

1 IN THE DISTRICT COURT OF MAYES COUNTY,

2 STATE OF OKLAHOMA.

3
4 THE STATE OF OKLAHOMA,)

5 Plaintiff,))

6 -vs-)

7 GENE LEROY HART,)

8 Defendant.))

Case No. CRF-77-131
CRF-77-132
CRF-77-133

9 FILED IN THE DISTRICT COURT
MAYES COUNTY, OKLAHOMA

10 PRELIMINARY HEARING

OCT 17 1978

11 VOLUME X

ELOISE GIST, Court Clerk
BY *Phyllis Frady*
Deputy

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

14 June 28, 1978

15
16 A P P E A R A N C E S

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1 Deputy Horton. Then I was --

2 Q Could you speak up a little?

3 A I drove down to the crime scene with Deputy Horton
4 and I was supposed to keep people away from the area.

5 Q What time of day was it when you arrived?

6 A Shortly after 8:00.

7 Q After going into the Kiowa Unit at the crime scene
8 what did you do?

9 A That was it. I stayed in the little open area up
10 the trail to keep people from coming down that way.

11 Q Did you participate in any searches of that area?

12 A That one time, yes.

13 Q Did you seize any evidence as a result of that
14 search?

15 A No.

16 Q Was any evidence of any kind given to you for
17 transportation?

18 A No.

19 Q Did you take any statements from anyone?

20 A No.

21 Q After the 13th day of June, what were your duties
22 in reference to the Camp Scott investigation?

23 A I stayed at the gate to keep news media out and
24 onlookers and things of that nature.

25 Q At any time thereafter, did you take any statements

1 from anyone?

2 A No.

3 Q At any time thereafter, did you seize any evidence?

4 A No.

5 Q Did you participate in any searches using tracking
6 dogs?

7 A I followed one, one set one morning - one evening,
8 I mean. I don't remember what day it was.

9 Q Would that have been during the first week of the
10 investigation?

11 A No, I don't think so.

12 Q Do you remember the name of the owner of the dogs?

13 A No.

14 Q Dog trainer?

15 A He was from Pennsylvania, I think.

16 Q Was his name have been Lakin?

17 A I don't remember his name.

18 Q Mr. Brasswell, at any time during this investigation
19 from June 13th until the present time, have you transported
20 any item of evidence?

21 A Just Gene.

22 Q Any physical evidence?

23 A No.

24 Q Mr. Brasswell, at times, you're the jailer for the
25 Mayes County Sheriff's Office, are you not?

1 A Yes.

2 Q During that time have you removed anything from
3 Mr. Hart's cell?

4 A Yes.

5 Q Will you tell me what you removed?

6 A One large county map and I believe two small ones
7 that were left there.

8 Q Have you removed anything else?

9 A No.

10 Q What did you do with those maps after you removed
11 them?

12 A Placed them in the Sheriff's Office.

13 Q Are those the only items that you have removed from
14 his cell?

15 A Yes.

16 Q At whose orders did you remove those items?

17 A No one's.

18 Q You did that on your own volition?

19 A Yes.

20 Q And for what reason?

21 A Well, he was gone back to McAlester and I just
22 checked it to see if there was anything in it that shouldn't
23 be in there for other prisoners.

24 Q Mr. Brasswell, have you been present during the
25 interview of any witnesses?

1 A Not that I recall.

2 Q Have you interviewed -- have you seen a flashlight
3 that was reported to have been used in the commission of these
4 homicides?

5 A Yes.

6 Q And where did you see that flashlight?

7 A On the first day I got to Camp Scott.

8 Q Have you seen it since that time?

9 A Not that I recall.

10 MR. ISAACS: I don't think I have any further
11 questions of this witness, Your Honor.

12 THE COURT: Cross examination?

13 MR. WISE: No, we have no questions, Your Honor.

14 THE COURT: You may step down.

15 (WHEREUPON, the witness was excused.)

16 THE COURT: Call your next witness.

17 MR. ISAACS: I'd like to recall the Sheriff, Mr.
18 Weaver.

19 GENE H. WEAVER

20 recalled as a witness on behalf of the Defendant, having been
21 first duly sworn, testifies further as follows:

22 DIRECT EXAMINATION

23 BY MR. ISAACS:

24 Q Mr. Weaver, you've been to the Jack Shroff residence
25 during the past two weeks?

- 1 A The residence or the property?
- 2 Q Property?
- 3 A Yes.
- 4 Q For what purpose did you go there?
- 5 A To inspect the cave, Cave 3.
- 6 Q That's the cave with the writing in it?
- 7 A Yes.
- 8 Q Who went with you?
- 9 A OSBI chemist.
- 10 Q Do you know his name?
- 11 A Janice Davis.
- 12 Q What day of the week was it when you went to the
13 cave?
- 14 A I don't recall.
- 15 Q Was it last week or the week before?
- 16 A It's been two or three weeks ago.
- 17 Q Tell me what you did when you went there?
- 18 A Took photographs of the cave and the general area.
- 19 Q Did you seize any evidence at that location?
- 20 A No, I did not.
- 21 Q Did Mrs. Davis seize any evidence?
- 22 A I believe she would be the best source. I don't
23 know what she was doing there. I was down the mountainside
24 taking photographs. She was inspecting the cave.
- 25 Q Anybody else there with you at that time?

1 A No.

2 Q Sheriff Weaver, have you been there any other time
3 in the past two weeks, other than with Mrs. Davis?

4 A No.

5 Q Directing your attention to the red flashlight
6 found near the bodies of the victims at Camp Scott. Have you
7 had that flashlight in your possession during the period
8 between when these homicides occurred and today?

9 A Yes.

10 Q When was that?

11 A I believe it was the 12th of May that I had contacted
12 a person who stated to me that he worked on a red and white
13 flashlight and had observed a red and white flashlight in
14 the camp on Spring Creek, occupied by a person he knew as
15 "Sonny" and I called the OSBI and they transported the light
16 up here for his inspection.

17 Q Who was that person?

18 A John Fleming.

19 Q At that time, did you take a statement from Mr.
20 Flemming?

21 A Yes, I did.

22 Q Was this a signed sworn statement?

23 A No, it was not.

24 Q Was it a tape recorded statement?

25 A No, it was not.

1 Q Who was present when you took that statement?

2 A Janice Davis.

3 Q Was she present during the entire interview with
4 Mr. Fleming?

5 A Yes.

6 Q Was anybody else interviewed concerning a red flash-
7 light?

8 A Not that I recall.

9 Q When you interviewed Mr. Fleming, was Mr. Fleming
10 able to identify that flashlight?

11 A Mr. Fleming was of the opinion that it was a flash-
12 light he had worked on, due to the fact he had changed the
13 switch in a red and white flashlight. He opened the flash-
14 light, examined it and could not be positive that it was the
15 light, although he did state the switch had been changed in
16 this particular light. He then studied the light, removed
17 the battery and asked if -- asked Miss Davis if the light had
18 been tampered with? She said, "What do you mean tampered
19 with?" He said, "Always, when I work on a light, I fold a
20 piece of newspaper and put behind the battery in the light.
21 There was no newspaper in the light at that particular time."

22 Q What else did Mr. Fleming tell you?

23 A He told me that he visited the camp on Spring Creek.
24 He observed at this camp, occupied by an Indian male he knew
25 as Sonny and that --

1 Q Excuse me for interrupting. What day did he tell
2 you he visited the camp at Spring Creek?

3 A As near as he could determine, it was late August
4 or early September of '76. And that there was a flashlight
5 of this description setting under a tree where it could not
6 be observed from the area, that he observed a homemade spear
7 gun made from surgical tubing, a pair of tennis shoes, a
8 pair of military type jungle boots, a green piece of canvas
9 material which was being used, in his opinion, for a tent or
10 shelter. Also that he shortly thereafter transported this
11 subject that he knew as Sonny to Tahlequah, left him off at
12 the second stop light as you enter Tahlequah from the north
13 where a workman's boot store is located. Also, he had in
14 his possession a hand axe which disappeared and he cannot
15 account for it. He doesn't know what happened to it.

16 Q When did he tell you this hand axe disappeared?

17 A He couldn't pinpoint a date that it was -- sometime
18 in the early summer of '77, but he went to get his hand axe
19 and it was not available to him.

20 Q Sheriff Weaver, this interview with Mr. Fleming was
21 on or about May 12th; is that correct?

22 A I believe that is correct.

23 Q Have you told me everything that you talked about
24 in that interview with Mr. Fleming?

25 A I asked Mr. Fleming if he could pinpoint a date that

1 he worked on a flashlight at Gene Hart's mother's house. He
2 said as near as he could recall, that would have been as late
3 as April or May of '77, was the last time he had worked on a
4 light there.

5 Q Did he describe for you a flashlight that he had
6 worked on at Gene Hart's mother's house?

7 A Yes. He said he had worked on several flashlights
8 there, including a red and white flashlight. He also stated
9 after the examination of the light that this particular light
10 had been carried many many miles through the timber because
11 of it being scratched on one side. He said it was caused by
12 climbing over barbed wire fences. He said see, the other
13 side is not scratched.

14 Q Now Sheriff Weaver, you said Mrs. Davis was present.
15 Was she present during that entire interview with Mr. Fleming?

16 A Yes.

17 Q She heard all of it; is that correct?

18 A Yes.

19 Q Tell you anything else?

20 A He also stated he had seen the same male subject
21 that he knew as Sonny at Ella Mae's on numerous occasions, had
22 gone fishing with him on several occasions.

23 Q Did you show him any pictures?

24 A Yes, I did.

25 Q Did you show him a picture of Gene Leroy Hart?

1 A Yes.

2 Q Did he make an identification from those pictures?

3 A Yes, he said that was Sonny.

4 Q Did you show him any other pictures?

5 A Yes, but I don't know who they were. They were
6 mug shots that we have in our possession.

7 Q Were these other pictures of other individuals who
8 were suspects in these homicides?

9 A No, they were people that we have mug shots of, not
10 suspects.

11 Q Okay. Did you ask Mr. Fleming about any other item
12 of evidence in your possession?

13 A Not that I recall.

14 Q Did you make a report concerning this interview
15 you had with Mr. Fleming?

16 A To whom?

17 Q For yourself, for your own personal report?

18 A Yes, my personal notes.

19 Q You made personal notes?

20 A Yes.

21 Q Was that statement from Mr. Fleming reduced to
22 writing?

23 A Yes.

24 Q And who reduced it to writing?

25 A I did. My personal notes of the interview.

1 Q Did you ask Mr. Fleming to sign a written state-
2 ment?

3 A No, I did not.

4 Q Did you tape record any of the statement that we
5 have been discussing?

6 A No.

7 Q Now Sheriff Weaver, directing your attention to the
8 other items of evidence, have you ever had the bean-flip in
9 your possession?

10 A Yes, I believe it was present that evening, yes.

11 Q Did you show that to Mr. Fleming?

12 A Yes, also surgical tubing.

13 Q What did Mr. Fleming tell you about that?

14 A He told me that surgical tubing was used -- they
15 used it for building spear guns to spear fish at Spring Creek.
16 They used this type flashlight for locating fish back under
17 the ledges in the dark areas of Spring Creek and they used
18 the tubing they buy from OTASCO store, and they use that for
19 bean-flips and spear guns.

20 Q Did he identify that bean-flip as having been the
21 bean-flip that he had seen with the man on the creek?

22 A I don't believe he stated that he had observed the
23 bean-flip on the creek. It was a spear gun, homemade spear
24 gun.

25 Q Can you tell me the difference? Can you describe

1 the spear gun, what we're talking about?

2 A I have never -- I have never seen the spear gun,
3 so there could be no way that I could describe it.

4 Q Did you show him any other items of evidence?

5 A Not that I recall.

6 Q Did you show him any pictures of items of evidence?

7 A I showed him photographs, yes.

8 Q And for what purpose did you do that?

9 A To get his opinion if the hand axe he had lost
10 would make a wound compatible to the wound on these victims.

11 Q All right. What did Mr. Fleming tell you about
12 that?

13 A He said yes, that it would.

14 Q Did you show him any other pictures of any other
15 items of evidence?

16 A Not that I recall.

17 Q Mr. Fleming is a friend of Gene Hart's brothers, is
18 he not?

19 A I believe that is correct.

20 Q Did you ask him about ever having seen anything at
21 Mrs. Buckskin's house?

22 A Yes, I asked him if he had ever observed any of the
23 family wearing an Ace bandage. He stated to me that he had
24 on occasion saw one of the brothers, Thurmond -- yes, Thurmond,
25 who wore a beige colored Ace bandage as a headband, also a

1 red, white and blue Ace bandage.

2 Q Did you ask him about anything else at that time?

3 A Not that I recall, other than we went into the
4 trying to establish a date of the transportation of Sonny to
5 Tahlequah.

6 Q What day was that?

7 A As near as he could determine it was late August
8 or early September of 1976.

9 Q Did he describe the tennis shoes that Gene Hart or
10 the person he identified as Gene Hart had on the river?

11 A Yes.

12 Q Would you describe those for me as Mr. Fleming
13 described them to you?

14 A He described them as a -- he called them by some
15 brand name but I don't recall what it was with a round, lug-
16 type approximately half inch in diameter, on the bottom of it,
17 rather large, with suction cup in it -- a large round lug with
18 a suction.

19 Q Have you seen a shoe or pair of shoes similar to
20 the ones he described?

21 A No, I have not.

22 Q Has the OSBI ever shown Mr. Fleming any shoes?

23 A I believe they did that particular night. I believe
24 the chemist brought --

25 Q Mrs. Davis showed him some shoes?

1 A I believe that is correct.

2 Q Would you describe those shoes for me?

3 A They're a tennis shoe with a small round lug, the
4 -- around the outer edge is a round lug, approximately a
5 quarter inch in diameter with the center portion of the tread,
6 there was a small round lug approximately an eighth of an
7 inch in diameter.

8 Q Yesterday, we were talking about tennis shoes worn
9 in the tent. Is that a similar type of shoe that would have
10 made the imprint in the tent?

11 A That was shown to Fleming?

12 Q Yes, sir?

13 A Yes.

14 Q Have you compared those shoes to the pictures
15 and made a determination for yourself that is the type that
16 would have made the prints?

17 A Only observation is all. It appears to be the same
18 type tread and size lug that made the imprint in the tent.

19 Q Did you talk to Mr. Fleming about any other items
20 of evidence, Mr. Weaver?

21 A Not that I recall.

22 Q Did you ask him about having seen any other items
23 of evidence in Mrs. Buckskin's house?

24 A Yes. I asked if he had ever observed her sewing kit,
25 if he had noticed any green thread at her house.

1 Q What was his answer?

2 A Negative. He had not.

3 Q Mr. Weaver, have you told me about all the items
4 of evidence you showed Mr. Fleming?

5 A The best I can recall, yes.

6 Q Have you talked to anybody else and shown them
7 items of evidence?

8 A No. I talked to one other person that I remember
9 since testimony yesterday, that pointed out this particular
10 mountain on the Shroff place and told me that they had been
11 to its location and had talked with Gene Hart there at a
12 cave.

13 Q Who was that person?

14 A Becky Wagnon.

15 Q Do you know where she lives?

16 A Yes, 409 North Oral, Pryor. In fact, she escorted
17 or went with me there and pointed out the mountain to me.

18 Q When did Becky Wagnon say she had been to that
19 mountain and talked to Gene Hart?

20 A She didn't -- as I recall, didn't give any specific
21 date when she was there but at that time, it was back in
22 July, I believe, of last year, of '77, and it was shortly
23 before that time that she had been there was the statement
24 she gave me.

25 Q Was it in July of '77, that Mrs. Wagnon told you

1 about having seen Gene Hart in the cave on the mountain south
2 of the Shroff place?

3 A This is one of the reasons that led us to search
4 the mountain.

5 Q Was anybody else with Mrs. Wagnon when she went to
6 the cave or south of the Shroff place?

7 A She didn't state whether there was or not.

8 Q Did you talk to anybody else about any items of
9 evidence such as the flashlight, the hatchet, the bean-flip or
10 any of these items?

11 A Not that I can recall.

12 Q Did anybody ever turn a crowbar over to you?

13 A No.

14 Q A lot was written in the newspapers about crowbars.
15 Were any crowbars found during the investigation of the Camp
16 Scott homicides which were seized as evidence and processed
17 for some type of blood or fingerprints?

18 A Anything I would testify would only be hearsay. I
19 did not see a crowbar, have not had a crowbar in my possession.

20 Q Sheriff Weaver, did anyone else report to you that
21 they had seen a man in a cave south of the Shroff place other
22 than Mrs. Wagnon and the Creekmore boy?

23 A No, not that I can recall.

24 Q I think I asked where Mr. Creekmore was, did I not?

25 A Yes.

1 Q Have you remembered since last night, where I
2 might be able to locate him?

3 A It would only be a guess. He was transported, as
4 best I can recall, from the Mayes County Jail to Helena
5 Training School. As far as I know, he's still there.

6 MR. ISAACS: I believe that's all, Judge.

7 THE COURT: Cross-examine?

8 CROSS EXAMINATION

9 BY MR. FALLIS:

10 Q Sheriff Weaver, did I understand correctly that
11 you showed him the actual flashlight that was recovered near
12 the little girls' bodies?

13 A Yes.

14 Q And you showed this to John Fleming?

15 A Yes.

16 Q And he indicated that he had worked on a flashlight
17 just like that?

18 A Yes.

19 Q Did he say where he worked on the light?

20 A Ella Mae Buckskin's residence.

21 Q Now, Ella Mae Buckskin, that's the mother of the
22 Defendant?

23 A Yes.

24 Q And her residence is how close to the Camp Scott
25 area?

1 A Exactly, as near as I can determine, a mile and a
2 quarter from the death scene.

3 Q Did I understand you to say he had also observed
4 the person he had known as Sonny and later identified by
5 photograph as Gene Hart at that same place?

6 A Yes.

7 Q Sheriff, you made reference to Mr. Fleming indicat-
8 ing there was something different about this flashlight;
9 something about paper; is that correct?

10 A Yes. After his examination of the flashlight, he
11 stated that the switch in this particular light had been
12 changed due to the fact that the switch in the inner part of
13 the light sat at an angle where, when it was shipped from the
14 factory, they set straight parallel with the light. Also,
15 that a light he works on, he always folds newspaper and puts
16 behind the battery in order that it make better contact.

17 Q The light that you showed him?

18 A Pardon me?

19 Q The light that you showed him was the one actually
20 recovered at the scene. At the time you showed him that
21 light, was the newspaper behind the battery?

22 A No, it was not.

23 Q Do you know of your own knowledge, Sheriff, however
24 in fact and in truth, that when it was first recovered, there
25 was a newspaper behind it?

1 A Only what I've been told. I did not examine the
2 flashlight at the time.

3 Q Now Sheriff, did he say when he worked on a light
4 that looked like that at Ella Mae Buckskin's?

5 A The latest date he could recall was as late as
6 April or May or 1977.

7 MR. FALLIS: No other questions.

8 MR. ISAACS: Nothing further.

9 THE COURT: You may step down.

10 (WHEREUPON, the witness was excused.)

11 MR. ISAACS: Call Mrs. Hough.

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

15 THE WITNESS: I do.

16 BEVERLY JEAN HOUGH,

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

19 DIRECT EXAMINATION

20 BY MR. ISAACS:

21 Q Mrs. Hough, would you state your full name, please?

22 A Beverly Jean Hough.

23 Q What is your occupation, ma'am?

24 A I'm employed by the Office of the District Attorney
25 as an Investigator.

1 Q Directing your attention to June 13th of 1977, did
2 you go to the Camp Scott area?

3 A Yes, I did.

4 Q For what purpose?

5 A For processing of the scene and so forth.

6 Q About what time was it when you arrived?

7 A I received a call approximately 8:00 o'clock and
8 arrived there about 9:15.

9 Q Who was with you when you went there?

10 A No one, I arrived by myself.

11 Q What did you do after you got to the Camp Scott
12 area?

13 A The camp area had been secured.

14 Q In reference to the processing?

15 A Well, actually all I did in reference to the proces-
16 sing of the scene was to observe from a distance the tent
17 of the victims and the area where the victims were discovered.
18 It was being secured for the purposes of the OSBI Agents.

19 Q During that time, did you participate in any of
20 the searches of the area with any agents?

21 A No, I did not.

22 Q During that time, did you seize any item of evidence?

23 A No, I did not.

24 Q Did you interview any person that morning at Camp
25 Scott?

1 A Yes, I did.

2 Q Did you interview any of the counselors?

3 A I interviewed Dee Elder, Carla Wilhite and Susan
4 Emery.

5 Q When you interviewed Dee Elder, what did she tell
6 you about what had happened?

7 MR. FALLIS: If it please the Court, excuse me,
8 Your Honor. I believe Dee Elder, that witness, has testified.
9 It is cumulative and in an effort to impeach his own witness,
10 it would be improper.

11 THE COURT: Sustained. Also hearsay.

12 Q What was the substance of her conversation?

13 A The same as she testified in court.

14 Q You were here?

15 A I was here.

16 Q Did you interview after Miss Elder, one of the
17 other counselors of the Kiowa Unit?

18 A Yes, I interviewed Susan Emery.

19 Q And was her testimony the same?

20 A Yes, substantially the same as said here. Words
21 changed and that type thing.

22 Q Did you interview Miss Wilhite?

23 A Yes, I did.

24 Q Was her testimony the same as given here in open
25 court?

1 A Yes, sir.

2 Q Now Mrs. Hough, after you interviewed those three
3 young ladies, what was your next duty?

4 A I interviewed the youngsters in the Kiowa Camp
5 area. Some of them, not all of them. OSBI Agents had
6 arrived and myself and two OSBI Agents set up a little inter-
7 view area in the infirmary.

8 Q Mrs. Hough, as a result, rather than taking it one
9 at a time, as a result of the interviews with any of the
10 children who were housed in the Kiowa Unit, were you able to
11 obtain a description of any persons in the Kiowa Unit area?

12 A None of the girls I interviewed saw anything. They
13 heard noises throughout the night. It was to be understood.
14 It was their first night of camp. There was banging of the
15 latrines, some thought it might have been a gunshot and
16 that type of thing because their imaginations are so vivid.
17 These are eight to ten year old girls. They saw lights going
18 up and down the trail, which is not unusual because the
19 counselors and children go to the latrines and back, that type
20 of thing. They saw absolutely nothing in the way of male
21 personnel or any people that were not.

