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IN THE DISTRICT COURT OF MAYES COUNTY,
STATE OF OKLAHOMA.

THE STATE OF OKLAHOMA,)
)
) Plaintiff,)
)
) -vs-)
)
) GENE LEROY HART,)
)
) Defendant.)

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

FILED IN THE DISTRICT COURT
MAYES COUNTY, OKLAHOMA

SEP 18 1978

PRELIMINARY HEARING

VOLUME III

ELOISE GIST, Court Clerk
BY *Juanita Smith*
Deputy

HEARD BEFORE: Honorable Jess B. Clanton, Jr., Special Judge
June 9, 1978

A P P E A R A N C E S

FOR THE STATE OF OKLAHOMA: Mr. Sidney D. Wise
District Attorney
Mayes County, Oklahoma

Mr. S. M. Fallis, Jr.
District Attorney
Tulsa County, Oklahoma

FOR THE DEFENDANT: Mr. Garvin A. Issacs
Attorney at Law

Mr. Gary S. Pitchlynn
Attorney at Law

REPORTED BY: Tracey Ferguson
Licensed Shorthand Reporter

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EXHIBITSVOLUME III

	<u>No.</u>	<u>Description</u>	<u>Identified</u>	<u>Offered</u>	<u>Received</u>
1					
2					
3					
4	SX-14	Photograph	390	391	391
5	SX-15	Photograph	390	391	391
6	SX-16	Photograph	390	391	391
7	SX-17	Photograph	390	391	391
8	SX-18	Photograph	390	391	391
9	SX-19	Photograph	390	391	391
10	SX-20	Photograph	390	391	391
11	SX-21	Photograph	390	391	391
12	SX-22	Photograph	390	391	391
13	SX-23	Photograph	390	391	391
14	SX-24	Photograph	390	391	391
15	SX-25	Photograph	390	391	391
16	SX-26	Photograph	390	391	391
17	SX-27	Photograph	390	391	391
18	SX-28	Photograph	390	391	391
19	SX-29	Autopsy Report - Farmer	382	(By stipulation)	
20	SX-30	Autopsy Report - Guse	382	(By Stipulation)	
21	SX-31	Autopsy Report - Milner	382	(By Stipulation)	
22	SX-32	Hairpiece w/ blue valls	420	424	426
23	SX-33	Plastic bag tag	417	424	426
24	SX-33-A	Red Glass Case	419	424	426
25	SX-33-B	Eyeglasses	419	424	426

E X H I B I T SVOLUME III (Continued)

	<u>NO.</u>	<u>Description</u>	<u>Identified</u>	<u>Offered</u>	<u>Received</u>
1					
2					
3					
4	SX-34	Envelope	420	424	426
5	SX-35	Piece of duct tape	427	429	429
6	SX-36-A	Photograph	452		
7	SX-36-B	Photograph	452		
8	SX-37	Masking tape removed from flashlight	465	469	
9	SX-38	Paper from flashlight	464	469	
10	SX-39	Plastic removed from flashlight	466	469	
11					
12	SX-40	Pajama top	493		
13	SX-41	Tape from pajama top	493		
14	SX-42	Cord attached to pajama	494		
15	SX-43	Cloth from Milner's neck	495		
16	SX-44	Terry cloth & cord-Milner	495		
17	SX-45	Hair - Milner	496		
18	SX-46	Tape from Milner hand	498		
19	SX-47	Cord from Milner hand	498		
20	SX-48	Envelope containing hair from tape on Milner hand	499		
21	SX-49	Slides - Milner	511		
22	SX-50	Slides - Farmer	511		
23	SX-51	Slides - Guse	511		
24	SX-52	Vial of blood - Farmer	512		
25	SX-53	Vial of Blood - Miler	512		

E X H I B I T SVOLUME III (Continued)

<u>No.</u>	<u>Description</u>	<u>Identified</u>	<u>Offered</u>	<u>Received</u>
1				
2				
3				
4	SX-54	Vial of Blood - Guse	512	
5	SX-55	Anal Swab - Guse	512	
6	SX-56	Oral Swab - Guse	513	
7	SX-57	Anal Swab - Milner	513	
8	SX-58	Vaginal Swab - Milner	513	
9	SX-59	Oral Swab - Milner	513	
10	SX-60	Vaginal Swab - Farmer	513	
11	SX-61	Oral Swab - Farmer	513	
12	SX-62	Anal Swab - Farmer	514	
13	SX-63	Vaginal Swab - Guse	514	
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1 as the Assistant Chief Medical Examiner.

2 Q And Doctor, are you assigned to particular duties
3 and responsibilities with the State of Oklahoma in that capa-
4 city?

5 A Yes, sir, I am.

6 Q What are your duties and responsibilities?

7 A To investigate sudden unexpected and violent deaths,
8 to determine the cause and manner of death, to derive evidence
9 from my examinations as necessary, to supervise the Medical
10 Examiners in the entire northeastern portion of Oklahoma,
11 largely the 918 Area Code, to supervise the office which I
12 run and, of course, to testify in court as necessary.

13 Q Doctor, can you state for the Court the educational
14 background that you have, please?

15 A Yes. I received a Bachelor's and Master's of Science
16 Degree from the University of Wisconsin in 1966 -- excuse me,
17 1963 -- in 1966 respectively and in 1967, I received a Degree
18 of Doctor of Medicine from the University of Wisconsin in Madi-
19 son. I had a year of internship - rotating internship - at
20 the Henry Ford Hospital in Detroit. Following that, I entered
21 pathology residence in St. Louis, Missouri, in Barnes Hospital,
22 Washington University, for a period of three years and spent
23 one year in the forensic pathology residency at the office of
24 the Cuyahoga County Coroner - that's Cleveland, Ohio. After
25 that, I went to the military and spent two years as a Director

1 of a Laboratory at Fort Rucker, Alabama. I was a consultant
2 to the State Department of Toxicology and Criminal Investiga-
3 tion in the State of Alabama. Thereafter, I joined the office
4 of the Medical Examiner in the State of North Carolina for a
5 period of one and three-fourths years, where I held the posi-
6 tion of Associate Chief Medical Examiner and had similar duties
7 to my present ones. I was at that time an Assistant Professor
8 at the University of North Carolina School of Medicine and I
9 came here to Oklahoma in March of 1976, and have occupied this
10 same position since.

11 I'm Certified by the American Board of Pathology in
12 anatomical and forensic pathology; I'm a Fellow of the American
13 Academy of Forensic Sciences and I have performed, I suppose,
14 about 1650 or so autopsies in the course of this experience
15 and training.

16 Q Doctor, have you been accepted as an expert in courts
17 to testify concerning the conducting of post-mortem examina-
18 tions, including autopsies in the State of Oklahoma?

19 A Yes.

20 Q On more than one occasion?

21 A Yes.

22 Q Have you been accepted in other states likewise?

23 A Yes.

24 MR. FALLIS: Your Honor, at this time we'd offer
25 Dr. Hoffman as an expert to testify concerning his area of work,

1 in this case, pathology.

2 MR. ISAACS: Judge, at this time, I'd like to enter
3 into a stipulation. Comes now Gene Leroy Hart and agrees to
4 stipulate to the following:

5 MR. FALLIS: If it please the Court, excuse me,
6 Your Honor.

7 MR. ISAACS: 1. That Doris Denis Milner, died on or
8 about the 13th day of June, 1977, and probable cause of death
9 was asphyxiation due to ligature strangulation.

10 2. That Michelle Guse died on or about the 13th day of
11 June, 1977, and that the probable cause of death was blunt
12 trauma to the head.

