because it was
15 soured, mildewed and everything and there was, in the sack,
16 and had orange juice and stuff.

17 Q You said it was soured and mildewed. Could you tell
18 that by smell or what?

19 A By smell.

20 Q Was there anything about that appearance that would
21 also lead you to believe that it had been there for a long
22 time?

23 A It had been there a long time because it was all
24 mildewed and soured. It just had a smell to it.

25 Q Johnnie, where was that sack of food?

1 A It was around -- around the cellar part. I can't
2 really remember whereabouts - I think it was between the
3 cave and the cellar.

4 Q Just lying out there?

5 A Just lying on the ground.

6 Q Did you see anything else in that area?

7 A No, I can't remember anything else.

8 Q Did you see anything folded up lying on the ground?

9 A There was some pictures there. It looked like
10 pictures, but they was all folded together, the face was stuck
11 together.

12 Q Johnnie, how far were they from the cellar entrance?

13 A They was between the cave and the cellar.

14 Q In the grass?

15 A Yes.

16 Q Did you pick them up?

17 A Yes.

18 Q Were they wet?

19 A Didn't -- I don't think they was wet. They had been
20 rained on because they were all folded up and they was -- but
21 they had been rained on but they wasn't wet at that time.

22 Q Johnnie, did it look to you like those pictures had
23 been there for a long time or a brief period of time?

24 MR. FALLIS: If it please the Court, we'll object
25 to that as calling for a conclusion on the part of the witness.

1 THE COURT: Sustained.

2 Q Is there anything about the appearance of those
3 pictures that would lead you to believe they had been there
4 for a certain period of time?

5 A They had been there for awhile but there wasn't no
6 way I could tell you how long they had been there.

7 Q Who found the pictures there that morning or that
8 afternoon, over there in the cave-cellar area?

9 A I was the one. I picked them up.

10 Q You were? After you picked them up, what did you
11 do?

12 A Well, just -- I think we put them in a sack. We
13 did everything.

14 Q Did you see a pair of gloves there by the cellar?

15 A I don't remember any.

16 Q Did you see a pair anywhere in the area?

17 A I don't remember seeing any gloves but I remember
18 seeing some eyeglass case.

19 Q Will you tell me where you saw the eyeglass case?

20 A It's in between the cellar and the cave, too.

21 Q So all of these items were right in one little
22 area?

23 A They was all between the cellar and the cave, right
24 in there.

25 Q Just scattered around all over the camp?

1 A Yes, sir.

2 Q Did you see anything else up there, Johnnie?

3 A I can't think of anything.

4 Q Did you see anybody in the area of the cellar and
5 the cave that afternoon when you and Mr. Newton and Mr. Rice
6 were down there?

7 A No, I didn't see anybody except us four when we
8 went back down.

9 Q Did you ever look at those pictures unfolded and
10 look at them?

11 A No.

12 Q Did you mark them in any way?

13 A No, all I done was pick them up.

14 Q Who did you give them to?

15 A I think -- we laid all this stuff we found on the
16 cellar, picked something up -- I wasn't supposed to pick up
17 anything and get my fingerprints on it but I did the pictures.
18 The rest of it, we used some sticks, put against them and just
19 lift up on the cellar. When we got everything we could find
20 around there we just loaded them up and went back to the Girl
21 Scout camp.

22 Q Did anybody come down in the cave-cellar area to
23 help you search while you were there?

24 A No.

25 Q What time was it when you left the cave-cellar area?

1 A We was -- it was between 3:00 and 4:00 and we were
2 there probably about an hour. It was around 5:00 -- 5:00
3 o'clock when we left out there.

4 Q Johnnie, how often do you hunt in the cave-cellar
5 area?

6 A Probably -- the first time we'd been down there in
7 probably - probably been a year. We just happened -- we had
8 already been one other place. We thought we'd try that one
9 that evening.

10 Q Johnnie, have you told me everything you know about
11 what happened in the cave-cellar area on the 18th day of
12 June?

13 A I can't hardly remember what happened a year ago.

14 Q Well, to the best of your recollection?

15 A Yes.

16 MR. ISAACS: Thank you. That's all.

17 CROSS EXAMINATION

18 BY MR. FALLIS:

19 Q Mr. Colvin, did you indicate that this was the 18th
20 day of June?

21 A It was the 17th or 18th.

22 Q Do you remember how the weather was then?

23 A Hot.

24 Q Real hot, sort of like the weather we're having now?

25 A Yes.

1 Q This sack of foodstuff was out in the open area?

2 A Yes, that I --

3 Q I'm sorry.

4 A -- that I can remember. It was 'most -- 'most all
5 of this was outside the cave and cellar.

6 Q And it was hot weather?

7 A Yes.

8 Q This orange juice, do you recall if it was the
9 frozen type of orange juice or was it different?

10 A It was a little old can that you can buy at these
11 stores that can be froze.

12 Q That you mix with water - you mix three cans with
13 it or something like that?

14 A No, you can drink it just straight.

15 Q Okay, so it's not concentrated type orange juice.
16 It's just another canned type orange juice?

17 A Yes.

18 Q Now you indicated that you had gone back up to the
19 camp from -- or to the cellar or cave area from Camp Scott,
20 somewhere around 3:00 o'clock in the afternoon?

21 A It was around 3:00 or 4:00 o'clock, somewhere in
22 there.

23 Q How long had you remained at Camp Scott after you
24 and your relative had gone to Camp Scott; how long were you
25 there before you went up to the cellar and cave area?

1 A It was probably forty-five minutes, somewhere in
2 there, an hour.

3 Q Okay. So if we say an hour, if you were at Camp
4 Scott, you left -- you were at Camp Scott somewhere around
5 3:00 or 4:00?

6 A Somewhere in there.

7 Q Okay, and you'd been there about an hour, so we'll
8 say that you either left there around 2:00 or left there at
9 3:00, either 2:00 or 3:00 o'clock?

10 A Yes.

11 Q Then you would have taken how long to lead the
12 drive from the cellar area, or the walk and drive from the
13 cellar area in the pickup truck and got back to the road?

14 A How long would it take?

15 Q To get back to Camp Scott the first time you went
16 back?

17 A Probably twenty or thirty minutes.

18 Q So that means you and your relative were there in
19 this cave-cellar area somewhere after noon that day?

20 A It was afternoon, because I know it was hot.

21 Q Counselor said it was morning; so it was afternoon?

22 A It was afternoon or so when we was down there.

23 Q Now, you had some dogs with you, I believe, did you
24 not, sir?

25 A Yes.

1 Q And these are hunting dogs?

2 A Yes.

3 Q They tree squirrels and other animals for you?

4 A Yes.

5 Q Did they react in any way when you and your relative
6 were there at the cellar and cave area that you recall?

7 A Seems like one walker dog did. They just -- it
8 seemed like there was somebody around there but we never did
9 see nobody.

10 Q And as a matter of fact, Mr. Colvin, you and your
11 relative were aware of the tragedy that had occurred at
12 Camp Scott?

13 A Yes.

14 Q You already knew about it?

15 A Yes.

16 Q And you knew they were looking for somebody?

17 A Yes.

18 Q And wasn't it a fact that the reaction of the dogs,
19 coupled with what you saw there that flour in the sack, is
20 what caused you to go back to Camp Scott to alert the authori-
21 ties?

22 A Yes.

23 MR. FALLIS: Thank you, sir.

24 THE COURT: Redirect?

25 MR. ISAACS: No further questions.

1 MR. ISAACS: Judge, we need to take a matter up
2 in chambers before the next witness.

3 THE COURT: All right. We'll recess for about five
4 minutes.

5 (WHEREUPON, the following discussion was had
6 in chambers:)

7 THE COURT: Let the record show that we have
8 recessed to chambers at the request of Defense Counsel.
9 Present are the Defendant with both of his counsel, Mr.
10 Fallis and Mr. Wise and Mr. Hobbs and various security
11 personnel.

12 What's the problem?

13 MR. ISAACS: The purpose of this hearing is that
14 my next witness is going to be Sheriff Pete Weaver. I will
15 ask at this time that the Court rule on a Motion of the
16 Defendant and that Motion is this:

17 Comes now the Defendant and moves that the witness
18 be admonished that counsel's questions will go only to
19 activities concerning Mr. Gene Leroy Hart after 1973, and
20 that we feel that any comment upon the Defendant Gene Leroy
21 Hart's previous convictions for rape and kidnapping are not
22 material to any part of this charge for which he is now on
23 trial and the testimony about such previous convictions
24 would deny the Defendant a fair trial for the reason that
25 the Press is in attendance and testimony of Sheriff Weaver

1 will be covered extensively, I'm sure, in the Press. I feel
2 like the Court, in a balancing test should order that no
3 testimony at this time be permitted concerning Mr. Hart's
4 previous convictions for rape and kidnapping. Mr. Hart is
5 not going to be on the witness stand, to our knowledge, at
6 this time at Preliminary Hearing but that testimony concern-
7 ing his previous convictions can only prejudice the Defendant's
8 rights to a fair and impartial trial on these charges, Your
9 Honor.

10 We feel like to permit such testimony would, in
11 effect, inflame public opinion, rouse public passion against
12 Mr. Hart and make it impossible for us to attain a fair and
13 impartial jury in Mayes County.

14 We feel further that because Anglo-Saxon justice
15 is based upon the theory that man will be convicted if only
16 on the facts on each individual case and not because of his
17 previous record.

18 We feel that the letter of the law should be follow-
19 ed and that Mr. Weaver and any other officers should be
20 admonished not to discuss the Defendant's previous record.
21 We feel it is extremely important at this time that we make
22 the record on this issue and ask the Court to admonish every-
23 one present that there should be no comment made about that
24 to the Press.

25 MR. FALLIS: Two things in response to what counsel

1 has said: First of all, if I understand correctly, this is
2 a Preliminary Hearing and this is his witness that he has
3 called. I have no idea what questions he plans to ask of
4 the witness, but certainly, if he asks questions that call
5 for responses, there is no way for us to anticipate, you know,
6 what those might be so I think his conduct in the courtroom
7 will, to some degree, certainly direct the answer, that answer
8 that will be given.

9 Subsequently, I believe that counsel has already
10 brought up the subject of prior convictions of Gene Leroy
11 Hart.

12 THE COURT: I was trying to remember what witness
13 it was.

14 MR. WISE: Witness Linville.

15 THE COURT: Linville testified twice. Was that
16 the first time or the second time?

17 MR. HOBBS: Second.

18 MR. WISE: And through Witness Bunch we have prior
19 convictions - the Defendant's own witness.

20 MR. ISAACS: I don't remember Mr. Bunch talking
21 about it.

22 MR. WISE: Mr. Bunch said the first time I met
23 Gene Leroy, we were sharing a cell together in Tulsa County
24 Jail. We went to Big Mack together.

25 MR. ISAACS: What I'm talking about is I don't --

1 Judge, I don't feel like that we could get a fair trial if
2 we're going to have harpoons come from the witness in the
3 form of these circumstances surrounding the previous convic-
4 tions for rape. Judge, what we've got here is a peculiar
5 situation to the law. The doggone Preliminary Hearing has
6 been for the benefit of the Defendant so he can be advised
7 of what charges he is supposed to answer but we've got
8 coverage of this by the Press. Therefore, whether or not
9 those convictions are admissible for impeachment purposes
10 at a later date or to show scheme, plan, design, motive,
11 intent or identification is a question that the Trial Judge
12 will have to rule on and should be left to the Trial Judge.
13 We feel that if you permit on cross-examination, permit
14 testimony from law enforcement officers concerning Mr. Hart's
15 previous convictions or any of the circumstances surrounding
16 those convictions denies the Defendant equal protection of
17 the law.

18 THE COURT: But you brought this out on cross-exam-
19 ination earlier, Mr. Isaacs, did you not?

20 MR. ISAACS: I know. That's why I'm moving at
21 this time that the Court that is not a proper mode of cross-
22 examination of Mr. Weaver. Mr. Weaver is an adverse, not a
23 hostile witness.

24 THE COURT: Mr. Isaacs, the Court's position is
25 that I will rule on objections to the questions during

1 cross-examination and if those questions as a matter which
2 are outside the scope of direct examination, I will sustain
3 the objection.

4 I don't see that I need to enter such an order
5 if you make the proper objections, if the question is posed.
6 I will make the response of confining cross-examination to
7 the matters covered on direct. So, in a sense, the gate is
8 yours. If you choose to open it, that's your business so
9 your Motion is denied but I am saying I will rule on each
10 proper objection that are made during the cross-examination.
11 Only you know what questions you are going to ask.

12 MR. ISAACS: I want to show right now on the record
13 that I do not intend to ask Mr. Weaver about the rape and
14 kidnapping charges involving Marjorie Holland and Kathy
15 Adnipp and none of my questions will go to these circumstances
16 that's surrounding those charges nor will any of my questions
17 go to anything that happened before 1966 nor will any of my
18 questions go to any of the circumstances of those charges
19 which I am sure Mr. Fallis and Mr. Wise are going to argue
20 later on and give rise to Mr. Hart being a suspect in this
21 case.

22 THE COURT: I think the record should also show
23 that Sheriff Weaver was present during this in camera dis-
24 cussion.

25 MR. WISE: Very well, Your Honor.

1 MR. ISAACS: Judge, could I say one other thing?
2 I would move that this testimony be taken in camera.

3 THE COURT: It is in camera.

4 MR. ISAACS: The testimony of Mr. Weaver, outside
5 of the presence of the people in the courtroom for the reason
6 that to publish an evidentiary harpoon on the front page of
7 the newspaper without first having a ruling from the Trial
8 Court as to whether or not those circumstances are admissible
9 at the trial, to show motive, scheme, plan, design, idea or
10 intent, is to deny the Defendant a fair trial.

11 THE COURT: That motion is denied, Mr. Isaacs.
12 He's your witness. Let's retired to the courtroom.

13 MR. ISAACS: Judge, I said on the record that I'm
14 not going to ask him about Mr. Hart's previous convictions
15 or their circumstances surrounding those convictions. I say
16 that on the record and ask Your Honor to admonish the District
17 Attorneys, Mr. Fallis and Mr. Wise, to not permit cross
18 examination concerning those circumstances.

19 THE COURT: My answer is the same as before, Mr.
20 Isaacs. I will rule upon a proper objection, if that objec-
21 tion arises and since he's your witness and since you will
22 have the opportunity to object during cross-examination, I
23 will reserve any ruling for that objection if it rises.

24 MR. ISAACS: Further, I would ask the Court that
25 we be permitted to approach the bench when such objection is

1 made if it is in fact made so we can present arguments out-
2 side the hearing of the news media.

3 THE COURT: You may ask that permission if the
4 occasion arises, bearing in mind that we have a number of
5 live microphones near the bench, which I also have the
6 capability of turning off if need arises.

7 (WHEREUPON, the following proceedings are had in
8 open court:)

9 THE COURT: Call your next witness.

10 MR. ISAACS: Mr. Weaver.

11 THE COURT: Raise your right hand, Sheriff. Do
12 you swear to tell the truth, the whole truth and nothing
13 but the truth, so help you God?

14 SHERIFF WEAVER: I do.

15 GENE H. WEAVER,
16 called as a witness on behalf of the Defendant, having been
17 first duly sworn, testifies as follows:

18 DIRECT EXAMINATION

19 BY MR. ISAACS:

20 Q Mr. Weaver, would you state your full name, please?

21 A Gene H. Weaver.

22 Q What is your occupation?

23 A Sheriff of Mayes County.

24 Q How long have you been Sheriff, Mr. Weaver?

25 A Seven and a half years.

1 Q Let's see, that would be back in 1971; is that
2 correct?

3 A Well, there was two hitches. I was Sheriff of
4 '69 and '70, was out of office for one term, re-elected and
5 been Sheriff since that time.

6 Q Mr. Weaver, in 1973, was Gene Leroy Hart a prisoner
7 in the Mayes County Jail?

8 A Yes, he was.

9 Q About what month was he brought to your jail, sir?

10 A I can't recall without going to the records.

11 Q Do you recall what purpose he was brought there?

12 A I believe it was on a Court Order, ordering that
13 he be brought to Mayes County for a post relief hearing on a
14 previous conviction.

15 Q Shortly after he was transferred there, did anything
16 unusual happen at the Mayes County Jail?

17 A Yes. It was unusual.

18 Q What happened?

19 A He escaped.

20 Q Who was with him?

21 A Larry Dry and Aaron Rife.

22 Q Mr. Weaver, when a man is brought from the State
23 Penitentiary for a post conviction hearing, will you describe
24 for me the procedures for booking him into your jail?

25 A Same as all book-in procedure.

1 Q What are they?

2 A He is booked, his personal items are inventoried
3 and incarcerated.

4 Q Did Mr. Hart have any personal items with him when
5 he came to your jail?

6 A Yes, he did.

7 Q Do you recall what they were?

8 A Yes. We have a document in the office which I can
9 get in a matter of minutes. The items I recall was nail
10 clippers and a belt.

11 Q And are those the only items that you have on your
12 book-in slip?

13 A Yes. I also recall a notation on the book-in
14 inventory, there was no wallet, no change, several items
15 listed as none.

16 Q In the Mayes County Jail, are prisoners permitted
17 to keep wallets or papers?

18 A No.

19 Q Would you be permitted to keep items of personal
20 property under any circumstances in the Mayes County Jail?

21 A It would be very unusual.

22 Q Mr. Hart's in your jail now. We take him reading
23 material. Is that permissible in the Mayes County Jail?

24 A Yes.

25 Q You can give a prisoner books to read in the Mayes

1 County Jail, can you not?

2 A Yes.

3 Q What date, if you can recall, did Mr. Hart escape?

4 A I believe it was September 16 of 1973.

5 Q And how long was it until he was captured and
6 placed in the Mayes County Jail?

7 A April 6, 1978.

8 Q Well, let me back up. State whether or not he's
9 escaped on two occasions?

10 A Yes, he did.

11 Q And do you recall the date of the first escape?

12 A Not without going to the record.

13 Q But the second escape was what - September 13th?

14 A September 16th, I believe.

15 Q Who was with him when he escaped the second time
16 in 1973?

17 A Larry Dry -- I'm not sure that Rife was with him
18 on the escape or not. I'd have to check the record.

19 Q When Mr. Hart was captured after the first escape
20 was he booked into the jail just as any other person would
21 be booked in?

22 A Yes.

23 Q Do you have an inventory of all his property on
24 that date?

25 A Notations on the book-in sheet show that there was

1 no personal property.

2 Q Is it normal procedure for someone who is booked
3 in to be thumbprinted?

4 A Yes.

5 Q Then sign that line at the bottom of the book-in
6 sheet; is that correct?

7 A No, not on the book-in sheet.

8 Q Well, how about the inventory sheet, Mr. Weaver?

9 A No.

10 Q They don't sign the inventory?

11 A They sign upon the release of their personal
12 property that they have been returned their personal property.

13 Q Do you thumbprint them?

14 A No.

15 Q You don't do it then either?

16 A No.

17 Q Now, on - in about September of 1973, was there a
18 shakedown of the cell that Mr. Hart was in?

19 A I don't recall.

20 Q He had escaped previously, had he not?

21 A Yes.

22 Q Would it be normal procedure for your department
23 to shake down a cell occasionally if you suspected someone
24 might attempt another escape?

25 A Yes, it's normal procedure that we shake down the

1 jail periodically in its entirety.

2 Q So it would be entirely possible for someone to
3 have gone into that cell and conducted a shakedown search;
4 is that not correct?

5 A Not for just anyone to go into that cell; no, that
6 would not be.

7 Q Who would do that?

8 A It would be deputies, it would be deputy sheriffs,
9 officers.

10 Q Who was the jailer at the time that Mr. Hart
11 escaped in September of 1973?

12 A I don't recall. I do recall the book-in officer,
13 the jailer that booked him in when he was transferred from
14 McAlester to Mayes County.

15 Q What was his name?

16 A Carman, Hugh Carman.

17 Q Carmen, C-A-R-M-E-N?

18 A A-N.

19 Q M-A-N. Name as many of the Deputies employed by
20 you at the time of the second escape as you can remember?

21 A Al Boyer would have been one; Charlie Davis would
22 have been another; Bob Rainwater would have been the other.

23 Q Any other deputies?

24 A No. We've never had an abundance of personnel in
25 the Mayes County Sheriff's Office. I think that's all we had.

1 Q Did you have a jailer at that time?

2 A Carman was the jailer at that time, or he was the
3 jailer at the time of the book-in. I think he was still
4 employed there at the time of the escape.