22 Q Mrs. Hough, after you had interviewed the campers
23 at the Kiowa Camp, did you interview the campers of any other
24 units?

25 A I interviewed one little girl from the Quapaw Unit.

1 Q Do you recall her name?

2 A Yes, I do. Christie Jones.

3 Q What was that in reference to?

4 A She had told her counselor that she thought she
5 had heard some male voices the night of the 13th and I
6 interviewed her in regard to that.

7 Q What was the substance of that interview?

8 A She indicated that she thought she heard some
9 voices behind her tent and that she couldn't describe the
10 voices. She thought they were male voices. She did not know
11 what they said but she thought she heard male voices behind
12 her tent and I said, "How far behind your tent?" And she
13 said, "Well, about six trees back," and that they later moved
14 up three trees. And in questioning her, I asked if there
15 was any light in the area and she said no, and this would
16 have been around, oh, probably 1:30 in the morning that she
17 thought she heard this.

18 Q Did she report that to her counselors at the time?

19 A Did I?

20 Q Did they?

21 A No, not at that time, I don't believe. She didn't
22 indicate they did. I don't really know.

23 Q Did you interview any other girls in the Quapaw
24 Unit?

25 A No, the other two agents interviewed the other two

1 girls.

2 Q Who were the other two agents conducting the inter-
3 views of the girls in the Quapaw Unit?

4 A I'm sorry, they were new to me. Joe was one of
5 them; I don't know his last name.

6 Q After you interviewed the girls in the Quapaw Unit,
7 did you interview any of the campers in any other units?

8 A I did not. OSBI was conducting interviews with the
9 girls later, I understand.

10 Q Mrs. Hough, did you take a written statement from
11 any of the girls in the Kiowa Unit?

12 A No, I did not. Mine was a preliminary hearing
13 interview and they were later to be turned over to the OSBI
14 for interviews.

15 Q Did you take a written statement from any of the
16 girls in the Quapaw Unit?

17 A No, I did not.

18 Q After you had conducted the interviews in the Kiowa
19 Unit and the Quapaw Unit, or interviewed the girls from the
20 Kiowa and Quapaw Units, what did you then do?

21 A At that point, the girls were being moved out of
22 the camp area, the Girl Scouts.

23 Q So that would have been 1:00 o'clock in the afternoon;
24 is that correct?

25 A Yes, it would have been. At that point, we began

1 to try to set up headquarters of some sort where we would
2 have telephone connections, et cetera in the staff housing
3 there, in the headquarters area.

4 Q And after you had set up your telephone connections,
5 what did you do?

6 A The counselors were asked to come back -- the three
7 Kiowa counselors were asked to come back for a more in depth
8 interview with the OSBI. I sat in on those interviews and
9 they were consistent with the preliminary interview.

10 Q Was that second interview conducted on the 14th
11 of June, 1977?

12 A I believe it was perhaps the 14th.

13 Q And on the 14th day of June, did you go back to the
14 Kiowa Unit and conduct an investigation?

15 A I was in the Kiowa Unit on several occasions, Mr.
16 Isaacs. I don't recall exact times.

17 Q On the day that Miss Emery and Dee Elder and Carla
18 Wilhite returned to pick up their personal property, did you
19 go to the Kiowa Unit with them?

20 A Yes, sir, I did.

21 Q While in the unit with those girls, did you seize
22 any items of clothing or personal property which you felt to
23 be evidence at that time?

24 A I never seized any items at all. Items of evidence
25 were obtained by the OSBI Agents.

1 Q Okay. Did you see something that you thought was
2 suspicious?

3 A Yes. I saw something and I called it to the atten-
4 tion of the OSBI.

5 Q What was it?

6 A There was a towel draped over the front step of
7 the counselors' tent, or actually, it was right beside the
8 front step and it had -- it appeared to have blood smeared
9 on it and I called this to the attention of the OSBI Agents.

10 Q How large was this spot of blood, Mrs. Hough?

11 A It was a smear as though something had brushed
12 against it and we had interviewed the counselors. Carla
13 Wilhite's bed was right at that point and she had a little
14 orange crate there that she had kept some glasses on. These
15 glasses had been found in the trail area, not the trail area
16 but off the trail area, and for that reason, I asked about
17 the towel and the blood there on it and I asked if any of the
18 girls would have any reason to cause that blood to be there,
19 if any of them had any cuts or any other reason that there
20 might be any blood on that towel.

21 Q Mrs. Hough, during the preliminary hearing inter-
22 view conducted on the 13th, did any of the girls report to
23 you the loss of personal property such as the glasses or a
24 purse?

25 A On the 14th?

1 Q 13th, ma'am?

2 A On the 13th?

3 Q Yes.

4 A In the initial interviews with them, no, we weren't
5 concerned. My questions were concerning the crime itself and
6 they did not report - they hadn't really examined their
7 property at that time.

8 Q On the 14th, did any of the girls report the loss
9 of personal property?

10 A Carla Wilhite recalled that her glasses were not
11 on the stand there and another little item, I believe a capo
12 - guitar capo - was missing from the orange crate. Susan
13 Emery indicated that she had sunglasses in a case missing and
14 a purse that were right on the edge of the tent, under her
15 bed.

16 Q Did any of the camp counselors that you talked to
17 on either the 13th or 14th, tell you about missing a purse?

18 A Susan Emery.

19 Q Anybody else other than her?

20 A That I talked to? When?

21 Q On the 13th or 14th of June?

22 A Not that I recall, not on those dates.

23 Q Did anybody, after the 14th of June report to you
24 that she had lost her purse in the Camp Scott area on the
25 night of the 13th?

1 A As best I recall, not personally, no one reported
2 personally to me the loss of a purse.

3 Q Did you hear of a loss?

4 A I did hear of the loss of a purse.

5 Q Do you recall the name of the girl that lost the
6 other purse?

7 A Kathy Elder, I believe.

8 Q What unit was she in?

9 A I'm sorry, I'm not sure. I believe it was Quapaw
10 Unit.

11 Q Was Miss Elder's purse ever recovered, to your
12 knowledge?

13 A Not to my knowledge.

14 Q Was Miss Emery's purse ever recovered?

15 A Not to my knowledge.

16 Q On the 14th, you stated you went back to the Kiowa
17 Unit with the three Girl Scout counselors. After you had
18 done that, what did you do?

19 A Well, as I'm sure you've gathered from other wit-
20 nesses, it's a little difficult to answer that question in
21 that context.

22 Q Let me rephrase it this way. On the 14th, did you
23 interview anyone else concerning what they had seen in the
24 Camp Scott area, any of the counselors?

25 A There were several interviews that I sat in on. The

1 interviews were conducted by the OSBI Agents and they would
2 be your best source. I just sat in and took notes.

3 Q During the interviews, did anybody give any description
4 of any strangers seen in the Camp Scott area on the 13th?

5 A Yes, there were one or two of the young ladies that
6 indicated that they had saw a man standing at the edge of the
7 Kiowa Camp when they were having their taps -- every evening
8 the girls gather and sing taps at the fire circle.

9 Q What was that lady's name -- or those ladies?

10 A I don't recall the names of the young ladies, but
11 it was checked out and it was another counselor that was
12 standing over there that had turned her light out and bowed
13 her head in reference to taps, a rather large young lady, but
14 she was another counselor.

15 Q Did anybody report seeing suspicious people in the
16 area at any time during the Camp Scott interviews?

17 A No one reported any suspicious peopls being seen.
18 Of course, we were asking for anyone that had been seen and
19 we were told that Mr. Day saw a young man getting a jug of
20 water which he says was not unusual but just reported it to
21 us because we had asked.

22 Q Did Mr. Day tell you about seeing the car parked
23 beside this gate?

24 A No, he did not.

25 Q Outside of Camp Scott?

1 A No.

2 Q Did you at any time take any photographs of any
3 evidence in the Camp Scott area?

4 A No, sir.

5 Q After you had the interviews with all of the staff
6 members, what did you then do?

7 A I think that we began to try to correlate the
8 efforts of all the agencies up in the staff area. My primary
9 purpose at that time was to take care of the incoming phone
10 calls, follow down phone leads, that type of thing.

11 Q Mrs. Hough, do you know the Creekmore boy?

12 A I don't know anyone by that name. I think I know
13 who you are referring to. I met him on one occasion.

14 Q When was that?

15 A When we went out to -- he was to show us a cave
16 that he indicated he had visited with the Defendant in.

17 Q Did other people accompany you and Sheriff Weaver
18 to the cave?

19 A Yes, Captain Mesner of the OHP, and a group of
20 OHP Officers that pursued that type of thing.

21 Q Mr. Wise with you?

22 A Yes, he was there.

23 Q Did you and Mr. Wise take a statement from the
24 Creekmore boy?

25 A No, sir. I did not visit with the Creekmore boy.

1 Q Did Mr. Wise take a statement from him?

2 A Not that I'm aware of.

3 Q Do you know the lady, Becky Wagnon?

4 A Not by that name, I don't know Becky Wagnon.

5 Q Have you ever interviewed a Becky about the cave
6 located south of Mr. Shroff's house?

7 A No, I have not.

8 Q Have you shown any items of evidence to any people
9 during the course of the investigation of the homicides?

10 A Personally?

11 Q Yes, ma'am?

12 A No, I have not.

13 Q Have you been present when items of evidence
14 were shown to different witnesses?

15 A On one occasion, yes.

16 Q Who was the person that this item was shown to?

17 A Susan Emery.

18 Q What item was shown to her?

19 A She was shown a ligature, piece of cord, ligature.

20 Q All right. Where was that?

21 A That would be at Camp Scott.

22 Q Who was present when she was shown that item of
23 evidence, other than yourself?

24 A Myself, Leo Albro and I believe there was maybe
25 one other Agent sitting in but I don't recall the name.

1 Q When that cord was shown to Miss Emery, was it
2 compared to some other item, some other cord at Camp Scott?

3 A No, sir, it was not. That ligature contained a
4 piece of rolled up toweling and it was shown in tact to see
5 if she could identify the toweling from being from camp, as
6 I recall.

7 Q Was she able to make identification?

8 A No, sir, she was not.

9 Q Have you shown that towel to any other witnesses?

10 A No, I have not.

11 Q Do you recall showing any other item of evidence
12 to any witnesses?

13 A I personally have not shown any item of evidence
14 to any witnesses.

15 Q Have you been present when other items were shown
16 to witnesses?

17 A Possibly. That same ligature was shown to Carla
18 Wilhite.

19 Q Anybody else?

20 A No, sir, not that I know of.

21 Q Do you know Becky Wagnon by another name, Mrs. Hough?

22 A I don't have any idea who you are talking about, Mr.
23 Isaacs.

24 Q Have you spoken with any other witnesses who were
25 at Camp Scott on the 13th day of June, other than the ones

1 we have talked about?

2 A On the 13th?

3 Q Yes, ma'am?

4 A You'd have to be more specific. I spoke to so
5 many people.

6 Q We're talking about the counselors.

7 A My primary function was to interview, do the pre-
8 liminary interview of the counselors and girls in the unit.

9 Q After conducting those interviews at Camp Scott
10 and after the conclusion of the investigation there on the
11 campgrounds, did you do anything else in reference to these
12 charges pertaining to any item of evidence?

13 A Are you talking about the investigation of the
14 Shroff burglary?

15 Q Yes, ma'am?

16 A I did attend the scene there.

17 Q And at the Shroff burglary, will you tell me what
18 you did?

19 A I accompanied Mr. Boyer to the scene. We received
20 word about 9:45 that evening and went directly over there.
21 Our main purpose, at that point, because we felt there was a
22 possibility it could be related to the Camp Scott incident.
23 Therefore, our main purpose in being there was to talk with
24 Mr. Shroff, observe the scene and if we felt it was relevant
25 to maintain and secure the place for the OSBI Agents for

1 processing.

2 Q Was anybody living at the Shroff residence on
3 the 12th or 13th of June?

4 A I think this is a summer cabin of Mr. Shroff's,
5 as I understand it, or a weekend cabin.

6 Q Did Mr. Shroff tell you anything about somebody
7 living out there on and off, kind of as a guard?

8 A Mr. Shroff indicated that he and his wife came
9 out there on weekends occasionally and he also indicated
10 that his place had been burglarized about five times in the
11 past but he had not bothered to report it because it was
12 always foodstuffs and little items that were taken.

13 Q When you investigated that burglary of Mr. Shroff's
14 house, we've been told there were footprints there?

15 A A very plain footprint on the rug. Someone had
16 attempted to gain entry through the front sliding doors,
17 which would be on the south side of the house and there was --

18 Q What was done with that footprint?

19 A Photographs were taken of it - not in my presence.

20 MR. FALLIS: If it please the Court, at this point,
21 I would object on the grounds it is cumulative. I think three
22 other witnesses testified about this same matter and it
23 seems to me in the interest of time, I should make that
24 objection.

25 MR. ISAACS: Judge, all I'm trying to do is see if

1 she knows who picked it up and what was done with it. I
2 assume that is what they were using to scent the dogs with.

3 THE COURT: If that's the extent of the questions.

4 MR. ISAACS: Yes.

5 THE COURT: You may ask those few questions.

6 Q Do you know what was done with that piece of carpet?

7 A I do not. It was kept in place until the OSBI
8 arrived the next day.

9 Q All right. Mr. Boyer or Mr. David have talked about
10 a footprint out behind the house. Were you present when a
11 plaster of paris cast was made?

12 A I was not. That was done the next morning by the
13 OSBI. We protected it by placing a board, braced over the
14 top of it in case it should rain that evening.

15 Q Mrs. Hough, would you describe the footprint on
16 the rug?

17 A Yes. However, I assume you have one of the pictures
18 of the --

19 Q I have seen one of them, yes, ma'am.

20 A All right.

21 MR. FALLIS: If it please the Court, in the interest
22 of time, he has been furnished with a picture. He's already
23 asked three other witnesses about this same thing.

24 THE COURT: Objection is sustained.

25 MR. ISAACS: Judge, I've seen a picture of a footprint

1 on a piece of carpet and if she says that's the kind of
2 footprint that is, well, that's what I want to hear.

3 THE COURT: I believe you asked the other witnesses
4 that question. It's been described to you before, has it
5 not?

6 MR. ISAACS: No, no, I don't think so, Judge.

7 A (By Mrs. Hough) I'll be happy to describe it.

8 THE COURT: I believe Sheriff Weaver described it
9 yesterday.

10 MR. ISAACS: Sheriff Weaver described the one that
11 was used to scent the dogs with. The ones he found in the
12 trail behind the tent, Judge. He wasn't at the Shroff
13 burglary investigation.

14 THE COURT: Which footprint are you asking about?

15 MR. ISAACS: The one on the rug at the front door
16 of the Shroff house.

17 THE COURT: I thought that had been described. I'll
18 allow you to have her describe it in case it hasn't.

19 Q You may go ahead.

20 A It's what I would call -- well, my husband was in
21 the Marine Corps. It's Marine Corps type boot or military
22 type boot. It has a heavy lug and the outside - I've heard
23 other people using the term "lug", I really don't know what
24 it means but it is what I would describe as a military type
25 boot, the type my husband may have had in the service.

1 Q Do you know anything about any death poems found
2 somewhere in the Camp Scott area?

3 A Death poems?

4 Q Yes, ma'am, or suicide notes?

5 A Suicide notes? No, I know nothing of any suicide
6 notes; is that what you're talking about with death poems?

7 Q Yes, ma'am?

8 A I know nothing of any suicide notes.

9 Q Has your office seized any death poem type writings
10 left someplace south of Locust Grove by some unknown person?

11 A I have seen some poems. I wouldn't call them
12 death poems and these were a young man's poetry.

13 Q Who wrote them?

14 A I know nothing about any suicide poems.

15 Q Who wrote the poems?

16 A I don't know as I recall the name. A young man
17 named Kenny, I believe.

18 Q No last name?

19 A Have to give me a minute. Kenny Chaffin -- I'm
20 not sure about that name.

21 Q Who has possession of those poems or notes at this
22 time?

23 A I don't know.

24 Q Mrs. Hough, was there a suicide south of Camp Scott
25 some days - three or four days after the Camp Scott homicides?

1 A A suicide south of Camp Scott?

2 Q Yes, ma'am?

3 A Not to my knowledge.

4 Q Did anybody report to your office that they had
5 found a body south of Camp Scott?

6 A Not to me; not that I am aware of.

7 Q Did you investigate or participate in the investi-
8 gation of any of the other burglaries that we have talked
9 about in court, the Grossman burglary or the Sam's Corner
10 burglary?

11 A I did not go to the Grossman or Sam's Corner burglary.

12 Q Mrs. Hough, do you know Larry Dry?

13 A No, I know who he is.

14 Q Have you ever interviewed Larry Dry?

15 A No, I have not.

16 Q Have you ever been present when he was interviewed?

17 A No, I have not.

18 Q Do you know Jimmie Don Bunch?

19 A I know who he is.

20 Q Have you ever been present when he was interviewed?

21 A No, I have not.

22 Q Have you ever interviewed him?

23 A No, I have not.

24 Q Mr. Dry testified that Gene Hart wrote him some
25 threatening letters when he was in the Granite Reformatory and

1 that they were in the possession of his wife. Do you have
2 those letters in your possession?

3 A I am not Mr. Dry's wife and no, I do not.

4 Q I thought that maybe since you were the investiga-
5 tor for the District Attorney's Office, you might have con-
6 tacted Mr. Dry's wife or --

7 A No, I have not.

8 Q Has anybody done that to your knowledge?

9 A Not to my knowledge. It may have been done but
10 I'm not aware of it.

11 Q Do you know his wives or wife?

12 A No, I certainly don't.

13 Q Mrs. Hough, you've told me about the Shroff burglary.
14 Have you visited any caves other than the one on the Shroff
15 place, located south of Locust Grove?

16 A During the Camp Scott - the time at Camp Scott,
17 I stayed at the staff office primarily.

18 Q After the time that you had that command post
19 headquarters at Camp Scott, were you called upon to inter-
20 view witnesses pertaining to the whereabouts of Gene Leroy
21 Hart?

22 A No. Those duties were handled by the OSBI Agents
23 and FBI Agents that were working on the case.

24 Q Would you give me the FBI Agent's names who were
25 working on the case?

1 A I don't know their names.

2 Q Was Mr. Les Farris one of them?

3 A Yes. I do know Mr. Farris.

4 Q And Mr. Phil Armond?

5 A I don't know him. I don't know if that's the name
6 or not.

7 Q Mrs. Hough, there was testimony given much earlier
8 by one of the camp counselors about a death note that had
9 been written and left in the Camp Scott area; have you seen
10 that?

11 A Death note? Are you talking about the alleged
12 note that was in April?

13 Q Yes, ma'am.

14 A At the Camporee?

15 Q Yes, ma'am?

16 A No. I don't think that note is in existence, to
17 the best of my understanding. That was one of the girls or
18 two or three of the girls during the April Camporee had
19 said that they had found a note in their camp that was on a
20 little pad similar to the ones the girls use in the camp to
21 take notes on, little spirals?

22 Q Yes, ma'am.

23 A And they indicated that they had found this note
24 in their camp and said something about they were going to get
25 even with three girls, kill, kill, kill and this type of thing

1 and the counselors checked it out and felt that it was a
2 prank perpetrated by some other children.

3 Q Were these poems printed or written, ma'am?

4 A They were written.

5 Q Have you read them?

6 A I looked at them out at Camp Scott and I have read
7 through them. They're obviously the writings of a young man.
8 For having worked with juveniles, the type -- it's kind of
9 weird terminology but not completely unusual, to -- something
10 a juvenile who perhaps is on something might be writing.

11 Q You mean somebody on drugs?

12 A Possibly that type of thing. It was weird. I
13 don't recall the wording.

14 Q Anything about blood in those poems?

15 A Not that I recall. There may have been but I don't
16 recall it.

17 Q Any references to sexual perversion?

18 A There was reference to sex. I don't recall exactly
19 what that reference was.

20 Q With children?

21 A I really don't recall if there was any reference
22 with children; I don't believe there was. These poems were
23 checked out, as I recall, by the OSBI people.

24 Q Do you know if anybody took any hair from Kenny
25 Chaffin?

1 A No, I don't know.

2 Q Do you know his race?

3 A Yes, he's a white male.

4 Q Do you know his age?

5 A I would assume -- now, this is simply a guess --
6 I'd assume he's approximately eighteen to nineteen.

7 Q Does he live in the Locust Grove area?

8 A It's my understanding he does, yes.

9 Q Do you know his address?

10 A No, I don't.

11 Q Mrs. Hough, are you aware of any other items of
12 evidence that have been turned over to you?

13 A None has been turned over to me.

14 Q Are you aware of any other items which the OSBI
15 collected in reference to this investigation?

16 A Just as you are, I'm aware of all the evidence that
17 the OSBI has collected. You have the list as well as I do.

18 Q Is there anything that you're aware of that is not
19 contained in those reports?

20 A No, not that I'm aware, that isn't in the reports.
21 You have the reports with you.

22 MR. ISAACS: I think that's all.

23 THE COURT: Cross examination?

24 CROSS EXAMINATION

25 BY MR. FALLIS:

1 Q Mrs. Hough, just two things: The little girl,
2 Christie Jones?

3 A Yes, sir.

4 Q Who was the one who said she heard three or six
5 trees back, some sort of answer; right?

6 A Right.

7 Q I take it that the information you received, that
8 you passed this on to the OSBI or some other authority?

9 A Yes, I did.

10 Q All right. And this towel that you pointed out?

11 A Yes.

12 Q Keeping in mind that the towel you observed, you
13 said that there was some sort of a smear or what appeared to
14 be blood to you on the towel?

15 A Yes.

16 Q Describe how large a smear that was?

17 A It was a small smear.

18 Q Now you, I take it, looked at some time or other
19 at the floor of Tent No. 7?

20 A Yes, I did.

21 Q All right, and did you observe what appeared to be
22 in there a wiping motion through what appeared to be blood,
23 like perhaps they were wiping?