13 3. That Lori Lee Farmer died on or about the 13th day
14 of June, 1977, and that the probable cause of death was blunt
15 trauma to the head.

16 4. That the autopsy reports of Neal A. Hoffman, M. D.,
17 contain a true and correct description of the injuries of
18 Michelle Guse, Lori Lee Farmer and Doris Milner.

19 5. That the autopsy reports of Neal A. Hoffman, M. D.,
20 contain a true and correct description of the condition of
21 the bodies at the time of death.

22 6. That the autopsy reports of Neal A. Hoffman, M. D.,
23 describe fully an autopsy conducted in accordance with the
24 best medical procedures and the highest state of the art.

25 We agree to stipulate to those things.

1 MR. FALLIS: If it please the Court, at this time,
2 so far as the stipulation is offered concerning the cause of
3 death, the State of Oklahoma is certainly willing to enter
4 into that aspect of the stipulation. There are additional
5 points of testimony concerning the work done by Dr. Hoffman
6 we would seek to elicit from the witness stand.

7 THE COURT: So the cause of death is the only - in
8 each case, is the only point that the State will agree to
9 stipulate with Defense Counsel; is that correct?

10 MR. FALLIS: Yes, sir, as I understand it, certainly
11 that portion of the stipulation relating to the accuracy and
12 correctness protocols prepared by Dr. Hoffman pursuant to
13 autopsy and post-mortem examination, that portion of the
14 stipulation likewise, Your Honor.

15 THE COURT: Let me see if I understand your stipula-
16 tion. Are you stipulating to the introduction of the autopsy
17 report?

18 MR. ISAACS: Yes, sir, stipulate that those are
19 true and correct.

20 THE COURT: Does the State wish to enter into a
21 stipulation?

22 MR. FALLIS: May I have just a moment, Your Honor?
23 If it please the Court, I am sorry to postpone the Court's
24 time. As we left yesterday evening, we did not receive any
25 notice to the offered stipulation until this moment in the

1 courtroom.

2 THE COURT: Take whatever time you need.

3 MR. FALLIS: If it please the Court, I have been
4 advised by Mr. Isaacs he can only stipulate to what the paper
5 says; quite frankly, I would like to, in order to speed up
6 matters as well as consider the families of the victims
7 involved here, agree to stipulate to that portion of his
8 offer concerning the cause of death, concerning the accuracy
9 of the Autopsy Report, concerning individually the cause of
10 death. What I meant, number one, two and three -- by the way,
11 does Your Honor have a copy of the offered Stipulation?

12 THE COURT: I do not.

13 MR. ISSACS: Judge, we know that Dr. Hoffman did
14 his job correctly and that is the condition the bodies were
15 in. What we tried to do is circumvent a lot of unnecessary
16 examination of the witness and we do have examination on issues
17 of how certain items of scientific nature were removed from
18 the bodies and whether or not they were transported.

19 THE COURT: Well, as I understand your offered
20 Stipulation, it would not eliminate additional examination and
21 cross-examination of the Doctor, but it is only to facilitate
22 the hearing.

23 MR. ISAACS: We, too, are concerned the families of
24 the victims not have any undue mental anguish here at this
25 proceeding.

1 THE COURT: As I understand it, Mr. Isaacs, you
2 don't have any objection to the Doctor testifying as an expert
3 nor any questions concerning his qualifications, is that
4 correct?

5 MR. ISAACS: Yes, sir.

6 THE COURT: So the Court will consider the Doctor
7 as an expert in this area.

8 Now, back to the Stipulation. Is there a portion
9 of this that the State wishes to excuse?

10 MR. FALLIS: Your Honor, we can accept all the
11 Stipulation, but, of course, would ask leave of the Court to
12 make additional inquiries of Dr. Hoffman as to matters not
13 contained within the Stipulation.

14 THE COURT: Why I believe that was understood when
15 the Stipulation was offered.

16 MR. ISAACS: Could I get Mr. Wise and Mr. Fallis
17 to sign this instrument, Your Honor?

18 THE COURT: Now Mr. Isaacs, so that we can be per-
19 factly clear, this Stipulation is offered for purposes of
20 Preliminary Hearing only and for no other purpose?

21 MR. ISAACS: At this time, we would offer it for
22 Preliminary Hearing but if my client is bound over, I see no
23 reason why we couldn't offer that at trial.

24 THE COURT: All right. Well, we'll just consider it
25 at this time for Preliminary Hearing purposes only.

1 MR. WISE: State is only acknowledging it for pur-
2 poses of this hearing, Your Honor.

3 THE COURT: Very well.

4 MR. WISE: The record reflects as I understand the
5 Court's statement, Your Honor, that our acceptance of this
6 Stipulation is to expedite these matters; it does not foreclose
7 Mr. Fallis from continued examination of Dr. Hoffman with
8 regards to those items which are not specifically contained
9 in the reports.

10 THE COURT: That's the Court's understanding.

11 MR. WISE: Very well.

12 THE COURT: Now, before we proceed, since this does
13 include according to Mr. Isaacs, the introduction of those
14 Autopsy Reports, if those haven't been marked as State's
15 Exhibits, let's do it at this time and we will go ahead and
16 introduce those under the Stipulation into evidence. That
17 will save a little time, I think.

18 MR. WISE: If it please the Court, we would ask
19 leave of the Court to introduce photostatic copies until the
20 originals of these reports are at least -- the certified
21 copies can be located. I have the report of one of the victims
22 that is a certified copy. I have two of the three that are
23 certified.

24 THE COURT: Why don't you show those to Mr. Isaacs
25 so he can be sure of what he is stipulating to?

1 MR. ISAACS: Judge, at this time, I'd like to file
2 my Stipulation - or file our Stipulation in open court.

3 THE COURT: Is there a Minute Clerk in the room?
4 That's all right. I'll buzz for her. The record will show
5 that the Stipulation is filed in open court. Who has the
6 original of this Stipulation?

7 MR. WISE: It is laying on the Court Clerk's desk,
8 Your Honor.

9 THE COURT: For the record, State's Exhibit 29 is
10 the Autopsy Report of Lori Lee Farmer; State's Exhibit 30 is
11 the Autopsy Report of Michelle Guse; State's Exhibit 31 is
12 the Autopsy Report for Doris Denise Milner and pursuant to
13 stipulation of counsel for Preliminary Hearing purposes only,
14 these exhibits are received into evidence.

15 MR. FALLIS: May we proceed?

16 THE COURT: You may proceed.

17 BY MR. FALLIS:

18 Q Dr. Hoffman, do you recall when and where you first
19 saw the bodies of these three girls?

20 A Yes, I do.

21 Q Where was that, please?

22 A It was at my office at 2422 West 41st Street, Tulsa,
23 at about a little after 1:00 o'clock in the afternoon of the
24 13th of June, 1977.

25 Q Were there other people present at the time that you

1 made the first observation?

2 A Yes.

3 Q Doctor, in that situation, were some of these per-
4 sons present, those who worked under your direction?

5 A Yes.

6 Q Could you name these people, please?

7 A Mr. Gary Jenson of our office; Mr. John Rolf, of
8 our office; Miss Linda Mills -- there may have been one other
9 agent present. I believe at that time there were some people
10 outside of the office already there.

11 Q Are you familiar with the name Janice Davis?

12 A Yes.

13 Q Do you know, sir, if she was there on that occasion?

14 A I believe Janice arrived sometime after I did; maybe
15 an hour later. I don't remember the exact time but I don't
16 believe she was there at the time I first viewed the remains.