5 Q What were the names of any clerks that were there
6 at that time?

7 A Maxine Randolph.

8 Q That's one of the ladies that works there now?

9 A Yes.

10 Q Anybody else?

11 A Not that I recall.

12 Q Mr. Weaver, directing your attention to June 13th
13 of -- June 12th of 1978, will you tell me what happened
14 on that morning when you got a call to go to Camp Scott?

15 A June 12th of 19 --

16 Q June 13th of '77, excuse me.

17 A Of '77?

18 Q Yes.

19 A I was at my residence and I received a call from -
20 I don't recall, Pryor P. D. or Vinita OHP that three bodies
21 had been found at Camp Scott and asked that I go to that
22 location and investigate it.

23 Q What did you do when you got there?

24 A I got in my car and started in that direction.

25 Q Anybody with you?

1 A Dr. Collins, I believe, was with me. I don't
2 recall whether Dr. Collins rode with me or in an ambulance.
3 I led the ambulances to the area.

4 Q Which ambulance was that, Mr. Weaver?

5 A It was one of Jim Green's ambulances.

6 Q Mr. Weaver, can you remember what time of day it
7 was when you got the call?

8 A Approximately 6:30 a. m.

9 Q How long did it take you to get over there?

10 A Twenty-five minutes, from the time I dressed and
11 arrived there at five minutes after 7:00.

12 Q Did anyone meet you at the gate?

13 A No, they did not.

14 Q You just drove on into the camp?

15 A Yes.

16 Q Who directed you to the Kiowa Unit?

17 A I don't recall. I went to the office area and
18 someone instructed me from there on down to the scene.

19 Q Will you describe for me what you saw and did when
20 you got into the Kiowa Unit?

21 A When I arrived, Trooper Harold Berry was at the
22 scene. I observed sleeping bags, one exposed body, the upper
23 portion lying across a part of a sleeping bag. This exposed
24 body's legs were spread far apart. There was rooted out
25 places, indications in the ground indentions between these

1 legs; there was wound near the corner of the right eye. I
2 touched the body. The body, in my opinion would be that the
3 body temperature would be sixty to seventy degrees.

4 Q Mr. Weaver, at that time that you touched the body,
5 would you describe where you touched it?

6 A Right on the arm.

7 Q Who was present at the time while you were observing
8 the body?

9 A Trooper Berry.

10 Q Anyone else?

11 A Dr. Collins and the ambulance attendants were
12 standing back some distance.

13 Q What were the names of those ambulance attendants,
14 sir?

15 A One of them was a Parker and --

16 Q Was the Stevens' boy with him?

17 A I believe Stevens was the other.

18 Q Were there any other ambulance attendants on the
19 scene at this time?

20 A I believe there was another ambulance there but I
21 don't know from where.

22 Q Could that have been Cunningham over in Locust
23 Grove?

24 A Could have been. Could have been.

25 Q Go ahead and describe for us what you did after you

1 touched the body?

2 A I observed a red and white flashlight, Sportsman
3 type lanterns sitting near the body, had a green plastic
4 material taped over the lens with a small hole torn in it
5 for the light to penetrate. I observed a black roll of what
6 appeared to be duct tape leaning across the tree at approxi-
7 mately two feet from the exposed body. I observed a ligature
8 about the neck of the exposed body and the hands were taped
9 or secured - appeared to be - behind the body which I did
10 not turn the body over to examine it.

11 Q After you observed all those things, what did you
12 do?

13 A I immediately called by radio to notify OSBI to
14 send agents, technicians, to assist in the processing of
15 the crime scene.

16 Q What time was that radio communication made, sir?

17 A I don't recall. It was shortly after I arrived at
18 the scene. I then ordered --

19 Q Could you estimate that time for me, Sheriff Weaver?

20 A I would say between 7:30 and 8:00. That would be
21 - only be a guess. There was many things going through my
22 mind at that time.

23 Q Yes, sir.

24 A I then instructed the Mayes County personnel to
25 secure the area, to obtain rope, put it off limits to all

1 people other than investigators.

2 Q Sheriff Weaver, did you observe any rope or cord
3 laying anywhere near the bodies that morning?

4 A No.

5 Q Did you observe any lying to the south of the trees
6 there along that open lane?

7 A Laying on the ground?

8 Q Yes, sir?

9 A No.

10 Q After you had instructed people to preserve the
11 scene, what did you do?

12 A This instruction was for both scenes. It was for
13 the scene where the bodies were located; also secure the tent
14 area where we suspected the crime was committed.

15 Q Now Sheriff Weaver, to whom were those orders given?

16 A My Undersheriff Al Boyer.

17 Q Were there any other Mayes County Sheriff Deputies
18 at the scene?

19 A Yes. A. D. David, Hugh Horton, Charles Floyd.

20 Q Had you looked inside the tent before you gave the
21 order to secure the area?

22 A I believe I had.

23 Q Tell me who went with you to the tent?

24 A As best I recall, it was Trooper Berry.

25 Q Anybody else go with you down there?

1 A Not that I recall.

2 Q Describe for me what you saw when you looked into
3 the tent?

4 A I saw four metal bunks - cots - there was one ten-
5 nis shoe, possibly others; I recall one on the tent floor,
6 some debris, paper.

7 Q What kind of tennis shoe was on the tent floor?

8 A As best I recall, it was a blue and white child's
9 tennis shoe, blood on the two bunks.

10 Q Which two bunks had blood on them?

11 A As we entered or as you face the front of the
12 tent, the two bunks to the left was quite a lot of blood on
13 the bunks and on the floor. I did not observe blood on the
14 right side of the bunks -- bunks on the right side of the
15 tent. It appeared that the blood had been mopped - smeared
16 in an effort to clean it up. I observed footprints --

17 Q Would you describe for me the appearance of the
18 footprint?

19 A In fact, it appeared to me, in my opinion, two
20 footprints. There was what appeared to be a military-type
21 tread that had been smeared over and then there was --

22 Q Sheriff Weaver, can you describe - you said a
23 military-type tread?

24 A Jungle-type boots. It has a heavy lugs on the
25 sole. Then, there was a different type tread which had small

1 round, possibly a suction-type tread on it which was not
2 smeared, which would indicate that print was put there after
3 the clean-up operation.

4 Q Now, this suction cup type tread, is that the one
5 that everybody has the picture of or pictures were made of?

6 A Yes.

7 Q Do you have pictures of the jungle-type boot, or
8 is that the one that is in those pictures?

9 A I do not have, no.

10 Q Have you seen a picture that has both the suction
11 type tread in it and the jungle boot type tread in it?

12 A Yes.

13 Q Do you have that in your possession?

14 A Yes.

15 Q Would you permit me to look at that some time?

16 MR. FALLIS: If it please the Court, I think that
17 was a photograph shown to counsel prior to these proceedings
18 by Order of the Court.

19 THE COURT: I thought that you had seen all the
20 photographs. Have you not seen the photographs?

21 MR. ISAACS: Did I see them?

22 MR. HOBBS: I don't know which one he's talking
23 about.

24 MR. ISAACS: I don't know either. That's why I
25 asked if I could see it. I may have seen the picture and not

1 realized that it was a jungle-type boot.

2 THE COURT: Mr. Wise, could you make the photograph
3 available for him again?

4 MR. WISE: Yes, certainly will, if I can ask a
5 qualifying question to clear it up.

6 Q (By Mr. Wise) Sheriff, was it a colored photograph
7 that you saw it on?

8 A (By Sheriff Weaver) Yes.

9 MR. WISE: Counsel has seen it because all the
10 colored photographs were the ones that we provided to him.

11 THE COURT: All right. If you'd let him look at
12 it again.

13 MR. ISAACS: Judge, while we're on pictures, could
14 we move that we be permitted to see the picture of Louise
15 Liggins? We've talked about it for two days and I haven't
16 seen that one, I don't think.

17 MR. WISE: If it please the Court, what counsel is
18 talking about is irrelevant to this matter and this case and
19 we would consider it work product.

20 THE COURT: I don't know what photograph you're
21 talking about, Mr. Isaacs.

22 MR. ISAACS: Well, the one that everybody talked
23 about yesterday. The girls were shown a photograph that had
24 been torn up and put back together of one of the camp counsel-
25 ors, I think, Judge.

1 MR. WISE: Judge, if it will please Mr. Isaacs to
2 see it --

3 THE COURT: I'm sure it will, Mr. Wise.

4 MR. WISE: Then we'll let him see it.

5 THE COURT: I think you can see that one, too, Mr.
6 Isaacs.

7 MR. ISAACS: Thank you.

8 Q We're talking about footprints. This jungle-type
9 boot print, Sheriff Weaver, would you draw for me what you
10 would consider the jungle type of boot print that we're
11 talking about?

12 A (Witness complies.)

13 Q Would you sign that for me, please, sir?

14 A What is the date?

15 MR. HOBBS: 27th.

16 Q Thank you, sir. And this jungle type boot print,
17 Sheriff Weaver, do you have any opinion as to what size boot
18 that would be?

19 A From the print of what I believe a footprint in the
20 tent and the smear there, there would be no way to determine
21 the size. Although, in search of the area, a Deputy and I
22 crawled upon our hands and knees up a trail looking for tracks
23 between the Kiowa and Arapaho Units, which is, oh, 150, 200
24 yards beyond Kiowa Unit and observed the same type footprint
25 traveling in the direction of Kiowa area which appeared to be

1 a ten to eleven size.

2 Q Was a plaster cast made of that footprint?

3 A Not to my knowledge.

4 Q Did anybody take a photograph of that footprint?

5 A Not to my knowledge. I marked the area, protected
6 the area and advised the OSBI technician of its whereabouts.
7 Whether or not it was processed, I do not know.

8 Q From the imprint left there in the tent floor and
9 the blood by the tennis shoe or suction type shoe, do you
10 have an opinion as to the size of that shoe?

11 A I would say it would be approximately a size seven.

12 Q So it was quite a bit smaller than --

13 A Quite a lot smaller.

14 Q After you looked into the tent and saw these foot-
15 prints and the blood on the cot, what was the next thing you
16 did, Sheriff?

17 A Secured the area.

18 Q How was that done?

19 A I then went around the tent, the outside, after my
20 observation of the interior, I went around the outer perimeter
21 of the tent. At the rear northwest corner, the tent flap was
22 unhooked. Small hair, approximately two to three inches long,
23 which appeared to be fresh, was torn in the canvas fabric.

24 Q How did it appear to be fresh?

25 A It wasn't from the weather.

1 Q Not frayed?

2 A It hadn't frayed out.

3 Q Well, those were new tents, weren't they?

4 A Well, I don't know how new they were. They seemed
5 to be in good repair.

6 Q Was there anything else noteworthy? Did you note
7 anything else that you thought indicated that more than one
8 person had been in that tent?

9 A No.

10 MR. FALLIS: If it please the Court, I object to
11 the form of the question unless he states time and place.
12 And it calls for a conclusion on more than one person being
13 in the tent. We need to know when he's talking about.

14 THE COURT: I assume you are still referring to
15 June 13th?

16 MR. ISAACS: Yes, sir.

17 THE COURT: Objection is overruled.

18 A (By Sheriff Weaver) There was nothing to indicate
19 more people had been present.

20 Q Mr. Weaver, you said that you crawled down that
21 trail on your hands and knees. Did you see any other foot-
22 prints in that trail area?

23 A No. There was - most of the surface of that trail
24 was rather firm and only a few places where it would be soft
25 enough for a person to make a print.

1 Q Which direction is the Arapaho Unit from Kiowa
2 Unit?

3 A I believe that is north. Maybe not true north but
4 in a northerly direction.

5 Q That path runs from Kiowa to Arapaho in a northerly
6 direction; is that correct?

7 A Yes.

8 Q Approximately how far is the Arapaho Unit from
9 the Kiowa Unit?

10 A I would say a couple of hundred yards. It's hard
11 to judge distance in that heavy foliage. You can't see from
12 point A to point B, so it's a guesstimate.

13 Q Did you do anything to secure the tent?

14 A Roped it off; instructions that all personnel other
15 than authorized personnel be kept away from it.

16 Q Which Deputy or which law enforcement officer was
17 left there to secure the tent area?

18 A I don't recall.

19 Q Do you remember who the person was that was left
20 in charge of the bodies in securing that area?

21 A I was there with the bodies.

22 Q Well, what I'm talking about, while you were at
23 the tent?

24 A I can only - I can only guess to that. I would say
25 Al Boyer.

1 Q Mr. Weaver, after you had secured the tent area,
2 what did you do?

3 A I didn't secure it. I instructed personnel to
4 secure it.

5 Q After you had given that instruction, what was your
6 next activity in reference to the investigation of these homi-
7 cides?

8 A Assist in the process of the scene; assist in
9 coordination of investigators, the technicians who were
10 processing the scene.

11 Q By "assist", will you describe for me what you
12 did after that?

13 A Well, that covers a broad scope. It would be
14 difficult to describe. There was - there was much thought
15 going into this thing. There was many things being done in
16 the form of searching the area.

17 Q Did you conduct any searches of the area?

18 A No, I did not.

19 Q Did you supervise searches of the area?

20 A Yes.

21 Q Will you tell me about the searches that you super-
22 vised or you ordered conducted?

23 A It was agreed between OSBI Agent Lempke and I that
24 a foot-by-foot search be done of the area.

25 Q Let me interrupt you a moment. What time did Mr.

1 Lempke arrive at Camp Scott?

2 A I believe Mr. Lempke would be the source for that.
3 I don't recall.

4 Q To the best of your recollection. Give me an
5 approximate time.

6 A I would not even guess at the time that he arrived.

7 Q Before noon sometime?

8 A Yes, before noon.

9 Q Could we say before 10:00 o'clock?

10 A I would say yes.

11 Q All right. Tell me about this search of the area
12 that you and Mr. Lempke agreed upon.

13 A Of the Kiowa area, we instructed officers to get
14 side-by-side on hands and knees, if possible, or if necessary,
15 go over it foot-by-foot and search the entire area.

16 Q What officers conducted that search?

17 A I can't tell you; I don't recall.

18 Q Were there OSBI Agents?

19 A Both OSBI and Mayes County Officers.

20 Q Any Locust Grove Police Officers there at that
21 time?

22 A Possibility.

23 Q Were there any Pryor Police Officers there at that
24 time?

25 A Not that I recall.

1 Q Did any civilians participate in the search?

2 A Not that I recall.

3 Q Will you step down and show me on the board where
4 the search was conducted in the Kiowa Unit and can you show
5 me where it started and where it ran?

6 A This area is the area the bodies were located and
7 this general area, going by the fire ring and kitchen unit,
8 just this general area and then later the tent that was in-
9 volved and beyond.

10 Q So we could say that the search began near the
11 bodies, moved northward, through the Kiowa Unit?

12 A Yes.

13 Q On hands and knees?

14 A Well, if necessary.

15 Q When the search went through the Kiowa Unit on
16 hands and knees, did anyone find any items that were seized
17 as evidence?

18 A There were items found. I can't recall that it
19 was at that particular time. There was what appeared to be
20 a little deal that girls do their hair with.

21 Q Where was that found?

22 A It was found -- I was told it was found directly
23 in front of Tent 7, Kiowa Area, lying between two trees.
24 There was a pair of glasses and a glasses case located between
25 the counselors' tent and where the bodies were located.

1 Q Any other items seized during that search of the
2 Kiowa Unit?

3 A Nothing of value that I can recall.

4 Q Was there anything not of value?

5 A Not that I recall. The glasses -- I can comment
6 on those, located --

7 Q Yes, would you please?

8 A It was, as best I recall, a gold and red colored
9 case laying south of the counselors' tent. The glasses
10 were ten or twelve feet beyond.

11 Q Are we talking about west, in a westerly direction?

12 A No, we're talking about a southeasterly direction.
13 The glasses were found between the counselors' tent and the
14 road leading into the Kiowa camp.

15 MR. ISAACS: Let the record show we're talking about
16 a southeasterly direction, approximately twelve feet from the
17 counselors' tent.

18 A (By Sheriff Weaver) No, I didn't testify to that.

19 Q Correct me if I'm wrong.

20 A The glasses were laying ten or twelve -- ten or
21 twelve feet, I measured it but I can't recall the exact
22 distance. The glasses were laying from the case. The glasses
23 were not in the case.

24 Q Where was the case from the counselors' tent?

25 A In the same general area. It was between the

1 counselors' tent and the road leading into the Kiowa Unit.

2 Q How far from the counselors' tent?

3 A Roughly thirty feet.

4 Q Was a purse found anywhere in the Kiowa Unit?

5 A Not to my knowledge.

6 Q By anybody?

7 A Not to my knowledge.

8 Q After this search was conducted, when the officers
9 moved in a northerly direction through the Kiowa Unit, would
10 you describe for me the perimeter search?

11 A Only that the instructions that were given to the
12 officers, I was not present so I could not testify to the
13 exact perimeter. The general area would be as close as I
14 could describe for you.

15 Q Well, would you tell me what instructions you
16 gave the officers?

17 A I believe I already have, but just search the
18 Kiowa general area foot-by-foot.

19 Q Now, this perimeter search we're talking about, Mr.
20 Weaver, it ran from a north direction on the north end of
21 Kiowa Unit back around to Mr. Cavalier's fence, which bordered
22 the Girl Scout property on the south, did it not?

23 A It bordered on the south. Now, how far they went
24 west of the Kiowa grounds, I do not know.

25 Q Mr. Weaver, what did you do after you gave the

1 order for the perimeter search?

2 A It would be difficult to say what I did step by
3 step.

4 Q Were you coordinating the investigation in the
5 Kiowa Unit at that time?

6 A I was assisting with the coordination of it.

7 Q Who were you assisting?

8 A Lempke.

9 Q What did you or Mr. Lempke next do to the best
10 of your recollection?

11 A We, at this time, were in the process of establish-
12 ing a field headquarters in the Camp Scott area, the office
13 building, getting telephones installed, many things to think
14 about and do.

15 Q Did you do anything else that day in reference to
16 the investigation of these homicides at Camp Scott?

17 A Yes, but to tell you what would be very difficult.
18 I'm sure we didn't wrap up and go to the house.

19 Q Yes, sir. To the best of your recollection, what
20 did you do?

21 A At that -- somewhere in the earlier stages of the
22 investigation, it would be the normal thing to start thinking
23 of suspects and trying to piece this thing together.

24 Q Did you and Mr. Lempke have a conversation about
25 any suspects?

1 A Yes.

2 Q When was that conversation held?

3 A It was in the earlier stages of the investigation.
4 To give you a definite date - time, would be impossible.

5 Q What did you do after you had that conversation?

6 A We started reviewing in our minds M. O.'s of people
7 that possibly could commit a crime of this magnitude.

8 Q Then what did you do?

9 A It would be difficult to say what they did. As I
10 mentioned earlier, to lay out the earlier stages or any por-
11 tion of this investigation step-by-step would be most diffi-
12 cult.

13 Q Well, you were one of the people in charge out there
14 at the Camp Scott area, were you not?

15 A Yes.

16 Q After you had formulated the list of suspects,
17 what was your next duty?

18 A To inquire, find out the whereabouts of these
19 people, asking questions, interviews, many things to be done.

20 Q Who was the next person you talked to about the
21 whereabouts of any of the suspects?

22 A I couldn't tell you who the next person was I talked
23 to.

24 Q What is the next thing you did that day, June 13th?

25 A I could not tell you.

1 Q Did you help the OSBI gather any evidence from the
2 Kiowa Unit?

3 A No, I didn't feel that they needed any help. I
4 thought they was quite capable.

5 Q Did you help them remove any flooring from the
6 tent in the Kiowa Unit?

7 A No, I did not. No, I was through the area while
8 a portable power plant was being brought in and set up to
9 power the vacuum sweeper or saw or both; I don't know what it
10 was they intended to use it for but there was need for elec-
11 tricity there.

12 Q Did you call in any tracking dogs that morning?

13 A No. I do recall that one of the first decisions
14 I had to make when I arrived and observed the scene was whether
15 or not to call for dogs at that particular time and I had to
16 determine in my mind was the physical evidence - possible
17 physical evidence there more valuable or would the dogs be
18 more valuable to bring in, with the possibility of picking up
19 a scent. I made the decision to not call the dogs, protect
20 the scene and process the scene and possibly rely on the dogs
21 later.