24 A Very evidently wiping.

25 Q Now, if you can, ma'am, relate that towel to the

1 amount of blood insofar as the wiping you observed on the
2 floor of Tent 7; would you in any way relate those?

3 A There was no possibility it could have been the
4 towel that wiped that blood in my opinion.

5 Q A very small amount of blood on the towel?

6 A Very small amount on the towel.

7 Q A great deal of blood on the floor of the tent?

8 A Yes.

9 Q Would that be compatible with someone having blood
10 on their arm, brushing against it?

11 A Yes, it would. It was definitely a terry cloth
12 towel, has the little raised points and it's only on the upper
13 part; it's not as if it had been, what, just barely wiped.
14 It was on the upper part of the terry cloth.

15 MR. FALLIS: Thank you, ma'am. No other questions.

16 THE COURT: Redirect?

17 MR. ISAACS: No, nothing further.

18 THE COURT: Why don't we take about a ten minute
19 recess.

20 (Following a ten minute recess, the proceedings
21 continued as follows:)

22 THE COURT: I think we're ready for your next witness,
23 Mr. Isaacs.

24 MR. ISAACS: Call Carey Thurman.

25 THE COURT: Raise your right hand. Do you swear to

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

3 THE WITNESS: I do.

4 CAREY THURMAN,

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

7 DIRECT EXAMINATION

8 BY MR. ISAACS:

9 Q Mr. Thurman, would you state your full name, please?

10 A Carey Thurman.

11 Q What is your business?

12 A I am an Agent with the Oklahoma State Bureau of
13 Investigation.

14 Q How long have you been employed in that capacity?

15 A Two years.

16 Q Back in June of 1977, the 13th day, did you go to
17 Camp Scott Girl Scout Camp?

18 A Yes, sir.

19 Q What time was it when you arrived there?

20 A Approximately 10:00 a. m.

21 Q Was this for the purpose of investigating the homi-
22 cides that occurred there earlier?

23 A Yes, sir.

24 Q When you went there, tell me what you did in reference
25 to the investigation?

1 A Okay. The first thing I did was get with one of
2 the Deputies and the Sheriff and they informed me of what
3 they had.

4 Q Did they show you the bodies?

5 A Yes, they did.

6 Q What did you observe when you saw the bodies at
7 ten o'clock?

8 A I seen a pile of sleeping bags and a young black
9 girl with her body partially nude and her legs spread apart.

10 Q Were there any items of personal property left near
11 the bodies?

12 A Yes, sir, there were.

13 Q What were those items?

14 A There was a roll of black duct tape laying at the
15 base of a tree and a red and white flashlight with green
16 plastic taped around the lens with masking tape.

17 Q Did you see any other item of personal property
18 near that tree or near the body?

19 A No, sir, I did not.

20 Q Did you see any rope or cord?

21 A I seen some rope which had been used to rope off
22 the vicinity of the bodies, yes, sir.

23 Q Mr. Thurman, were you the first State Bureau Agent
24 on the scene?

25 A Yes, sir, I was.

1 Q When you arrived, was the Mayes County Sheriff's
2 Department there?

3 A Yes.

4 Q And the Oklahoma Highway Patrol?

5 A I remember one trooper being there, yes, sir.

6 Q Was the District Attorney of Mayes County present?

7 A Yes, sir, he was.

8 Q This is about 10:00 o'clock in the morning?

9 A Yes, sir.

10 Q After you observed the bodies, did you go over to
11 the area of Tent 7?

12 A Yes, sir, I did.

13 Q Will you tell me what you saw there?

14 A The area was again roped off, the tent flaps, I
15 believe were closed - I'm not for sure on that - and in the
16 tent was four metal cots, mattresses on the cots, three of
17 the cots did not have mattress covers on them. Two of the
18 cots on the left side of the tent had some blood on them,
19 upon the cots themselves and upon the floor there was what
20 appeared to be a large amount of blood.

21 Q Mr. Thurman, this large amount of blood on the
22 floor, did it appear to have been wiped up?

23 A Yes, sir, it did.

24 Q Did you look at the outside of the tent to deter-
25 mine how entry was made into the tent?

1 A Yes, sir, I tried to find that out.

2 Q Did you see the flap or rip in the rear of the
3 tent?

4 A No, sir, not that I can remember.

5 Q How was entry gained into that tent?

6 A I have no idea.

7 Q Mr. Thurman, after you had looked at the bodies and
8 at the tent, what was your next duty as an investigator?

9 A I believe the next thing that I did was return to
10 the vicinity of the bodies and at that time, OSBI technicians
11 Paul Esquinaldo and Larry Mullins had arrived at the scene
12 and they were accompanied by Agent Arthur Linville. We
13 proceeded to take photographs of the bodies and anything
14 that we thought might be evidence laying by the bodies or
15 in the Kiowa Camp area.

16 Q Mr. Thurman. Let me interrupt you. You were
17 the first agent on the scene. In OSBI protocol, does the
18 first agent become the man in charge of that investigation?

19 A I don't know if that's the way it is supposed to
20 be; in this case, that's the way it happened.

21 Q So you were there in charge of the investigation
22 conducted by members of your law enforcement agency?

23 A I was informed later by my supervisor, Agent Ted
24 Lempke, that I would be the Case Agent on this case, yes,
25 sir.

1 Q Will you tell me what you and Mr. Esquinaldo and
2 Mr. Mullins did in the processing of the area where the
3 bodies were?

4 A Okay. I did forget one. Agent Mike Wilkerson
5 arrived prior to Esquinaldo and Mullins and Linville getting
6 there and he and I took measurements of the crime scene it-
7 self and to where some of the evidence was laying.

8 Q Which evidence was that?

9 A The roll of masking tape, the flashlight, a pair
10 of women's glasses, a glasses case, a guitar capo, several
11 little colored decals that were approximately 3/8ths of an
12 inch in diameter.

13 Q Let me interrupt right here. You said a roll of
14 masking tape?

15 A I'm sorry, I meant a roll of duct tape.

16 Q You mentioned some green -- excuse me -- you men-
17 tioned some green decals?

18 A I'm sort of colored blind in a way. They were
19 green and greenish orange or something like that, approximate-
20 ly three-quarters of an inch in diameter.

21 Q Did they have any writing on them?

22 A No, sir, they did not.

23 Q What type of decals would you describe it as?

24 A Well, we later determined that these were the decals
25 put on the Girl Scouts personal items, where they could

1 identify them as to which camp they were supposed to go to.

2 Q Where did you see those decals we're talking about?

3 A They were in the vicinity of what they call Cookie
4 Shed or right -- be a little bit north of the counselors'
5 tent.

6 Q Were they lying in the open area or the brushy
7 area?

8 A No, sir, they were in an open area. I later
9 found out that this is where the pickup or vehicle that had
10 been used to unload the girls' personal items had parked,
11 right in this vicinity and all the items were unloaded at
12 that particular place and we assumed that this is why all
13 the decals were in that vicinity.

14 Q Now, I apologize for interrupting. Go ahead and
15 tell me what you did after you conducted the measurements?

16 A We, of course, found some more items of evidence
17 or what we thought to be evidence. We took more photographs
18 of that and measurements and then, about this time, Esquinaldo
19 and Mullins arrived and they took photographs and there was
20 some -- a tire print or a tire print and they made a mold.

21 Q Would you describe for me on that map where the tire
22 print was - on our sketch?

23 A Yes, sir. As far as I can remember, the tire print
24 was somewhere in this vicinity.

25 Q Would you draw a dotted line to indicate tire print?

1 A (Witness complies.) About right there.

2 MR. ISAACS: Let the record show he's drawn two --
3 drawn a broken line, consisting of two small lines.

4 Q What did you do after you measured the distance
5 of the tire prints?

6 A Well, I really just observed Mullins and Esquinaldo
7 collecting the evidence and also Agent Linville, and these
8 items were placed in plastic bags and marked for identifica-
9 tion and where they were found at.

10 Q Did you mark any of those items?

11 A I can't remember. I marked so much stuff, I can't
12 remember if I actually marked those items or not.

13 Q Mr. Thurman, after you had collected those items,
14 what was your next duty?

15 A Off and on during the day, I was there present when
16 an interview was being conducted with either the counselors
17 or maybe some of the little Girl Scouts from the Kiowa Camp
18 or I was at Tent No. 7, helping inventory the personal effects
19 of the girls that was left in Tent 7.

20 Q Who performed the inventories of the personal
21 effects of the girls at Tent 7?

22 A I was present, Agent Wilkerson, Linville - one
23 other agent, I can't remember which particular one it was, was
24 present.

25 Q What was done with that property, the belongings of

1 the little girls?

2 A I don't know what was done with the property. I
3 remember being there and conducting the inventory, but I
4 do not remember what was done with the items.

5 Q Mr. Thurman, when you arrived, did anybody report
6 to you that a pair of glasses had been found approximately
7 twelve feet southeast of the counselors' tent?

8 A Yes, sir.

9 Q And who reported that to you?

10 A I don't remember.

11 Q Did you observe those glasses?

12 A Yes, sir.

13 Q Was it reported to you that any other items of
14 evidence had been found scattered in the Kiowa Unit?

15 A Yes, sir.

16 Q What were those items?

17 A The glass case and the guitar capo or capon, however
18 it is pronounced.

19 Q Did you photograph those items?

20 A Yes, sir.

21 Q Those colored photographs Mr. Wise has are photo-
22 graphs that you made?

23 A Not that I made, no, sir. The photographs that I
24 made did not turn out.

25 Q After you had picked up all of the evidence in the

1 Kiowa Unit, where did you go to hold these interviews with
2 the counselors?

3 A Interviews were being held in the nurse's quarters,
4 or where they have the medical unit set up. They were being
5 held in the Camp Director's Office; they were also being
6 held in the Great Hall. There was a screened-in porch type
7 building, looked like a workshop, we were holding interviews
8 there also.

9 Q Did you conduct some of those interviews yourself?

10 A Yes, sir, but I can't remember which ones and
11 normally I was always accompanied by another agent or another
12 person.

13 Q Let me ask you, during the course of the interviews
14 of both the camp personnel and the campers, did anybody give
15 you a description of strange persons or person who was in
16 the Camp Scott area on the 12th and 13th day of June?

17 A No, sir, they did not.

18 Q During those interviews, did anybody say anything
19 about a note being written several weeks before the camp
20 being opened?

21 A No, sir, they did not.

22 Q After you had conducted the interviews with the
23 campers and the camp personnel, what did you do?

24 A What day?

25 Q 13th?

1 A I was present while evidence was collected from
2 the floor of Tent 7; I was present while the floor was
3 removed from Tent No. 7; I had various meetings with Mr.
4 Wise and my supervisor, Ted Lempke and other agents through-
5 out the day; I met with Beverly Hough quite often; I met with
6 Pete Weaver quite often.

7 Q Now Mr. Thurman, did you take any written state-
8 ments from anybody at any time?

9 A No, sir, I did not.

10 Q During the investigation of Camp Scott?

11 A No, sir, I did not.

12 Q I'm talking from the 13th of June until right now?

13 A No, sir, not that I can remember.

14 Q Did you take any tape recorded statements from any-
15 body from the 13th of June to right now?

16 A Yes, sir, I did.

17 Q Who was the person that you taped?

18 A Larry Dry.

19 Q When did you tape him?

20 A I believe it was during May.

21 Q Where did you go when you made that tape?

22 A It was at our Oklahoma State Bureau of Investigation
23 Office in Oklahoma City.

24 Q What did Mr. Dry tell you on that tape?

25 MR. FALLIS: If it please the Court, I object to it

1 as being cumulative. In this particular instance, there's
2 been testimony about this; it also seeks to invade the work
3 product. There's been no testimony of a sworn statement
4 being typed.

5 THE COURT: Objection is sustained.

6 Q Did anything Mr. Dry said on that -- was anything
7 he said on that tape inconsistent with the testimony he gave
8 here in Court?

9 A No, sir, not that I can remember.

10 Q Did he mention the letters he alleged Mr. Hart
11 wrote him threatening him?

12 MR. FALLIS: If it please the Court, I'm going to
13 object again, on the purpose of stating this is trying to
14 do indirectly what cannot be done directly.

15 THE COURT: Sustained.

16 MR. ISAACS: Judge, if I can't ask him what was
17 inconsistent, I don't know what was inconsistent. I'm merely
18 trying to show that prior inconsistent statements --

19 THE COURT: I think you asked him if there was any
20 inconsistency and I believe he said no.

21 MR. ISAACS: Then I asked him if he made any
22 mention of the letters and he hasn't answered.

23 THE COURT: I sustained the objection to that ques-
24 tion. Ask your next question.

25 Q Can you think of any inconsistencies that he made?

1 MR. FALLIS: Asked and answered.

2 THE COURT: Sustained.

3 MR. ISAACS: I move at this time that I be allowed
4 to listen to the tape Larry Dry gave to the Agent Thurman.

5 THE COURT: Motion is denied. Ask your next ques-
6 tion.

7 Q Were any transcripts made of that tape?

8 A I think there was; I'm not sure.

9 Q Do you know who has a copy of that transcript in
10 their possession?

11 A I might have; I'm not positive. If I do not have,
12 it's probably at our office in Oklahoma City and it hasn't
13 been completed yet and -- but I think it has been completed.

14 Q How long was that interview, Mr. Thurman?

15 A All in all, probably an hour and a half. There
16 was times when I was called out of the interview to take
17 care of various other items and then I would return and go on.

18 Q Who was with you during that interview?

19 A Larry Dry.

20 Q Anybody else?

21 A No, sir.

22 Q Did you tape any other statements from any other
23 people during the course of the investigation?

24 A No, sir.

25 Q In that tape recording Mr. Dry made, did Mr. Dry

1 mention anything about pulling a gun on Mr. Hart in the
2 Spring Creek area, October, a few years ago?

3 MR. FALLIS: If it please the Court, our same objec-
4 tion we made previously on this matter.

5 THE COURT: Objection is sustained.

6 Q In the tape recorded statement that you took from
7 Mr. Dry, did Mr. Dry mention any pictures being in Mr. Hart's
8 possession at that time that he and Mr. Hart escaped from
9 the Mayes County Jail in 1973?

10 MR. FALLIS: If it please the Court, at this time
11 we would ask again to raise the same objection and ask the
12 Court to admonish counsel. I think the Court has adequately
13 ruled and informed counsel of his rulings.

14 THE COURT: Mr. Isaacs, I sustained the objection.
15 The only way you're going to get the contents of that state-
16 ment is if it is a sworn statement made by the witness and
17 apparently it is not, so I think any further questions along
18 that line would be --

19 MR. ISAACS: Your Honor, I'm just trying to make
20 my record.

21 THE COURT: I think you have.

22 MR. ISAACS: So I can argue that there is exculpatory
23 evidence there and I'm entitled to it. That's my purpose for
24 asking those questions.

25 THE COURT: Go ahead with your next question.

1 Q Now Mr. Thurman, did Mr. Dry at any time during
2 that tape recorded statement make any reference to a shake-
3 down at the Mayes County Jail?

4 MR. FALLIS: If it please the Court, apparently
5 you -- either I'm not hearing or counsel is not hearing.
6 I raise the same objection and ask the Court again to con-
7 serve time by stating the same ruling you made before, Your
8 Honor.

9 MR. ISAACS: Judge, could I just ask the question
10 and you give him an objection and sustain them?

11 THE COURT: I'm going to sustain his objection and
12 admonish you not to ask him anymore questions about the
13 contents of the tape that was made of Larry Dry. You would
14 be entitled to a transcript of that tape if it were signed
15 and sworn to by that witness, but otherwise not. And I
16 think you've made your record adequately.

17 MR. ISAACS: Thank you.

18 THE COURT: Let's move on to another area.

19 Q Now Mr. Thurman, that statement is being transcribed
20 at this time, is it not?

21 A I've already explained, I may have it in my possession
22 at this time. If I do not have it, it's in Oklahoma City
23 being completed at this time but I do think I have it in my
24 possession.

25 Q Do you intend to have Mr. Dry sign that statement?

1 A No, sir, I do not.

2 MR. FALLIS: If it please the Court, this line of
3 questioning, we would object to as taking time. It seems
4 to be rather long on one side here and I object to any further
5 inquiry in this area.

6 MR. ISAACS: Judge, they took six days to put
7 their case on and we didn't push them around and I feel like
8 we should be entitled --

9 THE COURT: All right. Before this goes any
10 further, you may inquire if there is a signed, sworn state-
11 ment by Mr. Dry of this witness and I think that should end
12 this particular line of questioning. If there is, you're
13 entitled to it.

14 Q Now Mr. Thurman, backing up to the 13th day of
15 June at Camp Scott, after you had conducted your interviews
16 with the counselors and campers, what did you do?

17 A That night I went home and picked up a bunch of
18 clothes and --

19 Q Did you transport any evidence that day?

20 A No, sir, I don't believe so. Not that day.

21 Q After you picked up your clothes, did you go back
22 to Camp Scott?

23 A The following day, yes, sir.

24 Q What did you do the following morning in reference
25 to the investigation of these homicides?

1 A A little bit of everything. I can't remember. I
2 talked with a lot of people, talked with a lot of agents, a
3 lot of deputies, made a lot of phone calls, got a lot of
4 phone calls.

5 Q Did you conduct any searches in the Camp Scott
6 area?

7 A Not on the 14th, no, sir.

8 Q Did you interview -- you've already told me you
9 interviewed a lot of people. Did you tape any other inter-
10 views of any other witnesses at any time during this investi-
11 gation?

12 A No, sir, I did not.

13 Q On the 15th, did you conduct a search?

14 A I failed to mention on the 13th, I did conduct a
15 search, if that's what you're getting at.

16 Q Where was that?

17 A Okay, it was right around where the bodies were
18 found and to the south, the west and the north, the whole
19 area of the Kiowa Camp area, on the Cavalier property, back
20 to the south. Went on up south from where the bodies were
21 located on the Camp Scott area.

22 Q Did you spot any evidence that was later processed?

23 A Yes, sir.

24 Q What was that evidence that was later processed?

25 A There was a leaf that had been observed by somebody.

1 I can't remember who, and it appeared what might have been a
2 drop of blood on it. This was collected and it was negative
3 as being human blood on the leaf.

4 Q Did you locate any other items of evidence and have
5 it processed?

6 A On the 13th?

7 Q 13th, yes, sir.

8 A Yes, sir, all of the other items that I have men-
9 tioned previously.

10 Q Other than the ones we have mentioned previously,
11 did you locate any crowbar?

12 A No, sir, not on the 13th.

13 Q Hatchet?

14 A There was a wooden nickel located on the 13th.
15 There was also a little hair deal that the girls -- with
16 the little plastic balls on it.

17 Q Where was the wooden nickel located?

18 A In about the vicinity of the little decals.

19 Q That would be out in the center there by the fire
20 ring?

21 A No, sir, it was by the Cookie Shed - behind the
22 Cookie Shed, in that area.

23 Q On the 14th day of June, you told us about your
24 interviews. Did you conduct any searches on that day?

25 A I can't remember what day it was but I know we did

1 some more searching in the vicinity.

2 Q Tell me to the best of your recollection what day
3 it was and what search you conducted?

4 A I have no idea what day.

5 Q 15th?

6 A I have no idea when it was.

7 Q When they brought the dogs in to track, did you
8 participate in any of the tracking searches?

9 A No, sir, I did not.

10 Q Did you later find a crowbar at some place, Mr.
11 Thurman?

12 A No, sir, I didn't find it.

13 Q Who found it?

14 A I believe it was Trooper Harold Berry.

15 Q Where was that crowbar found?

16 A It was laying along the south edge of the camp,
17 adjacent to the Kiowa Camp area, almost underneath the barbed
18 wire fence or under the barbed wire fence which runs on the
19 south side of Kiowa Camp area.

20 Q What was done with the crowbar?

21 A It was collected as evidence.

22 Q Was it processed?

23 A Yes, it was.

24 Q Do you know the results of that process?

25 A Yes, sir, I do.

1 Q What are they?

2 A Negative as to having human blood on it and nega-
3 tive to one more test that was requested.

4 Q What were the other tests?

5 A A test was requested to determine if it was the
6 instrument used to enter the Shroff residence.

7 Q Now, you have submitted a number of items of
8 evidence. I'll try to go through these day by day and
9 read you the dates and the items. On June 30th, 1977, lab
10 report No. S-77-332, at page 9, says you submitted one
11 hatchet. Tell me where you found it and who you were with?

12 A Does it give a color handle on the hatchet?

13 Q No, sir. I'll hand you a copy of the Technical
14 examination report and ask that he be allowed to refresh his
15 recollection from that, Judge. Does that help you?

16 A All in all, we probably had maybe six hatchets
17 submitted and there could be more or there could be less.
18 I'm not sure. And on this particular hatchet, I don't remem-
19 ber just from that as to which hatchet it was or where it
20 came from. There was two hatchets that I can remember where
21 I received them from.

22 Q Which two are those?

23 A One of them, I believe was a yellow handle hatchet
24 that was found away from the Kiowa Camp in another camp area
25 that had been hanging up in the storage unit that's on the

1 cook shack or the cook kitchen; I don't know.

2 Q Was that hatchet processed?

3 A Yes, sir, it was sent to Oklahoma City and processed
4 for human blood being on it and any foreign objects that
5 shouldn't be on it and it was negative results on it also.

6 Q The other hatchet, do you remember, Mr. Thurman?

7 A Yes, sir, it was a hatchet that was in a leather
8 case that I received from Pete Weaver.

9 Q Do you know where he got that hatchet?

10 A No, sir, I do not. This was six or seven months
11 after the homicides, I believe.

12 Q Was that hatchet processed?

13 A Yes, sir.

14 Q What were the results?

15 A Negative.

16 Q For what?

17 A For human blood or human hair.

18 Q Mr. Thurman, on June 30th, you submitted one strand
19 of hair taken from a barbed wire fence, west side of Camp
20 Scott; two hairs from a barbed wire gate, southwest corner
21 of Camp Scott; two hairs from a barbed wire fence southwest
22 corner of Camp Scott. Were those hairs processed?