17 Q And an individual by the name of Dennis Rymer; do
18 you know such a person?

19 A Yes.

20 Q Was he ever present during that time?

21 A Yes.

22 Q Do you recall if he arrived before or after Mrs.
23 Davis?

24 A I thought -- I don't remember exactly, but I believe
25 they arrived together.

1 Q Doctor, it's been stipulated and offered into
2 evidence the protocol which I take it is the terminology
3 attached to your findings from the post-mortem examination
4 and autopsy of the little girls?

5 A Yes.

6 Q Now, was any procedure established by you in order
7 to effect the post-mortem examination?

8 A Yes.

9 Q What was that, please?

10 A Well, the first thing was that none of the bodies
11 as they were received were to be disturbed, except in a certain
12 given order and we -- the first thing that had been done was
13 that the bodies or cases were assigned case numbers and then,
14 in order to establish some order, we decided to examine the
15 external covering over the body first for the possibilities
16 of trace evidence and then removed any external coverings as
17 was necessary. And prior to disturbing certain external
18 portions of the body, we fumed those areas with iodine vapor
19 in order to detect any latent fingerprints which might be
20 present on the body itself.

21 As the covering and other things around the body
22 were removed, photographs were taken and at that time, the
23 body was moved to the autopsy table where further external
24 and internal examinations were carried out.

25 Q Now, Doctor, as you were doing this, were you the one

1 main person in charge?

2 A Yes.

3 Q And I take it then that each of the victims were
4 separately the subject of examination that you have described?

5 A Yes, each one was examined in that order and in
6 turn and I established an arbitrary order to do this was the
7 Milner girl examined first; Guse, second; and Farmer, third.

8 Q Doctor, you mentioned some photographs were made?

9 A Yes.

10 Q Were there photographs made of the little Milner
11 girl at the time you first observed her?

12 A Shortly thereafter, yes.

13 MR. ISAACS: Judge, at this time, I have something
14 that I'd like to present.

15 Comes now Gene Leroy Hart and moves to the Court to
16 prohibit the introduction of any of the photographs taken
17 during the autopsy of Michelle Guse, Lori Lee Farmer or Denise
18 Milner for the following reasons:

19 1. Gene Leroy Hart has agreed to stipulate to the autop-
20 sy report as set out in the attached Stipulation.

21 2. The photographs are gruesome and there is evidence
22 to unduly arouse and specific hostile and prejudicial emotions
23 to potential members of the jury.

24 3. That due to publicity associated with these charges,
25 the probative value of these photographs is greatly outweighed

1 by prejudicial quality.

2 4. The Prosecution offers evidence not to prove any
3 disputed facts in issue but to arouse the passion of the
4 community.

5 In support of that, I'd like to cite two cases
6 back in 1958, in Oxydine the Court of Criminal Appeals said
7 the colored photographs of a nude person showing the stitching
8 on the body following an extensive autopsy have been found to
9 be irrelevant and the homicide prosecution designed only to
10 prejudice the jury and therefore inadmissible. We are not
11 at a jury trial here but this is a trial where the publicity
12 is of such a nature that potential jurors could be influenced
13 by these gruesome photographs.

14 In 1964 the Court had this to say about photographs
15 of that nature. Real evidence which carries a danger of
16 prejudice is inadmissible unless it is relevant to some mater-
17 ial issue and would reasonably assist the jury in the determi-
18 nation of the Defendant's guilt. And this relevance must
19 outweigh the danger that a jury would substitute emotion for
20 reason as the basis of their verdict. The cite on this case
21 is Borne against the State; it is 397 P 2d 924. Judge, we
22 stipulated to the cause of death, the condition of the bodies
23 and Dr. Hoffman in his professional capacity did the job that
24 an expert would up to the highest state of the art. Therefore
25 I feel that the photographs have no bearing on this testimony

1 and we ask the Court to prohibit them and to any other photo-
2 graphs being introduced.

3 THE COURT: Well, of course, at this point, Mr.
4 Isaacs, nothing has been offered. I don't know which photo-
5 graphs you are referring to. Do they have exhibit numbers
6 that you are aware of?

7 MR. ISAACS: Yes, sir. The ones I'm referring to
8 are any of the photographs taken at the morgue. I'd like to
9 file in open court the written copy of the Motion I just
10 read into the record. I'd also like to serve a copy of it
11 on the District Attorney at this time.

12 MR. FALLIS: If it please the Court, if I may be
13 heard just a moment on the subject.

14 This indeed is not a trial. Pursuant to the dis-
15 cussions in chambers, pursuant to discussion in chambers, not
16 only today but last night, we had taken various painful steps
17 to eliminate many of the photographs. We had also stated our
18 concern to the Court that if any photographs were introduced,
19 they would not be exhibited in any way to the audience and the
20 courtroom, to the camera that's in the courtroom to supplement
21 Courtroom B, that they are offered only to help this Court -
22 not a jury, but this Court - in a Preliminary Hearing and
23 perhaps better understanding the protocols that now have been
24 introduced by stipulation on the part of Gene Leroy Hart and
25 we certainly would join with counsel stating that they should

1 not be viewed by anyone but the Court. But offered only is
2 made to Your Honor in going through that which is now in
3 evidence in the way of exhibits, I believe No. 29, 30 and 31,
4 Your Honor, and certainly we showed them to Mr. Isaacs in
5 chambers. There was no mention of this particular Motion at
6 that time.

7 THE COURT: For the record, Mr. Fallis, before I
8 consider ruling on his Motion, the Court feels that some
9 exhibit numbers ought to be in the record.

10 MR. FALLIS: I understand.

11 THE COURT: Which, if you will stipulate with
12 Defense Counsel as to the numbers of these exhibits so we
13 could at least have a record of what they are.

14 MR. WISE: The photographs that are involved, Your
15 Honor, are Exhibit Nos. 14 through 28, which are 8 x 12
16 photographs.

17 THE COURT: Could I see a copy of your Motion?

18 MR. ISAACS: Excuse me, Your Honor.

19 THE COURT: Here. I'll use the Court Clerk's.
20 Mr. Fallis, concerning this Motion, would you ask your witness
21 how many copies of these photographs there are, where they
22 are located, if there are more copies than what we have here
23 and if there are more copies, are they a matter of public
24 record anywhere?

25 MR. FALLIS: Your Honor, I think as an Officer of the

1 Court, I can answer that.

2 THE COURT: All right.

3 MR. FALLIS: These photographs are the only photo-
4 graphs that we have in our possession. Any negatives of those
5 are in the possession of a law enforcement agency Oklahoma
6 State Bureau of Investigation, are not available to the
7 public nor will be available to the public.

8 THE COURT: Are copies of these photographs filed
9 with the State Medical Board or the receiving agent in Okla-
10 homa City which receives all autopsies pursuant to State law?
11 I don't remember the name of that organization.

12 Q (By Mr. Fallis) Doctor, are these particular photo-
13 graphs that I believe I exhibited to you before the time you
14 came on the witness stand, to your knowledge, are they in any
15 way filed with any reports that are filed as a public record,
16 the responsibility that you have?

17 A No. Neither these nor any color slides.

18 THE COURT: Upon consideration of the Defense Motion
19 and arguments of counsel and the testimony of Dr. Hoffman,
20 the Motion to Prohibit the Introduction of State's Exhibits
21 14 through 28, if in fact they are offered for admission is
22 overruled; exception noted but with further order that if these
23 photographs are admitted into evidence, they will not be made
24 known publicly so as not to damage any potential juror that
25 might have to sit on this case, if, in fact, that becomes a

1 requirement.

2 MR. ISAACS: I'd like to say --

3 THE COURT: Exception will be noted, Mr. Isaacs.

4 MR. ISAACS: I filed that motion because we don't
5 want any embarrassment to come to the family or any mental
6 anxiety.