22 Q Yes, sir. Now, was there a place set up to feed
23 the OSBI Agents, the highway patrol and the other investiga-
24 tive agencies there at Camp Scott?

25 A Yes.

1 Q What time was the noon meal that day?

2 A I don't recall any meals but I recall lots of
3 peanutbutter sandwiches and ham sandwiches that the Red
4 Cross had furnished which we very much appreciated.

5 Q After you had your peanut butter sandwiches, what
6 did you do?

7 A Went right back to work.

8 Q Tell me what you did?

9 A Answered the telephone, running out leads, inter-
10 viewing people.

11 Q Who did you interview that afternoon, Sheriff
12 Weaver?

13 A I don't recall that I interviewed anyone in parti-
14 cular that afternoon. There was -- there was information
15 being furnished by telephone made from nationwide, different
16 enforcement agencies throughout the nation were calling,
17 giving us information on people that they were familiar with
18 who possibly could have been in the area and committed the
19 crime, so it was - I think it would be a safe statement to
20 say my time was pretty well taken up on the telephone.

21 Q Was the FBI on the scene?

22 A Not the first day, I don't believe. They came in
23 shortly thereafter.

24 Q So we can that the first day at Camp Scott was
25 spent there preserving crime scene, setting up command post

1 and making arrangements for an investigation?

2 A Processing -- and also process of the crime scene.
3 That started immediately.

4 Q Did you take any part in the processing of the
5 crime scene other than visual inspection of the area?

6 A No.

7 Q Did you gather any evidence personally?

8 A Not that I recall.

9 Q Were any items of evidence given to you?

10 A No.

11 Q Sheriff Weaver, I realize you were busy that day,
12 can you tell me what you did in the evening hours of the
13 first day?

14 A Kept answering the telephone.

15 Q Did you interview any people in the evening hours
16 of the first day?

17 A Not that I recall.

18 Q Directing your attention to the 14th day of June,
19 will you tell me what happened that day?

20 A More of the same that we did the 13th of June.

21 Q Did you interview anyone on the 14th of June?

22 A I interviewed Mr. and Mrs. Clayton Potts possibly
23 on the 14th, who had reported seeing a stranger on the creek
24 bank of Snake Creek, which is approximately a quarter of a
25 mile from Kiowa area.

1 Q Did you interview anyone else?

2 A Not that I recall. I talked to many people and
3 personnel and persons. To say who they were would be im-
4 possible.

5 Q Mr. Weaver, on the 14th, did you seize any evidence
6 at any location pertaining to the homicides at Camp Scott?

7 A Not that I recall.

8 Q Was any evidence given to you on the 14th?

9 A Not that I can recall.

10 Q So is it safe to say that on the 14th, you spent
11 the whole day answering the telephone, talking to people and
12 coordinating the investigative efforts of law enforcement
13 agencies?

14 A I think that would be a safe statement.

15 Q On the 15th day of June, did you call in some
16 tracking dogs?

17 A I don't recall the exact date the call went out for
18 the dogs. It was a day or two or three later, after the
19 homicides.

20 Q So on or about the 15th, that would be a safe guess
21 as to when you called for the dogs; is that correct?

22 A Yes, that would be a guess.

23 Q Was that done in the morning hours or in the evening
24 hours?

25 A I don't recall the time of day the decision was made.

1 Q Did you make that decision?

2 A Not alone, no.

3 Q On the 15th, did you seize any items of evidence?

4 A Not that I recall. I think the OSBI took custody
5 of all the evidence, all the physical evidence.

6 Q Did you interview anybody on the 15th of June?

7 A I talked to many people but to say who they were
8 would be -- there's no way that I would know whether it was
9 in person or --

10 Q Did you take any written statements from anybody on
11 the 15th?

12 A No.

13 Q So we can say that on the 15th, you spent your time
14 doing the same thing you did on the 13th and 14th?

15 A I think so, yes, also the night.

16 Q Now on the -- will you tell me about calling for
17 tracking dogs, who you contacted and when they arrived at the
18 scene?

19 A I believe we were contacted first. The District
20 Attorney's Office or my office, volunteering their services
21 and then a decision was made at a later time that possibly
22 could be of value to us and a call was returned and arrange-
23 ments made to transport.

24 Q Do you know who made the telephone call to the
25 District Attorney's Office?

1 A No, I don't recall.

2 Q Did you have more than one telephone call about
3 tracking dogs?

4 A Possibly; I don't remember whether there was more
5 than one call. Do you mean in the office?

6 Q Yes.

7 A Possibly there could have been more than one. I
8 don't know.

9 Q Sheriff Weaver, tell me what happened when they
10 brought the dogs in?

11 A The dogs were brought to the area. They -- we were
12 told by the handler and the trainer --

13 Q Do you remember the handler's name?

14 A John is the only thing that I remember.

15 Q Do you know the trainer?

16 A Don.

17 Q Know his last name?

18 A No. I don't recall his last name.

19 Q Would it be Lakin?

20 A Who?

21 Q Lakin?

22 A I believe that's right.

23 Q A fellow from Pennsylvania?

24 A Yes.

25 Q When did they arrive?

1 A I don't recall the exact date or time they did
2 arrive and we certainly are not dog experts and our first
3 thought was to volunteer some information and they stopped
4 us immediately. They said we don't want to know anything
5 about the scene, about the circumstances. We leave that to
6 the dogs.

7 Q Well, you say you're not a dog expert. You have
8 coon dogs, don't you?

9 A No.

10 Q You never have?

11 A Yes, I have had.

12 Q You've hunted coons, haven't you?

13 A I still don't consider myself an expert.

14 Q Well, you know that dogs are --

15 MR. FALLIS: If it please the Court, excuse me
16 just a moment. I'm going to have to object. We're taking an
17 awful lot of time. They're debating, they're arguing with
18 the witness. It's his witness that he's called. We ask him
19 to refine to the rules of evidence.

20 THE COURT: Are you attempting to certify him as an
21 expert on dogs, Mr. Isaacs?

22 MR. ISAACS: No, sir.

23 THE COURT: Then I think you could move on.

24 MR. ISAACS: Thank you, Your Honor, I will do so.

25 Q Mr. Weaver, approximately what time did the dogs

1 arrive at Camp Scott?

2 A I would not attempt to even guess at it. I can
3 say possibly that they did arrive.

4 Q Did you make a report about the arrival of the dogs
5 in your normal course of business of Sheriff of Mayes County?

6 A No.

7 Q You didn't?

8 A No.

9 Q Why not?

10 MR. FALLIS: If it please the Court, I'm going to
11 object to the form of the question. This is his witness that
12 he put on the witness stand and he's now arguing with the
13 witness.

14 THE COURT: Sustained.

15 Q You didn't make a report about the dogs, their
16 arrival and what they did?

17 MR. FALLIS: If it please the Court, it's been
18 asked and answered and Your Honor has ruled on the objection
19 already. Counsel seems to be deliberately trying to overstate
20 the Court.

21 THE COURT: Objection is sustained. I believe he
22 said no the first time.

23 Q Did you later make a report about the investigation
24 of what the dogs did during the investigation?

25 A No, I don't recall making any reports - written

1 reports as such as to the dogs' activities. I do recall
2 when the dogs arrived, the dogs put on a leash, they did
3 not want to know anything about the area, about the circum-
4 stances. The dog was taken in a direction of Kiowa area and
5 he tightened the leash. The handler said he has a scent and
6 he went --

7 Q What was used for the dog to scent, Mr. Weaver?

8 A A piece of carpet.

9 Q Where did that carpet come from?

10 A I was told it came from the Shroff residence west
11 of there.

12 Q Who told you that?

13 A I don't recall who told me.

14 Q Do you know anything about where the carpet came
15 from other than what you were told?

16 A No.

17 Q Was it one of Mayes County Deputies that told you
18 that the carpet came from the Shroff residence?

19 A I don't recall who told me. I think I testified
20 to that that I don't recall who told me where it came from.

21 Q Do you know whether or not it was an OSBI Agent?

22 MR. FALLIS: If it please the Court, counsel has
23 asked the question twice now. The witness has stated he does
24 not recall. He can here and go from the FBI to the ATF and
25 perhaps all the way to the CIA. We're going to spend more

1 time. It seems to me that counsel is either deliberately
2 wasting the time of this Court or perhaps some other motive.
3 I think the witness should be answering questions as put to
4 him by this man but put to him on the witness stand and be
5 done in this rules of evidence and not by Mr. Isaacs' rules.

6 THE COURT: Objection is sustained. Ask your
7 next question.

8 Q Mr. Weaver, did they show the dog any other items
9 for scent?

10 A That's the only item that I saw.

11 Q Did you later go to the Shroff residence for any
12 purpose?

13 A Yes.

14 Q Did you see where the carpet came from?

15 A I was told where the carpet came from.

16 Q Was it cut out of the floor?

17 A No, I was told it was laying on the front porch,
18 at the front door as part of a throw run type thing.

19 Q Who went there to the Shroff residence with you?

20 A I don't recall. We had -- after the initial entry
21 of the Kiowa area by the dogs, they -- we were told by the
22 handlers that they had a scent and was trailing. I do know
23 that I observed the dog go to Tent 7, sit down at the step,
24 step up on the step, sniffed inside the tent and set. He
25 then scented from this piece of carpet, he went from there to

1 where the bodies were located, set down again.

2 Q Where was he originally given the piece of carpet,
3 the dog?

4 A Before we entered the Kiowa area.

5 Q Where were you when you did that?

6 A On the road, leading into Kiowa before it takes
7 leave of the main road.

8 Q Were you talking about this road that runs east
9 and west?

10 A Yes.

11 Q That goes into the Kiowa Unit, not the road north
12 and south in Camp Scott?

13 A No.

14 Q After he was given the carpet for the scene and he
15 had gone to the tent and set down and given the carpet for
16 scent again, where did he go?

17 A He went from there, from the tent to where the bodies
18 were located.

19 Q When he went to the bodies, what did he do?

20 A Sat again. We scented the dog, took him then to the
21 perimeter of the Kiowa area and behind Tent 7. He appeared
22 to have taken a scent, traveled in a westerly direction, back
23 then in a half-circle, headed in a northerly direction up
24 past the --

25 Q Just a second now. This westerly direction is west

1 of the Kiowa Unit; is that correct?

2 A Right, and then swung into the Arapaho area of
3 Camp Scott. From there, on to a northerly direction.

4 Q Is this along the road, Mr. Weaver?

5 A No, no.

6 Q Back in the woods?

7 A Back in the woods. He then went east off the hill,
8 down the Cookie Trail, out to the blacktop to the intersection,
9 turned west from the intersection.

10 Q Out to the blacktop, you said east. That would
11 be Highway 82, would it not?

12 A Went east out the Cookie Trail.

13 Q East of Cookie Trail?

14 A To Cookie Trail.

15 Q And that's the road that runs north and south into
16 Camp Scott; is that correct?

17 A Right.

18 Q Then where did he go?

19 A He went left on that trail out to the entrance
20 where Cookie Trail takes off of the section line and enters
21 Camp Scott.

22 Q That is almost to intersection with Highway 82?

23 A It is near 82. There, he turned left on the county
24 road.

25 Q Headed in a westerly direction?

1 A Went to the intersection of Twin Bridges Road,
2 which is blacktop, there had quite a lot of difficulty find-
3 ing if it was the scent, finding the trail. He then tighten-
4 ed the leash and traveled on in a southerly direction on
5 Earbob Road to the Shroff residence, or the gate, where he
6 turned in, went to the front porch, the front door of the
7 Shroff's residence and sat down again.

8 Q What did he do after that?

9 A He then -- the dog was scented again, the dog
10 then went in a southwesterly direction, near a pond, up the
11 side of a hill and traveled in a -- then he went into another
12 half-circle or a circle and swung around, back to the Shroff
13 residence, to the front door again and sat down.

14 Q Did you go into the Shroff residence at that time?

15 A I've never been in the Shroff residence.

16 Q Did anybody go into the Shroff residence in your
17 presence?

18 A Not to my knowledge.

19 Q Was Mr. Shroff out there at the home, out at his
20 residence when you were there?

21 A I met Mr. Shroff on several occasions.

22 Q No, no, Sheriff, was he there that day?

23 A I can't recall if he was that day.

24 Q Who was there with you at the Shroff residence?

25 A The dog handler and some troopers, I don't recall

which ones.

Q Mr. Newton?

A Possibly; I don't recall who all was present.

Q Anybody else with you fellows?

A Probably some OSBI Agents, but I can't recall.

Q What time of day was this visit to Mr. Shroff's residence?

A It would be impossible for me to tell you.

Q Daylight?

A Yes.

Q Afternoon or morning?

A I wouldn't venture a guess.

Q After the dog had run up on the hill and come back and sat down on the porch, what happened?

A Taken back to the tent, as far as I recall.

Q Did they scent him again?

A Not that I recall, not that day.

Q Was anything else used to scent the dog during the time that you were with them?

A No. Carpet is the only thing that I saw.

Q Did anyone have a straw hat?

A Not that I saw.

Q What did you do after you had been to Mr. Shroff's area and been on his property?

A Went back to Camp Scott.

1 Q Did you seize any item of evidence that day in
2 the course of your investigation?

3 A Not that I recall.

4 Q Did you interview anybody?

5 A I asked many questions. As far as an interview is
6 per se, I don't recall an interview.

7 Q Did you interrogate anyone?

8 A No, I did not interrogate, no.

9 Q Mr. Weaver, when they took the dog back to the
10 camp, where did you go?

11 A Back over to the telephone, I imagine.

12 Q All right. Did you do anything else that day
13 that involved the collection or transportation of evidence?

14 A No. OSBI there were in charge of collection of
15 physical evidence and transportation of evidence.

16 Q Did you the next day use the dogs to conduct yet
17 another search?

18 A The dogs were used several times for several days
19 but not in my presence. This is the only time that I recall
20 that I seen the dogs work or the dog -- there was only one
21 dog being used.

22 Q Mr. Weaver, did you seize any other evidence that
23 first week; did you seize any evidence at all?

24 A Not that I recall.

25 Q Did you interview any person the first week?

1 A Yes, I interviewed the Potts, Mr. and Mrs. Potts.

2 Q Other than the Potts?

3 A Not an interview.

4 Q Did you talk to somebody?

5 A I talked to people; I inquired of people about
6 strangers and questions in general.

7 Q Did anybody tell you about seeing strangers in the
8 area, other than the Potts people?

9 A No.

10 Q Later on, did you go to the Shroff residence and
11 talk to Mr. Jack Shroff?

12 A No, I talked to Jack Shroff at Camp Scott. I don't
13 recall talking to him at his residence. It's possible that
14 I did but I was --

15 Q When did you have a conversation with Mr. Shroff at
16 Camp Scott?

17 A It was early stages of the homicide investigation.
18 He came there in reference to a burglary he had had but to
19 give you the exact date or time would be impossible.

20 Q Did you make a report about that burglary?

21 A I believe there was one on file in the office.

22 MR. ISAACS: Judge, could we have a recess so he
23 could refresh his recollection about what time, about what
24 happened in the report of that burglary?

25 A (By Sheriff Weaver) I did not make the report.

1 Q If you read it, will it help you to refresh your
2 recollection?

3 A Not as far as --

4 MR. FALLIS: Excuse me, Your Honor.

5 THE COURT: Excuse me. Let him answer that question.

6 A (By Sheriff Weaver) Not as far as the date that
7 I talked to Jack Shroff, it wouldn't. As near as I could
8 come --

9 Q That isn't the question. My question is, would it
10 help refresh your recollection?

11 MR. FALLIS: Excuse me. Investigation he did not
12 conduct? That seems to be the critical issue here. If he
13 conducted the investigation, he may refresh his memory about
14 that but if he did not conduct the investigation of the bur-
15 glary, certainly would not be germane as to the officer that
16 took that report and made that investigation would be.

17 THE COURT: Well, your objection may be valid. It
18 depends on whether you're asking his recollection of the
19 report or refresh his recollection about what someone else
20 did.

21 MR. ISAACS: No, I never -- I haven't meant to infer
22 that he's going to refresh his recollection about what someone
23 else did but I do want him to be permitted to read that so
24 that it might help him jog his memory, just as if --

25 THE COURT: About what, Mr. Isaacs?

1 MR. ISAACS: About the burglary and the interview
2 that he had with Mr. Shroff pertaining to the burglary, Judge.
3 He said I don't remember.

4 THE COURT: Why don't you continue and over the noon
5 recess perhaps he'll have a chance to do that, Mr. Isaacs.

6 Q Mr. Weaver, would you read those reports over the
7 noon recess and see if they don't jog your memory?

8 A I would read them over.

9 Q Thank you. Now at the Camp Scott area when you
10 talked to Mr. Shroff, who was present?

11 A Many people.

12 Q Do you remember their names?

13 A No.

14 Q That report might help you remember?

15 A That report won't help me remember.

16 Q Well, we won't know that until you read it.

17 A I'll read it for you but it won't help me remember.

18 Q Thank you. Now, in reference to the investigation
19 of the homicides at Camp Scott, did you talk to anybody else
20 the same day that you talked to Mr. Shroff?

21 A I talked to many people.

22 Q You didn't understand my question.

23 MR. FALLIS: He did understand the question and --
24 one moment. This man called him as a witness. He asked him --

25 THE COURT: Gentlemen --

1 MR. FALLIS: -- a broad question. He's given him
2 the answer to the question and he wants to argue with the
3 witness. I object to it as being argumentative, he's answered
4 the question. "I talked to many people." The question was:
5 "Did you talk to anyone else?" He said, "I talked to many
6 people."

7 THE COURT: Sustained.

8 MR. ISAACS: The answer to the question --

9 THE COURT: Mr. Isaacs, why don't you ask him who
10 else he talked to?

11 MR. ISAACS: -- should have been --

12 THE COURT: Mr. Isaacs --

13 MR. ISAACS: Yes. And my next question would have
14 been who did you talk to, Mr. Weaver. If Mr. Fallis would
15 do his thinking, I'll do mine and we'll get along a lot better.

16 MR. FALLIS: If it please the Court, I think the
17 Court is the one doing the thinking here as to the rules of
18 evidence and Mr. Isaacs should be held within those rules.

19 MR. ISAACS: Mr. Fallis --

20 THE COURT: Mr. Isaacs, I've heard enough of this
21 banter between --

22 MR. ISAACS: So have I, Judge.

23 THE COURT: -- myself and attorneys regarding ques-
24 tions. You may ask the next question that you said you were
25 going to ask next. Who did you talk to, I believe was your

1 question.

2 MR. ISAACS: Thank you.

3 THE COURT: All right. Proceed with that question.

4 Q Who did you talk to Sheriff Weaver?

5 A There was no way that I can tell you an individual
6 I talked to. There was many people that I talked to.

7 Q Did you talk to any of Jack Shroff's sons?

8 A I met Jack Shroff's son. He was at Camp Scott
9 also.

10 Q Did you talk to him?

11 A To the son?

12 Q Yes?

13 A Yes.

14 Q What is his name?

15 A David, I believe.

16 Q Did you talk to Willard Shroff?

17 A No.

18 Q Do you know a Scott Shroff?

19 A No.

20 Q Have you ever talked to him?

21 A No, not to my knowledge.

22 Q Do you know how many sons Mr. Shroff has?

23 A No, I do not.

24 THE COURT: Excuse me, Mr. Isaacs. Is the court
25 reporter out of paper?

1 one I observed on the trail leading to Arapaho Unit from
2 Kiowa Unit.

3 Q Is that the same type of tread that you drew for
4 me on this piece of paper?

5 A Yes.

6 Q Were there any other items of evidence that linked
7 the Shroff burglary with the Camp Scott homicides?

8 A I was told -- I don't recall whether by Jack Shroff
9 personally -- I'm of the opinion Jack Shroff told me he had
10 in his possession a roll of black duct tape that was unac-
11 counted for as missing, which he thought to be his that was
12 at the crime scene.

13 Q How about any other items? How about a flashlight?

14 A No, not that I recall.

15 Q Any cord?

16 A Not that I recall.

17 Q Did anybody dust the Shroff residence for finger-
18 prints or run a technical investigation?

19 A I don't know. I was not -- I did not investigate
20 that burglary.

21 Q Did the results of any investigation of that burglary
22 come to you in the form of a report or a message from some
23 law enforcement agency?

24 A No.

25 Q Have you discussed the results of that investigation

1 with anyone?