23 A Yes, sir, they were.

24 Q What race of person left those hairs?

25 A Cow.

1 Q I see here you took a saliva sample from Kenneth
2 L. Chaffin on the 30th?

3 A Yes, sir.

4 Q Did you interview Mr. Chaffin before taking that
5 saliva sample?

6 A I didn't conduct the interview. I believe I was
7 present during the interview when that particular saliva
8 sample was taken, yes, sir.

9 Q What was the substance of that interview?

10 A I believe from that particular day when we talked
11 to him, we had asked him if he had possibly been on the creek
12 south of Camp Scott and if he was there on the day of the
13 homicides, or the days prior to the homicides, rather, and if
14 he had seen anybody in the vicinity.

15 Q Had he seen anyone?

16 A Yes, sir, he had.

17 Q Who had he seen in the vicinity?

18 A He advised he saw another white man who we later
19 assumed to be Mr. Richard Day because Mr. Chaffin informed he
20 was carrying a water jug and had gone down to the creek to
21 get some water.

2 Q Is Mr. Chaffin the same fellow that writes poetry?

3 A Which poetry are you talking about?

4 Q Some poems mentioning death?

5 A I don't remember any of Mr. Chaffin's poems that

1 really come out and say anything about death.

2 Q Did you read those poems?

3 A Yes, sir, but it's been awhile.

4 Q Who has a copy of those poems at this time?

5 A There's a copy in the Oklahoma City Office, I'm
6 sure.

7 Q Are those written or printed?

8 A I don't remember.

9 Q Anything in there about any sexual perversion?

10 A Not that I can remember.

11 Q Narcotics?

12 A No.

13 Q Any allusions to narcotics?

14 A Not that I can positively say, no, sir.

15 Q Mr. Thurman, during the investigation of these
16 homicides at Camp Scott, did you have an occasion to go to
17 the area of what we've been referring to as the cave-cellar
18 area?

19 A Which time are you talking about now?

20 Q On or about the 18th of June?

21 A No, sir, I didn't.

22 Q Did you go there at a later date?

23 A Yes, sir.

24 Q Did you conduct a search of that area?

25 A No, sir, I did not.

1 Lawton office.

2 Q What day approximately was it that Mr. Dry was
3 released to the Oklahoma State Bureau of Investigation from
4 the Granite Reformatory?

5 A I don't know that he was released to the Oklahoma
6 State Bureau of Investigation.

7 Q Well, you had him out there in the woods south of
8 Locust Grove a couple of months ago, did you not?

9 A Yes, sir, I did.

10 Q How did he come to be in the group of people that
11 walked from Camp Scott down there to the cave-cellar area?

12 A I called him and asked him if he would take me.

13 Q He was already out of jail?

14 A He was at his residence or a residence -- I don't
15 know whose residence it was.

16 Q Where is that residence located?

17 A It's here in Pryor. I don't know the address.

18 Q In reference to Cave No. 2, being the cave back
19 behind the Shroff residence?

20 A I have no idea.

21 Q Wait just a moment, I've got the wrong cave. I
22 think Cave No. 3 is back behind Mr. Shroff's residence, would
23 you tell me if you've ever been up to that cave and what you
24 did when you went up there?

25 A I've never been to what you're considering Cave No.

1 3, to my knowledge. No, sir, I've never been to that cave.

2 Q The cave near Skunk Mountain, Cave No. 2, have you
3 been to that cave?

4 A Yes, sir, I have.

5 Q According to the Technical Examination Report,
6 you seized some items of evidence there, did you not, Mr.
7 Thurman?

8 A Yes, sir, I did.

9 Q One of those being a Band-aid taken from the cave;
10 is that correct?

11 A Yes, sir.

12 Q Was that Band-aid submitted for tests?

13 A Yes, sir.

14 Q What were the results?

15 A Of which tests?

16 Q Tests for blood.

17 A I don't remember what the results were on the tests
18 for blood.

19 THE COURT: Excuse me, Mr. Isaacs. May I interrupt.
20 Do the technical reports that you received list the results
21 or only the fact of the test?

22 MR. ISAACS: Some of them list the results. This
23 Band-aid, I don't have the results and I will show you why,
24 Judge. My copy right here doesn't have a number on it.

25 THE COURT: All right. It just lists the item on

1 some of them. Okay.

2 Q What other items did you submit that you found in
3 that cave, Mr. Thurman?

4 A Various tin cans which were found hidden under
5 leaves and rocks; a broken quart mason jar; hairs; candy
6 wrappers; little tabs off Band-aids. I believe there was a
7 piece of gum, had been chewed; various cigarette butts.
8 There was some plaster casts made.

9 Q Who made those casts?

10 A Agent Charlie Wellman.

11 Q What were the plaster casts pertaining to?

12 A A footprint.

13 Q Would you describe the footprint for me?

14 A Looked like a military boot, from what we could
15 tell.

16 Q You've been here when everybody has talked about the
17 boot with lugs in it?

18 A Same one, or one that appears to be the same, yes.

19 Q What size of boot print left that?

20 A I have no idea.

21 Q Any tennis shoe prints in the area of the cave?

22 A You're talking about Cave 2?

23 Q The Cave No. 2 over there on Skunk Mountain where
24 you picked up the bandages?

25 A No, sir, not that I can remember.

1 MR. ISAACS: Let me look through here and see --
2 make sure I didn't miss anything in the report, Judge.

3 Q Mr. Thurman, do you recall submitting any other
4 items of evidence such as a hatchet, Band-aid, anything of
5 that nature?

6 A Could you repeat the question?

7 Q Do you recall submitting any other item of evidence
8 other than the ones I have asked about?

9 A Yes, sir.

10 Q What was that?

11 A What date?

12 Q Beginning with the 13th and going forward, can you
13 tell me what other items of evidence you submitted?

14 A Yes, sir, but it is going to take all day, probably,
15 and I'll have to refresh my memory.

16 Q Are we talking about a lot of garbage picked up, a
17 lot of trash?

18 A Yes, sir.

19 Q Who gave those items to you?

20 A Various people.

21 Q We don't have a report on that because those things
22 were not processed, do we?

23 A Probably not, if you're talking about Technical
24 Examination Reports, no, sir, you probably don't.

25 Q Did anybody turn any shoes over to the OSBI?

1 A Yes, sir.

2 Q What type of shoes?

3 A I believe it was a pair of tennis shoes.

4 Q Where were those tennis shoes located when they were
5 picked up?

6 A I do not know.

7 Q Are they in your possession at this time?

8 A No, sir.

9 Q A pair of boots?

10 A If a pair of boots was submitted, I do not remember
11 it.

12 Q Have you seen those tennis shoes?

13 A The ones that we were just talking about?

14 Q Yes, sir?

15 A I don't think I have, no, sir.

16 Q Do you know who submitted the tennis shoes?

17 A No, sir, I'm not sure.

18 Q Have I asked you about any item of evidence that
19 you submitted which was processed -- have I asked you about
20 every item of evidence that was processed by your organiza-
21 tion?

22 A No, sir, you have not.

23 Q What other items of evidence?

24 A On what date?

25 Q Well, now, the only thing I've got to go by are

1 Technical Reports.

2 A Well, you've got all the evidence that was received
3 in the Medical Examiner's Office?

4 Q Yes, sir, did you transport that?

5 A No, sir, I did not transport that.

6 Q What I'm specifically concerned with is that
7 evidence which you yourself transported or which you yourself
8 found in some vicinity near the scout camp, or in the vicinity
9 of the scout camp?

10 A I found one leisure jacket hanging on a tree 'way
11 out in the woods that had a bottle of pills in it.

12 Q What kind of pills?

13 A Beats me.

14 Q Did you submit that?

15 A Yes, sir, I did.

16 Q What size was that leisure jacket?

17 A I believe it was a 15-15 1/2, I'm not sure.

18 Q Did you find out who owned the jacket?

19 A No, sir, it had been hanging in the woods quite
20 awhile.

21 Q Was that a prescription bottle of pills?

22 A I'm not sure; I can't remember.

23 Q Where was that found?

24 A I think I found it about - probably two miles south-
25 west of Camp Scott.

1 Q On what date?

2 A I don't remember. It was the day that all the
3 civilian volunteers showed up at the area.

4 Q Did you participate in the investigation of the
5 burglary of Jack Shroff?

6 A No, sir.

7 Q Did you participate in the investigation of the
8 burglary at Sam's Corner?

9 A Which one? Which store are you talking about -
10 the T & H Grocery?

11 Q The one located west of Locust Grove?

12 A Sam's Corner is west of Locust Grove. Are you
13 talking about the T & H Grocery Store?

14 Q The grocery store at Sam's Corner.

15 A There's two grocery stores at Sam's Corner, or
16 service station groceries.

17 Q Were both burglarized?

18 A I have no idea.

19 Q Did you investigate one burglary at that location?

20 A I was there, yes, sir.

21 Q Which grocery store?

22 A The T & H burglary at the T & H Grocery Store.

23 Q All right, tell me what you did.

24 A I helped fingerprint the employees and the owner
25 of the grocery store.

1 Q Were any latent fingerprints lifted from that
2 grocery store?

3 A Yes, sir.

4 Q Were they compared to Gene Leroy Hart's finger-
5 prints?

6 A I don't know.

7 Q Was that burglary ever solved, to your knowledge?

8 A I don't know; I don't think so.

9 Q Who all was present when that investigation was
10 conducted at the T & H Grocery Store?

11 A I remember seeing some members of the Mayes County
12 Sheriff's Office there. I believe there was some Oklahoma
13 Highway Patrolmen there. Agent John Gosser and one other
14 Agent, who I can't remember -- there was some dog handlers
15 there.

16 Q Did they attempt to track the burglar?

17 A I don't know; I left.

18 Q What office is Mr. Gosser out of?

19 A He is either out of McAlester Office or the Okla-
20 homa City Office. He's been transferred recently.

21 Q Did you make any plaster casts of any footprints
22 at the T & H Grocery burglary?

23 A No, sir, didn't make plaster casts.

24 Q Conduct any type of technical examination at that
25 location?

1 A Myself?

2 Q Yes.

3 A No, sir, I did not.

4 Q Did any of the agents there under your supervision
5 conduct any type of technical investigation, other than
6 latent fingerprints?

7 A Yes, sir.

8 Q What was that?

9 A Photographs.

10 Q Were those photographs compared to the -- were the
11 markings of the entry of the Sam's Corner Grocery burglary
12 compared with the markings of the Jack Shroff burglary?

13 A I don't know that there were markings at the T & H
14 Grocery.

15 Q Do you have an opinion as to how entry was gained
16 into the T & H burglary?

17 A No, sir, I do not.

18 Q Did you participate in the investigation of the
19 Grossman burglary?

20 A No, sir, I did not.

21 Q Mr. Thurman, when was the first time that you
22 interviewed Mr. Larry Dry?

23 A I can't remember for sure. It was during 1978,
24 probably three or four months ago.

25 Q Where was that interview?

1 MR. FALLIS: If it please the Court, that question
2 has been asked and answered previously.

3 Q Is that the same interview when you took the tape?

4 A No, sir.

5 THE COURT: Overruled.

6 Q Where was that interview conducted?

7 A I honestly can't remember where it was conducted.

8 Q Would it have been in Mayes County?

9 A I believe so, yes, sir.

10 Q Was Mr. Dry promised any early parole for helping
11 the OSBI?

12 A I have no knowledge of anything like that.

13 Q Was he paid any money?

14 A No, sir, not that I know of.

15 Q Now, that taped interview, I believe you said
16 that was about two or three months ago; is that correct?

17 A Yes, sir.

18 Q Was that the second time you interviewed Mr. Dry?

19 A Yes, sir, I believe so; could have been the third
20 time.

21 Q During the interim period, did Mr. Dry take you
22 any place or help you in the investigation in any way?

23 A Just to simplify this, I believe the first time
24 that I met Mr. Dry is when I called him up and asked him to
25 take me to the cave-cellar area from Camp Scott.

1 Q Okay.

2 A And I think the second time that I talked to Mr.
3 Dry was when I interviewed him in Oklahoma City.

4 Q Have you talked to him any other time other than
5 those two times?

6 A Yes, sir.

7 Q When is the third time you talked to him?

8 A I talked to him, I believe, the next time on the
9 telephone to make arrangements to meet with him.

10 Q To meet with you where?

11 A In Pryor.

12 Q When was that?

13 A I don't know. It was shortly after -- boy, I
14 can't remember if it was after or before the Oklahoma City
15 interview. I'm really not positive. But I met with him in
16 Pryor.

17 Q For what purpose did you meet with him in Pryor?

18 A To show him photographs.

19 Q Which photographs were those?

20 A What I consider a mug shot line-up.

21 Q Who was in the mug shot line-up?

22 A I really don't know. I know one of our female
23 agents was in one of the photographs and they all appeared
24 to be at a wedding or a wedding reception. And then, included
25 in the line-up was the two photographs found in Cave No. 1,

1 cave-cellar No. 1.

2 Q So this is kind of a show-up - photo type show-up
3 that only photographs instead of persons?

4 A Yes, sir.

5 Q What is the name of the female OSBI Agent whose
6 picture was in that?

7 THE COURT: Mr. Isaacs, isn't that sort of irrele-
8 vant?

9 MR. ISAACS: Judge, I really don't know.

10 THE COURT: I think it is; why don't you ask your
11 next question.

12 Q Was there any particular purpose why her picture
13 was in that line-up?

14 A It was just a photograph that was available which
15 would suit my needs.

16 Q After you had shown Mr. Dry that photograph, what
17 did you do?

18 A Probably went back to Bartlesville. I don't know.
19 I can't remember for sure.

20 Q What was the purpose of showing him this line-up?

21 A To see if he could identify the two photographs
22 found in the cave-cellar area.

23 Q Do you have a copy of that photo line-up that you
24 showed Mr. Dry?

25 A Yes, sir, there is one available, yes, sir.

1 Q Do you have it in your possession?

2 A No, sir, not right now.

3 Q Could I look at it if I come to where that photo-
4 graph is kept?

5 A Fine with me.

6 Q Where is it kept?

7 MR. FALLIS: Judge, could he make his arrangements
8 on something other than court time? He might want to know
9 what they're kept in or might be wanting to know if there is
10 somebody standing by right now. We are wasting so much time
11 here.

12 THE COURT: Sustained. You can ask him when we
13 break for lunch, in a few minutes.

14 Q After you had interviewed Mr. Dry in Pryor to ask
15 him if he could identify the photos in the line-up, when is
16 the next time you interviewed him?

17 A I don't believe I did. I think that was the last
18 time I seen him. I've only seen him one time since, I believe.

19 Q Was that when he testified here?

20 A Yes, sir.

21 Q Before he testified, did you speak with him?

22 A Yes, sir, I did.

23 Q In the District Attorney's Office?

24 A No, sir, I believe it was in the hallway.

25 Q The hallway; okay. Have you ever talked to him in

1 the Mayes County Jail?

2 A No, sir, I did not.

3 Q Have you ever talked to him in the Delaware County
4 Jail?

5 A No, sir, I did not.

6 Q At any time in your presence, was Mr. Dry promised
7 any money to testify?

8 MR. FALLIS: If it please the Court, asked and
9 answered. And I object on that basis.

10 MR. ISAACS: Only asked about the second interview.

11 MR. FALLIS: If it please the Court, he asked him
12 about his cooperation in this matter, whether he'd been
13 offered money or parole.

14 THE COURT: Sustained. I thought your question
15 went to the entire dealing with Mr. Dry.

16 Q Mr. Thurman, directing your attention to the Band-
17 Aid found at the Skunk Mountain cave, were there any other
18 tests performed on that Band-Aid, other than a blood test?

19 A Yes, sir, I believe I requested one other test and
20 that was to check for fingerprints.

21 Q Find any fingerprints on that Band-Aid?

22 A No, sir, did not. None of the technical reports
23 said there were any prints on the Band-Aid.

24 Q Now the pictures we've been talking about that were
25 shown to Larry Dry, we know that the two pictures that were

1 found down in the cave-cellar area were crumpled up and had
2 been rained on. How did you arrange the other pictures so
3 that they would be similar to the ones found in the cave-cellar
4 area?

5 A Well, we had a reproduction of the two photographs
6 found in the cave-cellar area and they did appear to be
7 uncrumpled and worn away. We took the other photographs --
8 I assume this was the way it was done -- the other photographs
9 I received from the Oklahoma City Office appeared to be worn
10 and crumpled also.

11 Q All right. When Agents Linville and Esquinaldo
12 were processing the tent, would you tell me what time approx-
13 imately the inventory took place?

14 A It was in the afternoon sometime, probably around
15 4:00 or 5:00 o'clock. I don't know. It could have been
16 6:00 or 6:30.

17 MR. ISAACS: I think that's all of this witness at
18 this time.

19 THE COURT: Cross-examine?

20 MR. FALLIS: I may have two or three questions.
21 Would the Court desire to take the lunch break at this time?

22 THE COURT: No, I'd like to finish with this wit-
23 ness.

24 CROSS EXAMINATION

25 BY MR. FALLIS:

1 Q Mr. Thurman, concerning the Band-Aid that counsel
2 has asked you about, found up near Skunk Mountain, which was
3 Cave No. --

4 A 2.

5 Q 2?

6 A Yes, sir.

7 Q Now, do you recall observing or finding any items
8 of hair attached to that Band-Aid?

9 A No, sir, I didn't find any hair attached to the
10 Band-Aid.

11 Q Did somebody there, in your presence?

12 A I believe when it was picked up, there appeared
13 to be some hair attached to the Band-Aid.

14 Q Counsel has asked about the results of any tests
15 that were conducted on evidence found, or at least secured
16 at the Cave No. 2. Do you know if there was a test conducted
17 on the hair there?

18 A Yes, sir, there was.

19 Q Do you know the results of that test?

20 A Yes, sir, I do.

21 Q What were the results?

22 A The results were that they had the same characteris-
23 tics of the hair that we removed from Gene Leroy Hart.

24 Q I see. And concerning Cave No. 2, isn't it a fact
25 that cigarette butts were taken from that location?

1 A Yes, sir, there were.

2 Q As a matter of fact, weren't those cigarette butts
3 processed for saliva residue?

4 A Yes, sir, they were.

5 Q Were they not processed to determine two things:
6 First of all, if the person whose mouth the cigarette had
7 been held in was a secretor and if so, as to what type of
8 blood they belonged?

9 A Yes, sir.

10 Q Do you know the results of that?

11 A Yes, sir.

12 Q Is it not a fact that the results were that it is
13 a secretor and O type of blood, the same as Gene Leroy Hart?

14 A Yes, sir.

15 Q And the footprint, or the bootprint you observed
16 there at Cave No. 2, did that appear to be the same type of
17 characteristic as the print that was perhaps was exhibited
18 to you from the Shroff residence?

19 A Yes, sir.

20 Q And the print described at Camp Scott?

21 A Yes, sir.

22 Q And prints described at the T & H Grocery?

23 A Yes, sir.

24 MR. FALLIS: No other questions, Your Honor.

25 THE COURT: Redirect?

REDIRECT EXAMINATION

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BY MR. ISAACS:

Q Mr. Thurman, I missed something. I thought you told me there was no footprints at the grocery store at Sam's Corner?

A You asked me if I took any plaster casts or if any of the technicians took plaster casts and they did not.

Q Any photographs made of those footprints?

A Yes, sir, there were.

Q Were those footprints inside the grocery or outside?

A Outside the grocery.

Q Would you describe for me their distance and direction from the grocery?

A I cannot. I didn't see the actual footprints. I have seen photographs of the footprints.

Q What type of footprints are we talking about, a boot or tennis shoe?

A Military footprint, military type design.

Q Mr. Thurman, how many types of cigarettes at that Cave 2?

A Pardon?

Q How many different brands of cigarettes in Cave 2?

A Counting the one that I was carrying, the other agents were carrying, the ones we found or what?

Q The ones you found?

1 A I believe there was two types.

2 Q Just two?

3 A That's all that I can remember; could be more.

4 MR. ISAACS: Thank you. Nothing further, Judge.

5 THE COURT: Recross?

6 MR. FALLIS: Nothing.

7 (WHEREUPON, the witness was excused.)

8 THE COURT: It's after 12:00; we'll recess until
9 1:30.

10 (Following a lunch recess, proceedings continued
11 as follows:)

12 AFTERNOON SESSION

13 MR. ISAACS: Judge, I'd like to recall Mr. Thurman
14 for a couple of questions.

15 CAREY THURMAN,

16 recalled as a witness on behalf of the Defendant, having
17 previously been sworn, testifies further as follows:

18 DIRECT EXAMINATION

19 BY MR. ISAACS:

20 Q Mr. Thurman, this morning we were talking about a
21 fellow named Larry Dry and I mentioned - asked you about an
22 interview you had had with him?

23 A Yes, sir.

24 Q Have you in your possession any literature which
25 Mr. Dry says Mr. Hart wrote him?

1 A I know nothing of such letters, no, sir.

2 Q Do you know of anyone that has those letters?

3 A No, sir, I do not.

4 Q Has anyone attempted to locate those letters from
5 one of Mr. Dry's wives?

6 A I know of no contacts of Mrs. Dry or whoever.

7 Q Were you present in an area outside of Tahlequah
8 when Gene Hart was arrested?

9 A Yes, sir, I was.

10 Q And that was on the 6th day of April, was it not?

11 A Yes, sir.

12 Q Tell me what you did when you went up there?

13 A First of all, I flew in an airplane surveillance
14 on a residence and this went on for approximately four or
15 five hours and my supervisor informed the pilot to land and
16 we landed and I got in a vehicle with another agent and we
17 met with a group of agents and determined what we were going
18 to do at a particular residence where we thought Mr. Hart
19 was at.

20 Q Which residence was this that you were flying over?
21 Is that Sam Pigeon's residence?

22 A No, sir, this was a Smith residence.

23 Q What did you do next?

24 A Okay. We, like I said, we met and we came up with
25 a plan of how to go to the Pigeon residence and attempt to

1 locate Mr. Hart.