7 THE COURT: I appreciate your concern and I under-
8 stand this was not a frivolous matter and you were quite
9 serious in your motion.

10 MR. FALLIS: May I proceed, Your Honor?

11 THE COURT: Yes.

12 Q (By Mr. Fallis) Doctor, if you will, sir, without
13 exhibiting those in any manner, look at those photographs and
14 state for the record if you recognize the subject matter of
15 those photographs?

16 THE COURT: I might also caution both the State and
17 Defense, if we are having witnesses looking at the photographs
18 that they take some care in the way they handle the photographs
19 in court.

20 MR. WISE: As well as counsel, Your Honor.

21 THE COURT: Counsel as well as the witnesses. They're
22 not in order. State's Exhibit No. 21.

23 Q Doctor, perhaps in order to conserve time, would
24 you generally look at all of them and tell the Court if you
25 recognize the subject matter, without describing them?

1 MR. ISAACS: Judge, we'll stipulate that he recog-
2 nizes all of them.

3 THE COURT: I don't know if he does. If he does,
4 I'll note your stipulation.

5 A (By Dr. Hoffman) Yes, I do.

6 Q All right, sir. Do they accurately and correctly
7 depict the scenes therein portrayed as you viewed the victims
8 on the date in question?

9 A Yes.

10 Q And Doctor, does these photographs likewise relate
11 to the protocols that now have been introduced by stipulation
12 to this Court?

13 A Yes.

14 MR. FALLIS: Your Honor, we'd offer State's Exhibits
15 14 through 28 for the Court's consideration only as an aid
16 to the Court in considering those exhibits entered by stipula-
17 tion.

18 THE COURT: Is there any objection to their being
19 offered for consideration by the Court only?

20 MR. ISAACS: I'll interpose an objection the same.

21 THE COURT: Same objection?

22 MR. ISAACS: Yes.

23 THE COURT: Overruled; exception noted. They are
24 received.

25 Q (By Mr. Fallis) Now, Dr. Hoffman, in this manner or

1 system that you say you worked out in order to systematically
2 carry through with the post-mortem examination, did the per-
3 sons that you have identified as recognizing from the State
4 Bureau of Investigation participate with you in this work?

5 A Yes.

6 Q Did you or any person in your presence make any
7 effort to obtain smears or samples from the bodies of the
8 victims in these cases?

9 A Yes.

10 Q Could you tell the Court the procedure that you
11 used with reference, first of all, to the victim Milner?

12 A The body had been removed -- well, the external
13 portion, coverings of the body had been removed and the body
14 was on the autopsy table without further disturbing or clean-
15 ing or otherwise examining the orifices. Swabs were taken
16 from the vagina and the vestibular area, the anus and the
17 mouth.

18 Each separately was then smeared upon a glass - clear
19 glass slide which was immediately fixed with an alcohol fixa-
20 tive. The swabs are then broken into a glass tube which was
21 in the hands of Janice of the OSBI.

22 Q Janice Davis?

23 A Davis, yes.

24 Q Sir, now you used the expression "swabs". How many
25 swabs do you have reference to?

1 A With regard to Milner?

2 Q Yes.

3 A Well, two swabs, cotton-tipped swabs were placed
4 within each orifice and the sample was obtained in a rotary
5 motion. Then, therefore, there were six swabs in total,
6 broken into three groups.

7 Q To your knowledge, Doctor, were the tubes that you
8 indicated wherein they were broken and the glass or plate
9 that the swabs was pressed upon or moved upon identified in
10 some manner?

11 A Yes, they were identified with the name of the
12 decedent and our case acception number.

13 Q Can you tell the Court if this same procedure was
14 followed with the victim Guse?

15 A Yes.

16 Q So there would be a total of six swabs involved in
17 that?

18 A Yes.

19 Q That would include the vagina, the anus and the
20 mouth?

21 A Yes.

22 MR. ISAACS: Object; leading, Your Honor.

23 MR. FALLIS: Your Honor, this is an expert witness
24 and I am trying to conserve time.

25 THE COURT: Try not to lead, if possible. I under-

1 stand that.

2 MR. ISAACS: I didn't know that the rules of evi-
3 dence were any different for an expert witness than for any-
4 body else.

5 THE COURT: They aren't, Mr. Isaacs, but I think
6 what Mr. Fallis is trying to do is same some time in that
7 regard. Objection will be sustained.

8 Q (By Mr. Fallis) Now, Dr. Hoffman, concerning the
9 last little girl, the same procedure followed in that case?

10 A Yes, exactly.

11 Q And do you, of your own knowledge, know what was
12 done with the swabs and the plates you used for this particu-
13 lar operation you have described?

14 A The swabs were turned over to Miss Davis - Mrs.
15 Davis - and I don't know exactly what was done with them. The
16 glass slides were retained in my possession and stained the
17 following day and examined.

18 Q All right. Based upon the protocol that has been
19 introduced by stipulation, certain items of clothing were
20 observed by you upon some of the victims; is that correct or
21 incorrect?

22 A That is correct.

23 Q Do you know what was done with items of clothing?

24 A They were placed in a sack and bag which were labeled
25 and given over to Dennis Reimer and Janice Davis.

1 Q Were there any other items recovered in your pre-
2 sence and retained, in addition to clothing and swabs that
3 you have talked about?

4 A Yes. There were various bits of potential evidence
5 removed from the bags, from the external surfaces. They were
6 hair samples, nail clippings - I'd have to check my notes for
7 others - portions of non-clothing things which cover the
8 body and the blood samples obtained.

9 Q When you say "non-clothing things", what do you
10 mean?

11 A I mean things like tape and cord ligatures.

12 Q And you say -- what happened to them, please?

13 A They were also turned over to Janice Davis and
14 Dennis Reimer.

15 MR. FALLIS: I have no other questions, Your Honor.

16 CROSS EXAMINATION

17 BY MR. ISAACS:

18 Q Doctor, what time was autopsy of Doris Milner was
19 performed at 4:55 p. m.; is that a correct statement?

20 A You mean, well by one definition, yes. The actual
21 incision was done at 4:55. I consider the external examina-
22 tion part of the autopsy as well and we actually began that
23 about 3:30.

24 Q And the Farmer girl, what time was her autopsy
25 commenced at - both the -- set me a time on the external

1 examination?

2 A That was approximately 8:00 o'clock at night.

3 Q All right, that's the external examination?

4 A Yes.

5 Q And Michelle Guse?

6 A About 7:00, 7:00 o'clock.

7 Q And that, too, is the external examination?

8 A Yes.

9 Q Doctor, were the cords that you mentioned -- how
10 many of the girls had cords tied around their -- part of
11 their bodies?

12 A Two.

13 Q Which girls were those?

14 A Milner and Guse.

15 Q Was there any particular type of knot in the cord?

16 A It looked like a double half-hitch, to me.

17 Q Doctor, how long -- would you describe the length
18 of the cord on the Milner girl?

19 A I didn't measure it in its entire length. The
20 knots were all left intact and I just couldn't measure it.
21 There were some parts of it which were longer than others and
22 I'd have to describe certain parts of it, I suppose.

23 Q And the cord on the Guse girl, did you measure that?

24 A I did not. I don't remember measuring it. It may
25 be reflected in my record but it reached around the back of

1 the body and was tied to both wrists.