2 A Yes.

3 Q And what were the results?

4 A It's generally agreed, I think, and -- among people
5 involved in the investigation that the tape was an item of
6 Jack Shroff's.

7 Q Did anybody report to you any time during the first
8 week the presence of suspicious people in the Camp Scott
9 area?

10 A None other than the one on the -- setting on the
11 bank at Snake Creek.

12 Q How about a report of a pickup truck in the area?

13 A That was a stolen pickup recovered in the general
14 area of Camp Scott but there was no report of any person.

15 Q Was that pickup processed for fingerprints?

16 A Not by me.

17 Q Do you know if some other law enforcement agency
18 processed it?

19 A I was told it was processed.

20 Q What were the results of that investigation?

21 A I don't know.

22 MR. FALLIS: Excuse me --

23 THE COURT: He's answered the question, Mr. Fallis.

24 MR. FALLIS: If it please the Court, may I inquire
25 of the Court to admonish counselor to ask questions other than

1 leading and suggestive and restrict him to the rules of
2 evidence?

3 THE COURT: I'm hoping that all counsel will abide
4 by the rules, Mr. Isaacs.

5 MR. ISAACS: Well, one of the well recognized ways
6 of refreshing the recollection of a witness is a leading
7 question, Judge, and Mr. Weaver is having a hard time remem-
8 bering and I sympathize because I know this investigation was
9 quite lengthy and there was a lot of factors involved. I
10 don't mean to breach the rules of evidence so openly and so
11 notoriously as to ignore the rules that the law says we're
12 to abide by in the courtroom and I'd like to, at this time,
13 apologize to Your Honor for losing my temper here in open
14 court.

15 THE COURT: Well, if you'll just ask your next
16 question, we'll get along, Mr. Isaacs.

17 MR. ISAACS: Thank you, Judge.

18 Q Mr. Weaver, did anybody report any other suspicious
19 circumstances to you during that first week of the investiga-
20 tion?

21 MR. FALLIS: If it please the Court, that question
22 has been asked and answered three times.

23 THE COURT: Sustained.

24 MR. ISAACS: Well, I don't think I asked about that,
25 Judge.

1 MR. FALLIS: If it please the Court, may I ask the
2 Court again to admonish counsel and he just made about a
3 five minute speech. I guess he's being paid by the word or
4 something, but it seems to me he asks to obey the rules of
5 evidence and yet he argues with the Court when the Court makes
6 a ruling. I would ask the Court to please admonish counsel
7 and let's get on with this matter.

8 THE COURT: Mr. Isaacs, you have been arguing after
9 my rulings. Would you please ask your next question?

10 Q Mr. Weaver, after you interviewed Mr. Shroff there
11 at Camp Scott, did you conduct any other interviews on the
12 same day?

13 A Again, I did not interview Mr. Shroff.

14 Q You spoke with him?

15 A He came there, the purpose of, as best I recall, to
16 report a burglary.

17 Q We're talking about words. You spoke with him,
18 didn't you?

19 A I spoke with him, yes.

20 Q After you talked with Mr. Shroff, did you talk to
21 anybody else?

22 A I talked to many people.

23 Q The same day?

24 A Yes.

25 Q About the Camp Scott investigation?

1 A Yes.

2 Q What are their names?

3 A I have no way of knowing or remembering.

4 Q Did you make a report about that which contain the
5 names of the people that you interviewed?

6 A I didn't interview. I talked to them.

7 Q Now wait a minute. We're talking about semantics.
8 When I say "interview", I'm talking about part of an investi-
9 gation whether it's a phone call or somebody comes to you
10 and says Sheriff, I'd like to talk to you a moment. I've
11 got a suspect for you. Can we let that word stand for oral
12 communication or written?

13 A Very well.

14 Q Did you interview anybody else?

15 A Yes, I talked to -- as I stated earlier, many people,
16 many of them on the telephone, different law enforcement
17 agencies throughout the country. There was people came to
18 Camp Scott volunteering what they thought was helpful infor-
19 mation but to give you a name of those individuals would be
20 impossible. It was pursued, it was a dead horse and we had
21 no time for whipping dead horses.

22 Q Mr. Weaver, on or about three or four days after the
23 homicides at Camp Scott, was there a body of a suicide victim
24 found near Camp Scott?

25 A Not that I recall.

1 Q Was there a body found somewhere in the south end
2 of Mayes County, some short period of time after the homicides
3 of the Girl Scouts?

4 A Not that I recall.

5 Q If there had been a body out there, you would have
6 been the proper law enforcement --

7 THE COURT: Now, Mr. Isaacs, I'm going to object
8 to that. That calls for conjecture on the part of the witness.
9 He stated there was no body.

10 MR. ISAACS: He said he couldn't recall, Judge.

11 THE COURT: Well, I don't see any point in pursuing
12 the line of questioning with this witness if he doesn't
13 remember there being one.

14 Q Mr. Weaver, did anybody turn over to you any poems
15 or writings that contained an allusion about blood or bodies
16 of little children?

17 A No.

18 Q Have you seen any such document?

19 A No.

20 Q Has any poem or writing about blood and death been
21 turned over to any law enforcement agency to your knowledge?

22 A Not that I know of.

23 Q You have never seen such an item?

24 A No.

25 Q Will you state whether or not Mr. Jack Shroff has

1 an adopted son?

2 A I have no idea.

3 Q Would you state whether or not Mr. Shroff has any
4 employees who live on his property south of Locust Grove?

5 A None that I know of.

6 Q Did he, at the time of the Camp Scott homicides?

7 A Not that I know of.

8 Q Did you investigate and determine whether or not
9 he had employees living there?

10 A No, I didn't investigate his burglary. I didn't --
11 I wasn't involved in the investigation of Jack Shroff.

12 Q That's in your jurisdiction, though, isn't it?

13 A Yes.

14 Q And the burglary would have been conducted by
15 someone under your supervision; is that correct?

16 A Yes.

17 Q Who was the person that conducted that investiga-
18 tion?

19 A I do not know at this time.

20 Q Would your records over there tell you?

21 A I think so.

22 Q Would you look at those records and tell me after
23 lunch?

24 A Yes.

25 MR. ISAACS: Could we recess at this time so he can

1 have time to look at those records? I think we could save
2 some time if we could recess earlier.

3 THE COURT: We'll recess then until 1:00 p. m., at
4 this time.

5 (Following a lunch recess, the proceedings continued
6 as follows:)

7 AFTERNOON SESSION

8 DIRECT EXAMINATION (Resumed)

9 BY MR. ISAACS:

10 Q Sheriff Weaver, did you have time over the noon
11 hour to look at the report concerning the burglary of the
12 Shroff residence?

13 A Yes.

14 Q Who were the officers that investigated that
15 burglary?

16 A Al Boyer, A. D. David and Beverly Hough.

17 Q Were any Oklahoma State Bureau of Investigation
18 Agents present during that investigation?

19 A The report doesn't reflect that in it.

20 Q What was the date of the burglary?

21 A The date of the report was 6 and 13th of '77, 9:45
22 p. m.

23 Q Was any physical evidence seized by any law enforce-
24 ment agent from your office?

25 A Not to my knowledge. The report doesn't reflect

1 that.

2 Q Was the crime scene processed for evidence?

3 A Excuse me. I believe there was a notation on that
4 report that a piece of rope was given to the officers for
5 comparison purposes. The results I do not know.

6 Q Was that crime scene at the Shroff residence
7 processed for any latent fingerprints?

8 A The report doesn't reflect that.

9 Q Was it processed for any scientific evidence such
10 as hair?

11 A Not to my knowledge.

12 Q From the report, all we know about the Shroff
13 burglary is that there is a footprint in the carpet; is that
14 correct?

15 A There is no notation in the report to that effect.
16 I was told that this is where the carpet came from with the
17 footprint on it.

18 Q Have you ever been inside the Shroff residence
19 located south of Locust Grove?

20 A No, never have.

21 Q Have you ever conducted any searches in that area?

22 A Yes.

23 Q When did you do that?

24 A On several occasions, searching for caves.

25 Q Did you find any?

1 A Yes.

2 Q Are any of these caves listed Cave 1, Cave 2 or
3 Cave 3, Mr. Weaver?

4 A Yes. Cave 3 is just on the opposite ridge to
5 where the dog went the day we had the dog over there.

6 Q Let me ask you this: The ridge we're talking about
7 is on the west end of Mr. Shroff's property, is it not?

8 A I would guess it to be the southwest portion of
9 his property.

10 Q All right. The cave we're talking about is located
11 on which side of that ridge?

12 A On the south side.

13 Q Now, that would be over the hill from Mr. Shroff's
14 house?

15 A Yes.

16 Q Did you go to that cave?

17 A Yes.

18 Q While at that location, did you seize any items of
19 evidence?

20 A Yes, some.

21 Q Let me ask you this: Were those items turned over
22 to the Oklahoma State Bureau of Investigation?

23 A Yes.

24 Q Who was with you when you went there, Sheriff?

25 A There was members of the OHP, members of the OSBI;

1 there was, I believe, members of the FBI and Roger Osborne
2 who is a dog trainer-handler from Moore, Oklahoma -- I
3 believe that's where he lives.

4 Q What date, to the best of your recollection, was it
5 that you went to that cave?

6 A I believe it was on July 29th. Now, we had been
7 on this particular hill previous to that time searching for
8 a cave. We had information that there was a cave there.

9 Q Who provided you with that information -- excuse
10 me.

11 A Darren Creekmore -- Darren Creekmore.

12 Q Did he take you there to that cave?

13 A He went with us on that particular hill the first
14 time we visited the mountain and we weren't able to locate
15 the cave but we went back on a later date with the dog and
16 members of the different agencies and did find the cave.

17 Q When you went to that cave, you have told us that
18 various law enforcement officers were with you. What items
19 of evidence did you yourself seize and transport to the OSBI?

20 A Ink scrapings from the sign on the cave wall.

21 Q Is this the cave that had the writing on it?

22 A Yes.

23 Q Sheriff Weaver, would you tell me how many miles
24 south of Locust Grove you would have to drive down that black-
25 top highway, Twin Bridges Road, to be in an approximate location

1 of that cave?

2 A Approximately three miles.

3 Q And then go back west; is that correct?

4 A Yes, sir.

5 Q At that time, did you seize an empty Treet can,
6 canned meat can?

7 A No.

8 Q Can you tell me where you picked up one of those
9 Treet cans which you later submitted to the OSBI?

10 A It would be difficult to say. There was numerous
11 times that there were articles found in a location that was
12 submitted to the OSBI for examination to determine whether or
13 not the suspect had been to that location so to isolate one
14 Treet can would be impossible.

15 Q How about the Treet can that you submitted in a
16 large plastic bag and cardboard box?

17 A Was there any other item submitted along with it?
18 This might help.

19 Q Yes, empty white styrofoam cup, cherry blossoms,
20 brown paper sack containing piece of torn paper, an open
21 Cracker Jack box, containing one white filter cigarette butt,
22 a torn piece of paper, a large grocery sack, Wal-Mart, con-
23 taining a piece of plastic strip.

24 A I believe -- I believe those items were picked up
25 by a Deputy down in the Law City area, which is down in

1 Cherokee County at some type of church camp, where it was
2 reported a stranger was seen and acting suspicious and I
3 believe that was submitted, too, and the results of that was
4 negative.

5 Q Among those items was a manilla envelope stamped
6 "Thank you for shopping at K-Mart" bearing a white label
7 with 67-SL Hubber. Can you explain that for me?

8 A No.

9 Q I hand you a copy of technical examination report
10 dated April 5, Lab No. S-77-332, at page 11, and ask if
11 that contains other items -- that contains a list of other
12 items that were submitted along with those I have previously
13 mentioned?

14 A I don't recall all these items. I remember some
15 of the items as being picked up at that location and submitted
16 to the OSBI but I don't think that I went through them in
17 their entirety. I just can't recall.

18 Q Sheriff, this Sears short sleeve yellow shirt,
19 size 14-14-1/2, do you know where that shirt came from?

20 A No, I don't. I don't recall the shirt.

21 Q Do you recall a black, green long sleeve shirt,
22 western style Temtex?

23 A I don't recall when these items, the can, the sack
24 were submitted. I don't remember any clothing items but it
25 has been some time ago and possibly they were there and I've

1 forgotten about each item that had been submitted.

2 Q Item UU-1 was a cardboard box containing a blue
3 and white towel in a plastic bag. Do you know where that
4 item came from?

5 A No, I do not.

6 Q Back to the cave, tell me what other items of
7 evidence you seized at the cave other than paint scrapings?

8 A I believe that was all, all that I can recall at
9 this time.

10 Q After going to the cave with Mr. Osborne and the
11 dog, will you tell me where you went after that?

12 A I don't recall where we went from there.

13 Q Did you use the dog for tracking?

14 A No, no.

15 Q You used the dog to find the cave; is that not
16 correct?

17 A Mr. Osborne found the cave and he reported to me
18 another officer was present, that it was the dog's scenting
19 of the cave that led him to it and I was not there and I
20 observed it when it was found. I was called to it by Mr.
21 Osborne.

22 Q What item was used for scenting purposes?

23 A There was no scent. The dog was not scented on
24 that. We were not there for the purpose of tracking.

25 Q What is the location of Cave No. 1, Mr. Weaver?

1 A You can hardly get there from here. It's between
2 -- it's down Earbob Road, about four or five miles down Ear-
3 bob Road, down 82 Highway and back north in a holler.

4 Q Is that the one where we're talking about the cave
5 and the cellar?

6 A Yes.

7 Q Cave No. 2 is which cave?

8 A That would be the cave as listed as a mile east
9 and a mile or so south of Sam's Corner.

10 Q Is that the one in the Skunk Mountain area?

11 A I believe it's referred to as Skunk Mountain.

12 Q Cave No. 3 is the cave we have been talking about
13 where you took the paint scrapings; is that correct?

14 A Yes.

15 Q Who took those paint scrapings from No. 3?

16 A I did.

17 Q What did you put them in?

18 A I believe I put them in a piece of paper and in
19 an envelope, submitted them to the OSBI.

20 Q Approximately what time of day was it when you
21 were at the Shroff residence with the dog handlers?

22 A It would have been, as best I can recall, in the
23 first week of the investigation for the homicides.

24 Q Would it have been after the report of the Shroff
25 residence burglary?

1 A Yes, it would have been after that.

2 Q Can you approximate for me or give me the best
3 of your recollection the date when you were at Cave No. 3?
4 I believe you said July 17th?

5 A 29th, I believe.

6 Q July the --

7 A I'd have to go back to my notes to be positive.

8 Q Was the writing from the cave wall taken the same
9 day?

10 A Yes.

11 Q Mr. Weaver, in between the 7th and 17th of June
12 and the 29th of July, tell me what particular duties you
13 performed in reference to the investigation of the homicides
14 at Camp Scott?

15 A Coordination of the technicians and the Bureau
16 Agents, the Deputies and checking out information that we
17 had received from telephone, otherwise word-of-mouth.

18 Q During that time, did you interview any people?

19 A I only - as an interview as such, I interviewed
20 the Potts, Mr. and Mrs. Potts.

21 Q Well, did you talk to anybody?

22 A I talked to people that would furnish information
23 and pursued the leads given until it was exhausted.

24 Q Did you talk to the Creekmore boy?

25 A Not at that particular time that I recall. It was

1 some time later; sometime between July 13th -- June 13th and
2 July 29th.

3 Q On or about what date did you talk to the Creek-
4 more boy?

5 A It would have been a few days before we located the
6 cave, No. 3.

7 Q A few days before the 29th of July?

8 A Yes.

9 Q Where did you have a conversation with him?

10 A I believe at the County Jail - Mayes County Jail,
11 as best I recall.

12 Q In jail or in your office?

13 A In my office. It wouldn't have been back in the
14 jail.

15 Q So he wasn't a prisoner there?

16 A Possibility he was; I don't recall whether he was
17 or not.

18 Q What was the substance of that conversation with Mr.
19 Creekmore?

20 A He told -- he told me he knew where there was a
21 cave at on the Shroff residence and agreed to escort us to
22 locate it.

23 Q What else did he tell you?

24 A That he had been to the cave, had talked to Gene
25 Hart at the cave, visited with Hart since the time of the

1 homicides.

2 Q What day did he say that he had been at the cave
3 and talked to Gene Hart?

4 A I don't recall him giving a particular date that
5 he talked to him there.

6 Q Did he say how long?

7 A Not that I recall, just that he had visited with
8 him there at that cave.

9 Q Did he describe Gene Hart for you?

10 A I don't remember whether he did or not.

11 Q Did you make a report about this interview with
12 the Creekmore boy?

13 A No.

14 Q How many days after the homicides at Camp Scott
15 did the Creekmore boy tell you elapsed before he saw Gene
16 Hart at the cave over there south of Mr. Shroff's house?

17 A I don't recall that he said any date on it, just
18 the fact that he had visited with Gene Hart at this particular
19 cave. I don't recall him giving a date.

20 Q Did he tell you anything else about the visit that
21 he had with Gene Hart in the cave south of Jack Shroff's?

22 A Nothing more that I can recall.

23 Q Did you later interview the Creekmore boy?

24 A No. He went with us to this particular mountain to
25 try to locate the cave which we weren't successful.

1 THE COURT: I didn't -- you were or were not
2 successful?

3 A (By Sheriff Weaver) Were not successful.

4 Q Did the Creekmore boy tell you about the glasses
5 Gene Hart was wearing?

6 A No, not that I recall.

7 Q Did he tell you anything about the clothing that
8 this person who said he was Gene Hart had on?

9 A No. Just the fact that he knew Gene Hart -- it was
10 Gene Hart that he had visited with in the cave.

11 Q Was anybody with the Creekmore boy when he had this
12 visit?

13 A No, not that I recall. He didn't mention anyone.

14 Q So we can say that the Creekmore boy told you he
15 saw a man at the cave that he knew as Gene Hart some time
16 after July 20; is that correct?

17 A Thereabouts, yes.

18 Q And that he had a conversation with this man?

19 A Yes.

20 Q Did he tell you what the conversation was about?

21 A No.

22 Q Well, didn't you ask him what they talked about?

23 A Well, possibility that I did but I don't remember.

24 Q Was anybody present when you interviewed this boy?

25 A I don't recall whether there were or not. I remember

1 Captain Mintzer of the OHP went with us to the hill with
2 the Creekmore boy to locate the cave. Now whether he was
3 present when the information was given or not, I don't recall.

4 Q Did you make a tape recording of that interview?

5 A No.

6 Q Didn't that kind of seem like it was evidence that
7 you wanted to preserve for some later use?

8 MR. FALLIS: If it please the Court, I object to
9 the argumentative form of the question.

10 THE COURT: Sustained.

11 Q Did you take a written statement from the Creekmore
12 boy?

13 A No, we just proceeded to the hill, looking for the
14 cave.

15 Q Captain Mintzer of the Oklahoma Highway Patrol
16 proceeded there with you. Did anybody else go with you and
17 the Creekmore boy?

18 A Captain Mintzer and members of OSBI.

19 Q Okay, I'm talking about in your car?

20 A Not that I recall. I can't recall who traveled in
21 my car, if anyone did or not. I do remember being on that
22 mountain.

23 Q After you had been up at the mountain to the cave,
24 did you transport the Creekmore boy to a particular location?

25 A I believe we transported him back to the Mayes

1 County Jail. I believe at that time he was incarcerated. I
2 would have to check the report but I believe he was an inmate
3 of the jail.

4 Q How old is this Creekmore boy?

5 A He's a juvenile or he was at that time. I don't
6 remember his exact age.

7 Q Do you know his address right now?

8 A No, I don't.

9 Q Do you know where his parents live?

10 A No, I don't know his parents.

11 Q Have you talked to the Creekmore boy since that
12 time?

13 A No, have not seen him since that time.

14 Q How long after the homicides at Camp Scott, to the
15 best of your recollection was it that the Creekmore boy said
16 he had seen Gene Hart?

17 A Well, I can't recall how long he had that -- from
18 the time the homicides until he saw what -- but he told me
19 about visiting with him at the cave. It was some days later.

20 Q Would it have been around the 20th of July?

21 A That would be close to the date that we went to
22 the particular hill looking for the cave. It was some time
23 previous to that that he said he visited with Hart at that
24 cave. In fact, I don't even recall him giving a date as to
25 when he saw him there other than since the homicides.