2 Q Now the Smith residence is located where?

3 A Somewhere by Marble City. I was in the airplane
4 and I never seen it from the ground, really.

5 Q And that's a great distance from the Pigeon resi-
6 dence?

7 A Not by airplane. I don't know how far it is by
8 car. Then -- do you want me to continue of what we did?

9 Q Yes, sir?

10 A Went to the Pigeon residence and captured Mr. Hart.

11 Q And who took you from the Smith residence to the
12 Pigeon residence to capture Mr. Hart?

13 A Well --

14 MR. FALLIS: If it please the Court, we would ob-
15 ject to this line of questioning as being incompetent, ir-
16 relevant and certainly immaterial as to the incidents of
17 June the 12th and 13th of 1977. There has been no attempt
18 by the State to introduce any type of physical evidence
19 otherwise related to the arrest of the Defendant Gene Leroy
20 Hart.

21 THE COURT: There was the glasses, Mr. Fallis.

22 MR. FALLIS: That's correct, Your Honor.

23 THE COURT: I'll allow him to pursue this line of
24 questioning.

25 A (By Mr. Thurman) Could you repeat your last

1 question, please?

2 Q Who took you from the Smith residence to the Pigeon
3 residence?

4 A I flew almost three-fourths of the way there and
5 then I got in Agent Chrisco's unit and we drove down to the
6 meeting place, where we met and I have no idea where that is
7 at. To be honest, I was a little bit disorientated as to
8 where I was at because of the airplane ride. We met at
9 some little grocery store. We got in the Bureau van. From
10 there, we went to the Pigeon residence.

11 Q You say "we", who was in the Bureau van?

12 A There was seven other agents and one other infor-
13 mant and myself.

14 Q Who was the informant?

15 A Your Honor, that could jeopardize a subject's life
16 if I answer that question.

17 MR. FALLIS: If it please the Court, the nature of
18 the informant would have no relevance to this issue. We
19 would object on that grounds as well as privileged by the
20 officer to maintain anonymity of that informant.

21 MR. ISAACS: Judge, I submit that he is a witness
22 because he was present. Therefore, we have a right to his
23 name.

24 THE COURT: Objection is sustained.

25 Q Who else was with you, other than the informant?

1 A Seven other agents.

2 Q All right. Give me their names?

3 A Agent Roger Chrisco; Agent Jack Lay; Agent Mike
4 Wilkerson; Agent Larry Bowles; Agent Harvey Pratt; Agent
5 Bud Owlsley -- how many is that?

6 Q Six. Yourself is seven. Mr. Young with you?

7 A No, sir.

8 Q Mr. Lay -- you mentioned him?

9 A Yes, sir.

10 Q Mr. Lempke?

11 A No, sir. Oh, Agent Don Sharp.

12 Q Okay. Tell me what happened after you got in the
13 van?

14 A We proceeded to the Pigeon residence and went up
15 to the residence and arrested Mr. Hart.

16 Q Tell me what happened when you got to the residence?

17 A Mr. Hart was arrested, advised of his rights under
18 the Miranda Warning.

19 Q Did you go into the residence?

20 A Yes, sir, later I did.

21 Q And did you arrest anybody inside the house?

22 A No, sir, I did not.

23 Q Who arrested Mr. Hart?

24 A Agent Lay arrested Hart.

25 Q Where were you when Mr. Lay went in the house and

1 arrested Mr. Hart?

2 A I was at the back of the residence, sort of what
3 I think is on the west side. I'm not for sure.

4 Q Who was with you there at the rear of the residence?

5 A I think Agent Bud Owlsley and Don Sharp and I can't
6 remember -- things were going pretty fast about that time.
7 We went up the hill.

8 Q Who all went into the house to arrest Mr. Hart;
9 Mr. Lay, by himself, or did other people go?

10 A I think Mr. Lay and Agent Chrisco were the first
11 two through the front door.

12 Q Through the front door?

13 A Yes, sir.

14 Q Then what happened?

15 A He was handcuffed, advised of his rights and we
16 took photographs of Mr. Hart, photographs of the residence
17 and then Mr. Hart was transported to OSBI Headquarters in
18 Tahlequah.

19 Q Did you seize any evidence at the residence?

20 A Myself, I didn't, no, sir.

21 Q Did anybody else?

22 A Yes, sir.

23 Q What evidence?

24 A I'm not for sure what evidence was seized at the
25 residence.

1 Q Radio and two quilts?

2 A I have no idea.

3 Q When you transported Mr. Hart from the residence
4 over to Tahlequah, did someone stay behind to secure the
5 scene?

6 A Yes, sir, I stayed with Agent Chrisco and Agent Lay.

7 Q Did you go inside the house at that time?

8 A We waited for Mr. Pigeon to come to his residence
9 and he signed a search waiver and then Agent Chrisco and -
10 at this time, Technician-Chemist Dennis Reimer showed up and
11 he and Chrisco completed the search of the residence. Agent
12 Lay and myself arrested another gentleman and his name slips
13 my mind right now and we transported him to Tahlequah.

14 Q What other gentleman did you arrest - Pigeon?

15 A No. Pigeon was placed under arrest and then there
16 was one other gentleman and I can't remember his name. Mr.
17 Lay arrested him.

18 Q Was he a resident of that area?

19 A I'm not really sure. I never talked with the gentle-
20 man, just casual conversation on the way into Tahlequah. He
21 was doing gardening work just down the hill and across the
22 road from the Pigeon residence.

23 Q How long after you had arrested Mr. Hart was it
24 until you returned to the Pigeon residence?

25 A I never left the Pigeon residence.

1 Q How much time elapsed between the time that Mr.
2 Hart was taken from the residence and the fellows returned
3 who had a search waiver and went into the house?

4 A Well, they left with Mr. Hart and I think then we
5 three agents stayed at the residence and waited for Mr.
6 Pigeon to show up. Mr. Reimer showed up in the meantime.
7 Mr. Pigeon came up, we had a search waiver which he signed
8 then, and the total elapsed time would be an hour to an hour
9 and forty-five minutes. It was a lengthy wait.

10 Q Did you search the area while you were there?

11 A No, sir, I did not.

12 Q Did you seize any items of evidence after the people
13 returned and got the search waiver?

14 A I did not, no, sir.

15 Q Who did?

16 A Agents Chrisco and Chemist Dennis Reimer.

17 Q What was done with the items that were seized at
18 Mr. Pigeon's residence?

19 A I assume they were turned over to one of our
20 laboratories; I'm not for sure.

21 Q Was anybody else present other than the men you have
22 named when this - when they returned and conducted the search
23 of the Pigeon cabin?

24 A During the search of the cabin?

25 Q Yes, sir?

1 A No, I left before the search really got going on
2 the cabin. This was approximately the same time this other
3 man that was arrested along with Mr. Pigeon, he came up the
4 hill and inquired as to what we were doing there and we told
5 him we were waiting on Mr. Pigeon and we visited with him for
6 a couple of minutes about the weather and such stuff and he
7 went back down the hill and evidently to garden; I don't know.

8 Q But you don't know that man's name?

9 A I can't remember. I've got it in my reports, but
10 I can't remember his name. It seems he was some relation to
11 Mr. Pigeon.

12 Q Could that have been his brother, Mr. Freeman?

13 A Yes, sir, that's correct.

14 Q A fellow that wears glasses?

15 A I don't remember if he was wearing glasses or not.

16 Q Now Mr. Thurman on June 22nd of '77, you submitted
17 some billyclubs, one red and one yellow, found in a plastic
18 bag - green plastic bag and a piece of pipe. Would you tell
19 me where you found those billyclubs and piece of pipe and
20 plastic bag?

21 A The piece of pipe, I don't know where it came from
22 and the piece of plastic bag I could just make a guess as
23 to which piece of plastic it was. I know what I put down as
24 to where billyclubs came from. I know what they were used
25 for at this time.

1 Q What are those billyclubs used for?

2 A They came from the same area as the orange or
3 yellow handled hatchet that was in one of the storage sheds
4 or one of the smoke shops and this billyclub is probably --
5 an object probably 24 inches long, has a little notch in it
6 and it's what the Girl Scouts would use to carry a hot pan
7 of water that had a handle on it. I found out later that is
8 what these were used for.

9 Q Describe that piece of pipe for me?

10 A I did not see the piece of pipe whenever it was
11 submitted to me. It was enclosed in the plastic bag and so
12 I didn't open it up. I just went ahead and submitted it to
13 the laboratory.

14 Q Also at that time, there was a plastic bag contain-
15 ing sections of newspaper inside that same bag you submitted.
16 Do you remember who you got that bag of evidence from?

17 A Okay. If this is the newspaper that I'm thinking
18 about, it came from the trash can at one of the cook sheds
19 within the Camp Scott area, south of the Kiowa Camp.

20 Q This hatchet with a yellow handle, is that the
21 same hatchet we were talking earlier this morning about?

22 A Yes, sir.

23 Q Was Mr. Reimer at Mr. Pigeon's cabin when the
24 arrest was made, Mr. Thurman?

25 A No, sir, he was not.

1 Q Was Mr. Sparks?

2 A Which Sparks? We've got three Sparks.

3 Q Bill -- Bill Sparks?

4 A Got two Bill Sparks. Are you talking about Agent
5 Bill Sparks?

6 Q Yes.

7 A No, sir, he was not there.

8 MR. ISAACS: I believe that's all.

9 THE COURT: Cross-examine?

10 MR. FALLIS: None, Your Honor.

11 THE COURT: You may step down.

12 MR. ISAACS: Call Tom Jordan.

13 MR. WISE: He's been previously sworn, Your Honor.

14 TOM JORDAN,

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

17 DIRECT EXAMINATION

18 BY MR. ISAACS:

19 Q Mr. Jordan, you have testified here previously?

20 A Yes, sir, I have.

21 Q Would you state your full name again, for the
22 record?

23 A My name is Thomas D. Jordan.

24 Q Mr. Jordan, the other time you testified, I believe
25 it was concerning some tests that you ran upon a partial roll

1 of tape; is that correct?

2 A Yes, sir, it is.

3 Q Pertaining to the investigation of the Camp Scott
4 area on June 13, 1977, did you go to that area and process
5 any crime scene or any piece of evidence at that area?

6 A No, sir, I did not.

7 Q On the 15th day of June, a red flashlight, green
8 plastic bag taped over the lens with white masking tape was
9 submitted to the Oklahoma State Bureau of Investigation by
10 Arthur Linville. Is that the same object from which you
11 obtained tape to make your comparisons on the roll of masking
12 tape?

13 MR. WISE: That question has been previously asked
14 and answered.

15 THE COURT: Not by the Defense.

16 MR. WISE: I'll agree but in prior testimony by
17 this same witness.

18 THE COURT: I think it was brought out from the
19 State. You may answer.

20 A (By Mr. Jordan) Yes, Larry Mullins submitted the
21 evidence to me. However, to my knowledge, the tape was
22 removed from the red flashlight, yes.

23 Q Item No. 8, in that same report dated June 30th of
24 '77, one roll of white masking tape; is that the same roll
25 we're talking about that was compared to the flashlight?

1 A I believe so.

2 Q Item No. 9 was submitted was a crowbar; did you
3 examine that crowbar?

4 A Yes, sir, I did.

5 Q We have heard testimony about a crowbar found
6 along the Cavalier fence and submitted by Agent Linville and
7 Agent Thurman. Did you examine that crowbar for bloodstains?

8 A No, sir, I did not.

9 Q Did you examine that crowbar for fingerprints?

10 A No, sir, I did not.

11 Q Did you use that crowbar for comparisons to any
12 marks left by entry into any house in the area of Camp Scott?

13 A Yes, sir, I did.

14 Q Which house was that?

15 A I don't have the exact knowledge to -- well, it's
16 my understanding the item submitted were taken from a Shroff
17 residence.

18 Q Yes, sir. Did you compare the entry marks on the
19 Shroff residence to the crowbar?

20 A Yes, sir, I did.

21 Q Do you have an opinion as to the cause of those
22 marks?

23 A I have an opinion as to the relation of the crowbar
24 to those marks.

25 Q Yes, sir, what is that?

1 A It is my opinion that the submitted crowbar,
2 received also from Larry Mullins, was not the item used to
3 make the marks on the door facings.

4 Q Did you go to the Shroff residence to make that
5 comparison?

6 A I did not.

7 Q You used photographs?

8 A No, sir, I did not.

9 Q How did you do that?

10 A I'm sorry?

11 Q How did you make the comparisons between the crow-
12 bar and the marks used to gain entry?

13 A It was a simple means by determining whether or
14 not the head or either end of the crowbar was compatible with
15 the markings or to the triaceous left within the wood itself.

16 Q So you had a sample of wood that was submitted to
17 you also?

18 A Yes, sir, I did.

19 Q Who submitted that sample of wood?

20 A The door facings or the veneer wood, as well as a
21 portion of the door facing was also submitted by Larry Mullins
22 along with the other evidence.

23 Q Mr. Jordan, did you run any other tests on any
24 other evidence in this case?

25 A No, sir, I did not.

1 Q Did you assist in the investigation of the Sam
2 Pigeon's residence just outside of Tahlequah?

3 A No, sir, I did not.

4 Q Did you take any statements from any witnesses?

5 A No, sir.

6 MR. ISAACS: Thank you, I believe that's all.

7 THE COURT: Cross examination?

8 MR. WISE: We would have no further questions,
9 Your Honor.

10 If it please the Court, since these people have
11 come all the way from Oklahoma City, may they be finally
12 excused?

13 THE COURT: Yes. Mr. Isaacs and I -- I thought
14 it was with your knowledge, Mr. Wise, but perhaps not. Unless
15 he tells me he wants a witness available for recall, they're
16 going to be automatically excused.

17 MR. WISE: Very well.

18 (WHEREUPON, the witness was excused.)

19 MR. ISAACS: I'll call Mr. Esquinaldo.

20 MR. WISE: Step forward, Paul and raise your right
21 hand to be sworn.

22 THE COURT: Do you swear to tell the truth, the
23 whole truth and nothing but the truth, so help you God?

24 THE WITNESS: I do, sir.
25

1 port. We were carried in a patrol car to the scene of the
2 crime.

3 Q You went down in the Kiowa Unit; is that correct?

4 A I'm not certain about the unit.

5 Q The area where the bodies were found?

6 A Yes, sir, we were taken to Camp Scott.

7 Q Tell me what you did after you got out of the
8 patrol car and entered the Kiowa Unit?

9 A I photographed the evidence, the scene of the
10 homicides. I aided in the processing of the tent material
11 and I poured some plaster casts.

12 Q Now, Mr. Esquinaldo, did you take any pictures
13 of the bodies found there to the left of the road, leading
14 into the Kiowa Unit?

15 A I arrived after the bodies had been removed.

16 Q So, can you approximate for me the time of your
17 arrival?

18 A I arrived at approximately 12:30 or 1:00 o'clock
19 in the afternoon.

20 Q The bodies had been removed at that time, so you
21 didn't take any pictures of the bodies.

22 Did you take any pictures of any items left in
23 the general vicinity of where the bodies were lying?

24 A Yes, sir, I did. I photographed the area that the
25 bodies had been found in.

1 Q Tell me what you saw in that area?

2 A There was a roll of black colored tape, an orange
3 and white colored flashlight bearing a green plastic bag
4 taped to the lens and there was an area where that had been
5 disturbed by a pricking action of some sort.

6 Q Did you see any rope or cord in that general vicin-
7 ity on the ground?

8 A Not that I can remember.

9 Q After you had photographed that scene, what did
10 you do?

11 A I photographed the area where the victims had been
12 sleeping and evidence along the trail that had been pointed
13 out to me by the investigating Agent.

14 Q You say "evidence along the trail", would you
15 describe for us what trail you're talking about?

16 A The trail that led from the area that the bodies
17 were found to the tent that the victims were sleeping in.

18 Q Mr. Esquinaldo, assuming this to be the approximate
19 location of the bodies at Camp Scott, would this unbroken
20 line to Tent 7 be the approximate location of the trail that
21 you're talking about?

22 A Yes, sir, approximately.

23 Q Did you photograph some glasses?

24 A Yes, sir, I did.

25 Q Photograph a glasses case?

1 A Yes, sir, I did.

2 Q Photograph any other items there along that trail?

3 A I photographed quite a few items and I'm not --

4 Q Take any photographs of any footprints?

5 A Yes, sir, I did.

6 Q Are those footprints found in the area of Tent 7
7 or in some other location?

8 A At some other location.

9 Q Would you describe for us that location?

10 A In relation to that map, the area that the plaster
11 casts and photographs were taken would be to the lefthand
12 side, directly across the area from where the victims had
13 been located.

14 Q That would be south from where the victims had been
15 located?

16 A If that's in a southward direction.

17 Q Okay, at any rate, it's to the left of the road
18 that leads in to the Kiowa Unit?

19 A Yes, sir.

20 Q You said you made plaster of paris casts of the
21 footprints?

22 A Yes, sir.

23 Q Do you have those?

24 A Not in my possession.

25 Q Have you examined them and determined what make of

1 shoe or boot caused that footprint?

2 A I'm not qualified to make that type of comparison.

3 Q Who is qualified?

4 A The Question Documents Examiner, Bruce Plank at
5 the State Bureau.

6 Q Has Mr. Plank made a determination as to what type
7 of shoe it is?

8 A I'm not aware of his determination.

9 Q Do you know what size shoe left the footprint?

10 A No, sir, I'm not qualified to do that type of exam-
11 ination.

12 Q You looked in the tent, did you not?

13 A Yes, sir, I did.

14 Q Saw the blood on the floor?

15 A Yes, sir, I did.

16 Q Footprint in the blood?

17 A What appeared to be a footprint.

18 Q Okay. Is there one type of footprint or two types
19 of footprints in the tent?

20 A I couldn't make that kind of determination.

21 Q Mr. Esquinaldo, after you made the plaster cast of
22 the shoe track located south of the bodies, did you make any
23 other plaster of paris casts?

24 A Yes, sir, I did.

25 Q When was that?

1 A A tire cast or a tire print was found embedded in
2 the mud on the main trail leading into the area and I was
3 asked to take a plaster cast impression of that tire impres-
4 sion.

5 Q Did you take any other pictures of any other foot-
6 prints other than the ones that you made the plaster of paris
7 casts from?

8 A No, sir, not to my knowledge after that.

9 Q After that flashlight was picked up and transported
10 to the headquarters in Oklahoma City, was it processed for
11 fingerprints?

12 A Yes, sir, I believe it was.

13 Q Did you process it for fingerprints?

14 A No, sir, I did not.

15 Q Were any fingerprints found on the flashlight?

16 A A partial print, yes, sir.

17 Q Were any other fingerprints found on any of the
18 items seized there in the Kiowa Unit at Camp Scott?

19 A One palm print was taken from one of the bed railings
20 but no other fingerprints were found.

21 Q And did you make a comparison of that palm print
22 to palm prints of Gene Leroy Hart?

23 A No, sir, I did not.

24 Q Did anyone else make a comparison?

25 A If the comparison were made, I believe Technician

1 Larry Mullins would have made that comparison.

2 Q Do you know of any other fingerprints involved in
3 the investigation of the Camp Scott area, that area only?

4 A No, sir, not to my knowledge.

5 Q Did you examine any -- did you examine the finger-
6 prints on file that were lifted from the camp area, the one
7 from the flashlight and the palm print from the bedrail and
8 make any comparisons to any of the fingerprints of suspects
9 that are listed in the Technical Report?

10 A I aided in the comparisons of the partial finger-
11 print from the flashlight with Gene Leroy Hart's ink finger-
12 print impressions.

13 Q But that fingerprint is inconclusive, is it not?

14 A Yes, sir, it is. I had no conclusion.

15 Q I believe on the 14th day of June, 1977, you and
16 Mr. Mullins went to the Jack Shroff residence, is that cor-
17 rect?

18 A Yes, sir, we did.

19 Q Would you tell me what you did when you went there
20 with Mr. Esquinaldo?

21 A The area was photographed. I obtained photographs
22 of footprints left in and around the area. We, after the
23 photographing was accomplished, we processed certain items
24 of evidence for latent fingerprints.

25 Q Which items of evidence were those?

1 A We processed anything that would have been handled
2 in the residence itself.

3 Q Did you find any latent fingerprints other than
4 those of Mr. Jack Shroff?

5 A No, sir, no other identifications were made.

6 Q Did you compare those to fingerprints of suspects?

7 A I did not make the comparison.

8 Q Who made that comparison?

9 A Larry Mullins.

10 Q On June 18th, Pat Wilkerson submitted two paper
11 sacks containing various articles. Did you examine those
12 sacks for latent fingerprints?

13 A No, sir, I did not.

14 Q Did you attempt to lift any fingerprints from
15 those items?

16 A No, I did not.

17 Q Did someone else do that?

18 A Yes, sir.

19 Q Who was that?

20 A The case was processed by Larry Mullins.

21 Q So you assisted Mr. Mullins in lifting fingerprints,
22 photographing crime scene and, as far as making comparisons,
23 that was completely left to Mr. Mullins; is that a correct
24 statement?

25 A Yes, sir. I accompanied Mr. Mullins as an assistant

1 and an observer during the first two days after the homicides.

2 Q Did you make a plaster cast at Mr. Shroff's
3 residence of the footprint located to the rear?

4 A Yes, sir, I did.

5 Q Was that submitted to Mr. Plank?

6 A Yes, sir, it was.

7 Q Did Mr. Plank make any determination about that
8 footprint?

9 A I couldn't testify to his determinations. I
10 believe he has made a determination, though.

11 Q Did you and Mr. Mullins go to the Sam's Corner
12 burglary of the grocery store?

13 A No, sir, I did not go.

14 Q Did you investigate the Grossman burglary?

15 A No, sir.

16 Q Located east of Locust Grove?

17 A No, sir. I only processed or aided in the process-
18 ing of the Shroff residence.

19 Q Now Mr. Esquinaldo, on July 11th of 1977, you sent
20 a report to the District Attorney of Mayes County concerning
21 some items I want to ask you about. Let me hand you a copy
22 of your report. Would you look that over and see if that
23 jogs your memory?

24 A Okay.

25 MR. ISAACS: Let the record show that is LP 77-177-2,

1 Technical Examination Report.

2 Q Item 1 was an empty Prince Albert can. Can you
3 tell me where that item came from?

4 A All that evidence was submitted to me by the
5 investigating Agent.

6 Q Item 2 is one empty Van Camp's sausage can and
7 Item No. 3, a green and white 1977 Oklahoma Commercial
8 License Plate, bearing No. 574-314; Item No. 4, one pair
9 of broken sunglasses and protective case. Did you attempt
10 to lift latent fingerprints from those items?