2 Q Both wrists fastened underneath the legs?

3 A No. Essentially the wrists were nearly at the side
4 of the body and the cord went around the back of the body.

5 Q All right. Would you demonstrate for us, please,
6 sir?

7 A (Witness complies.) Approximately like this.

8 Q We have a knot in two places on the cord - one at
9 each wrist?

10 A At least that, yes.

11 Q Was there any other cord on the Guse girl, anyplace
12 on her body?

13 A No.

14 Q Doctor, would you describe for me the tape that was
15 found on the bodies of these three girls?

16 A Before answering that, I'll have to look at my notes.
17 The tape was only found on one of the bodies.

18 Q Which girl was that?

19 A Milner, and it was a black, somewhat rough surfaced,
20 adhesive tape.

21 Q Doctor, is that the tape that looked like bookbinding?

22 A That could have been bookbinding sort of tape.

23 Q Doctor, on the other girls, was there any tape any
24 place on any of their bodies, on the other two girls?

25 A No.

1 Q And that bookbinding type of tape was the only tape
2 that you found on any of the bodies; is that correct?

3 A Yes.

4 Q Who removed the tape?

5 A I did.

6 Q Would you tell me how that was removed?

7 A Well, the tape that was across the chest or across
8 the garment was removed by cutting the garment up the back
9 and slipping it off the front arms and that tape was left
10 intact on the garment. The tape which was around the wrists
11 was removed by cutting it from behind and maintaining anything
12 that were entangled with it on the tape itself. In other
13 words, leaving things entangled with the tape entangled with
14 it and then re-approximating the ends, some of the cut ends
15 with some evidence tape or actually sewing them together.

16 Q Doctor, were there any cloth items adjoining the
17 cord as a gag or some sort of restrictive device on any of the
18 girls?

19 A Yes.

20 Q Would you describe that for me, please?

21 A That was in Milner. There was a portion of a terry
22 cloth like material across the - under the chin and this was
23 adjoined to an elastic ribbed cloth material, similar to what
24 ace bandage might appear like which was around the neck.

25 Q This ace bandage material, would you describe it?

1 Were you describing it by brand name or were you just describ-
2 ing it?

3 A No, I just said that to kind of categorize it. I
4 don't know if it was an Ace bandage or not.

5 Q Was this in some way connected with the cord tied
6 to the hands?

7 A No, it was not connected with the cord tied to the
8 hands.

9 Q Was she tied in a similar fashion as the other two
10 girls?

11 A Well, only Guse was tied in the way we have previous-
12 ly discussed and no, it was tied - the exact configuration of
13 the tying was different.

14 Q Would you explain the difference, sir?

15 A The only difference was that the hands were in back
16 close together.

17 THE COURT: Excuse me. On which one now?

18 A On Milner.

19 Q Up behind her back like this, Doctor? (Indicating)

20 A Well, not exactly like that but close together.

21 Q Would you demonstrate for me?

22 A (Witness complies.) I believe it was. I am not
23 sure which hand was on top.

24 Q So we have one hand on top of the other overlapping?

25 A Yes.

1 Q Can you describe for me the way that the Farmer
2 girl was tied?

3 A There was no ties - ligatures on the Farmer girl.

4 Q Doctor, in your expert opinion, what was the time of
5 death of the Farmer girl?

6 A I think time of death was somewhere between 4:00 and
7 5:00 in the morning, with broad limitations, somewhat broad
8 limits.

9 Q How broad, Doctor?

10 A Well, it probably -- it could have occurred maybe
11 at 2:00 in the morning, I suppose.

12 Q As early as 2:00?

13 A I suppose.

14 Q And as late as what?

15 A Well, I'm given certain information and certainly
16 it had to occur more than an hour prior to 7:00 o'clock, so
17 that means it had to occur before 6:00 -- absolutely had to.

18 Q In your professional opinion, what time did the
19 death of the Milner girl occur?

20 A It would be within the same figure.

21 Q And the death of the Guse girl?

22 A Same.

23 Q Doctor, tell me how the other evidence, the finger-
24 nail scrapings were taken from the bodies?

25 A First of all, the fingers were examined and if there

1 was --

2 Q Did you examine those?

3 A Yes, I looked at them. I did not personally take
4 the items that you're speaking of.

5 Q Who took that?

6 A That was taken by, I believe, Janice Davis and Den-
7 nis Reimer, working with one of my agents.

8 Q How did they do that, Doctor?

9 A As I remember, they first examined it as well, and
10 I believe they clipped the nails right off and placed them,
11 as they were being clipped to plastic or paper receptacle.

12 Q Who is the person that works with you to help them
13 collect those samples?

14 A Well, --

15 Q I've got a list of names. We might go through
16 those. Does Gary Jensen work for you, Doctor, in the Medical
17 Examiner's Office?

18 A Yes.

19 Q John Ross?

20 A Yes. It would had to have been Jensen or Ross that
21 did that.

22 Q Linda Newell; is she also employed there?

23 A She's my secretary and she was present doing things
24 for me but she was not examining the body.

25 Q Janice Davis was present and Dennis Reimer was

1 present; is correct?

2 A Yes.

3 Q I noticed on the autopsy protocol that we have some
4 other names. Does Mr. Stark --

5 A He is my autopsy assistant. He helps me perform
6 the autopsies.

7 Q Mr. Hybarger?

8 A Hybarger is another agent.

9 Q OSBI Agent?

10 A No, my agent - sorry - a field agent. He was
11 present for at least part of the examination. Mr. Hannon
12 was also there, I see now by my records, who is also an agent
13 from my office.

14 Q Doctor, describe for me the method used to collect
15 hair from the bodies of these girls?

16 A First, the hair was combed. If there was any pubic
17 hair, it was combed. That was one sample, and then a hair
18 was actually plucked out and I believe they may have cut some
19 hair as well; but as I said, I did not participate or do this
20 part of the examination.

21 Q Doctor, you have stated that the evidence in the
22 form of the vaginal and oral swabs was given to Mrs. Davis
23 of the OSBI; is that correct?

24 A Yes.

25 Q And you kept a slide in your possession, did you not?

1 A Yes.

2 Q Did you later examine that slide?

3 A Yes.

4 Q What were the results of that examination?

5 A With regard to what, sir?

6 Q Why were they kept?

7 A They were kept to examine, to stain with stain pro-
8 cedure I call H and E, hematoxylin-eosin to see if I could
9 see any spermatozoa.

10 Q Did you see any?

11 A No, I didn't.

12 Q And did anyone else examine those slides?

13 A Those particular slides?

14 Q Yes?

15 A I showed them to an associate of mine.

16 Q Who was that?

17 A Dr. Fred Jordan of Oklahoma City.

18 Q Did Dr. Chapman look at them?

19 A Chapman did not.

20 Q And do you know what the results were of Dr. Jordan's
21 examination of those slides?

22 MR. FALLIS: If it please the Court, I'll object
23 unless he can read Dr. Jordan's mind and unless Dr. Jordan
24 made a report that is available; I'm not aware of it.

25 MR. ISAACS: You know, Judge, Mr. Fallis missed that

1 little exception for an expert witness. He can always testify
2 about something upon which he based his opinion, even if it
3 is hearsay.

4 MR. FALLIS: If it please the Court, Mr. Isaacs a
5 moment ago made an objection, stating that all the rules of
6 evidence must apply and 'though we take exception to that
7 rule as far as an expert, we would ask that the same rules
8 apply to both sides in this case.

9 THE COURT: The objection, as I understand it, goes
10 to this witness stating the conclusions of another expert
11 witness?