1 Q After you interviewed the Creekmore boy, did you
2 interview anybody else in reference to Gene Hart being in
3 the area in these reported sightings or follow up any phone
4 calls from anybody?

5 A Yes.

6 Q Tell me about those?

7 A I visited with the former sheriff, Sheriff Faircloth
8 about the previous rapes.

9 MR. ISAACS: Your Honor, at this time, may we
10 approach the bench?

11 THE COURT: Yes, your may.

12 MR. ISAACS: Judge, could we have an in camera
13 hearing on this?

14 THE COURT: Yeah, real brief.

15 (WHEREUPON, the following proceedings were had
16 in chambers:)

17 THE COURT: Let the record show we are again in
18 camera at the request of the Defendant. Present are the
19 Defendant and his counsel, Mr. Isaacs and Mr. Pitchlynn; for
20 the State we have Mr. Wise, Mr. Fallis, Mr. Hobbs and the
21 witness Sheriff Weaver is present and other security personnel.

22 MR. ISAACS: All right, Judge, my position is that
23 Mr. Weaver knew from what we discussed back in chambers that
24 I was not going to ask him about any previous rape charges
25 that Mr. Hart has been charged of. I submit that this was an

1 evidentiary harpoon designed to deny us adequate examination
2 of the witness on other matters, that it has no probative
3 value in this matter and for the Court, in support of my
4 argument, that he be admonished not to discuss those rape
5 charges and the filing of them. I submit that the case
6 Adnip against the State, a recent 1977 case applies. In
7 Adnip, the Defendant was charged with burglary at the trial
8 of that case. The Defendant was convicted and the Defendant
9 -- the testimony against the Defendant was that he had
10 committed a burglary and the State produced into evidence
11 evidence of other burglaries.

12 THE COURT: Excuse me. Did you say the State
13 introduced other evidence?

14 MR. ISAACS: Yes, sir, State introduced evidence
15 of other burglaries and the Defendant, as one of his
16 assignments of error alleged that he should not have been
17 convicted because there was error because the State was
18 permitted to introduce evidence of other burglaries.

19 The Court of Criminal Appeals says the general rule
20 in this State, when the Defendant is put on trial for one
21 offense, he is to be convicted, if at all, by evidence which
22 proves that he is guilty of that offense alone and evidence
23 of other crimes, either prior or subsequent to the offense
24 for which he is placed on trial, is inadmissible. We cite
25 Hawkins against the State. They go and they say however this

1 Court does recognize exceptions to this.

2 THE COURT: I'm familiar with those. You don't
3 have to read them.

4 MR. ISAACS: And they elaborate further: The
5 Court in this case says the common scheme, plan or design
6 contemplates some relationship or connection between the
7 crimes in question. The word common implies that although
8 there may be various crimes, all said crimes must come under
9 one plan or scheme whereby the facts of one crime intend to
10 establish the other. Such as where the commission of one
11 crime depends or facilitates the commission of another crime
12 or where each crime is merely a part of a greater overall
13 plan. In such event - and this part I want to emphasize -
14 the crimes become connected or a related transaction and
15 proof of one becomes relevant in proving the other. However,
16 evidence of other offenses should never be admitted under this
17 exception when it shows that the accused committed crimes
18 wholly independent of that charge.

19 In the instant case there is nothing to indicate
20 that any of these crimes were connected in any manner other
21 than some of the burglaries were committed on the same day.
22 Furthermore, the mere fact that the evidence shows that the
23 crimes were all burglaries allegedly committed by the same
24 person is not sufficient to file within this exception. Mere
25 similarity of alleged offense does not of itself indicate

1 common scheme, intent or plan. Therefore, since it is ap-
2 parent that the crimes are separate and unrelated, the Trial
3 Court erred by admitting the evidence of the prior offenses.

4 Judge, Mr. Hart was convicted twelve long years
5 ago and to permit this type of testimony in open court where
6 we have publicity of the whole world watching us is to deny
7 him the fair trial that was the reason for my motion this
8 morning.

9 I come now and I ask that that be stricken from
10 the record and that Mr. Weaver be admonished not to discuss
11 on the witness stand at this time any further mention of any
12 previous conviction.

13 THE COURT: Before you respond, I am going to ask
14 the reporter to read back the question Mr. Isaacs asked which
15 brought the response that he is now complaining of. If you
16 need to take some time, go ahead.

17 THE REPORTER: If I could read two questions ahead
18 it would make more sense.

19 THE COURT: Go ahead and read where it makes more
20 sense.

21 (Reporter read the testimony to Court and counsel.)

22 THE COURT: Objection to the answer -- excuse me,
23 Mr. Fallis, you wanted to respond?

24 MR. FALLIS: Yes, sir, Your Honor. First of all,
25 of course, this cited authority does not touch upon the issue

1 I thought was before the Court, that is the complaint concern-
2 ing evidentiary harpoons which is the basis for reversal
3 in that particular case that he cited at a trial level, not
4 a preliminary hearing level. And this is, after all, a
5 preliminary hearing.

6 I think the issue is the witness attempted to res-
7 pond to the question accurately and upon the question being
8 read back by the reporter, the counsel pursued him as to any
9 follow-up investigation and I think the witness is attempt-
10 ing to respond to the question asked. I might point out
11 and I'm sure the Court's aware of this, that the attorney
12 for the Defense has continually asked this question as to
13 who he talked to and who he might have interviewed, even
14 had some discussion in the courtroom as to some matters
15 concerning the term "interview" and "interrogate" and so on.
16 Also, I recall to the Court's attention that he has already
17 opened the door to this area by his previous question of the
18 witness Weaver when he asked concerning the conversation with
19 Ted Lempke concerning suspects and he elicited the answer
20 as to MO's, which the State will attempt to elaborate on
21 cross examination because the door has been opened in that
22 area.

23 THE COURT: Anything finally?

24 MR. ISAACS: Judge, this is an issue for the Trial
25 Court to decide. Mr. Hart pleaded guilty to that matter, we

1 have pending a post-conviction release application which
2 will be filed. Now, if at this time that evidence is to
3 come before the citizens of Mayes County and if that evidence
4 is to be published in the newspaper, if it's to be admitted
5 into evidence at this time, Mr. Hart is not going to be tried
6 on evidence in this case and solely on the evidence in this
7 case. He's going to be tried on his criminal record more
8 than ever.

9 If you noticed, when I asked Mr. Weaver about what
10 his conversation was that morning with Mr. Lempke, when he
11 said MO's, I didn't go into it any further. Now, I made
12 this motion back here in chambers before we ever went out
13 in the courtroom and I specifically told Sheriff Weaver that
14 my questions were not going to be directed to anything that
15 happened involving any rape convictions that my client had
16 and the Court said he would take that under advisement. He
17 did not have equal protection of the law to be tried on only
18 the facts if that evidence is admitted at this time. The
19 possibility of having a fair trial is right out the window.
20 Because we have got the press here and everybody goes to
21 read the newspaper.

22 MR. FALLIS: If it please the Court, in this in-
23 stance, it would appear that what counsel is asking is that
24 the rules of evidence be changed or modified to accomodate
25 the misconduct of this preliminary hearing and it seems to

1 me if you were to reverse the situation, if I would come
2 back in chambers and ask the Court for an in camera hearing
3 and warn the Court and Defense Counsel that I wanted to ask
4 a question, did you have a conversation with somebody but
5 don't you tell me what it's about and don't you dare answer
6 it, would you, in any way, prevent the Defense from getting
7 back to what the conversation was? That is an appropriate
8 response; it's an appropriate request; it's an appropriate
9 question by people involved in litigation. Insofar as his
10 concern about the Defendant receiving a fair trial in this
11 community, that matter, I assume, will be determined at the
12 time they're going to get to select a jury in this particular
13 case. Lord knows, we hear every night about bean dinners and
14 money for Mr. Isaacs in the newspaper. That has nothing to
15 do with this preliminary hearing.

16 MR. ISAACS: Judge, this is not a trial. We, at
17 the trial, will have a ruling from the Trial Court before we
18 ever try this cause as to the admissibility of Mr. Hart's
19 previous convictions. To try a man on his record at the
20 preliminary hearing just isn't giving a man a fair trial when
21 you've got the publicity that this case has associated with
22 it.

23 THE COURT: Upon hearing the arguments and having
24 had the question and answer read back by the court reporter,
25 it's my decision that the Motion to Strike will be sustained

1 because the answer was not responsive to the question.

2 Further, this Court does not consider at this
3 point that the Defense has gone into the question of prior
4 convictions. However, Mr. Isaacs, let me assure you I feel
5 that any answer you elicit from the witness that is respon-
6 sive to the question, you have to live with that answer and
7 I don't think that you're in a position to call a witness
8 and then complain about answers to questions which are res-
9 ponsive.

10 MR. ISAACS: Yes, sir.

11 THE COURT: That is in the case here. But I would
12 caution you, we can't run back here every time an answer that
13 you feel is a little damaging is given because you're the
14 one asking the questions.

15 MR. ISAACS: Okay.

16 MR. FALLIS: If it please the Court, I indicated
17 that we take a position that the door was opened at the
18 conversation with Mr. Lempke. In order to accomodate the
19 Court and not run back in chambers again, could we have
20 some indication on that?

21 THE COURT: It is the position of the Court that
22 he has not gone into the subject of prior convictions of
23 Mr. Hart and so that subject at this point would be closed
24 upon cross examination. The fact that he had a conversation
25 with Mr. Lempke, however, could be explored but he has not

1 gone into the nature of that conversation at this point.

2 MR. ISAACS: I don't intend to question Sheriff
3 Weaver about the conversation any further.

4 (WHEREUPON, the following proceedings are had
5 in open court:)

6 DIRECT EXAMINATION (Resumed)

7 BY MR. ISAACS:

8 Q Sheriff Weaver, did you seize any evidence from
9 the location of the Cave No. 1?

10 A (No response.)

11 Q In the cave-cellar area?

12 A I have seen evidence I was told was recovered
13 from there.

14 Q But you didn't seize any?

15 A Not at that location.

16 Q Did you seize any evidence at Cave No. 2?

17 A No.

18 Q In Cave No. 3, you took the paint scrapings or
19 ink scrapings off the wall; is that correct?

20 A Right.

21 Q Have you, in the recent past, been at the residence
22 of Jack Shroff?

23 A No.

24 Q Have you been there within the last week?

25 A No.

1 Q Has anyone been sent there by your office?

2 A No, not to my knowledge.

3 Q Did anybody take any hair from Darren Creekmore?

4 A Not that I'm aware of.

5 Q Did anybody take any blood from Darren Creekmore?

6 A Not that I recall.

7 Q What type of shoes or footwear was he wearing when
8 he was in your office?

9 A I don't recall if they examined him.

10 Q Sheriff Weaver, tell me the names of the other
11 persons you spoke to about the homicides at Camp Scott?

12 A Oh, I talked to Fred Friday, who is a resident
13 down there in that area. It would be impossible to name names.
14 I talked to many people.

15 Q Did you take any written, sworn statements from
16 anyone?

17 A No.

18 Q Did you gather any evidence from any people that
19 lived in that area?

20 A From time to time we would gather evidence from
21 burglaries or places we suspected a suspect would be hanging
22 out or had visited.

23 Q There was a burglary in the Sam's Corner area, was
24 there not?

25 A At what time?

1 Q Some time during the month of June, 1977?

2 A Yes, Sam's Corner Grocery Store itself was burglar-
3 ized.

4 Q Did your office investigate that grocery store
5 burglary?

6 A No, I believe the OSBI did.

7 Q Was any physical evidence taken from that burglary
8 scene?

9 A I don't know. I did interview the owner of the
10 store about items taken in the burglary. As far as gathering
11 any evidence, I didn't.

12 Q What items were taken in that burglary?

13 A Cigarettes, some small quantity of canned items,
14 groceries, some bug spray, Tick-Off, or whatever. It's to
15 keep insects off. No cash was taken which was unusual. The
16 cash register was there with cash in it but it wasn't dis-
17 turbed.

18 Q Were any fingerprints lifted by any members of the
19 OSBI from the grocery store?

20 A I don't know.

21 Q I have a technical report on a Grossman burglary.
22 Where is the Grossman house located?

23 A That is the grocery store about seven miles east of
24 Locust Grove.

25 Q Did you investigate that burglary?

1 A No, I did not.

2 Q Who investigated it?

3 A OSBI.

4 Q Give me the names of the OSBI Agents who investi-
5 gated this Sam's Corner burglary?

6 A I'm not sure who the agents were that investigated
7 that.

8 Q Do you know the names of the agents who investiga-
9 ted the Grossman burglary?

10 A I believe Leo Albro.

11 Q Was anyone with him?

12 A I don't know; I was not there at that time.

13 Q What was the approximate date of the Grossman
14 burglary?

15 A I couldn't tell you from memory.

16 Q Before or after Sam's Corner?

17 A After.

18 Q Did you make a report about the Grossman burglary?

19 A I'm sure one was made.

20 Q Do you know the items taken in that burglary?

21 A Only what I was told. I did not visit the scene.

22 Q What items?

23 A About the same as taken at Sam's Corner.

24 Q Was that grocery store processed for fingerprints?

25 A I don't know whether it was or not. I was not

1 present.

2 Q You didn't receive a report on one then, on
3 fingerprints?

4 A Not that I recall.

5 Q Were there any other burglaries in Mayes County in
6 the month of June which were processed by and investigated by
7 State Agents?

8 A There was other burglaries but I don't know whether
9 or not they were in the month of June. I don't recall.

10 Q Give me the names of the other burglaries processed?

11 A I don't know their names. There was a resident
12 there on Earbob Road that was burglarized. I believe
13 Deputy A. D. David was the investigating officer on it and
14 there was items submitted to OSBI, as I recall, from that
15 burglary.

16 Q Give me the names of any other people that you
17 interviewed other than the ones that we've talked about who
18 gave information pertaining to this case?

19 A It would be impossible for me to give names without
20 going to my notes. Possibly, I have some names on my note
21 pad.

22 Q The ones that you thought were particularly material
23 other than the ones we have already mentioned?

24 A I don't recall any that were particularly material
25 or immaterial. In an investigation, you are interested in any

1 information, so at the time of receiving the information, it
2 is all valuable until pursued.

3 Q Sheriff Weaver, did you go to the Skunk Mountain
4 area, Mr. Auxier's property, and seize any evidence there at
5 a later date, later than July 10th?

6 A I don't recall me personally ever taking custody
7 of any of it at the Auxier residence, as far as Auxier proper-
8 ty.

9 Q Did anybody ever report to you finding any finger-
10 prints involved in the investigation of the Camp Scott homi-
11 cides?

12 A Yes, I have heard fingerprints mentioned.

13 Q Who mentioned fingerprints?

14 A Ted Lempke, I believe, mentioned fingerprints.

15 Q Where was the fingerprint that Mr. Lempke mentioned?

16 A I don't know that he stated where they were found,
17 just that there was a print and a Paul someone -- I don't
18 know.

19 Q Did he -- was he able to identify the fingerprint?

20 A I don't believe so; I was not told.

21 Q Was this one on one of the items of evidence that's
22 been admitted here?

23 A I believe that's correct.

24 Q All right. Were there any other fingerprints report-
25 ed to you concerning the investigation of the homicides at

1 Camp Scott?

2 A Not that I recall.

3 Q Did you ever receive a fingerprint report from Mr.
4 Lempke?

5 A No.

6 Q Or any of his agents?

7 A No.

8 Q Did anyone send you -- did you ever interview
9 anybody regarding a blood type submitted as evidence in this
10 case?

11 A No, not that I can recall. I see no reason - I
12 know nothing about blood.

13 Q Have you ever interviewed anyone about hair received
14 into evidence in this case?

15 A No.

16 Q Did anybody take a sample of hair from Mr. Creekmore?

17 A Not that I know of.

18 Q Sample of blood?

19 A Not to my knowledge.

20 Q Saliva?

21 A No.

22 Q Now Mr. Weaver, did someone at your direction take
23 Mr. Hart's underwear out of the Mayes County Jail?

24 A Yes.

25 Q Did someone at your direction take Mr. Hart's bedding

1 out of the Mayes County Jail?

2 A Yes.

3 Q Who, at your direction, took Mr. Hart's underwear
4 out of the Mayes County Jail?

5 A Bob Bias, the Jailer.

6 Q Who, at your direction, took Mr. Hart's bedding?

7 A Same person.

8 Q Did someone take Mr. Hart's garbage out of the
9 Mayes County Jail, cigarette butts and paper?

10 A Yes.

11 Q Who was that person?

12 A I believe the OSBI technician did that.

13 Q And for what purpose was that done?

14 A I don't know. You mean the garbage?

15 Q Yes, sir.

16 A I don't know.

17 Q For what purpose was his underwear removed from
18 the Mayes County Jail?

19 A It was submitted to OSBI for purposes I do not know.

20 Q What about the comb and the brush that he used?
21 Did someone remove that?

22 A I don't recall a comb or brush.

23 Q Did you buy him a comb or a comb and a brush when
24 he first entered your jail?

25 A We bought him a complete outfit, clothing, under-

1 clothing, brush, new blanket.

2 Q Did someone remove that hairbrush and that comb
3 at your request?

4 A Yes.

5 Q Who was that?

6 A I don't recall seeing it but I am sure it was
7 taken.

8 Q Was that Mr. Bias?

9 A Yes.

10 Q What was done with that comb and brush?

11 A Submitted to OSBI.

12 Q Was that for hair samples?

13 A I would assume so.

14 MR. ISAACS: I think that's all of the Sheriff I
15 have at this time, Judge.

16 THE COURT: Cross examination?

17 MR. FALLIS: May I have just one moment, Your Honor.

18 CROSS EXAMINATION

19 BY MR. FALLIS:

20 Q Mr. Weaver, when you were answering questions for
21 counsel concerning the floor of Tent No. 7, do you recall
22 that, sir?

23 A Yes.

24 Q Did I understand that it was your impression from
25 what you observed that what you described as being a military

1 type of footprint was placed on the floor in a different
2 manner than the footprint that appeared, looked like a
3 tennis shoe print; is that correct?

4 A That is correct.

5 Q How do you mean that, please?

6 A It appeared to me that this particular footprint
7 had been smeared over, had been wiped through.

8 Q Just a moment, sir. Which footprint had been
9 wiped through?

10 A The one with the wide lug.

11 Q The military type?

12 A As I refer to it, the military type.

13 Q All right, sir, and the tennis type shoe?

14 A Had not been smeared through. It appeared to have
15 been put there at a later time on top of the smear. There
16 was no smudges, no smears through it.

17 Q Well, if I were to, as an example, place my foot
18 on an area where there had been no wiping and take my foot
19 away, I would leave one type of footpring; correct?

20 A Correct.

21 Q Then I wipe through that and step on top of the
22 wiped area; is that what you're talking about? It was a step
23 on top of a wiped area?

24 A Yes.

25 Q The tennis shoe type?

1 A Yes.

2 Q Now this person Darren Creekmore, do I understand
3 that he said that he was with Gene Hart at the site of
4 Cave No. 2?

5 A Cave No. 3.

6 Q Cave No. 3?

7 A Yes.

8 Q Is it correct, sir, that this is the cave near the
9 Shroff property?

10 A Yes.

11 Q Where the writing occurred?

12 A Yes.

13 Q The writing that said something to the effect that
14 the killer was here, bye bye fools, 6-16-77 or 77-16?

15 MR. FALLIS: Judge, we'll stipulate that's what it
16 said.

17 THE COURT: Very well.

18 Q Is that correct, sir?

19 A That's correct.

20 Q All right. Now, did I understand you observed
21 dogs during one of the tracking sessions or a dog go up near
22 or in that general area?

23 A Yes.

24 Q Sheriff Weaver, counsel asked you concerning - it
25 was with Mr. Ted Lempke. He was asking you, I believe, as to

1 what activities you did at the cave that day. You said you
2 had a conversation with Mr. Lempke?

3 A That is correct.

4 Q All right, what were those conversations about,
5 sir?

6 MR. ISAACS: I object, Your Honor, it's hearsay.

7 THE COURT: Sustained.

8 Q Well, counsel asked you, Mr. Weaver, the names of
9 any other people that you talked with concerning this case;
10 do you recall that question?