11 A Yes, sir, I did.

12 Q Were you able to do that?

13 A I believe I obtained some latent fingerprints of
14 value.

15 Q Were you able to identify anybody from those
16 fingerprints?

17 A Yes, sir, I did. I believe -- may I see that
18 report again?

19 Q Yes, sir. I haven't asked you about No. 5.

20 A That's the one I'm thinking about.

21 Q The first four, did you obtain any fingerprints
22 from those items, latent fingerprints?

23 A No, 1 through 4, I did not.

24 Q And Item No. 5 is one envelope addressed to Ella
25 Mae Buckskin, postmarked 11-23-73, in Calgary, Canada, contain-

1 ing a two page letter signed "Sonny". Were you able to
2 identify anybody's fingerprints on that letter?

3 A Yes, sir, I did.

4 Q Whose fingerprints?

5 A I identified Mr. Hart's fingerprints.

6 Q Do you know where that letter came from?

7 A As far as I know, from Canada, judging by the
8 postmark.

9 Q Do you know where the people that submitted it
10 to you got it?

11 A I received that from Mr. Carey Thurman.

12 Q Did you take any statements from anybody?

13 A No, sir, I did not.

14 Q Did you conduct any other technical investigations
15 of this case?

16 A Not that I can remember, no, sir.

17 MR. ISAACS: Just a second, Judge.

18 Q Mr. Esquinaldo, there is a footprint found north
19 of the Kiowa Unit, along a trail that led, I believe, to the
20 Quapaw Unit. Did you make a plaster cast of that footprint?

21 A I do not believe I was the one that took that
22 plaster impression.

23 Q Do you know if anyone else did?

24 A I believe another foot cast, plaster cast was taken
25 but I'm not sure or where it was taken.

1 Q Did anybody make a determination of the cause of
2 the tire mark in the road leading into the Kiowa Unit?

3 A I believe that plaster cast was later ruled out
4 by other vehicles being there in the area.

5 Q Did Mr. Plank make that comparison?

6 A No, sir, I don't believe he did. I believe we
7 simply discarded the cast.

8 Q How many footprints in the Shroff residence bur-
9 glary were photographed?

10 A Were photographed?

11 Q Yes, sir?

12 A I believe there were approximately four footprints
13 that were found there and photographed.

14 Q Were these footprints inside the house or outside
15 the house?

16 A I can remember three of the footprints being left
17 on the outside of the residence and I believe one possibly
18 might have come from the inside.

19 Q I've heard testimony about a rug that had a foot-
20 print on it. Did you seize that and take it into custody or
21 do something to it?

22 A If it was seized, Larry Mullins would have seized
23 it but I did photograph that rug, yes, sir.

24 Q These footprints around the house, would you
25 describe them for me, the location?

1 A One footprint was casted and was found in an area
2 in front of the residence near the porch of the residence in
3 that location. The other plaster cast that was poured was
4 taken from an area on the - if you're facing the house, it
5 would be on the lefthand side of the house near that entrance.

6 Q Mr. Esquinaldo, do all those footprints resemble
7 each other?

8 A There again, it's not my area of expertise. Yes,
9 in my opinion, they did look similar.

10 Q So we have four footprints near the Shroff residence
11 and a plaster of paris cast were taken of two, one of them
12 being on the rug and the rug was seized as evidence?

13 A No, sir. No, the rugs were not lifted for plaster
14 casts.

15 Q Yes, I understand that but the rug itself was
16 lifted, was it not?

17 A I believe it was taken into custody.

18 MR. ISAACS: All right. That's all.

19 THE COURT: Cross examination?

20 MR. WISE: Just a couple of short questions.

21 CROSS EXAMINATION

22 BY MR. WISE:

23 Q This partial print, I believe that's been alluded
24 to by your responses to the Defense attorney's questions,
25 would you tell me where is this located on the flashlight,

1 first of all?

2 A I didn't process it but I believe the fingerprint
3 was found on the inside of the ring or on the outside of the
4 ring of the flashlight.

5 Q All right, and can you tell me - can you show us
6 or tell us how big is this partial - how big an area does
7 this cover?

8 A The partial would be in measurement approximately
9 one-eighth to one-quarter of an inch.

10 Q One-eighth to a quarter of an inch?

11 A Yes, sir.

12 Q That's the total area of it?

13 A Yes, sir.

14 Q Is it a flat or curved surface?

15 A It's a curved surface.

16 MR. WISE: I have no further questions. Thank you.

17 THE COURT: You may step down.

18 (WHEREUPON, the witness was excused.)

19 MR. ISAACS: Call Jack Lay.

20 THE COURT: You have been previously sworn, have you
21 not?

22 THE WITNESS: No, sir, I haven't.

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

1 MR. LAY: Yes, sir, I do.

2 JACK W. LAY,

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

5 DIRECT EXAMINATION

6 BY MR. ISAACS:

7 Q Mr. Lay, would you state your full name, please,
8 sir?

9 A Jack W. Lay, L-A-Y.

10 Q Back there in June of 1977, what was your line of
11 business?

12 A Agent of the Oklahoma State Bureau of Investigation.

13 Q Did you go to the Camp Scott area south of Locust
14 Grove and investigate a homicide?

15 A No, sir, I did not.

16 Q A little later on, were you at any time there for
17 any reason?

18 A No, sir, I have not been there.

19 Q And in 1977, were you sent to Beckham County to
20 interview a suspect?

21 A Yes, sir, I was.

22 Q What was that suspect's name?

23 A It's Green, I believe. I really don't recall. I
24 haven't seen a report in a year.

25 Q Would it be Rickie Green?

1 A Yes, sir, I believe it was.

2 Q Did you take a statement from Rickie Green?

3 A Yes, sir, I did.

4 Q What did Rickie Green tell you?

5 A He confessed to the homicides of the three Girl
6 Scouts at Camp Scott.

7 Q What did he say about the homicides?

8 A Said he was on narcots and came down to this area
9 and went through the camp area.

10 Q Did he say who was with him?

11 A He did name two other people that I believe was
12 with him. I can't recall those names.

13 Q Was one of them Tom Blair?

14 A I believe so.

15 Q Do you remember the name of the other fellow?

16 A No, sir, I don't.

17 Q Did you reduce that statement to writing and obtain
18 his signature?

19 A It was reduced to writing, I believe. He never
20 signed it.

21 Q Do you have a copy of that?

22 A No, sir, I haven't seen the report in over a year.

23 Q What day was it that Mr. Green gave you this
24 statement, as best you can remember?

25 A In the summer of 1977, July or early August.

1 Q After he gave you that statement, did you advise
2 anybody of that statement?

3 A Yes, sir, I did.

4 Q Who was that?

5 A The Director of the OSBI in Oklahoma City.

6 Q All right, what was done with that statement?

7 A The individual was brought to Oklahoma City for
8 further investigation.

9 Q Was this man Caucasian or Indian?

10 A White man.

11 Q What age?

12 A Beg your pardon?

13 Q What age?

14 A Approximately twenty.

15 Q Did he tell you there had been an Indian man with
16 him?

17 A Blair, I believe, was an Indian boy - part Indian.

18 Q Did he tell you where Mr. Blair lived?

19 A I believe it was Tulsa.

20 Q Did you take any hair samples from Mr. Green?

21 A No, sir, we did not.

22 Q Did you take any saliva samples?

23 A No, sir.

24 Q Blood?

25 A No, sir.

1 Q Fingerprints?

2 A Yes, sir, I believe he was fingerprinted.

3 Q Did you do anything else in reference to this
4 confession that Rickie Green had given you?

5 A As I stated, the suspect was brought to Oklahoma
6 City, was given a series of polygraph examinations and it
7 was determined through the polygraph examination and through
8 further interrogation that he was lying to us.

9 Q All right. What was done with Mr. Green after
10 that?

11 A He was released back to the authorities in Beckham
12 County where a hold was put on him for the New Mexico
13 authorities where he was an escapee and there was additional
14 charges in Beckham County, I believe a stolen car that he
15 was driving, traffic violations.

16 Q Mr. Lay, were you stationed in Tahlequah during
17 April of this year as an OSBI Agent?

18 A Yes, sir, I was.

19 Q Sometime during April, were you involved in a man-
20 hunt for Gene Leroy Hart?

21 A That's correct, sir.

22 Q Would you tell me what you did?

23 A Assisted other Agents with the OSBI in going to
24 the residence where Hart was staying and making the apprehen-
25 sion.

1 Q Before April 6th, the day when the arrest was made,
2 were you actively participating in the search for Mr. Hart?

3 A I had very little involvement with this particular
4 case.

5 Q Tell me what you did on the day that you went to
6 Mr. Pigeon's residence and arrested Mr. Hart?

7 A Well, earlier that morning, I had gone to Oklahoma
8 City on some other business with the Bureau and returned back
9 to Tahlequah approximately 2:00 p. m. and was advised by
10 radio to proceed to Standing Rock Bridge on Highway 82, south
11 of Tahlequah and meet with the other Agents. I didn't have
12 time to converse with these other agents to find out what
13 they had, just told to follow them, which I did, to the
14 Pigeon residence and when we got there was advised over the
15 radio that Gene Hart was suspected of being in the residence
16 so I followed the other agents up to the residence where we
17 made entry and Gene Hart was captured.

18 Q Who went in the residence with you, Mr. Lay?

19 A Agent Chrisco.

20 Q Anybody else?

21 A No, sir.

22 Q After you had arrested Mr. Hart and taken him out-
23 side, did you conduct a search?

24 A No, I didn't. I went into the residence and placed
25 Hart under arrest, handcuffed him, took him outside on the

1 front porch, turned him over to some of the other agents
2 that had come up and went back into the residence to secure
3 the scene.

4 Q Then, what did you do?

5 A Stayed inside for approximately three or four, five
6 minutes, making a search of the house, looking through it to
7 see if anybody was there.

8 Q Was anybody in the house at that time?

9 A No, sir, there was not. And I went back outside
10 and everything was under control.

11 Q Did you seize any items as evidence into evidence?

12 A I didn't, no, sir.

13 Q Such as a quilt or radio?

14 A Agent Chrisco and Dennis Reimer, one of the OSBI
15 chemists, did seize some evidence out at the house. I don't
16 know just exactly what it was. I was inside with him.

17 Q Do you know for what reason they took those items?

18 A For investigative purposes, I assume.

19 Q Did you seize anything outside of the Pigeon
20 residence?

21 A Nothing that I know of.

22 Q Approximately how long were you at the Pigeon
23 residence to effect this arrest?

24 A To effect the arrest?

25 Q Yes.

1 A Probably about the time we made entry onto the
2 property until the arrest was made, one minute.

3 Q And after you made the arrest, how long was it
4 until you left?

5 A I left approximately two and a half to three hours
6 later.

7 Q What did you do during the remainder of the time?
8 Did you look around the house to be sure it was secured?

9 A I waited on Mr. Pigeon to return home.

10 Q When Mr. Pigeon came back, what did you do?

11 A I'm sorry?

12 Q When Mr. Pigeon returned home, what did you do?

13 A He was placed under arrest, advised of his rights
14 and a consent search form was signed by Mr. Pigeon for the
15 search to be made on the place.

16 Q Did you make a search?

17 A I did not, no, sir.

18 Q Who made the search?

19 A OSBI Chemist Reimer and Agent Chrisco.

20 Q Did anybody else help you make the search?

21 A None that I know of.

22 Q Was Mr. Freeman Pigeon ever up at the house when
23 you fellows were there to arrest Mr. Hart?

24 A He came up some time later, after Gene Hart was
25 already arrested and taken into Tahlequah.

1 Q Would you describe for me what type of footwear
2 Mr. Hart had on when he was arrested?

3 A Sir, I don't recall.

4 Q Were they boots?

5 A I don't know, sir.

6 Q Would you describe for me what type of footwear
7 was in Mr. Pigeon's cabin?

8 A I don't have any idea.

9 Q Did you seize any photographs or anything outside
10 of the cabin?

11 A Sir, I didn't seize anything at all. Inside or
12 out.

13 Q Mr. Lay, when you all arrested Mr. Hart, do you
14 know where you were?

15 A Did I know where we were?

16 Q Yes, sir.

17 A Yes, sir.

18 MR. ISAACS: Nothing further, Judge.

19 THE COURT: Cross-examine?

20 MR. FALLIS: Just a couple.

21 CROSS EXAMINATION

22 BY MR. FALLIS:

23 Q Mr. Lay, the man that made the confession that
24 later rescinded the confession. Do you know why he told
25 that lie?

1 A Yes, sir, to keep from going to New Mexico.

2 Q What color of hair did he have?

3 A It was dishwater blonde, light brown.

4 MR. FALLIS: Thank you, sir. No other questions.

5 THE COURT: Any redirect?

6 MR. ISAACS: No, sir.

7 THE COURT: You may step down.

8 MR. LAY: May I be excused, Your Honor?

9 THE COURT: Yes.

10 MR. WISE: Thank you, Mr. Lay.

11 (WHEREUPON, the witness was excused.)

12 MR. ISAACS: Judge, could we break before I call
13 this next witness?

14 THE COURT: We'll take about a ten minute recess.

15 (Following a ten minute recess, proceedings con-
16 tinued as follows:)

17 MR. ISAACS: I call Dennis Reimer at this time,
18 Judge.

19 THE COURT: You have been sworn?

20 MR. REIMER: Yes, sir, I have.

21 DENNIS REIMER,

22 recalled as a witness on behalf of the Defendant, having
23 previously been sworn, testifies as follows:

24 DIRECT EXAMINATION

25 BY MR. ISAACS:

1 Q How are you today, Mr. Reimer?

2 A Just fine.

3 Q Mr. Reimer, directing your attention to the 6th
4 day of April, 1978, didn't you investigate in any way the
5 Sam Pigeon residence, located just outside of Tahlequah?

6 A I was there, yes, sir.

7 Q Will you tell me what time you went there and for
8 what purpose?

9 A Approximately 6:00 o'clock in the evening, I
10 arrived there and I went there to assist in the search of
11 that residence.

12 Q Did you search that residence?

13 A Yes, sir.

14 Q And what items did you seize as evidence when you
15 were there?

16 A We took items of bedclothing, blankets, sheets - I
17 believe we took a radio. We took some pecans sitting in a
18 sack there, some pecans from the refrigerator. That's all
19 I remember right offhand.

20 Q Was the area processed for any type of hair, blood
21 or fingerprints?

22 A No, sir.

23 Q Is that the only thing you did when you processed
24 Mr. Pigeon's house?

25 A Yes, sir.

1 Q Who was present with you when you processed that
2 house?

3 A Roger Chrisco.

4 Q Now you've testified before about some vaginal
5 swabs and oral swabs and anus swabs and some blood types.
6 Did you perform any tests on the items that you seized at
7 Sam Pigeon's residence?

8 A No, sir.

9 Q For what purpose were those items seized?

10 A As possible evidence.

11 Q In relationship to what?

12 A The investigation involving Gene Hart.

13 Q Did you seize those items for some scientific
14 tests?

15 A At the time, I wasn't aware of any test that
16 would be run on those items.

17 Q Tell me why you picked up the radio?

18 A Pardon?

19 Q Tell me why you seized the radio?

20 A We couldn't remember if the radio had been missing
21 from the crime scene. Roger thought it may have been so we
22 took the radio.

23 Q Which radio was that? What brand?

24 A I don't know the brand name of it.

25 Q From the crime scene or --

1 A I wasn't even aware that a radio was missing from
2 the crime scene and still am not sure if one is.

3 Q What about the blankets? Why were they seized?

4 A They were taken from the bed to look for hair.

5 Q Find any hair?

6 A I didn't process them for hair.

7 Q Who processed them?

8 A I don't know.

9 Q Did you turn those items over to somebody else?

10 A Yes, sir, I did.

11 Q Who was that?

12 A I took some items to Oklahoma City on April 9th,
13 I believe it was.

14 Q What items?

15 A Some of the bedsheets and the rest of the items
16 were taken at a later date. I can't remember what day that
17 was.

18 Q Do you know whose bedsheets those were?

19 A No, sir.

20 Q Do you know whose quilts those were?

21 A No, sir.

22 Q Do you know where the quilts came from before they
23 were in Mr. Pigeon's house?

24 A No, sir.

25 Q Do you know where the sheets were before they were

1 in Mr. Pigeon's house?

2 A. No, sir.

3 Q. Do you know where the radio came from?

4 A. No, sir, I don't.

5 Q. Did anybody mention anything about any radio having
6 been taken from Camp Scott on the night of the homicides?

7 A. Just on that date.

8 Q. Who mentioned that?

9 A. Roger.

10 Q. Did he say from whom that radio was taken?

11 A. He wasn't even sure that a radio had been taken
12 but he thought he'd heard somebody mention one.

13 Q. Dennis, directing your attention to Technical
14 Examination Report dated April 6th, '78, do you have a copy
15 of that with you?

16 A. One of my reports?

17 Q. Yes, sir, Lab No. S-77-332 at page number five.

18 A. It's dated on what date?

19 Q. April 5 -- excuse me, page five. It's dated April
20 5th.

21 A. I don't believe I made a report on April 5th.

22 Q. Let me compare notes with you before I ask you a
23 question.

24 A. All right.

25 Q. These are items you submitted?

1 A Okay, that's the itemized list.

2 Q Directing your attention to the itemized list,
3 Technical Examination Report, page 5; are you with me?

4 A Yes, sir.

5 Q The following evidence was submitted June 17th
6 by Dennis Reimer, OSBI: Green canvas duffel bag and one
7 pair of tennis shoes and numerous items of clothing?

8 A Yes, sir.

9 Q Can you tell me from whom you received that?

10 A From the Undersheriff of Washington County.

11 Q What type of tennis shoes are we talking about?

12 A I don't know the type or brand name or anything.

13 Q Did you compare those tennis shoes with any foot-
14 prints involved in these homicides?

15 A No, sir, I didn't.

16 Q Also submitted the same day, numerous items of
17 clothing. Would you tell me what items of clothing were
18 submitted?

19 A There were several pairs of pants, several shirts,
20 other items -- I don't remember.

21 Q What is the County Seat of Washington County?

22 A Bartlesville.

23 Q Was any type of comparison made between these tennis
24 shoes and the footprint in the tent, in Tent 7 of the Kiowa
25 Unit at Camp Scott?

1 A I don't know.

2 Q I see. On June 19th, you submitted a letter
3 received by Mayes County Sheriff through the U. S. Mail.
4 Would you tell me the contents of that letter?

5 A It's a small piece of paper with some handwriting
6 on it. I don't recall what the writing said right offhand.
7 But it was taken to Oklahoma City and submitted to the I. D.
8 Section.

9 Q The I. D. Section would be the Question Document
10 Examiner?

11 A I believe they do latent prints.

12 Q Okay, could that be the letter that Gene Hart's
13 mother gave to some law enforcement officers?

14 A I'm not aware of that.

15 Q Now, on June 22nd, did you take some hair samples
16 from the following people: First, Leo Shroff -- it's on
17 page six.

18 A I did not take those hairs. I received those
19 from Larry Bowles on camp that date.

20 Q Did you know who took the hair samples?

21 A I think he did but I am not sure.

22 Q And all the items that followed were items that
23 you received from Larry Bowles?

24 A Starting with Item DD-16 and 17, I received those
25 items from Carey Thurman.

1 Q All right, DD-16 and DD-17?

2 A Yes, sir.

3 Q What type of stain was on the Kleenex?

4 A They were blood.

5 Q Do you know where those Kleenexes came from?

6 A No, sir.

7 Q How about the cotton ball?

8 A Blood stained, stained with blood.

9 Q Do you know where that cotton ball came from?

10 A No, sir.

11 Q How about DD-19, the plastic bag containing stain.

12 Would you describe the plastic bag containing stain for me,
13 the color or appearance?

14 A It was blood.

15 Q DD-20, plastic bag containing stained Kleenex and
16 blue fibers?

17 A I didn't make an analysis on the stained material
18 in that.

19 Q What type of blood was in the two plastic bags
20 containing stained Kleenex?

21 A I couldn't type any of the blood in any of those
22 items.

23 Q You don't know the origin of those items, you just
24 tested them; is that correct?

25 A Excuse me, DD-16 was human blood type O. Other

1 items type could not be determined.

2 Q You said DD-16 and 17 came from Carey Thurman;
3 right?

4 A That's right.

5 Q But we don't know where 18, 19, 20, 21, 22 or 23
6 came from?

7 A Carey Thurman gave me all those items from DD-16
8 through DD-23.

9 Q Mr. Reimer, on January the 9th, directing your
10 attention to page eleven, you submitted for processing a
11 large brown sack with a steel hatchet, with leather covering.
12 Did you test that item for blood?

13 A I did the hatchet.

14 Q Was any blood on it?

15 A No, sir.

16 MR. FALLIS: If it please the Court, excuse me.
17 May I inquire if counsel is referring on the report, the same
18 report as the witness is testifying from? It seems to me
19 that it is cumulative. He has been furnished the information
20 as part of the scientific report.

21 MR. ISAACS: Judge, here's the problem I've got
22 with it. Not all the numbers on it - some of them have no
23 test that he just testified to. Some of those items were not
24 tested.

25 THE COURT: All right. I think his concern was that

1 you're just having him read from the same thing you have in
2 your hands; apparently not. Overruled.

3 Q Mr. Reimer, who submitted that steel hatchet to
4 you?

5 A No one submitted it to me.

6 Q Did you pick it up?

7 A Yes, sir.

8 Q Pick it up from Sheriff Weaver?

9 A No, sir.

10 Q From whom?

11 A It was found in a desk drawer in the office in
12 Tahlequah.

13 Q Found in a desk drawer in an office in Tahlequah?

14 A Yes, sir.

15 Q We don't know how it got to the desk drawer, do
16 you?

17 A No, sir, I don't.

18 Q Mr. Reimer, items that follow, I think they're --
19 I can't make out the numbers on my copy: A small brown
20 paper sack with red and black panties. Did you run tests
21 on those panties for blood or hair?