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

13 THE COURT: Is that correct?

14 MR. FALLIS: Yes, sir.

15 THE COURT: That objection is sustained unless you
16 can.

17 Q Is that part of the basis of your opinion about the
18 cause of death of these girls, Doctor?

19 A No.

20 Q Is that in any way considered by you in your diagno-
21 sis of what has happened to these girls preceding death?

22 A I find that difficult to answer because it could
23 have been. What had happened is such a broad --

24 Q You considered that slide before you wrote your
25 report, did you not?

1 A Yes.

2 Q And that was part of your expert examination of those
3 bodies, was it not?

4 A It was.

5 Q And therefore is part of the basis of this report,
6 isn't it?

7 A Yes.

8 Q Okay. What was Dr. Jordan's opinion about the slides?

9 MR. FALLIS: If it please the Court, that's an
10 objection. Certainly he can state his opinion as to his
11 slide, the work he did that he did consider as part of his
12 work report.

13 THE COURT: The objection is sustained. I think
14 you have shown, Mr. Isaacs, that the opinion of this expert
15 was made on perhaps the conclusions of another expert but
16 that conclusion still remains hearsay.

17 MR. ISAACS: Judge, we'll recognize exception to
18 the hearsay rule that when an expert witness renders an opin-
19 ion, he's entitled to testify about the opinions of what
20 other experts which he is privy to before he renders.

21 MR. FALLIS: That is not correct, Your Honor. He
22 may, after an expert has testified, offer his opinion concern-
23 ing those conclusions reached by that expert whose testimony
24 is in evidence.

25 MR. ISAACS: Mr. Fallis has been reading a different

1 book than I have, Judge.

2 MR. FALLIS: I am sure I have.

3 THE COURT: The objection is sustained.

4 Q Doctor, did anybody else look at those slides and
5 determine whether or not spermatozoa was present?

6 A I don't know. I don't believe -- I didn't show any
7 of the slides to anyone else during the period prior to the
8 report and at the present time, however, the slides have
9 been turned over to OSBI.

10 Q You don't have them?

11 A No.

12 Q When did you turn those over to the OSBI?

13 A May 29.

14 Q Who did you give them to?

15 A Janice Davis.

16 Q Is that May 29th of this year -- had to be.

17 A Yes, sir.

18 Q Doctor, these slides we've been talking about, they
19 were swabs from all of the girls whose bodies you examined;
20 is that correct?

21 A They were smears from the swabs.

22 Q Yes, sir. Did you examine any other slides concern-
23 ing the death of these girls in autopsy?

24 A Yes.

25 Q What were those?

- 1 A These were slides in the possession of Janice Davis.
- 2 Q When did you examine those?
- 3 A It was the second week of July, I believe.
- 4 Q July of this year or which year?
- 5 A Of 1977.
- 6 Q Do you know where she got them?
- 7 A Some slides she said she had made herself and others
- 8 she said had been made by another person.
- 9 Q Who was that person?
- 10 A Dr. Irving Stone.
- 11 Q Where does Dr. Stone reside?
- 12 A Dallas, Texas.
- 13 Q What was the purpose of you viewing those slides,
- 14 Doctor?
- 15 A To see if any spermatozoa were present.
- 16 Q In your professional opinion, were there spermatozoa
- 17 present?
- 18 A I don't know; I wasn't used to this stain. I didn't
- 19 see anything I could recognize as spermatozoa.
- 20 Q Doctor, is there some type of tests you can run to
- 21 determine whether or not semen is found in an orifice of a
- 22 deceased person?
- 23 A Yes.
- 24 Q What is that test called?
- 25 A Acid phosphatase, most likely.

1 Q Did you run those tests on each of the girls?

2 A I did not.

3 Q Did anyone under your supervision run those tests?

4 A No.

5 Q Were the oral, vaginal and rectal swabs of a suf-
6 ficient sample to run that test?

7 A Yes.

8 Q Do you know if the test was run?

9 A I heard that it was, yes.

10 Q One other point, Doctor, you said that iodine vapor
11 was used on the bodies to remove latent fingerprints?

12 A Yes.

13 Q Were any latent fingerprints found on any of the
14 bodies of any of these girls?

15 A No.

16 Q Doctor, would you give me the name of the medical
17 treatise that you consider authoritative concerning the detec-
18 tion of spermatozoa and semen tests?

19 A I'm afraid I can't. I think there are references
20 to this in a number of treatises. There are also references
21 in the literature, unpublished, in the form of a treatise but
22 I can't give you any one reference.

23 Q Doctor, do you consider The General Forensic Sciences
24 authoritative?

25 A Sometimes it is; sometimes it's not. I generally

1 do read it.

2 Q What periodicals do you consider as authoritative?

3 A Not every article in every periodical is authorita-
4 tive. That is, I mean, it tells the right thing and much of
5 what I read in General Forensic Sciences, for instance, is
6 authoritative; American Journal of Medicine; New England
7 Journal of Medicine; American Journal of Clinical Pathology
8 and all the others I read or try to in the time I have.

9 Q Do you teach in the field of forensic pathology?

10 A Yes.

11 Q And what was the textbook you used for your students?

12 A Well, we don't offer a full course in forensic
13 pathology. The textbook we use for people that we might train
14 in my office, or people that might spend periods of time with
15 us are Adelson Pathology of Homicide; Spitz and Fisher,
16 Medical-Legal Definition of Death, I believe it's called.

17 Q Is that a blue book - big book?

18 A No, that's another new one. It's called Legal Medi-
19 cine, some of which appears quite good and complete; Gradwhols'
20 Legal Medicine is a pretty good book.

21 Q How do you spell that?

22 A G-R-A-D-W-H-O-L-S, I think that's where the 'H'
23 comes.

24 Q Any other books that you consider authoritative?

25 MR. FALLIS: Excuse me, Your Honor, I feel that is a

1 very broad question.

2 MR. ISAACS: We are dealing with a specific area of
3 forensic pathology.

4 MR. FALLIS: My question is as to what area?

5 THE COURT: I think it is a valid objection. What
6 area?

7 MR. ISAACS: I think the one that the doctor and I
8 have been talking about, forensic pathology is running tests
9 on the blood, semen and the like.

10 THE COURT: All right.

11 Q Do you understand that, Doctor, when I asked the
12 question?

13 A Yes.

14 Q Can you think of any other texts which you consider
15 authoritative?

16 A Well, you've misstated what I said. I said portions
17 of it might be authoritative.

18 Q Yes, sir. Thank you for correcting me. I didn't
19 mean to misstate you.

20 A Well, we talked about Legal Medicine, which is a
21 three volume companion by three authors; Tredeshe, Tredeshe
22 and -- well, he's from Wichita, and I'm blocked on his name
23 right now. There are some older texts which are useful to me
24 and in their own way authoritative. The Pathology of Trauma
25 by Maurtz and general medical texts are very useful to me in

1 forensic pathology.

2 Q Which general medical texts, Doctor?

3 A Harrison's; that's the one I use most often.

4 Q Doctor, who performed the tests on those samples
5 that you took from the bodies of the girls, other than your-
6 self?

7 A You mean the acid phosphatase?

8 Q Yes, sir?

9 A I understand that Janice Davis did.

10 Q Is she the only one?

11 A I don't know.

12 Q The fellow down in Dallas performed the test, too,
13 did he not?

14 A I don't know.

15 MR. ISAACS: Thank you, Doctor.

16 THE COURT: Redirect?

17 MR. FALLIS: No, thank you very much, Your Honor.

18 THE COURT: May this witness be excused if he needs
19 to leave?

20 MR. FALLIS: We would so request, Your Honor.

21 THE COURT: You may leave, if you wish. We'll take
22 a ten minute recess.

23 (Following a ten minute recess, proceedings continued
24 as follows:)

25 THE COURT: Call your next witness, Mr. Wise.

1 MR. WISE: If it please the Court, the State would
2 call Mr. Arthur Linville.

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

6 THE WITNESS: I do.

7 ARTHUR LINVILLE,
8 called as a witness on behalf of the State, having been first
9 duly sworn, testifies as follows:

10 DIRECT EXAMINATION

11 BY MR. WISE:

12 Q Mr. Linville, would you state to the Court and the
13 record your full name, please?

14 A Yes, sir, Arthur Dale Linville.

15 Q Where do you live?

16 A Chickasha, Oklahoma.

17 Q What is your occupation or profession?

18 A I'm an Agent with the Oklahoma State Bureau of
19 Investigation.

20 Q And what training or what experience have you had
21 to acquire the status, sir?

22 A Well, numerous types of schools, throughout. I have
23 been with them since October of 1972. Homicide School, typi-
24 cal police schools.