11 A Yes, I do.

12 Q Who is Mr. Fairclaw?

13 MR. ISAACS: I object to that, Your Honor.

14 THE COURT: Who?

15 MR. FALLIS: Fairclaw -- Faircloth, excuse me,
16 Your Honor.

17 THE COURT: Was that a name brought out on direct
18 examination?

19 MR. FALLIS: He asked for any other names and it
20 was mentioned, Your Honor.

21 THE COURT: Overruled. You may answer that ques-
22 tion. Who is Mr. Faircloth?

23 A Former Sheriff of Mayes County.

24 Q Mr. Weaver, did you have an occasion to ever talk
25 with Mr. Faircloth concerning any type of propensities by the

1 Defendant for women's eyeglasses?

2 MR. ISAACS: I object to that question, Your Honor.
3 I object to that question.

4 THE COURT: Did you hear the question, Mr. Isaacs?

5 MR. ISAACS: I heard enough of it to know. Object
6 to it on the grounds it's hearsay and furthermore it violates
7 the confrontation clause of the 6th Amendment; cannot be
8 cross examined, therefore it is inadmissible.

9 THE COURT: Sustained on the basis of hearsay.

10 MR. ISAACS: Thank you.

11 MR. FALLIS: My question was, Your Honor, if he
12 had talked with him about this - not what the conversation
13 was, if he had talked about women's eyeglasses or any propen-
14 sity of the Defendant for eyeglasses.

15 THE COURT: All right. I misunderstood. Your
16 objection is premature. You may answer that question.
17 Yes or no.

18 MR. ISAACS: I object to that on the grounds that
19 that which cannot be cross examined is inadmissible.

20 THE COURT: Overruled. You may answer. Yes or no.

21 Q If you discussed with Mr. Faircloth or ever talked
22 with him concerning the subject of women's eyeglasses with
23 reference to this defendant?

24 A Yes, I did.

25 Q Did you ever talk to any other person on that same

1 subject matter?

2 A Since that date?

3 Q Back during the time of the investigation, sir?

4 A I talked with other investigators that were involved
5 in the investigation of the homicide.

6 Q Now Mr. Weaver, I believe the question was asked
7 you concerning the taking of Mr. Hart's underwear and bedding
8 from the jail. Do you recall that question?

9 A Yes, I do.

10 Q Who did you submit those to, please?

11 A OSBI.

12 Q I see. Do you recall when that was done?

13 MR. ISAACS: We'll stipulate it was sometime during
14 and the first month after Mr. Hart was captured.

15 A I believe it was April 18th, but I'm not sure
16 without going to my records.

17 Q All right, sir.

18 MR. FALLIS: I believe that's all, Your Honor.

19 THE COURT: Redirect.

20 MR. ISAACS: We'll let him go.

21 THE COURT: Thank you, Sheriff.

22 Let's take about a ten minute recess. Before we
23 do, Mr. Isaacs, how many more witnesses do you have lined up
24 today?

25 MR. ISAACS: Judge, I've got several more. I'll

1 call Sheriff's Deputies today. I don't have anymore Girl
2 Scouts today or counselors but I do have several Deputies.

3 THE COURT: All right. We'll take about a ten
4 minute recess.

5 (Following a ten minute recess, the proceedings
6 continued as follows:)

7 THE COURT: Call your next witness, Mr. Isaacs.

8 MR. ISAACS: I call A. D. David.

9 THE COURT: Raise your right hand. Do you swear
10 to tell the truth, the whole truth and nothing but the truth,
11 so help you God?

12 THE WITNESS: I do, sir.

13 A. D. DAVID,

14 called as a witness on behalf of the Defendant, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. ISAACS:

18 Q Mr. David, would you state your full name for the
19 record, please, sir?

20 A A. D. David.

21 Q What is your occupation?

22 A Deputy Sheriff, Mayes County.

23 Q How long have you been employed for Mr. Weaver?

24 A Little over two years.

25 Q Directing your attention to June 13th, the early

1 morning hours of 1977, at Camp Scott. Did you have an
2 order from the Sheriff's Office to go there and investigate
3 some homicides?

4 A No, sir.

5 Q Did you go there to investigate?

6 A I left the house going to work and I heard on the
7 radio.

8 Q So you went to Camp Scott. What did you do there?

9 A I went to the gate to Camp Scott.

10 Q Did anybody meet you there, Mr. David?

11 A Yes.

12 Q Who met you?

13 A Gary Shamble.

14 Q Mr. Shamble was employed by which --

15 A Locust Grove.

16 Q What did you and Mr. Shamble do when you arrived?

17 A He let me in the gate and told me the direction
18 to go down where the rest of them were.

19 Q What were your duties on the 13th of June at Camp
20 Scott?

21 A When I got there, I reported to the Sheriff and I
22 just stood by for orders.

23 Q Later in the day, did you go to the Kiowa Unit?

24 A Yes, sir.

25 Q What time did you go there, Mr. David?

1 A I have no idea. It was that morning; it was early.

2 Q Mid-morning?

3 A Earlier than that.

4 Q When you went to the Kiowa Unit, describe for us
5 what you saw?

6 A Well, I went there and I saw - it looked like
7 sleeping bags and a partially undressed girl.

8 Q Were there other officers -- well, withdraw that --
9 there were other officers ahead of you, were there not?

10 A Yes.

11 Q The Oklahoma Highway Patrol was there?

12 A I believe there was one highway patrolman there.

13 Q How long after you arrived at the Kiowa Unit was
14 it before the Oklahoma State Bureau of Investigation arrived?

15 A Didn't seem like very long. I'd say thirty minutes
16 to forty-five minutes.

17 Q Mr. David, after you viewed the body, did you go to
18 Tent 7 and look in that tent?

19 A I didn't go up to the bodies to view them. I stayed
20 over by the ambulances.

21 Q Did you later go to the tent, Mr. David?

22 A Yes.

23 Q What did you see when you got to the tent, Tent No.
24 7?

25 A I don't believe I went in. I don't believe I looked

1 in. I believe I stood in front of it and kind of guarded it.

2 Q Did you seize any evidence in the Kiowa Unit on
3 the 13th day of June?

4 A No.

5 Q Did you transport any evidence?

6 A No, sir.

7 Q Did you participate in any searches?

8 A Yes, sir.

9 Q Describe for me the search that you participated
10 in?

11 A Well, I believe I participated in the search
12 from where the body was found to the Tent 7.

13 Q Be from the west side through Kiowa Unit to Tent 7?

14 A Well, it would be from -- the bodies were here and
15 Tent 7, I come this way, around behind the tent to there.

16 Q You said behind the tent. Do you mean behind the
17 staff tent, the counselor's tent?

18 A Yes, sir.

19 Q That search would have been conducted from the
20 south to the north and then back from the north in a half
21 circle, back to the area of the bodies; is that correct?

22 A I believe the first search -- I believe we tried
23 to determine how they got to 7, to right here (indicating).

24 Q Mr. David, you said you tried to determine how
25 they got from Tent 7 to the location of the bodies. How were

1 you to determine the route?

2 A Well, I was just with them.

3 Q Looking for footprints?

4 A Looking for footprints or leaves, anything that
5 would give us an indication of traveling.

6 Q Did you find anything that would indicate that the
7 bodies had been moved from Tent 7 in a particular direction
8 to their resting place?

9 A Yes, sir.

10 Q What was that? Go ahead and step down.

11 A I believe here at the fire ring, coming up this
12 way, I believe we found a board that had been turned over.

13 Q Only one board?

14 A Yes, sir. They've got benches around it or on
15 rocks, little boards and I believe this is on this side, off
16 the rock.

17 Q Did you find any other evidence of the movement
18 of those bodies?

19 A Seems like we, by leaves was up -- seems like they
20 went around -- it was around the half -- it was around on
21 the east side of the staff tent.

22 Q Okay. Could we let the record show he's talking
23 about the path on the east side of the staff house, and the
24 staff house was a tent; was that not correct?

25 A Yes, but by half, I don't mean -- I mean where the

1 leaves had been.

2 Q Would you draw us, with a piece of chalk, a line
3 that would indicate the path?

4 A (Witness complies.) Okay, is this supposed to be
5 the tent?

6 Q That's supposed to be the staff tent. I'm indicat-
7 ing the "X", the big "X". What about that path was it that
8 led you to believe that the bodies had been carried in that
9 manner?

10 A Well, by leaves -- it had rained the night before.

11 Q Would you describe for me the condition of the
12 leaves that led you to believe that was the path that was
13 taken by the person or persons that moved those bodies?

14 A Well, they were -- I don't know. I am just kind
15 of a woodsman and it looked to me like somebody had walked
16 through there.

17 Q Any other evidence, Mr. David?

18 A I believe eyeglasses, or glasses case. I never did
19 get close to it.

20 Q Did you see it?

21 A Yes, sir, I saw it from a distance; that's all.

22 Q We've been told that the eyeglasses were located
23 about twelve feet to the south, southeast of the counselor's
24 tent; would that be correct?

25 A Yes, sir, I guess. I was kind of shook up that

1 morning.

2 Q Did you see the glasses case?

3 A Yes, sir.

4 Q Where was it?

5 A I couldn't tell you. I just remember seeing it.

6 Q After you had conducted the two searches of the
7 Kiowa Unit, what did you then do?

8 A I believe I went to the staff house to stand by
9 for orders.

10 Q Did you receive any orders?

11 A Just to stand by and assist.

12 Q All right. What assistance did you lend to the
13 investigation on the 13th of June?

14 A Mostly just standing by.

15 Q Now Mr. David, did you seize any evidence in the
16 afternoon hours of the 13th of June?

17 A No, sir.

18 Q Did you interview any people - by interview, I mean
19 speak with them?

20 A Yes, sir.

21 Q What are those people's names?

22 A The evening?

23 Q Yes, sir?

24 A No, sir.

25 Q Were they counselors?

1 A No, sir. I talked to no counselor.

2 Q Could you give me the names of the people you
3 interviewed?

4 A I really don't remember who it was. It was kind
5 of hectic.

6 Q Did you take any written statements from anybody?

7 A No, sir.

8 Q Any tape recordings or anything of that nature?

9 A No, sir.

10 Q On the 14th day of June, did you go back to Camp
11 Scott and Kiowa Unit?

12 A I didn't leave there for about three days.

13 Q You lived near that location?

14 A I stayed there. I live about half a mile.

15 Q Stay all night at the Kiowa Unit?

16 A Yes, sir, about three days.

17 Q For what?

18 A Security.

19 Q Were there any intruders or strangers that came on
20 the campground?

21 A No, sir.

22 Q Did anybody ever report seeing any strange people
23 in the Camp Scott area?

24 A No, sir.

25 Q During the three days that you were at Camp Scott

1 for security, describe for me what you did?

2 A Well, I worked shift at the gate, at the main gate.

3 Q Yes, sir.

4 A And I would - as OSBI would arrive, I would take
5 them up to headquarters, escort. Then, every night, I would
6 answer the phone and was available.

7 Q Mr. David, do you recall bringing someone - bring-
8 ing search dogs or tracking dogs to the Camp Scott area?

9 A Yes.

10 Q Did you participate in any of those trackings?

11 A Yes, sir.

12 Q Ventures with the dogs?

13 A Yes.

14 Q When did you participate in the first one?

15 A About a week, probably a week later, maybe two.

16 Q Who was involved in that search?

17 A I believe it was the McAlester Canine Group.

18 Q Were these dogs from the State Penitentiary?

19 A Yes, sir.

20 Q Who brought them?

21 A I just know they was State's men. I knew their
22 names but I forgot them.

23 Q Tell me about the search you went on with the dogs
24 from the State Penitentiary?

25 A As best I remember, we started in John Cavalier's

1 field with them and that's Senior, the man that was --

2 Q That would be on the south side that runs perpendic-
3 ular to the Twin Bridges Road, would it not?

4 A Yes, sir.

5 Q Tell me about that search?

6 A It seems to me like we followed the dogs southeast
7 around Mr. Cavalier's house approximately - I'd say a
8 quarter of a mile and then they went toward the road, down --

9 Q Excuse me for just a moment. You said southeast
10 of Mr. Cavalier's house?

11 A Seems like to me it was around to the left, up on
12 kind of a hillside.

13 Q Okay, then where did they go?

14 A Then down to the creek, a small creek right across
15 the road from John Cavalier, Jr.'s trailer house.

16 Q Yes, sir.

17 A Then it seems like to me they went across the
18 street to a pont right there by the road and then --

19 Q Who was the owner of the property that the pond was
20 on?

21 A I believe that is Jack Shroff.

22 Q Yes, sir. Did you go into the Shroff -- did you go
23 onto Mr. Shroff's property with the dogs?

24 A I didn't. I stopped there.

25 Q Then what happened?

1 A It seems like I went after some -- it was real
2 hot and I think they sent me after some water or something
3 to drink and I stayed on the road.

4 Q Who was with the dogs at the time they went on to
5 Mr. Shroff's property?

6 A I believe the Sheriff was.

7 Q Mr. Weaver?

8 A Yes.

9 Q Who else?

10 A The handler.

11 Q That is the fellow from the State Penitentiary?

12 A Yes.

13 Q Anybody with you other than those men?

14 A John Cavalier, Jr. come across from the trailer
15 house, walked across the road to us down there by the creek
16 and talked to us.

17 Q What was used for the dogs to scent from?

18 A They're just tracking dogs. You don't scent them.

19 Q Well, enlighten me on tracking dogs. I thought you
20 had to use something to scent them?

21 A No, sir, you don't -- my dogs, you don't.

22 Q So they weren't using anything to scent with. They
23 were just tracking something?

24 A Not that I know.

25 Q How do we know what we're tracking?

1 A I'm not an expert on this. They was tracking
2 something.

3 Q But they went to Mr. Shroff's property and went
4 on through his gate and went on his land; right?

5 A I believe so. At that time, I went after water, I
6 believe.

7 Q After you got back with the water, what happened?

8 A I think we went back to camp.

9 Q Camp Scott?

10 A Yes.

11 Q Did you later participate in another search with
12 the dogs?

13 A I participated in a lot of them for about a year
14 now.

15 Q Did you participate in any of them that involved
16 returning to Mr. Shroff's property?

17 A No, sir.

18 Q Now, Mr. David, did you investigate a burglary at
19 the Jack Shroff residence located south of Locust Grove?

20 A I helped investigate it.

21 Q Who was with you?

22 A Undersheriff Al Boyer.

23 Q Who else?

24 A And I believe Beverly Hough.

25 Q What day did you conduct that investigation?

1 A I believe it was on the 13th.

2 Q That would have been the 13th, the day the bodies
3 were found at Camp Scott?

4 A The night.

5 Q That night?

6 A It was the night of the 13th, later on.

7 Q So you went there with Miss Hough and Mr. Boyer?

8 A Yes.

9 Q Tell me what you did?

10 A Well, just the standard procedure. We met Mr.
11 Shroff there.

12 Q Did he let you into the Shroff property?

13 A Yes, sir.

14 Q Did he take you to the house?

15 A Yes, sir.

16 Q Tell me what you saw when you went to the house?

17 A Well, when we got to the house, the front door
18 had -- somebody had tried to jimmy it, tried to get in.

19 Q What type of door?

20 A I believe it was a glass door.

21 Q Leave any marks on the door?

22 A Yes, sir.

23 Q Can you describe the appearance of those marks?

24 A No, sir, been too long.

25 Q Any other injury marks down on the Shroff residence?

1 A Yes, sir.

2 Q Where were they?

3 A Back door.

4 Q Would you describe those marks?

5 A I believe the door had been kicked open or jimmied
6 open, seemed to me like some of the -- on the facing, you
7 know -- I think had kicked it or pried it. It wasn't locked.

8 Q It was kicked loose from the wood?

9 A Yes, it wasn't lockable.

10 Q You said wood. Was that a wooden or glass door?

11 A The south door was the glass door and there was a
12 front door - the back door was - seems like it was wood. It
13 might have had a glass window in it. I don't remember.
14 But the front door, it seems like to me it was completely
15 sliding.

16 Q Did you ascertain -- with draw that -- did Mr.
17 Shroff tell you what was taken in the burglary?

18 A At that time, it seems to me like we asked him to
19 look and told him not to touch anything and just visually
20 look and see if he could determine if anything was missing.

21 Q Did he find anything?

22 A Yes, sir.

23 Q What had been taken?

24 A I believe a 2-inch roll of black duct tape.

25 Q What else?

1 A I believe a nylon - little nylon rope that was
2 -- it wasn't a round type. It was just kind of oblong, was
3 missing.

4 Q Anything else missing?

5 A Yes, sir.

6 Q What else?

7 A I believe there was some Spam missing.

8 Q What else, Mr. David?

9 A I believe some pork and beans.

10 Q Mr. David, there was items there, food items on
11 the shelves in that house, were there not?

12 A Yes, sir.

13 Q And quite a few of them?

14 A There was not a whole lot.

15 Q Well, he had some cans up there that weren't taken;
16 is that not correct?

17 A Yes, sir.

18 Q What else did Mr. Shroff have taken from his house?

19 A Loaf of Bond bread, I believe.

20 Q Had Mr. Shroff been staying there when this burglary
21 occurred?

22 A He had, I believe he had been there and had noticed
23 the burglary and it seems like to me he had went back to
24 Tulsa and was on his way back when he decided to call us.

25 Q Do you recall what day he noticed the burglary?

1 A I think it was on the 13th.

2 Q What time did he call your office?

3 A I'm not sure. I believe -- I believe it was logged
4 well, I would say 1:30 to 2:00, somewhere in there.

5 Q Mr. David, on the morning of the 13th, did you see
6 Dickie Joe Cooper anywhere in the area of Camp Scott?

7 A No, sir.

8 Q On the 12th of June, did you see Dickie Joe Cooper
9 anywhere in the area of Camp Scott?

10 A What do you mean by "area"?

11 Q Anywhere in that particular region, within five
12 miles of Camp Scott?

13 A I believe I did.

14 Q How close was he to Camp Scott?

15 A Six or seven miles.

16 Q Who was with him at that time you saw him?

17 A I'm really not sure.

18 Q These fellows with him, Indian?

19 A Yes.

20 Q Do you know -- would you recognize if you saw them
21 again?

22 A Very possibly.

23 Q What time of day was it that you saw Dickie Joe
24 Cooper with these fellows, Mr. David?

25 A I'd probably have to look at the log. I was

1 dispatched to Cooper Bridge on cars blocking the highway.

2 Q Yes, sir.

3 A And I believe at that time, while I was clearing
4 the highway and running the swimmers away that I believe I
5 saw him on the bridge.

6 Q Did you speak to him at that time?

7 A I believe they stopped and we had - not just -- it
8 seems to me like we talked about haying or something like
9 that.

10 Q Were his parents in the car with him?

11 A No, I don't believe so.

12 Q So there were three people in that car with Mr.
13 Cooper; is that correct?

14 A Well, I believe there was. It wasn't a car, it was
15 a pickup.

16 Q Pickup?

17 A Yes, sir. There was at least one.

18 Q Mr. David, at that time you saw Dickie Joe Cooper
19 -- withdraw that -- in the past, you have seen people intoxi-
20 cated in your line of duty, have you not?

21 A Quite often.

22 Q At the time you saw Dickie Joe Cooper, do you have
23 an opinion as to his sobriety?

24 A I believe he was sober.

25 Q Let's back up to the Shroff investigation. Does Mr.

1 Shroff have any relatives or friends who live on that proper-
2 ty?

3 A Not that I know of.

4 Q Is there anybody living there at that time?

5 A No, sir.

6 Q Is there a tent or some outbuilding back behind
7 Mr. Shroff's house?

8 A I believe to the -- there is an outbuilding, kind
9 of east of it.

10 Q When you investigated the burglary at Mr. Shroff's,
11 did you also check that building?

12 A Yes, I believe I did.

13 Q Did you see anything unusual?

14 A No.

15 Q Was anybody at the Shroff residence other than Mr.
16 Shroff and the officers you mentioned when you investigated
17 that burglary?

18 A No.

19 Q Does the Mayes County Sheriff's Department process
20 burglaries for latent fingerprints or do you call in the OSBI?

21 A It's just according -- I process burglaries for
22 fingerprints.

23 Q Did you do that at the Shroff residence?

24 A I believe I processed -- I believe I did.

25 Q Did you lift any fingerprints?

1 A I don't believe so.

2 Q Did you conduct any other type of technical inves-
3 tigation such as search for hair with one of these little
4 vacuum cleaners like the one the OSBI uses?