22 A No, sir, I didn't.

23 Q Mr. Reimer, what was the purpose for seizing the
24 pecans from the Pigeon residence?

25 A I don't know.

1 Q What was the purpose of seizing any of the items
2 on page 12, beginning with A-1 and running through them?
3 Could you just describe for us? Maybe that's AA-1. A brown
4 paper sack containing two plastic bags and one piece of
5 plastic bag found by door in bedroom.

6 A Plastic bags were seized with other plastics which
7 had been taken as evidence in the case.

8 Q All right, so we had several pieces of plastic
9 bags that were seized at the Pigeon residence, did we not?

10 A Yes, sir.

11 Q The brown paper sack containing the hunting knife,
12 brown leather holder found laying on the kitchen table, was
13 that checked for blood?

14 A I don't know.

15 Q The brown paper sack containing a hammer found in
16 the bed of a light blue 1965 half-ton pickup, what was the
17 purpose of seizing that hammer?

18 A To determine if it could have been a murder weapon.

19 Q Was that determination made?

20 A Not by myself.

21 Q Who made it?

22 A I don't know if any determination has been made at
23 all.

24 Q Now, we've been over the pecans - quite a few pecans
25 seized - directing your attention to a cardboard box containing

1 the items from bed of -- floor of bedroom, you've already
2 testified that blankets were seized; is that correct?

3 A Yes, sir.

4 Q The report here makes reference to several blankets.
5 Would you explain to me why you only took two of the numbers
6 of blankets, yet you listed about six or seven of them in
7 this report?

8 A This report reflects all the blankets that were
9 taken.

10 Q So we took more than two blankets?

11 A More than two blankets were removed from the
12 residence.

13 Q Were all blankets tested for hair?

14 A I don't know.

15 Q Any other tests run on the blankets?

16 A Not to my knowledge.

17 Q What did you do with those items after you picked
18 them up?

19 A They were transported to Oklahoma City.

20 Q Page 13. Do you know why the -- other than for
21 hair samples, why the Dan River bedsheet and pillowcase and
22 pullover shirt was seized?

23 A No, sir.

24 Q Were any of those items processed to your knowledge
25 for hair or blood?

1 A I removed from Item AAA-16, which was the sheet,
2 some hairs and put them in an envelope and simply took them
3 to Oklahoma City. I don't know if they were processed or
4 not. I'm not aware of any other tests which were made on
5 the items.

6 Q Item AAA-18, brown paper sack, containing blue
7 pullover. What was the purpose of seizing that shirt?

8 A I don't know.

9 Q AAA-19, one pair of Fruit of the Loom, size 44
10 underwear, found under the living room sofa. What was the
11 purpose of seizing the underwear?

12 A I really don't remember that item, either.

13 Q Mr. Reimer, did you take any photographs at the
14 Pigeon residence?

15 A No, sir, I did not.

16 Q Did anybody take any?

17 A I'm not sure. I saw some polaroid prints. I
18 don't know who took them.

19 Q Were those taken outside with Gene Hart in them?

20 A I think I saw one with him in it.

21 Q Did you seize any shoes at the Pigeon residence?

22 A No, sir.

23 Q Did you seize any tennis shoes?

24 A No, sir.

25 Q Boots?

1 A No, sir.

2 Q Did you see any shoes?

3 A I don't recall any.

4 Q Did you see any boots?

5 A No, sir.

6 Q Have you told me everything you know about the
7 investigation at the Pigeon residence?

8 A Everything I know, yes, sir.

9 MR. ISAACS: Judge, I don't believe we have any
10 more cross examination.

11 MR. WISE: We have no further questions. Thank
12 you.

13 THE COURT: You may leave if you wish.

14 (WHEREUPON, the witness was excused.)

15 MR. ISAACS: Call Roger Chrisco, I believe it is.

16 MR. WISE: This witness has not been sworn, Your
17 Honor.

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

21 THE WITNESS: I do.

22 ROGER DALE CHRISCO,

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

25 DIRECT EXAMINATION

1 BY MR. ISAACS:

2 Q Mr. Chrisco, would you state your full name,
3 please?

4 A Roger Dale Chrisco.

5 Q How were you employed on the 13th day of June,
6 1977?

7 A I was a Deputy Sheriff of the Ottawa Sheriff's
8 Department in Miami, Oklahoma.

9 Q When did you join the Oklahoma State Bureau of
10 Investigation?

11 A September 1st, 1977.

12 Q During that time, were you involved in the inves-
13 tigation and manhunt for Gene Leroy Hart?

14 A Yes, sir, I was.

15 Q On about the 6th day of April, 1977, did you go to
16 the Sam Pigeon residence to effect an arrest?

17 A On April 6th, 1978?

18 Q Yes, sir. Excuse me, I said '77.

19 A Yes, sir, I went to the Pigeon residence.

20 Q Tell me what you did when you got there?

21 A We arrived at the Pigeon residence, myself and two
22 other agents went to the front of the residence. Agents,
23 approximately five agents, approached the building from the
24 rear. The door was opened and the suspect was taken into
25 custody.

1 Q Did you go inside the house?

2 A Yes, I did.

3 Q Conduct a search of the house?

4 A Afterwards, yes, I did.

5 Q And was that with Mr. Reimer?

6 A Yes, it was.

7 Q Tell me what you did in that search?

8 A We went through each room and confiscated items
9 pertaining to the case that we thought may pertain to the
10 case.

11 Q Confiscated some pecans?

12 A Yes, we did.

13 Q For what purpose?

14 A That this may be of a benefit at a later date
15 concerning the case against Mr. Pigeon.

16 Q The pecans were?

17 A Yes.

18 Q What reason did you confiscate the radio?

19 A I'd received information - I had received informa-
20 tion that he was supposed to have received fresh pecans from
21 certain individuals and these were -- this possibly could be
22 linked into the case against Mr. Pigeon.

23 Q And from whom was Mr. Pigeon supposed to have
24 received those pecans?

25 A I cannot tell you. I don't know who is supposed

1 to receive those pecans from.

2 Q Have you heard?

3 A No, I don't know who they were received from.

4 Q For what reason were the blankets seized?

5 A Blankets were taken for hair samples, any items
6 that could have been on it, for hair, saliva, anything
7 concerning that.

8 Q Do you know the results of the analysis of those
9 blankets?

10 A No, I do not.

11 Q I assume the bedsheets were seized for the same
12 reason?

13 A Yes.

14 Q Were they analyzed?

15 A No. I do not know if they have been analyzed or
16 not.

17 Q I see that there was a hammer that was seized and
18 a knife. Do you know if they were submitted and tested for
19 blood?

20 A I know they have been submitted. I don't know if
21 they have been tested.

22 Q Did anybody take any hair samples from Mr. Pigeon,
23 to your knowledge?

24 A Not to my knowledge.

25 Q Did you speak with Mr. Pigeon that date at the

1 residence?

2 A I did not speak to Mr. Pigeon myself at the
3 residence.

4 Q Do you know who did?

5 A I believe Agent Jack Lay and Agent Thurman - Carey
6 Thurman.

7 Q What other items did you seize at the residence
8 that morning - that afternoon?

9 A I seized, I believe, two plastic or partial plastic
10 bags - trash bags - undershorts.

11 Q Size 44, Fruit of the Loom undershorts?

12 A I did not know what size they were. They were -
13 had substance on them, were balled up and I did not take
14 them apart, just bagged them.

15 Q What color was that substance?

16 A Brownish color.

17 Q What did you do with that?

18 A That had been submitted.

19 Q Do you know if they were tested?

20 A I do not know if they were tested.

21 Q There are a number of items listed in the Technical
22 Report that I just went over with Mr. Reimer. Would you
23 glance at that and tell me if there is anything not listed
24 in there that you seized from the Pigeon residence, beginning
25 here on page 12 - The following evidence was submitted by

1 Dennis Reimer 4-7-78. Would you read through those, Mr.
2 Chrisco?

3 A (Witness complies.) The question was what?

4 Q If there are any other items in addition to the
5 ones contained in that list which were seized by you or Mr.
6 Reimer?

7 A Not to my knowledge.

8 Q Okay. Now, will you read page 13, beginning at
9 AA-13, down to the entry concerning Items submitted by
10 Fanning Young?

11 A (Witness complies.) I believe these were. Are
12 you talking about right here?

13 Q Yes, sir.

14 A No, I believe these were taken from - by us, myself
15 and Dennis Reimer.

16 Q You saw Mr. Hart, did you not?

17 A Yes, I did.

18 Q Describe the boots he had on that day?

19 A I saw Mr. Hart for just a matter of minutes. I
20 believe he had on a brownish colored shoes. I don't remember
21 if they were ankle or low-cut. I don't remember exactly
22 what type of shoes he had on.

23 Q Mr. Hart had been lifting weights when you fellows
24 drove up, had he not?

25 A I don't know what Mr. Hart had been doing.

1 Q Did you see some weights in the house?

2 A Yes, there was some weights in the house.

3 Q Did you see any other footwear there in the house?

4 A No, I don't remember.

5 Q Seize any boots, tennis shoes, or anything of that
6 sort?

7 A Not to my recollection.

8 Q Anybody else seize any evidence at that location?

9 A Not to my recollection. I don't believe anybody
10 seized any.

11 Q Did you take any of Mr. Hart's clothing other than
12 those items listed here?

13 A No other items except what's been listed.

14 Q How many cars did you fellows go up there to the
15 Pigeon residence in?

16 A There were two in front with us. There was one
17 vehicle along the side of the road.

18 Q Who directed you to the Pigeon residence?

19 A I rode with my supervisor or Mike Wilkerson to the
20 residence.

21 Q Mr. Chrisco, do you remember the color of the plastic
22 bags submitted?

23 A There were a -- I believe one - one or two of them
24 were a dark green and the others, I think, were black.

25 Q You have two of them listed as black and the other

1 three, there's no color listed for them. Did you analyze
2 those pieces of plastic bag?

3 A I didn't.

4 Q Did anybody at the OSBI analyze or compare those?

5 A I do not know.

6 Q Have you told me everything you did at the Sam
7 Pigeon residence in reference to seizing evidence?

8 A Other than going through and searching evidence, I
9 didn't do anything else at the residence.

10 MR. ISAACS: Thank you.

11 THE COURT: Cross examination?

12 CROSS EXAMINATION

13 BY MR. WISE:

14 Q Mr. Chrisco, did I understand you stayed there at
15 the residence and did not transport this Defendant onto
16 another place; is that right?

17 A Yes, sir.

18 Q Were you not present when the Defendant expressed
19 his ability at weight lifting - weren't you there at all?

20 A No, sir.

21 MR. WISE: I have no further questions.

22 THE COURT: Redirect?

23 MR. ISAACS: Nothing further.

24 THE COURT: You may leave if you wish.

25 (WHEREUPON, the witness was excused.)

1 MR. ISAACS: Judge, I call Janice Davis at this
2 time.

3 Judge, do you want to take a short recess? This
4 is the last witness.

5 THE COURT: I thought I'd make one announcement.
6 For the benefit of counsel, if this hearing is still in
7 progress after the end of the week, I do not anticipate
8 a Saturday session but I do anticipate a Court session on
9 Monday of next week, which is the day before the holiday.
10 I do not anticipate going on July 5th, the day after the
11 holiday due to my schedule being booked up in another county
12 for that day, if we're still in progress.

13 Are you ready for your next witness?

14 MR. ISAACS: Can we take a short recess? I think
15 it would go much faster if I could organize this.

16 THE COURT: We'll take about five minutes then.

17 (Following a five minute recess, proceedings
18 continued as follows:)

19 THE COURT: Miss Davis, you have been sworn?

20 MISS DAVIS: Yes.

21 JANICE M. DAVIS,

22 called as a witness on behalf of the Defendant, having
23 previously been sworn, testifies as follows:

24 DIRECT EXAMINATION

25 BY MR. ISAACS:

1 Q Miss Davis, would you state your name for the
2 record, please?

3 A Yes, sir, Janice M. Davis.

4 Q Mrs. Davis, you conducted several tests on evidence
5 submitted to you concerning the investigation of the homi-
6 cides at Camp Scott, did you not?

7 A Yes, sir.

8 Q Do you have a copy of your Technical Examination
9 Report with you today?

10 A Yes, sir.

11 Q Would you turn with me to page 12 of the report
12 dated May 4th, 1978?

13 A (Witness complies.)

14 Q The entry - second entry, the following evidence
15 submitted by Janice Davis, OSBI. One photograph of one
16 female. Would you describe that photograph, please?

17 A Okay. This one photograph is the photograph that
18 I obtained within the Bureau in the photography laboratory.
19 It was retrieved from Cave 1.

20 Q That's the one passed on from Cave 1; correct?

21 A Yes, sir.

22 Q And that other photograph would have been the other
23 one in the cave-cellar area, Cave 1?

24 A It was, you know -- the two that were found, you
25 know, exactly where it originated, I do not know.

1 Q You performed some test on those photographs, did
2 you not?

3 A Yes, sir, I did.

4 Q Would you tell me what you did?

5 A With these two photographs, I looked for the
6 presence of acid phosphatase.

7 Q And what would that indicate?

8 A Acid phosphatase, a positive test, would be
9 indicative of seminal fluid.

10 Q What was the results of that test?

11 A Okay. Of both photographs, of all the tests run
12 on both photographs, all the tests were negative.

13 Q How many tests did you run?

14 A I took cuttings from each photograph, approximately
15 six to eight cuttings from each one.

16 Q Those are the little holes in the picture; is
17 that correct?

18 A Yes, sir.

19 Q What test did you run on those cuttings?

20 A The acid phosphatase test.

21 Q Would you describe for me the procedure of running
22 the acid phosphatase test?

23 A Yes, sir. Along with a suspected stain material
24 on the photograph, I also ran a control on an unstained part
25 of the photograph. Therefore assuring me that the results

1 that I would obtain would have come from the stain that I
2 was seeing and not from something within the photograph
3 maybe that I could not see. I also ran controls of seminal
4 fluid of different years. I ran known vaginal fluid, I
5 ran --

6 Q From whom did these seminal fluids come?

7 A These are my known seminal stains that I use in
8 my laboratory analysis. Specifically, which person each
9 one came, I could not recall.

10 Q They didn't come from anybody involved with this
11 case?

12 A Absolutely not. They are --

13 Q Vaginal stains?

14 A The vaginal stain is from someone within the
15 laboratory. All the stains are known stains within the
16 laboratory, people - or people associated with the OSBI
17 scientifically minded to release such stains.

18 Q Go ahead and explain to me what was involved
19 in performing the tests on the cuttings from these pictures?

20 A Okay. I simply placed the sample stain, unstained
21 controls - also, I have a test tube that has absolutely
22 nothing in it but the reagents I use in my tests.

23 Q What reagents did you use?

24 A Okay. The reagents I used were a substraight
25 solution which is disodium phenylphosphate. I used sodium

1 hydroxide and I used -- excuse me, sodium bicarbonate, not
2 sodium hydroxide and I also used a color reagent called
3 phenol color reagent. When running this test, I run no
4 sample but just the reagents that I use on all the tests.
5 This is to insure me that my chemicals are not contaminated
6 and if they are, you know, it will be seen.

7 Okay. I simply incubate them in a waterbath at 37 degrees
8 for approximately thirty minutes. This is to allow a reagent
9 to occur, then I add the phenol color reagent and then I
10 add the sodium carbonate which adjusts the pH. If acid
11 phosphatase is present and is present in a concentration as
12 such, a positive color reagent of a deep, dark, purple-blue
13 color will appear.

14 Q Other things will cause that same reaction, will
15 they not?

16 A Speaking of the false positive of the acid phos-
17 phatase test?

18 Q Yes, ma'am.

19 A There are a few that I have seen that will give
20 a false positive reaction.

21 Q What are they?

22 A The one specifically that I have seen that I recall
23 is cauliflower - being the fruit of the cauliflower leaf and
24 the stem of the cauliflower. Acid phosphatase is present in
25 a strong enough concentration within the cauliflower that it

1 will give a positive color reaction.

2 Q Are those all steps that you use at arriving at
3 an answer which you would consider to be scientific when
4 you tested those photographs for the acid phosphatase?

5 A Yes, sir. I ran the regular standard procedure
6 test that we run in our laboratory.

7 Q And is that test that you described for me the
8 regular standard procedure test?

9 A This test is utilized by the OSBI. All the other
10 chemists at the Bureau - a similar test of this nature are
11 used by other forensic laboratories. However, they may use
12 a different substraight solution, other than disodium
13 phenylphosphate.

14 Q What other sub-stain solutions would be used?

15 A At this particular time, I couldn't recall speci-
16 fically what the other labs use.

17 Q All right. Let's move on to April 18, 1978, page
18 13. An entry there showing that the following evidence was
19 submitted by Janice Davis of the OSBI. One brown sack con-
20 taining trousers from Gene Leroy Hart, Item EE-2?

21 A Yes.

22 Q Where did you get those trousers?

23 A Okay. I obtained Item EE-2, trousers from Gene
24 Leroy Hart in a brown paper sack, sealed, from Sheriff Pete
25 Weaver at the Sheriff's Office.

1 Q Item EE-1, undershorts from Gene Leroy Hart -
2 from whom did you obtain the undershorts?

3 A Okay. The undershorts were in the brown paper
4 sack with the trousers in a sealed condition when I received
5 them from Sheriff Pete Weaver in the Sheriff's Office.

6 Q Did you conduct any tests upon the undershorts
7 and the trousers?

8 A Yes, sir, I did.

9 Q And what tests did you conduct?

10 A On EE-2, the trousers, I looked for acid phosphatase,
11 again, running my norms, my controls and my stains,
12 suspected stains from the trousers and then unstained parts
13 of the material from the trousers. The results of the
14 analysis was I was unable to detect the presence of acid
15 phosphatase on EE-2.

16 Q On EE-1, did you run the same test?

17 A Yes, sir, I ran that and others.

18 Q What were the results of EE-1?

19 A Okay. EE-1, acid phosphatase indicative of seminal
20 fluid was found to be present. Presence of sperm were detect-
21 ed, also what appeared to be deformed and decomposed sperm
22 were observed.

23 Q Would you tell me what tests you ran on Mr. Hart's
24 undershorts to arrive at that conclusion?

25 A The acid phosphatase, as I have previously described,

1 was the same.

2 Q And you did the same thing in that test that you
3 have already described to me?

4 A Yes, sir, I did.

5 Q Okay.

6 A And the tests were all positive. As far as obtain-
7 ing samples, looking for sperm, taking a cutting from the
8 suspected stain, I put it in a test tube with some saline,
9 let it soak out, I extract the material, also do this with
10 a stain that is -- I mean a piece of the material that is
11 unstained, again, to assure myself my results that I am
12 obtaining are coming from the stain and not something that
13 I cannot see within the material.

14 Q So if there was something in the material we
15 couldn't see that would cause a false positive reaction on
16 this test, could it not?

17 A This is to insure me that there is a stain. In an
18 unstained portion of the garment that my tests are run on
19 the control or as, in fact, okay, there is nothing there.
20 It's to insure me that my results are coming from the stain
21 that I can see with my eyes and something not within the
22 material I cannot see.

23 Q If something was in the material that you could
24 not see?

25 A With my naked eye.

1 Q It could cause a false positive test?

2 A If something was there that I could not see with
3 my naked eye, running the test, I would find it if it was
4 there.

5 Q This test is done with the naked eye, is it not?

6 A Just simply cutting out the sample to run the
7 test, it can be done with a naked eye or you can utilize a
8 light called the U-V light, ultraviolet fluorescent.

9 Q Did you use one in this case?

10 A Specifically, there were numerous stains and I
11 did not need to use the U-V light to see the stain. However,
12 to insure myself that my control was not a stain, I did use
13 the U-V light to make sure that my control, unstained, was
14 in fact, an unstained portion of the garment.

15 Q Did you perform any other tests on Mr. Hart's
16 undershorts?

17 A Yes, sir, I did. I did the secretor analysis.

18 Q What type of test is that?

19 A Okay. This test is to determine if, in fact, there
20 is a blood group substance present in the stain. Again, I
21 run known saliva, I run known seminal fluid, known mixed
22 seminal-vaginal fluid, known vaginal fluid that I do know
23 it is a stain of a certain blood type. I run blank controls
24 to insure that all the chemicals that are used are not contam-
25 inated and unstained control of the garment. From my test and

1 my secretor results were, in fact, that I did find blood
2 group substance O.

3 Q Is there any way to break a blood group substance
4 down into a sub-class?

5 A From secretors?

6 Q Yes.

7 A Not that I'm aware of.

8 Q Is there any way to run a blood group on blood into
9 a sub-class lower than simply Type O?

10 A Yes, sir, you can have your Rh factors and your
11 enzymes present.

12 Q Can that be done with seminal fluids?

13 A With the use of electrophoresis, there are enzymes
14 present in the seminal fluid that can be detected. However,
15 the OSBI is not utilizing electrophoresis at this time.

16 Q Are those enzymes found in perspiration?

17 A Not to my knowledge.

18 Q Found in tears?

19 A Not to my knowledge, no, sir.

20 Q They are found in saliva, seminal fluid?

21 A No, these are enzymes present in seminal fluids.

22 They utilize electro --

23 Q They aren't the same enzymes found in your saliva
24 that are found in your seminal fluid if you are a secretor?

25 A Not the ones that I am speaking of, of electrophoresis,

1 no, sir.

2 Q Oh, but that test wasn't used here, was it?

3 A No, sir, it is not. It is not used by the Oklahoma
4 State Bureau of Investigation at this time.

5 Q Now, directing your attention to items submitted
6 4-18-78 by Janice Davis, page 14. From whom did you obtain
7 the brown paper sack containing a gray multi-colored blanket?

8 A I received Item GG-1 through GG-4 myself.

9 Q Where did you get those?

10 A I got those out of the cell, Mayes County Jail.

11 Q Mr. Hart there?

12 A No, sir, he was not.

13 Q That was after he had been taken out of the jail
14 and sent to McAlester; right?

15 A Yes, sir.

16 Q How about GG-5?

17 A GG-5, was a brown paper sack containing trash
18 which was right outside the cell bars. Dennis Reimer, Chemist
19 that was in there when I was in there in the cell, went
20 around and picked up the trash and handed it to me.

21 Q Do you know which day Mr. Hart was taken from the
22 Mayes County Jail?

23 A Okay. Are you speaking of 4-18?

24 Q No. Do you, of your own personal knowledge, know
25 which day he was taken out of the Mayes County Jail or or

1 about April the 18th?