25 Q All right, sir, and Agent Linville, where is your

1 normal assignment?

2 A In the Chickasha area, about a four-county area down
3 there.

4 Q On June 13th of 1977, were you called to an area
5 outside your normal jurisdiction?

6 A Yes, sir.

7 Q Where did you respond to, please?

8 A From Chickasha, I flew to Oklahoma City, picked up
9 two OSBI technicians, Paul Esquinaldo and Larry Mullins. From
10 there, with their equipment, we flew to Pryor, Oklahoma, where
11 we were picked up by Highway Patrolman Charlie Newton. He
12 took us to the Locust Grove area at Camp Scott.

13 Q All right, and arriving at Camp Scott, what were
14 your assignments or responsibilities?

15 A I was to oversee the collection and preservation of
16 evidence and virtually the crime scene, in and around the tent
17 area, oversee the conduct and the examination of the scene by
18 the technicians.

19 Q Now, I'll hand you what's been introduced previously
20 into evidence as State's Exhibit No. 9, and ask you, is that
21 a true depiction of what you saw and observed after the bodies
22 were removed from the scene?

23 A Yes, sir, it is.

24 Q What did you observe in that State's Exhibit 9 which
25 you took into evidence?

1 A The photographs depict a red flashlight with masking
2 tape and green plastic tape over it and against the tree, is
3 a relatively large roll of black duct tape.

4 Q All right, sir, and from those locations as shown
5 in State's Exhibit 9, did you personally remove and preserve
6 for evidence those items?

7 A Yes, sir, I did.

8 Q I now hand you what's been marked for identification
9 purposes only as State's Exhibit No. 13, and ask if you can
10 positively identify that, Agent?

11 A Yes, sir.

12 Q And how do you make that identification?

13 A My initials appear on the inside of the roll of tape.

14 Q When did you place them there, sir?

15 A I placed them as I picked it up.

16 Q On what day?

17 A On the 13th day of June, 1977.

18 Q And Officer, after you took this into your custody
19 and placed your initials on it, what further steps did you
20 take with State's Exhibit No. 13?

21 A I retained it in my custody until that evening, at
22 which time we flew to Oklahoma City Office of the Oklahoma
23 State Bureau of Investigation and I submitted it to the
24 Identification Section at that time, that evening.

25 Q At OSBI Headquarters?

1 A On the 13th, yes, sir.

2 Q All right, sir. I now hand you -- I'll now show
3 you what's been previously marked for identification purposes
4 only as State's Exhibit -- let's start with State's Exhibit
5 12. Do you recognize that, sir?

6 A Yes, sir.

7 Q What is that, sir?

8 A This is a photograph of a red glass case.

9 Q Are you talking about eyeglass case?

10 A Eyeglass case, yes, sir, with gold trim. It was
11 found approximately seven feet north of the road leading into
12 camp.

13 Q Now, I'll ask you to turn and look at a drawing here
14 that has been placed on the blackboard. Would you show us
15 which road? These X's as I understand are representative
16 of tents, staff tent, et cetera?

17 A Yes, sir.

18 Q Where would that road be that you're speaking of?

19 A According to this drawing, it would be in this area
20 right in here (indicating).

21 Q All right, sir, and you say how far from the edge
22 of the road was this found?

23 A Approximately -- the case was found approximately --
24 oh, pardon me -- the glasses were found approximately seven
25 feet and the cases was further back. It was about sixteen feet

1 into there.

2 Q North of the road?

3 A Yes.

4 Q All right, sir. So you found this case and then a
5 pair of glasses as well; is that what you're testifying?

6 A Yes.

7 Q I'll hand you State's Exhibit 11. Would you examine
8 that carefully and tell me what that is, sir?

9 A This is a photograph of a pair of glasses.

10 Q And did you at these scene and in your capacity
11 direct or authorize the taking of photographs?

12 A Yes, sir.

13 Q And what I have handed you just now and you have
14 examined as State's Exhibits 11 and 12, were they taken under
15 your direct supervision and in your presence?

16 A Yes, sir, they were.

17 Q And I'll hand you what's been previously marked as
18 State's Exhibit No. 10, and ask if you can identify that, sir?

19 A Yes, sir. This is a photograph of what's referred
20 to as a guitar capo. It was found approximately two feet
21 from the glasses, closer to the road, as I recall. I think it
22 was about five feet from the road and the glasses were seven.

23 Q And again, was this photograph which I have previous-
24 ly shown you as State's Exhibit 10 taken at your direction and
25 control?

1 A Yes, sir.

2 Q And were you present?

3 A Yes, sir.

4 Q And it truly depicts what you observed and saw?

5 A Yes, sir.

6 Q Following the taking of the photographs, did you
7 take into your custody for evidentiary purposes, things
8 depicted therein?

9 A Yes, sir, I did.

10 Q I now hand you what's been marked for identifica-
11 tion purpose only as State's Exhibit No. 33, and ask you to
12 examine that carefully and can you positively identify that,
13 sir?

14 A Yes, sir, I can.

15 Q How do you make that identification, Agent?

16 A It has my initials at the bottom lefthand corner
17 of the case.

18 Q When did you place those initials there?

19 A At the time I removed them from the grounds after
20 the photographs.

21 Q Would you now open -- let me ask you, before you
22 open that, once you placed your initials on that and took it
23 into your custody, what subsequent handling of that item did
24 you conduct?

25 A I maintained it at my possession and also submitted

1 it that evening on the 13th of June, 1977, to OSBI Laboratory
2 Identification System.

3 Q All right. Would you now open the package that has
4 been labeled as State's Exhibit 13 -- or excuse me, as State's
5 Exhibit 33, and withdraw that item from it, please?

6 A (Witness complies.)

7 Q What is contained within?

8 MR. WISE: If we can, Your Honor, may we mark this
9 33-A and 33-B, so we might have some continuity to the --
10 would that be acceptable?

11 THE COURT: That is perfectly all right. Be sure,
12 though, that your witness places in the record verbal identi-
13 fication of what you mark.

14 MR. WISE: I certainly will, Your Honor.

15 Q Mr. Linville, when you testify with regard to
16 State's Exhibit -- marked as State's Exhibit 13, I believe
17 you testified you took that item to the Identification Depart-
18 ment; is that correct?

19 A Yes.

20 Q Is that a true representation of what has been marked
21 for identification purposes as State's Exhibit 33?

22 A Yes, sir.

23 Q So each of these items that you are about to show
24 us have previously or initially were taken to what we know as
25 the Identification Division of the OSBI; is that correct?

1 A That is correct, sir.

2 Q So now, I would mark what you hold in your hand
3 as 33-A, and Your Honor, let the record reflect that 33-A
4 is a red glass case.

5 Now, would you remove what is inside 33-A, and let
6 us place a marker of 33-B on what you are withdrawing. What
7 is it that you are withdrawing from that case?