5 A No, sir, I didn't.

6 Q Did you see any blood stains in the Shroff resi-
7 dence?

8 A No, sir, I didn't.

9 Q Did Mr. Shroff report any other items as missing
10 on that day?

11 A Yes, sir.

12 Q What else?

13 A Seems to me like some beer.

14 Q What kind of beer?

15 A I don't know; I don't drink; I don't know.

16 Q Was it in bottles or cans?

17 A I believe it was bottles.

18 Q Did he report anything else as having been taken
19 in the burglary?

20 A Well, I believe his wife had made him some spread,
21 salad spread. Somebody had ate a sandwich out of the spread
22 and left the lid off.

23 Q Anything unusual about the burglary scene?

24 A Well, yes. Most burglaries, there is items of
25 value took, you know.

1 Q Yes, sir.

2 A And there's nothing - nothing of any real value.

3 Q Mr. David, was the Oklahoma State Bureau of Investi-
4 gation called to Mr. Shroff's house to investigate that bur-
5 glary?

6 A I don't know.

7 Q Mr. David, do you know anything about a body of a
8 suicide victim found somewhere south of the scout camp?

9 A No, sir.

10 Q Do you know anything about any death poems written
11 by a person around Locust Grove?

12 A No, sir.

13 Q Have you ever seen any such item?

14 A No, sir.

15 Q Are you acquainted with a man named Darrel Creek-
16 more?

17 A Yes.

18 Q And how do you know him?

19 A Well, I have chased him a few times.

20 Q Now, you were in there awhile ago when Mr. Weaver
21 told us about going to the cave with the Creekmore boy, were
22 you not?

23 A Yes.

24 Q Were you present when the Creekmore boy gave the
25 statement to Mr. Weaver?

1 A I don't remember; I could have been.

2 Q Well, were you with them when they went to the
3 cave?

4 A I was with them when the Creekmore went up on a
5 hill.

6 Q Tell me what happened when you went up with this
7 Osborne fellow and the Creekmore boy?

8 A We hunted for a cave. I remember it was hot. A
9 lot of them like not to have made it. We just hunted around
10 the ledges and we never -- you wouldn't believe the territory
11 and the terrain.

12 Q Was the Creekmore boy able to lead you to this
13 cave where he says he saw somebody?

14 A No, sir.

15 Q The fellow he said he seen, Gene Hart?

16 A No, sir.

17 Q How did you happen to find it?

18 A I wasn't -- I believe when the cave was found, I
19 was about 200 yards down the hill trying to still get up it.

20 Q Did you go into the cave?

21 A I don't remember; I don't think I did; I think.

22 Q Did you see that writing on the wall of the cave?

23 A Yes.

24 Q Did you seize any evidence at the cave, anything at
25 all, cigarette butts, paper?

1 A No.

2 Q Did anybody give you any evidence that was seized?

3 A No.

4 Q Who was with you and Sheriff Weaver when you went
5 to the cave other than Mr. Osborne and the Creekmore boy?

6 A I believe OSBI and FBI.

7 Q Do you know the names of the Creekmore boy's
8 parents?

9 A I believe his mother's name is -- well, I'm not
10 sure. It's bound to be Creekmore.

11 Q That's a logical inference. Will you tell me where
12 they live, if you know?

13 A Yes.

14 Q Where is that?

15 A The live the first house south of John Cavalier,
16 Jr., trailer on the righthand side. I believe that's where
17 the grandmother lives.

18 Q That's the grandmother and the mother?

19 A And the mother. I think the mother lives with the
20 grandmother.

21 Q Do you know where the Creekmore boy is today?

22 A No. I know he's not in my territory.

23 Q Did you take any written statements from this boy,
24 any tape recorded statements?

25 A No.

1 Q Show him any pictures?

2 A No.

3 Q Did anybody show him any pictures?

4 A Not to my knowledge.

5 Q Did anybody show him old pictures of Gene Hart?

6 A No.

7 Q When the Creekmore boy was in jail over in the
8 Mayes County Jail, what type of shoes did he have on?

9 A I don't remember; I don't remember. He might not
10 have had any on, cause he -- it was summertime.

11 Q Did you go to his house and ask permission to
12 search that house for shoes?

13 A No, sir.

14 Q There's been testimony about a boot print and
15 tennis shoe print. At any time did you ever compare any
16 shoes from the Creekmore boy with the boots or the footprint
17 in the tent?

18 A No, sir.

19 Q Did you ever compare Dickie Joe Cooper's footwear?

20 A No, sir.

21 Q Anybody else?

22 A No.

23 Q Did anybody make any comparisons in your presence?

24 A No, sir.

25 Q Do you know what size shoes were in the blood there

1 in those tents?

2 A No, sir.

3 Q After you had been up to the cave with the Creek-
4 more boy and Sheriff Weaver and all those folks, what was
5 the next thing you did in reference to the investigation of
6 the Camp Scott homicides and trying to find Gene Hart?

7 A It's been so long ago, I don't know. I'm sure we
8 went back to camp or the Sheriff's Office. I know I didn't
9 go home.

10 Q A. D., did you ever take any statements from any
11 folks at any time in this investigation of the Camp Scott
12 homicides?

13 A No.

14 Q Written or tape recorded?

15 A No.

16 Q Have you ever shown any pictures to anybody?

17 A Yes, sir, I've showed pictures to them.

18 Q What are the names of the people in the pictures?

19 A You mean pictures -- I'm talking -- well, I mean
20 pictures. I'm talking about fliers that the FBI has out. I
21 carried one with me for about eight or nine months.

22 Q Was that a picture of Gene Hart?

23 A Yes, sir.

24 Q I'm talking about mug photos or pictures found at
25 the scene?

1 A No, sir.

2 Q Did you ever show anybody the pictures that are
3 of two women found in the cave-cellar area south of Camp
4 Scott?

5 A No, sir.

6 Q Mr. David, when is the next time you went on a
7 dog tracking venture after you had been up to the cave south
8 of Jack Shroff's?

9 A I don't remember.

10 Q Did you participate in the investigation of the
11 burglary of the Sam's Corner Grocery?

12 A I was there.

13 Q Will you tell me what you did?

14 A I called the OSBI.

15 Q Who was with you?

16 A I believe I was the first one there.

17 Q Who reported the burglary to you?

18 A I believe the store owner did.

19 Q Did he call your house directly?

20 A No, sir, I believe he called the Sheriff's Office
21 and they dispatched me to it.

22 Q How long was that burglary -- how much time had
23 elapsed from the homicides at Camp Scott before that burglary?

24 A I don't know. I'd have to look back at the reports
25 or find out -- it was happening so fast, I didn't keep time

1 for a month. I didn't know what day of the week or the date.

2 Q Did you attempt to lift any latent fingerprints
3 at that grocery store?

4 A No, sir, I stood by until the OSBI got there and
5 turned it over to them.

6 Q Did the OSBI attempt to lift any fingerprints?

7 A I don't know.

8 Q Do you know the agent who conducted the investiga-
9 tion?

10 A I believe Larry Bowles was one of them and I'm not
11 sure of the other one. There was bunches of us there.

12 Q Did anybody bring any dogs around to Sam's Corner
13 attempting to track anybody?

14 A They might have; I don't remember because we had
15 dogs quite often.

16 Q Did you investigate the Grossman Grocery Store
17 burglary?

18 A I was first one there.

19 Q What did you do when you arrived?

20 A I called the OSBI.

21 Q Then what happened?

22 A I turned it over to them.

23 Q Who were the OSBI?

24 A Leo Albro.

25 Q Anybody else with Mr. Albro?

1 A No, sir. No, sir, I believe two FBI Agents came
2 in while he was there.

3 Q Do you know their names?

4 A I believe it was Les Farris and Phil Armond?

5 Q Is that A-R-M-A-N-D or O-N-D, Mr. David?

6 A I don't know.

7 Q Did you attempt to lift any fingerprints from the
8 Grossman burglary?

9 A No, sir.

10 Q Did anybody in your presence attempt to lift any
11 fingerprints?

12 A No, sir, I'm sure that I would say as thorough as
13 the OSBI, I believe they attempted or they tried. I don't
14 know the results.

15 Q What was taken from Sam's Corner burglary?

16 A Approximately the same, nothing of real value.

17 Q You heard Mr. Weaver testify here a little bit ago,
18 did he tell us everything that was taken in there?

19 A I believe so.

20 Q In that Grossman burglary, you heard Mr. Weaver
21 testify he said basically the same things were taken out of
22 the Sam's Corner burglary; is that accurate?

23 A Yes, sir.

24 Q Cigarettes, canned goods?

25 A Yes, sir.

1 Q Any money? Was any money taken in either one of
2 them?

3 A No, sir.

4 Q Mr. David, did you ever go up on Skunk Mountain
5 looking for a man that had been sighted up there by a fellow
6 by the name of Vic Auxier?

7 A Yes, sir.

8 Q Would you tell me about that?

9 A I just went there. Seemed like I went there with
10 the dog men.

11 Q Which dog man?

12 A Well, there was two of us, first ones there.
13 There was me and Trooper Berry was the first two dog men
14 there.

15 Q Did you have your dogs?

16 A I had two bloodhounds.

17 Q Okay, and Mr. Bird had --

18 A No, Trooper Berry.

19 Q Berry?

20 A Yes.

21 Q Okay. I thought you were talking about the fellow
22 from Pennsylvania.

23 A No.

24 Q Tell me what you did when you got to the Skunk
25 Mountain area where Mr. Auxier had seen a person?

1 A I believe when I got there, the OSBI had already
2 been there ahead of me and they processed the scene.

3 Q Did you see any evidence?

4 A No.

5 Q Did you go up back in the hills there?

6 A Yes, sir.

7 Q Look in any caves?

8 A I didn't find no cave. I looked through a lot
9 of hills, though.

10 Q There's no cave up on Skunk Mountain?

11 A Well, that one ledge.

12 Q Did you go to the ledge area?

13 A Yes, sir, I did.

14 Q Did you see any evidence there?

15 A No, sir.

16 Q Did anybody seize any evidence in your presence?

17 A No, sir, not that I can think of.

18 Q Would you describe for me -- would you tell me the
19 description Mr. Auxier gave you of a man under the ledge?

20 A I don't believe he gave it to me, sir. They said
21 there was a man there. To the best I remember, me and Trooper
22 Berry was at the camp when the call came in and they wanted
23 dogs and seemed to me like we loaded my two bloodhounds in my
24 car, went over there and at that time, they had already --
25 the OSBI was already there and had processed it.

1 Q After going up to Skunk Mountain to look for a
2 man and talking your dog, what did you do?

3 A Well, I took my dog on up in a perimeter search
4 and on a leash and it hit a trail and I couldn't keep up
5 with it. I turned it loose, so -- it was getting pretty
6 late so I went back to the truck.

7 Q It was getting dark?

8 A It was getting dark.

9 Q How long was your dog gone?

10 A He come back pretty quick. He found me.

11 Q What time did you leave the Skunk Mountain area?

12 A Seems to me like I stayed there all night.

13 Q Who was with you?

14 A Bunch of them; I don't recall.

15 Q Was this Skunk Mountain search conducted at about
16 the time the burglary was reported to you by the fellow who
17 runs Sam's Corner Grocery?

18 A Yes, sir.

19 Q The same date?

20 A I don't remember. It was later than -- it was
21 either -- I know it was after the burglary had been reported
22 at Sam's Corner.

23 Q And the Grossman burglary occurred after the Sam's
24 Corner burglary?

25 A Yes.

1 Q How long after the Sam's Corner burglary, just to
2 the best of your recollection?

3 A I -- then -- weeks probably or next month; I'm not
4 sure.

5 Q Mr. David, at any time during the past year or so
6 that has elapsed, did you take a written statement from
7 anyone concerning the homicide investigation at Camp Scott?

8 A No, sir.

9 Q Did you submit any evidence of any nature?

10 A I picked up a lot of evidence but I don't know,
11 every time I worked a burglary or something like that, I
12 most generally, I'd call the OSBI if I thought it was connec-
13 ted.

14 Q All right. Mr. David, would you tell me where that
15 Creekmore boy's grandmother lives and mother? How far is
16 that from Cave 3?

17 A I'd say approximately within a mile.

18 Q Has Mr. Shroff ever reported a burglary to the
19 Mayes County Sheriff's Department in the past?

20 A I believe he has; I'm not sure.

21 Q Have you told me everything you know about the
22 Jack Shroff burglary and your investigation of that burglary?

23 A Yes, sir.

24 Q Have you told me everything you know about the
25 Sam's Corner burglary and your investigation of that burglary?

1 A Yes, sir.

2 Q Have you told me everything about the Grossman
3 burglary and that investigation?

4 A Yes, sir.

5 Q Mr. David, on or about the 13th day of June, did
6 you take an Indian male into custody that you thought looked
7 like Gene Hart?

8 A No, sir.

9 Q Did you stop him and talk to him?

10 A No, sir.

11 Q Do you know a fellow by the name of Kirby Vaughn?

12 A Yes, sir.

13 Q Did you stop and talk to him?

14 A I know him I wouldn't have to. He cuts wood and
15 stuff for me.

16 Q Have you, within the past few days, been to the
17 Jack Shroff residence?

18 A No, sir.

19 Q Within the past two weeks?

20 A No, sir.

21 Q Have you been in that immediate vicinity, conducting
22 an investigation relative to the homicides at Camp Scott?

23 A Yes, in the past, I have.

24 Q When did you go there in the past?

25 A With the Sheriff.

1 Q When was that?

2 A We went up on the ledge.

3 Q Did you go there in the past month?

4 A I couldn't rightly say. I've been there lately.
5 I don't know if it was a month or two months back.

6 Q For what purpose did you go there recently?

7 A To go back - I always go back and recheck and see
8 if I overlooked anything.

9 Q Did you seize any items of evidence?

10 A No, sir, I didn't.

11 Q Just looked at the scene?

12 A Yes.

13 Q Did you look at the house?

14 A No, sir.

15 Q What did you look at?

16 A I went back up to the ledge, to the cave.

17 Q Back up to the cave?

18 A Yes, sir.

19 Q Who went with you?

20 A I really don't know; somebody was with me but I
21 don't know their name.

22 Q Do you know what he does for a living?

23 A Yes, I know what some of them do for a living.

24 Q What does he do for a living?

25 A Some of them are lawyers.

1 Q Was this fellow a lawyer?

2 A Some of them was.

3 Q Who was with you?

4 A I believe it was three lawyers with me.

5 Q What are their names?

6 A One of them is Sid Wise; and one of them is Buddy
7 Fallis and the other one is named Ron.

8 Q Mr. Shaffer?

9 A Yes, sir.

10 Q What did you do when you went there?

11 A I just showed them where the cave was at so they
12 could familiarize themselves with it.

13 Q Did you take anybody else back up there?

14 A I took different people at different times.

15 Q What are their names?

16 A I don't recall. I took the Sheriff once, went with
17 him.

18 Q When was that?

19 A I don't know. It was during tick season last year,
20 I think, I remember that.

21 Q Now Mr. David, did anybody take any technical type
22 scientific evidence from the cave, such as hair, animal or
23 human hair?

24 A No, sir, not in my presence.

25 Q Do you know if any was taken?

1 A No, sir, I don't.

2 MR. ISAACS: Judge, we'll excuse Mr. David, subject
3 to recall.

4 THE COURT: Cross-examine?

5 CROSS EXAMINATION

6 BY MR. FALLIS:

7 Q Mr. David, did counsel ask you -- I didn't -- I'm
8 not sure if I heard this or not, if you knew how far the
9 Creekmore fellow lives from Camp Scott; is that what he
10 asked you?

11 A No, sir, he asked me how far the cave was from
12 the Creekmore residence.

13 Q Which cave did you make reference to in your
14 answer?

15 A I believe it was Cave 3. I'm not familiar with
16 the caves, the numbers on them.

17 Q When you say Cave 3, are you talking about Jack
18 Shroff's area?

19 A Yes, sir.

20 Q How close did you say that it was?

21 A I'd say within a mile, probably three-quarters, I
22 mean just roughly.

23 Q Now the burglary at the Sam's Corner Grocery. You
24 said nothing of value was taken?

25 A Yes, sir. Just small stuff.

1 Q Well, now, if you were living off the land,
2 wouldn't it be true that pork and beans and Spam and bread
3 and stuff like that would be of value, wouldn't it?

4 A Yes, sir, that would be of value.

5 Q If you were living in caves and on escape and you
6 had to live out on the land, that would be of value to you,
7 too, wouldn't it?

8 A Yes, sir.

9 Q And at the Grossman burglary, isn't that also what
10 was taken?

11 A Yes, sir.

12 Q And the burglary at the Shroff place?

13 A Yes, sir.

14 Q That was what was taken?

15 A Yes, sir.

16 Q Isn't it a fact that Mr. Shroff had been the sub-
17 ject of previous burglaries, wasn't it?

18 A Yes, sir.

19 Q Now, this matter where you went - I think you
20 referred to it as Cave No. 2, that's the one up on Skunk
21 Mountain?

22 A Yes, sir.

23 Q You said your dog took off on a trail?

24 A Yes, sir.

25 Q But it was getting dark so you couldn't follow it?

1 A Yes, sir.

2 Q What direction was he heading?

3 A He was headed southeast.

4 Q Now, if you go southeast, wouldn't it, in fact, be
5 that you were going back to Cave No. 3?

6 A Yes, sir.

7 Q And that's also the direction if you wanted to go
8 on further to Cave No. 1 where the cellar is?

9 A Yes, sir.

10 Q Mr. David, you were asked a question about Dickie
11 Joe Cooper. You said -- well, counsel said, I don't believe
12 you said that three people were in a car. Did you say that
13 or did he say that?

14 A I believe he said that.

15 Q What did you say, sir?

16 A Well, there was at least two. I'm not sure about
17 the third one. I was busy with trying to get the cars off
18 the road and they just stopped on the bridge and we just
19 talked.

20 Q Okay. About what time of day was that, please,
21 sir?

22 A Around 1:30 or 2:00 in the evening, maybe 2:30.

23 MR. FALLIS: Thank you, sir. No other questions.

24 THE COURT: Redirect?

25 MR. ISAACS: Thank you, Mr. David.

1 THE COURT: You may step down.

2 (WHEREUPON, the witness was excused.)

3 THE COURT: Call your next witness.

4 MR. ISAACS: Call Al Boyer.

5 THE COURT: Do you swear to tell the truth, the
6 whole truth and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 AL BOYER,

9 called as a witness on behalf of the Defendant, having been
10 first duly sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MR. ISAACS:

13 Q Mr. Boyer, would you state your full name, please,
14 sir?

15 A Al Boyer.

16 Q Mr. Boyer, you're a Deputy of the Sheriff of Mayes
17 County, Sheriff Weaver; right?

18 A Yes, sir.

19 Q How long have you been employed there?

20 A Ever since Sheriff Weaver has been in office.

21 Q Mr. Boyer, directing your attention to June 13th,
22 1977, did you go to Camp Scott to investigate some homicides?

23 A Yes, sir.

24 Q Who did you go there with?

25 A By myself.

1 Q What time did you arrive?

2 A Approximately 7:15.

3 Q Tell me what your duties were when you arrived
4 at Camp Scott?

5 A When I first arrived there, I went to where Sheriff
6 Weaver and Dr. Collins and Harold Berry were standing. I
7 observed the scene there. I was then directed by Sheriff
8 Weaver to try to find some rope to rope off the area.

9 Q Mr. Boyer, what did you observe when you went to
10 the area where Trooper Berry and Dr. Collins and Sheriff
11 Weaver were?

12 A I observed two sleeping bags, zipped shut. One
13 partially nude girl, clothed from the waist - or from the
14 waist up.

15 Q Did you see a flashlight there?

16 A Yes, sir.

17 Q Red and white flashlight?

18 A Yes, sir.

19 Q Did you see a roll of tape?

20 A Yes, sir.

21 Q Did you see any rope or cord of any kind like that?

22 A Didn't see any laying loose, no, sir.

23 Q Yes, sir. Now, after you had been to the area
24 where the bodies were -- let me withdraw that -- what time
25 approximately was it that you went to the bodies and viewed

1 the bodies - five minutes or ten minutes after you arrived?

2 A I drove right up to approximately where the bodies
3 were.

4 Q Can we say immediately?

5 A It was immediately.

6 Q What did you do after the Sheriff had given you
7 those orders?

8 A I contacted the Camp Ranger who was in the area
9 to see if he had any rope or something that we might rope
10 the area off with.