2 A Yes, sir.

3 Q Which day was he taken?

4 A Okay. Of my personal knowledge, I was at the
5 hospital when the hairs were being taken.

6 Q No, no, you misunderstood me. He was removed
7 from the Mayes County Jail on or about April 15. Do you
8 know what time and which day it was that he was actually
9 removed from the Mayes County Jail and transported to the
10 Oklahoma State Penitentiary?

11 A At this time, I do not recall specifically times
12 or have personal knowledge of it.

13 Q When did you first get the call to go to the Mayes
14 County Jail to pick up these items?

15 A On 4-18-78.

16 Q What time of day was that?

17 A I was to come up here to assist in obtaining --
18 it was a Motion Hearing. I had subpoenas, I believe, from
19 the Defense and Prosecution - I don't recall specifically, and
20 it was ordered by the Court or whatever and you okayed it, to
21 obtain blood samples, saliva samples and hairs. That's what
22 I was here for.

23 Q You said you took these blankets off the bed in
24 the Mayes County Jail?

25 A In the cell of Hart's - what I was told was Hart's

1 cell, yes, sir.

2 Q Did you take them off before we went over there to
3 get the hair samples, blood samples, saliva samples?

4 A No, sir. This was done afterwards.

5 Q How long after you took the hair samples from Mr.
6 Hart, and the blood samples and saliva samples, was it until
7 you went to the Mayes County Jail and picked up the blankets
8 and the bath towel and socks and trash?

9 A After Mr. Hart left the hospital and everyone
10 exited, I recall, to the best of my knowledge, I went over
11 to the Sheriff's Office, obtained this brown paper sack that
12 he had to submit to the Bureau and at that time, Dennis
13 Reimer and myself went into the cell and I picked up -- like
14 I said, I picked up items GG-1 through GG-4 and he picked up
15 Item GG-5 and gave it to me.

16 Q Now, directing your attention to page 15, HHH-8,
17 yellow toilet tissue found in the jail cell on bunk. Was
18 that item analyzed by you?

19 A To the best of my recollection, I did, in fact,
20 run an acid phosphatase test on yellow toilet tissue paper.
21 If it was Item HH-8, I'm not positive.

22 Q What were the results of the tests that you ran on
23 some toilet tissue?

24 A The toilet tissue that I ran at this time, not
25 knowing for sure if it is in fact this item, were negative.

1 I have not completed my analysis on the items.

2 Q Oh, you are still analyzing some of them at this
3 time?

4 A Yes, sir. In other words, if this has not been
5 checked, it will be checked.

6 Q Mrs. Davis, directing your attention to Technical
7 Examination Report of October 3rd of '77?

8 A My report?

9 Q No, ma'am, report of items submitted by Mr.
10 Esquinaldo, items which you analyzed?

11 A Okay. Okay, that's one of my reports.

12 Q Directing your attention to Report made by Mr.
13 Esquinaldo concerning items he submitted on October 3rd,
14 are you with me?

15 A Yes, sir.

16 Q All right. Your report says that you analyzed
17 Item T-5-B?

18 A What's the number, sir?

19 Q It appears on mine to be T-5-B.

20 A Okay. TT-5-B?

21 Q Yes, ma'am, what was that item?

22 A That item was one white filter cigarette butt.

23 Q From whom was that item obtained?

24 A Let's see, at this time, I specifically cannot
25 tell you where that item originated.

1 Q Well, Mr. Esquinaldo told us that they came from
2 the cave area; would he be correct?

3 A I do not know. These items were given to me to
4 analyze in the OSBI Headquarters and I did, in fact, perform
5 analysis on them.

6 Q You analyzed that cigarette butt, did you not?

7 A Yes, sir, I did.

8 Q Were you able to come to any conclusion as to
9 whether or not the person that smoked that cigarette was of
10 a particular blood group?

11 A I performed the same secretor analysis as I have
12 previously explained. Running the controls known and every-
13 thing and this particular cigarette butt, my tests results
14 were, in fact, I was unable to detect blood group substance.

15 Q Directing your attention to Item TT-11, filtered
16 Winston cigarette butt?

17 A Yes, sir.

18 Q Did you run the same tests on that cigarette butt?

19 A Yes, sir, I did.

20 Q What were the results of that test?

21 A From that filter Winston cigarette butt, TT-11, I
22 obtained blood group substance A.

23 Q Did you test any other items in that submitted by
24 Mr. Esquinaldo?

25 A For secretor analysis?

1 Q Yes, ma'am?

2 A No, sir. I don't believe I did. These were the
3 two cigarette butts and there was nothing else in this
4 particular set of items a secretor analysis would be, you
5 know, needed.

6 Q Now, directing your attention to your preliminary
7 report No. 3, dated 7-7-77?

8 A Yes, sir.

9 Q Did you test the torn colored photograph taken
10 from the storage house at Camp Scott by Agent Harvey Pratt?

11 A Yes, sir, I did.

12 Q What tests did you run on that photograph?

13 A Okay. On this photograph, I looked for the
14 presence of acid phosphatase, again, running the same tests
15 as I have previously explained.

16 Q What were the result of that test made, ma'am?

17 A I was unable to detect presence of acid phosphatase.

18 Q Did you run a test on a yellow handled hatchet
19 taken from the storage shed, cook building in Cherokee camp?

20 A Yes, sir, I looked for the presence of blood.

21 Q Would you tell me --

22 A That's EE-11?

23 Q 5.

24 A I mean EE-5. I've got a 5 there, but that's it.

25 Okay.

1 Q What were the results of that test?

2 A I was unable to detect the presence of blood.

3 Q How about a hatchet taken from --

4 MR. FALLIS: Excuse me, Your Honor. One moment.

5 May I inquire as to if this is merely a recitation into the
6 record of the -- I mean in recitation -- but if this is
7 merely reciting what is before you or, are you merely read-
8 ing? If I may inquire of the witness, Your Honor, answers
9 that are already on the document that counsel has?

10 A (By Miss Davis) Yes, it's simply what my report
11 states.

12 THE COURT: Are the results of the test on the
13 report, Mr. Isaacs?

14 MR. ISAACS: They're on there but I can't correlate
15 them because I don't have a copy that you can read, Judge.
16 I skipped a whole bunch there.

17 THE COURT: Could we shorten the hearing, maybe,
18 by making another copy of her report, if it has all the
19 information on it?

20 MR. ISAACS: Yeah, except I'm going to ask her
21 what tests she run on them.

22 THE COURT: That doesn't indicate what she did to
23 the items?

24 MR. ISAACS: No, it just says the presence of a
25 certain blood group and that's all.

1 MR. FALLIS: Well, Your Honor, that might be
2 indicative that she ran tests for blood.

3 MR. ISAACS: We'll agree to that.

4 THE COURT: I would assume so.

5 Q Maybe we can do it this way, Mrs. Davis. On all
6 these items on Report No. 3, since I don't have the -- I
7 don't have a good enough copy I can match with them, could
8 we talk about --

9 A Report of 7-7-77?

10 Q Yes, ma'am?

11 A Okay. That was my very first report I sent out.

12 Q All right. If you analyzed some cigarette butts
13 both filtered and non-filtered, KK-3 and KK-8, would you
14 tell me what tests you ran on those cigarette butts and what
15 the results were?

16 A Yes, sir. As --

17 Q If it's the same test you ran on these other items,
18 just say I ran the acid phosphatase test the same way I
19 ran them before.

20 A Yes, sir. Yes, sir. Item KK-1, KK-3, were each
21 a filtered cigarette butt, which appeared to me a Winston 100.
22 Secretor test was performed on this, on these two cigarette
23 butts the same as I have previously described.

24 Q Yes, ma'am.

25 A And the conclusion from those two cigarette butts

1 was, I picked up blood group substance O. KK-2 and KK-8 are
2 two white non-filtered cigarette butts. Again, I performed
3 a secretor test as I have previously described and I obtained
4 blood group substance O.

5 Q Directing your attention to LL-15, can you find
6 that? It's a few lines back.

7 A Are you sure it's not LL-5?

8 Q Well, that's what I was wondering.

9 A Is it a saliva sample?

10 Q No, ma'am, it's a shirt.

11 A Okay.

12 Q A light green, long sleeved, western style Trim-Tex.

13 A I have no records showing an Item No. LL-15.

14 Q An LL-5 was a saliva test; is that right?

15 A Yes, sir.

16 Q Who was that performed on?

17 A LL-5 was a saliva sample taken from Kenneth G.
18 Chaffin.

19 Q All right, and what were the results of that?

20 A Blood group secretor analysis was performed as
21 previously described and blood group substance A was detected.

22 Q Mrs. Davis, what do we mean when we say "Blood
23 group substance H (O)"?

24 A Okay. Blood group substance, for clarity's sake,
25 we call it blood group substance O. If you get more scientific

1 and technical, it is, in fact, blood group substance H. And
2 if it is found by itself, it is, in fact, O.

3 Q Mrs. Davis, directing your attention to Technical
4 Examination Report of 9-7-77.

5 A Okay, just a second, 9-7-77.

6 Q Do you have that one, the Grossman burglary case?

7 A And it's my report?

8 Q Yes, ma'am.

9 A Show it to me.

10 Q Here (indicating).

11 A Okay.

12 Q Have you got that one?

13 A Huh-uh, but I'd be glad to use yours.

14 Q Look at mine. The items analyzed there were the
15 same tests performed on the cigarette butt in that particular
16 report that were performed in the other reports?

17 A If secretor analysis was done on any of these
18 items, it would have been the same. Now specifically, what
19 item are you talking about?

20 Q Specifically the cigarette butt contained -- you
21 say here that --

22 A Okay, these items?

23 Q All right.

24 A These items were determined to contain human blood.
25 However, due to an insufficient amount of samples, blood grouping

1 tests were not possible. Now, that's different than secretor.

2 Q Okay.

3 A That's blood.

4 Q So we have to have a sufficient amount of blood
5 before we can type somebody as a secretor?

6 A No, sir. Blood grouping is a complete different
7 test than a secretor. Secretor is a body fluid other than
8 blood.

9 Q But these same body fluids are also in the blood,
10 are they not?

11 A If you are a secretor.

12 Q And if you had a large enough sample of blood, you
13 can determine whether or not someone is a secretor?

14 A From blood?

15 Q Yes, ma'am?

16 A No, sir.

17 Q Oh, you can't?

18 A No, sir.

19 Q Now, directing your attention to the report you
20 made 7-7-77, would you describe for me how you performed the
21 acid phosphatase test and secretor analysis test? Did you
22 perform any other tests on any of those items - Preliminary
23 Report No. 3, dated 7-7-77?

24 A Yes, sir.

25 Q What other tests?

1 A The conclusion, as my report reflects -- would
2 you like for me to just go down the list of each item?

3 Q Yes, ma'am?

4 A And tell you what I did to it and the results I
5 obtained?

6 Q No. Just the different tests. Any test other than
7 the acid phosphatase test or the secretor analysis or blood
8 grouping test that you performed on any item?

9 A You want any test other than the acid phosphatase
10 or secretor?

11 Q Yes, ma'am.

12 A Okay. Item A-6-1, whole --

13 Q You can omit the blood items. We've been through
14 that before. Start with the torn colored photograph B-1.

15 A Okay.

16 Q Did you perform any tests other than the acid
17 phosphatase test?

18 A Yes, sir, I did.

19 Q What others?

20 A I looked for the presence of blood.

21 Q Did you find any?

22 A No, sir, I was unable to detect presence of blood.

23 Q EE-5, did you perform any other tests other than
24 a blood test on that particular item?

25 A No, sir.

1 Q LL-1, did you perform any other tests other than
2 a blood test -- that's the hatchet taken from the home of
3 William Manson?

4 A No, sir, I did not.

5 Q Omitting L-1, omitting X-3 and LL-5, did you per-
6 form any other tests on KK-1, the two filtered cigarette
7 butts; KK-3, KK-2 and KK-8, two non-filtered cigarette butts?

8 A Okay, on these particular items, KK-1, KK-3 and
9 KK-2 and KK-8, I performed no other tests than the secretor.

10 Q Mrs. Davis, how many sets of underwear have you
11 taken from Gene Leroy Hart's cell or from the State Peniten-
12 tiary and analyzed?

13 A I have taken none personally. Other than transfer-
14 ring them to the Bureau.

15 Q And how many pairs of underwear have you had trans-
16 ferred to the Bureau for your use and analysis of those
17 pairs of underwear?

18 A I cannot be exact. I can give you a good estima-
19 tion.

20 Q Give me that estimate.

21 A Okay. I believe I have received approximately nine
22 pair.

23 Q How many pairs of pants have you received for
24 analysis?

25 A Slacks?

1 Q Yes.

2 A None that I can recall at this time, other than
3 listed on here.

4 Q Have you received any of his shirts?

5 A I have received approximately two or three shirts.
6 Two or three pairs of trousers, a pair of shoes, the best
7 of my recollection, that is the amount that I have received
8 as far as clothing.

9 Q Have you told us everything -- which kind of shoes
10 did you receive? Is that those boots he was wearing when
11 he was arrested?

12 A Yes, sir, I received those.

13 Q Would you describe those for us?

14 A The boots that I received from Gene Leroy Hart
15 when he was arrested?

16 Q Yes.

17 A Okay.

18 Q Is a part of brown leather boots, are they not?

19 A Just a minute, please. My item number - Lab Item
20 No. XX-3, are a pair of suede shoes, chuka-boot style with
21 crepe soles.

22 Q For what purpose were those boots taken from Mr.
23 Hart?

24 A As far as my purpose?

25 Q Yes, ma'am?

1 A I was to look for any possible bloodstains, maybe
2 possible seminal fluids, trace evidence of any kind.

3 Q Did you examine them?

4 A Yes, I did.

5 Q Find any bloodstains?

6 A No, sir.

7 Q Find any seminal stains?

8 A No, sir.

9 Q Hair?

10 A Yes, sir.

11 Q What kind of hair?

12 A I simply took the hairs from the shoes and gave
13 them to Ann Reed.

14 Q You don't know if it was animal or human then?

15 A No, sir, I do not analyze hair.

16 Q Has Mrs. Reed analyzed that hair?

17 A I do not know.

18 Q Have you performed the same tests on all of Mr.
19 Hart's underwear?

20 A Sir?

21 Q Have you performed the same tests on all of Mr.
22 Hart's underwear to determine whether acid phosphatase is
23 present?

24 A Okay. To the best of my recollection, like I said,
25 I'm not finished with my results. I have not sent out another

1 report because I am not finished. To the best of my recol-
2 lection, I have analyzed two other pair - approximately two
3 other pair.

4 Q Have you made the report on that particular --

5 A No, sir. I am not finished. I am not finished
6 with my analysis. The other pairs I have not even started
7 working with. I have been working on other items in the,
8 you know, other cases within the Bureau and have not got
9 back to it.

10 Q Okay. What were the results of the tests of the
11 other underwear?

12 A I specifically can't remember what - how far I
13 have gotten along with it. I'm pretty sure that I looked
14 for acid phosphatase as far as sperm, I do not recall at
15 this time.

16 Q Will you give us a copy of those reports when you
17 are through?

18 A Yes, sir, I will.

19 MR. ISAACS: Thank you. Judge, I don't think I
20 have anymore questions of this witness.

21 THE COURT: Cross examination?

22 MR. FALLIS: May I have just one moment, Your Honor?

23 THE COURT: Yes.

24 MR. FALLIS: No questions, Your Honor. Thank you.

25 THE COURT: You may step down.

1 MR. ISAACS: Let me ask you one about the property
2 at Mr. Pigeon's house. Did anybody submit to you any under-
3 shorts from Mr. Pigeon's house?

4 A Yes, sir.

5 Q Did you analyze those?

6 A I have looked at them. I have not performed an
7 analysis.

8 Q Are these Size 44's?

9 A I don't recall; I don't believe so. I don't
10 believe so. I think, to the best of my recollection, they
11 are Fruit of the Loom, Size Medium, but I am not sure.

12 Q Do you know the results of the tests on those
13 underwear?

14 A I have not performed any tests. I simply took them
15 out of the sack, looked at them, and put them back immediately
16 into the sack.

17 Q Any other items of clothing from Mr. Pigeon's house
18 that you have performed tests upon?

19 A No, sir. You know --

20 Q You are still working on it; right?

21 A Yes, sir; yes, sir.

22 MR. ISAACS: Thank you.

23 THE COURT: You may step down.

24 MISS DAVIS: Your Honor, may I be excused from this
25 Preliminary Hearing or am I still on call?

1 THE COURT: Yes.

2 MISS DAVIS: Am I excused?

3 THE COURT: Provided that you do submit copies of
4 your Technical Report.

5 MISS DAVIS: Yes, sir. All of them have been
6 submitted.

7 MR. ISAACS: Judge, if she submits one and we get
8 it in the mail, we might want to call her back before it is
9 over with.

10 THE COURT: Well, we will take that up if it
11 arises.

12 MISS DAVIS: Have you received my copy number four,
13 the last report?

14 MR. ISAACS: Is that the one about the decomposed
15 and deformed sperm?

16 MISS DAVIS: The date of it is June 5th, 1978.

17 MR. ISAACS: Yes.

18 MISS DAVIS: Okay. That's the last report.

19 MR. ISAACS: Now wait a minute, we've got June 7th,
20 but we don't have June 5th. I don't believe I have a copy
21 of that.

22 THE COURT: Well, why don't you take it up after
23 we adjourn today? If you can just stay a few minutes, Miss
24 Davis. Any reports that he doesn't have that you prepared,
25 we'll see that they are Xeroxed.

1 MISS DAVIS: Yes, sir.

2 THE COURT: I believe you may step down.

3 MR. WISE: Thank you, Miss Davis.

4 MR. ISAACS: Judge, that's my last witness for
5 today.

6 THE COURT: All right. Let's talk a little bit
7 about tomorrow, Mr. Isaacs. How many witnesses do you have
8 left?

9 MR. ISAACS: Ten OSBI Agents, start off with Mr.
10 Lempke or Mr. Wilkerson.

11 THE COURT: All right. Now, are these all the
12 witnesses that you have for tomorrow is the ten agents?

13 MR. ISAACS: I think we've got two local citizens,
14 Mr. Auxier --

15 THE COURT: Mr. who?

16 MR. ISAACS: Mr. Auxier.

17 THE COURT: All right. You don't have to give me
18 the names. I'm just curious about the number.

19 MR. ISAACS: Twelve, all together.

20 THE COURT: Let me -- due to the scheduling diffi-
21 culties that I'm beginning to have, due to the length of
22 this hearing, I'm concerned about some of the names you
23 originally gave me as witnesses.

24 Do you still intend to call Mr. Sanders?

25 MR. ISAACS: Yes, sir.

1 THE COURT: And you still intend to call any news
2 media people?

3 MR. ISAACS: Yes, sir.

4 THE COURT: Do you intend to call a Mr. Jack Shroff?

5 MR. ISAACS: Yes, sir.

6 THE COURT: Do you intend to call anymore people
7 from the Magic Empire Girl Scouts?

8 MR. ISAACS: Yes, we do.

9 THE COURT: Do you intend to call Doug Nichols
10 of the Oklahoma Highway Patrol?

11 MR. ISAACS: Yes, sir.

12 THE COURT: Do you intend to call Harold Berry of
13 the Oklahoma Highway Patrol?

14 MR. ISAACS: Harold Berry has testified.

15 THE COURT: Yes, but not as a Defense witness.

16 MR. ISAACS: No, he won't be called.

17 THE COURT: He will not be called?

18 MR. ISAACS: No.

19 THE COURT: Do you intend to call Norman Carey?

20 MR. ISAACS: No.

21 THE COURT: Are there any other names of witnesses
22 that you care to divulge, that you plan to call?

23 MR. ISAACS: Not at this time, other than a fellow
24 from Dallas, Mr. Stone.

25 THE COURT: All right. We will take all twelve of

1 your witnesses tomorrow, even if it goes after 5:00 p. m.,
2 and if you wish to call additional witnesses for tomorrow,
3 line up as many as you want and we will go until we're done
4 or until whatever time it takes.

5 MR. ISAACS: Okay, Judge.

6 MR. FALLIS: If it please the Court --

7 THE COURT: Yes.

8 MR. FALLIS: Since we have a little time, since
9 we ended again early, I would like to ask the Court to con-
10 sider a possible motion concerning the cessation of this
11 Preliminary Hearing, based on legal authority and based upon
12 the performance in this courtroom of the defense witnesses
13 to date.

14 I think it should be apparent to the Court, that
15 thus far, the Preliminary Hearing on behalf of the accused
16 has been a fishing expedition, that the information that has
17 been elicited in many cases was information that he already
18 had based upon interviews as cited from the witness stand,
19 based upon technical reports and it seems to me that the
20 Court's time and the time of the Court personnel is very
21 very much put upon in this fishing expedition. Court advised
22 counsel yesterday that he be prepared to go until 5:00. He
23 gave notice to the OSBI Agents -- what time was that, Mr.
24 Thurman?

25 MR. THURMAN: Yesterday, 4:00 o'clock.

1 MR. FALLIS: The ones for today?

2 MR. THURMAN: Yes, sir, the ones for tomorrow.

3 MR. FALLIS: He's not complying with the notice
4 requirement that the Court is aware of that was entered into
5 between Mr. Kennedy of the OSBI and my point is, Your Honor,
6 that it would appear that I think - it probably sums pretty
7 well the statement of counsel in the courtroom yesterday.
8 "Let me run out and see if I can find me another witness." -
9 and if that's going to be the procedure, we would like for
10 Your Honor to consider seriously the legal authority we
11 have at your convenience concerning the possible cessation
12 of what might be a never-ending process here.

13 THE COURT: Why don't you file a motion, citing
14 your authority and I'll give the Defense a period of time
15 to respond to that authority. I had hoped that we could let
16 the Preliminary Hearing run its own natural course and
17 perhaps we can.

18 At this point, I will only take such motion under
19 consideration and advisement. So we will see you gentlemen
20 tomorrow morning at 9:30.

21 (WHEREUPON, the cause in hearing was recessed
22 until 9:30 a. m., on the 29th day of June, 1978.)
23
24
25