11 Q Which area did you rope off first?

12 A Were the crime scene - where the girls were.

13 Q Where did you go to get that rope?

14 A I did not go -- the Camp Ranger went and returned
15 with it.

16 Q After you had roped off the area, what did you do?

17 A Went directly to camp and encircled it with rope.

18 Q What did you see when you went to Tent 7?

19 A I did not survey Tent 7 at that time. I was busy
20 roping off the area.

21 Q After you roped off Tent 7, what did you do, Mr.
22 Boyer?

23 A I don't recall whether I looked in the tent or not.
24 Seems that I might have walked by in front of it.

25 Q Did you later look into the tent?

1 A Only from a distance. I never did go into the
2 tent.

3 Q How far were you from it?

4 A Oh, four or five feet.

5 Q What did you observe when you looked in it?

6 A I saw what looked like a considerable amount of
7 blood. There was four cots in there, two to the left as you
8 face the tent; two to the right, running lengthwise with the
9 tent. I observed a sizeable amount of blood on two cots,
10 blood splattered on the wall of the tent. There was - had
11 been what looked like blood on the floor and partially wiped
12 up, quite a large spot of it.

13 Q What did you do after you looked in the tent?

14 A I returned to Sheriff Weaver for further instruc-
15 tions.

16 Q Then what happened?

17 A By this time, we got word that an agent was entering
18 into the gate. I went out to meet him and direct him to the
19 scene.

20 Q Was that Mr. Lempke?

21 A No.

22 Q What was his name?

23 A Carey Thurman.

24 Q What time of day was it when Mr. Thurman arrived?

25 A Around 8:00 o'clock or shortly thereafter.

1 Q Anybody with him?

2 A No, sir.

3 Q What did you do after you met Mr. Thurman?

4 A He had missed the turn-off and come into the area
5 where we were, came in through an open field underneath the
6 high-line area. I directed him down to the scene. I stayed
7 back, waiting for further instructions.

8 Q What did you do next?

9 A I stayed with the - in the crime scene area until
10 dark that night, partially in an observant capacity, also
11 to assist the agents who had come in from time to time in
12 whatever that I might help them to do.

13 Q Mr. Boyer, did you seize any items of evidence in
14 the Kiowa Unit area?

15 A I never seized any evidence at any time in the
16 investigation.

17 Q Any evidence ever given to you to be transported?

18 A No, sir.

19 Q Did you ever observe any evidence there in the Kiowa
20 Unit other than the bloodstains in the tent?

21 A Yes.

22 Q What was that?

23 A Directly across the road towards the counselors'
24 tent from the scene where the girls' bodies were, I observed
25 a pair of what I took to be ladies eyeglasses laying near the

1 edge of the roadway.

2 Q You have heard the description of their location
3 that has been testified to here today, have you not?

4 A Yes, sir.

5 Q Twelve feet southeast of the counselor's tent?

6 A I wouldn't quite agree with that twelve feet. I
7 think it was probably a little further than that.

8 Q Did you see any purse in the area of the glasses?

9 A No, sir, I never saw any purse any time.

10 Q Did anybody report to you, or any investigator,
11 about a purse being taken from one of the tents?

12 A No, sir.

13 Q Mr. Boyer, when you arrived at the Camp Scott Kiowa
14 Unit, can you tell me the names of the agencies represented
15 there?

16 MR. FALLIS: If it please the Court, for the sake
17 of time, I'd like to interpose an objection here. This is
18 cumulative. I think the Court is well apprised of what
19 agencies have been represented at the camp scene.

20 THE COURT: Objection is sustained.

21 MR. ISAACS: I'd like to know who was there before
22 he got there, Judge.

23 THE COURT: Objection has been sustained as to the
24 agencies who were there.

25 MR. ISAACS: Okay. Can I ask him if certain people

1 were there?

2 THE COURT: I suppose you can do that.

3 MR. ISAACS: Okay.

4 Q The Sheriff was there before you, was he not, Mr.
5 Boyer?

6 A Yes, sir.

7 Q Were any ambulance drivers there before you arrived?

8 A Yes, sir.

9 Q Do you remember the names of those ambulance
10 drivers?

11 A Yes, sir. One was Rick Stevens, I think, the
12 other one was Parker. I don't know the first name.

13 Q Were there any other ambulances in the area before?

14 A I don't believe so; I don't recall another.

15 Q Did you participate in any of those searches for
16 evidence?

17 A Yes, sir.

18 Q Were the ambulances -- one ambulance driver has
19 testified he participated. Did both of them participate?

20 A I couldn't say. There were any number of us parti-
21 cipated.

22 Q Did you ever interview any of the Girl Scout
23 Counselors?

24 A Never at no time.

25 Q Any of the campers?

1 A I never interviewed anybody.

2 Q Didn't take any written statements from anybody?

3 A No, sir.

4 Q Mr. Boyer, after Mr. Weaver had assigned you to
5 keep the area secured and after Mr. Thurman had arrived,
6 what was your duties?

7 A Just to stay in the area and to just - what I
8 said, secure the area.

9 Q How many days did you stay in the area?

10 A I stayed there until dark the day of the 13th. I
11 then went to headquarters, command headquarters all night
12 and was available where I was needed for three days and
13 nights without leaving the campgrounds.

14 Q Did anyone report any intruders or suspicious
15 persons in the Camp Scott area during that three day period?

16 A No, sir.

17 Q On approximately June 16th, did you participate
18 in any searches involving dogs?

19 A I never involved any dogs whatever.

20 Q Your duty was to stay at the camp?

21 A I went to one scene, set up radio communications
22 and manner the radio when they went to the cave up by Mr.
23 Auxier's place.

24 Q Will you tell me about that?

25 A I rode there with Larry Bowles and another agent.

1 Q Do you remember the other agent's name?

2 A No, sir, I do not.

3 Q What time of day was it?

4 A Late afternoon.

5 Q I believe Mr. David testified he was first - one
6 of the first persons on the scene -- well, withdraw that --
7 he later said an OSBI Agent had been there when he arrived.
8 Did you go up on the hill with the OSBI Agent to investigate
9 this reported sighting of a suspicious person?

10 A No, sir.

11 Q You stayed down off the hill. Did you at any
12 time go to any other location involved in the investigation
13 of these homicides and participate in any other searches for
14 anyone?

15 A For anyone?

16 Q Yes, sir?

17 A No, sir.

18 Q Mr. Boyer, on the 17th day of June -- or the 18th
19 day of June, some items were found down in the cave-cellar
20 area. Did you ever see those items of evidence?

21 A I saw the box that they were brought to Camp Scott
22 in. I did not ever observe.

23 Q Did you see those pictures?

24 A No, sir, I did not.

25 Q Did you ever show any pictures to anyone?

1 A No, sir. As I have stated, I have never inter-
2 viewed anyone on this homicide, whatever.

3 Q Mr. Boyer, your area generally, as Deputy, is
4 the north end of Mayes County, is it not?

5 A North and east, yes, sir.

6 Q Were you present when the Creekmore boy took Mr.
7 Weaver and Mr. David up to the cave?

8 A No, sir. As I stated, I've never gone to any cave.

9 Q Did you, at any time, investigate the Shroff
10 burglary?

11 A Yes, sir.

12 Q Tell me about that.

13 A Yes, sir. We were notified by the dispatcher in
14 our office, by telephone at Camp Scott, that there had been
15 a burglary at Mr. Shroff's residence. I did not know where
16 the residence was. A. D. David, myself, Beverly Hough met
17 Mr. Shroff at his residence approximately 9:30 at night, I
18 believe the night of the 13th.

19 Q Was anybody with Mr. Shroff?

20 A No, sir.

21 Q You heard Mr. David testify, did you not?

22 A Yes, sir.

23 Q Was that an accurate statement of what you did in
24 the Shroff residence?

25 A Basically, yes, sir.

1 Q What would you add?

2 A I would add one other item that I can recall being
3 missing was fourteen small pies which had been removed from
4 the refrigerator.

5 Q What type of pies?

6 A Bama pies, they said, as I recall.

7 Q Anything else?

8 A There was a footprint or two to the rear of the
9 house, I think, that I asked Mr. David to put a board over
10 to secure their being well kept.

11 Q You say near the end of the house. Can you describe
12 which direction you're talking - which side of the house?

13 A On the back side of the house, whichever direction
14 that would be.

15 Q Is that on the north side or the south side?

16 A I don't know. My directions are twisted.

17 Q The glass door or the wooden door?

18 A The wooden door.

19 Q Describe that footprint?

20 A It was a print of a rather heavy lug, around there
21 was a gravel nature, a little hard, it wasn't what I'd say
22 was a good, plain footprint. I don't know if the agent even
23 lifted a cast from it. We did secure it in case they wanted
24 to.

25 Q Any footprints in the house?

1 A Nothing obvious, no.

2 Q Any footprints outside of the house on a piece of
3 carpet?

4 A Yes, sir, there was one rather large print in
5 front of the glass door on the porch on a piece of carpeting
6 out there.

7 Q What was done with that piece of carpeting?

8 A That was also secured and covered over for protec-
9 tion.

10 Q Who secured that?

11 A I don't recall whether I did or Mr. David.

12 Q So one of you fellows picked up this carpet?

13 A No, sir, I did not say that.

14 Q You didn't pick it up?

15 A We covered it.

16 Q What did you cover it with?

17 A I assume probably a board or something. That's
18 what we used on the print out in the dirt.

19 Q This footprint we're talking about on the carpet,
20 what left the imprint?

21 A (No response.)

22 Q Could you tell me if it was soil, blood?

23 A No, it would be soil from a shoe sole, probably.

24 Q After you covered that -- excuse me -- after you
25 covered that carpet footprint, what did you do?

1 A We continued talking with Mr. Shroff, after he had
2 mentioned this - a part of a coil of rope that he was miss-
3 ing. I attempted to get some idea of what type rope it was.
4 He took me out to his dinner bell, showed me a rope hanging
5 from it that he had taken from this coil. I asked if I
6 could have a piece of it to take with me. He cut off a piece
7 himself, about twelve or fourteen inches long. I took that
8 back to camp.

9 Q Did you compare it with any other cord?

10 A I did not, no, sir.

11 Q Did you give that to somebody?

12 A Yes, sir.

13 Q To whom did you give it?

14 A I turned it over to whoever might have been in
15 charge at OHP.

16 Q Okay.

17 A OSBI trailer at the camp.

18 Q Now Mr. Boyer, did the Oklahoma State Bureau of
19 Investigation Agents go to Mr. Shroff's house with you?

20 A Yes, sir.

21 Q Did they process the area for fingerprints?

22 A The following day.

23 Q The following day? Were any fingerprints lifted?

24 A I'm not aware whether they were successful in
25 getting prints or not.

1 Q Was the area processed for hair?

2 A Not to my knowledge.

3 Q Did they go with you there that night?

4 A No, sir.

5 Q They did not?

6 A No.

7 Q When you left the Shroff house, did Mr. Shroff
8 leave with you?

9 A Yes, sir. I asked him to lock his place up, not
10 to stay there that night, to meet us back there the following
11 afternoon.

12 Q When did Mr. Shroff discover that his house had
13 been burglarized?

14 A Earlier that date; sometime earlier in the after-
15 noon.

16 Q Two o'clock?

17 A I don't know.

18 Q How did he come to discover the burglary?

19 A His statement was that he came in from Tulsa out
20 there to check on some cattle or a calf they had out there.

21 Q Mr. Shroff have any relatives who live on that
22 property periodically?

23 A I'm not familiar with his property and his family;
24 I don't know.

25 Q Has Mr. Shroff had quite a bit of trouble with

1 burglaries in the past?

2 A He indicated that night he had burglaries prior
3 to that.

4 Q Did you later go to the Shroff residence again
5 with the OSBI Agents?

6 A The following day after the burglary. Yes.

7 Q Tell me what you did the following day, after you
8 went there?

9 A I went there and showed them the point of entry,
10 let Mr. Shroff explain the layout of his place, what was
11 taken. I stood back and they conducted their search.

12 Q What time of day did you go there?

13 A I think we had an appointment at 1:00 o'clock the
14 following day. I'm not certain on that exact time.

15 Q Give me the names of the agents who went with you?

16 A I don't know the names. They were fingerprint
17 men for the OSBI.

18 Q Was it Mr. Esquinaldo?

19 A I have no idea.

20 Q After they had processed the area, what did you do?

21 A I believe I might add to that, I believe Mr. Lin-
22 ville was present with those agents, I think.

23 Q What did you do after you processed Mr. Shroff's
24 area?

25 A We returned to Camp Scott.

1 Q Did you investigate any other burglaries, Mr.
2 Boyer?

3 A No, sir.

4 Q Did you go to the Sam's Corner burglary?

5 A I stopped by there during - on my way, going to
6 Camp Scott that morning but I did not participate.

7 Q During the rest of the investigation, were you
8 stationed at Camp Scott?

9 A Yes, sir.

10 Q Did you ever leave the campgrounds?

11 A I tried to leave once in awhile to go home, yes,
12 sir.

13 Q Did you spend your working hours at Camp Scott?

14 A Day and night.

15 Q Did you investigate the Grossman burglary?

16 A No, sir.

17 Q During the time that you were at Camp Scott for
18 security purposes, did anyone turn up a pair of shoes that
19 belonged to one of the little girls who was killed?

20 A Not to my knowledge.

21 Q Did anyone come up with a picture found in the Camp
22 Scott area?

23 A I heard there was pictures found in that area. I
24 did not see it.

25 Q Your command post or headquarters was set up in the

1 Camp Director's building?

2 A Yes, sir.

3 Q And there's a closet in that building, is there
4 not?

5 A If there is, I don't remember it.

6 Q Okay.

7 A There's a back bedroom but I don't remember any
8 closet.

9 MR. ISAACS: I have no further questions of this
10 witness.

11 THE COURT: Cross examination?

12 MR. FALLIS: No questions. Thank you, Mr. Boyer.

13 THE COURT: You may step down.

14 (WHEREUPON, the witness was excused.)

15 THE COURT: Call your next witness.

16 MR. ISAACS: I'll call Mr. Brasswell. Well, is he
17 over there right now? How about Mr. Porter.

18 MR. BOYER: He's in the field.

19 MR. ISAACS: Bob Bais?

20 MR. BOYER: Bob Bais is no longer with us. I don't
21 know where he'd be.

22 MR. ISAACS: Judge, give us awhile. We'll think
23 of somebody.

24 THE COURT: Well, I'll give you five minutes.

25 MR. ISAACS: Thank you.

1 (Following a five minute recess, proceedings
2 continued as follows:)

3 MR. ISAACS: Call Hugh Horton.

4 THE COURT: Raise your right hand. Do you solemnly
5 swear to tell the truth, the whole truth and nothing but the
6 truth, so help you God?

7 THE WITNESS: I do.

8 HUGH HORTON,

9 called as a witness on behalf of the Defendant, having been
10 first duly sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MR. ISAACS:

13 Q Mr. Horton, state your full name, please?

14 A Hugh Horton.

15 Q What is your occupation, sir?

16 A I'm Deputy with the Mayes County Sheriff's Depart-
17 ment.

18 Q Mr. Horton, back there on the 13th day of June,
19 1977, were you so employed?

20 A Yes, sir.

21 Q On that day, did you go to the Camp Scott area to
22 investigate some homicides?

23 A Yes, sir.

24 Q Will you tell me what time you arrived there?

25 A Approximately 8:00 o'clock.

1 Q When you arrived there, what other law enforcement
2 agencies were there on the scene?

3 A Well, the Sheriff was there, Pete Weaver, and
4 Berry - Trooper Berry.

5 Q Anybody else?

6 A Not that I recall, no.

7 Q Mr. Horton, did you drive through the gate straight
8 down into the Kiowa Unit area?

9 A Yes, sir.

10 Q Would you tell me what you did after you entered
11 the Kiowa Unit?

12 A Well, I got out of the car and I walked down the
13 road to the Y there and then I was instructed to go back and
14 stop the in traffic, to not let them congest down in there.

15 Q After you'd been back in -- how long were you on
16 the traffic post?

17 A Oh, 9:00 o'clock or so.

18 Q Did you participate -- did you participate in any
19 searches of the area?

20 A No, sir.

21 Q Did you gather any evidence?

22 A No, sir.

23 Q Any evidence given to you to be transported?

24 A No, sir.

25 Q Mr. Horton, after you had been on the traffic post,

1 what were your duties for the remainder of the day?

2 A I was sent back to the office to answer calls.

3 Q To which office?

4 A The Sheriff's Office.

5 Q On the evening of the 13th, did you have an occa-
6 sion to return to Camp Scott?

7 A No, sir.

8 Q Did you return there later on the 14th of June?

9 A I was back down there approximately maybe the
10 14th in the afternoon.

11 Q Let me ask you, at any time during the investiga-
12 tion of the homicides at Camp Scott, did you retrieve any
13 physical evidence?

14 A No, sir.

15 Q Were you given any evidence to transport anywhere?

16 A No, sir.

17 Q Did you investigate the Shroff burglary?

18 A No, sir.

19 Q Grossman burglary?

20 A No, sir.

21 Q Did you at any time go to Cave 1, Cave 2 or Cave 3?

22 A No, sir, I didn't have any assignments at all down
23 there.

24 Q Mr. Horton, were you later called to Camp Scott as
25 a guard to secure the camping area?

1 A Yes, sir, I worked on the gate one night.

2 Q Where did you stay in the nighttime?

3 A Up at the gate.

4 Q The main gate?

5 A The main gate, yes, sir.

6 Q Did anyone report any suspicious persons in the
7 Camp Scott area during the period that you were there as one
8 of the security guards?

9 A No, sir.

10 Q Mr. Horton, do you know anything about any shoes
11 that were found on the front porch of the Great Hall or
12 Camp Director's Office?

13 A No, sir.

14 Q Do you know of any of the photographs of camp
15 counselors which were found in the camp there?

16 A No, sir.

17 Q Did you at any time take any written statements
18 from anyone?

19 A No, sir.

20 Q Take any tape recorded statements?

21 A No, sir. I didn't work on it.

22 MR. ISAACS: I believe we have no further questions.
23 of Mr. Horton, Judge.

24 MR. FALLIS: No questions, Your Honor.

25 THE COURT: You may step down.

1 (WHEREUPON, the witness was excused.)

2 THE COURT: Call your next witness.

3 MR. ISAACS: Judge, let me see if Mr. Brasswell is
4 here. If he is here, we will call him.

5 Judge, I'll call Miss Hough. She's still around.
6 I think Mr. Hobbs said she was still here.

7 I'll go in and see if I can get ahold of Mr.
8 Brasswell. He is coming on pretty quick.

9 Judge, I'm out of witnesses.

10 THE COURT: Are we back on the record?

11 MR. ISAACS: Judge, I move we recess at this time
12 until in the morning and start off with Mrs. Hough and call
13 some OSBI witnesses.

14 THE COURT: Have you gotten your witnesses for
15 tomorrow?

16 MR. ISAACS: Yes. They're being lined up right now.

17 THE COURT: I feel like a comment is appropriate
18 and I don't mean to be critical in any way and I hope you
19 don't take it that way, Mr. Isaacs, but -- and I don't like
20 to interfere with a lawyer in the presentation of his witnesses
21 at all insofar as I can keep from that. But I would ask you
22 to give more consideration to who you are calling in order
23 that they will be called and pay particularly more attention
24 to what questions you are going to ask so we can perhaps shorten
25 some of the testimony to just those items of significance. I

1 A You can hardly get there from here. It's between
2 -- it's down Earbob Road, about four or five miles down Ear-
3 bob Road, down 82 Highway and back north in a holler.

4 Q Is that the one where we're talking about the cave
5 and the cellar?

6 A Yes.

7 Q Cave No. 2 is which cave?

8 A That would be the cave as listed as a mile east
9 and a mile or so south of Sam's Corner.

10 Q Is that the one in the Skunk Mountain area?

11 A I believe it's referred to as Skunk Mountain.

12 Q Cave No. 3 is the cave we have been talking about
13 where you took the paint scrapings; is that correct?

14 A Yes.

15 Q Who took those paint scrapings from No. 3?

16 A I did.

17 Q What did you put them in?

18 A I believe I put them in a piece of paper and in
19 an envelope, submitted them to the OSBI.

20 Q Approximately what time of day was it when you
21 were at the Shroff residence with the dog handlers?

22 A It would have been, as best I can recall, in the
23 first week of the investigation for the homicides.

24 Q Would it have been after the report of the Shroff
25 residence burglary?