8 A This is the pair of eyeglasses that I removed from
9 the trail at the time.

10 Q Can you positively identify the eyeglasses you now
11 hold in your hand?

12 A Yes, sir, they also bear my initials.

13 Q And was that also placed there at the time you took
14 them into your custody?

15 A Yes, sir.

16 Q And did you make the same disposition of those glasses
17 that evening as you have previously testified?

18 A Yes, sir, I did.

19 THE COURT: Mr. Wise, is Exhibit 33 the plastic
20 bag?

21 MR. WISE: That's correct, Your Honor, the tag on
22 the plastic bag.

23 Q Officer Linville, I now show you what's been marked
24 for identification purposes only as State's Exhibit 32. Can
25 you identify that, sir?

1 A Yes, sir.

2 Q What is that?

3 A This is a photograph of a girl's hairpiece with two
4 blue balls attached that I removed from the area that was
5 located approximately 108 feet east - in a generally east
6 direction from the opening of the tent where those girls were.

7 Q Of Tent 7?

8 A Tent 7, yes, sir.

9 Q In this diagram?

10 A Yes, sir.

11 Q All right, sir, is this a photograph which was
12 taken at your direction and control?

13 A Yes, sir.

14 Q And in your presence?

15 A Yes, sir.

16 Q And the same time, June 13th?

17 A Yes, sir.

18 Q And subsequent to the taking of the photographs,
19 did you then take into your custody this piece of evidence
20 depicted there?

21 A Yes, sir, I did.

22 Q I now hand you what's been previously marked for
23 identification as Exhibit No. 34. Can you positively identify
24 that, sir?

25 A Yes, sir. This is the envelope that I placed the

1 aforementioned item, being the hairpiece, into at the time I
2 found it after the photograph.

3 Q All right, sir. Is that your handwriting upon that
4 envelope?

5 A Yes, sir, my handwriting depicting where it was found
6 and my initials, the date 6-13-77.

7 Q All right, sir, and Officer, from that time that you
8 took it into your custody and placed it in that envelope and
9 affixed your writing on it, what disposition was made of it?

10 A I maintained this in my possession since that time.

11 Q Until today when you brought it to this courtroom?

12 A Yes, sir.

13 Q At this time, would you open what's been previously
14 marked as State's Exhibit 34?

15 A (Witness complies.)

16 Q Very well. Would you place that back in the enve-
17 lope, please?

18 A (Witness complies.)

19 Q Now Officer Linville, following the acquisition and
20 taking into custody of the items which we have gone over here,
21 the eyeglasses, the eye case, the little hairpiece and the
22 tape, did you take into custody the flashlight?

23 A Yes, sir.

24 THE COURT: Mr. Wise, before we go to the flashlight,
25 is State's Exhibit No. 34 the envelope?

1 MR. WISE: Yes, sir, Your Honor, the envelope
2 containing the item that has been orally described, Your Honor.

3 THE COURT: All right.

4 Q I now hand you, Officer Linville, what has been
5 introduced as State's Exhibit 8. What is that, sir?

6 A This is a photograph of a flashlight.

7 Q And was that taken under your direction and control?

8 A No, sir, this photograph was not. This photograph
9 is in black and white.

10 Q All right, and is that a true and accurate depiction
11 of what you observed?

12 A It certainly is.

13 Q And prior to you picking up that flashlight and
14 taking it into your custody?

15 A Yes, sir.

16 Q At the time you took it into your custody, did this
17 addition of tape and plastic material appear exactly as it's
18 shown there in that photograph?

19 A Yes, sir, it's the same.

20 Q All right, sir. Now, following your taking these
21 items into custody, did you make an examination of what's
22 been referred to in this drawing and throughout the court
23 testimony as Tent 7?

24 A Yes, sir.

25 Q What did you do there, sir?

1 A Numerous things. The tent was processed initially.
2 It was photographed from the outside at my direction by Paul
3 Esquinaldo, one of our technicians and photographers. After
4 that, it was opened and photographed from the outside inside.
5 I then asked that he photograph footprints appearing -- what
6 appeared to be blood footprints on a floor. He did so, and
7 after all the photographs were taken, the tent flaps were
8 opened up, the cots were removed very carefully outside and
9 we began to examine the floor and the area inside the tent.

10 We picked up -- I picked up numerous hair, fiber and
11 any item that was on the floor, packaged it, identified and
12 labeled it for future reference. We then vacuumed the floor
13 with a crime scene vacuum cleaner. There was a delay there.
14 We had to get a portable power source, as I recall, and after

15 Q From that, were you able to derive certain fibers
16 and hairs?

17 A Yes, sir.

18 Q And have they been properly kept and preserved from
19 that date until now?

20 A Yes, sir.

21 Q Did you transport -- with regard to what you just
22 testified to with the special vacuuming of the floor and after
23 you got the electric plant, explain, if you will, for the
24 record, how you handled what was derived by this vacuuming?

25 A Well, they were placed in the individual containers,

1 either envelopes, as I recall, envelopes and/or plastic bags
2 -- I think they were predominately manilia envelopes and as we
3 would obtain a sample of hair or fiber, it would be placed
4 into an envelope, sealed and initialed and dated.

5 Q All right, sir.

6 A And then I maintained everything that we received
7 from that area and the following morning, on the 14th day of
8 June of 1977, I submitted it to the laboratory in Oklahoma
9 City.

10 MR. WISE: If it please the Court, comes now the
11 State of Oklahoma, and would respectfully submit that State's
12 Exhibits 32, 33, 33-A, 33-B and 34, as well as State's Exhibit
13 13 be introduced into evidence.

14 THE COURT: Have you had a chance to look at these,
15 Mr. Isaacs?

16 MR. ISAACS: No, I haven't.

17 THE COURT: Why don't you take a look at them?

18 MR. ISAACS: Mr. Linville, which exhibit was 33?

19 A I don't recall, sir.

20 MR. WISE: That was the plastic bag in which items
21 33-A and B were contained.

22 THE COURT: Mr. Wise, why don't you put another tag
23 on the bag itself as well as the --

24 MR. WISE: Very well, Your Honor.

25 THE COURT: I assume that card he's looking at came

1 off the bag?

2 MR. WISE: That's correct, Your Honor.

3 THE COURT: Would you put another tag on the bag?

4 MR. WISE: Certainly; be glad to. It likewise will
5 be 33.

6 VOIR DIRE EXAMINATION

7 BY MR. ISAACS:

8 Q Mr. Linville, it says these were received from Pat
9 Wilkerson on June 16th of '77 at Camp Scott?

10 A That is correct.

11 Q Well, you were there on the 13th, weren't you?

12 A Yes, sir.

13 Q I can't read that handwriting. Would you read it
14 to me? What that is on the back and explain that to me, sir?

15 A I have no idea. I'll be glad to read it to you. I
16 have no idea what it is.

17 Q What it means?

18 A No. The DWR I recognize being the initials of one
19 of our chemists in Tahlequah, Dennis Reimer, and I would
20 assume that has some meaning to him.

21 Q And is there a date by his name on that tag that you
22 have in your hand?

23 A On the tag, there is 6-20-77, yes, sir.

24 Q Any other initials you recognize on that tag?

25 A There is a JMD, which I assume to be Janice Davis,

1 another of our chemists with the date of 6-9-78 on there.

2 Q After you picked up these items of evidence, did you
3 place them in this plastic bag and give them to Mr. Wilkerson?

4 A No, sir, I did not place them in the plastic bag.
5 They were in a plastic box and I carried them to Oklahoma City
6 and delivered them to the I. D. Section. Mr. Wilkerson later
7 came into possession of them.

8 Q Who is L. M.?

9 A I don't know.

10 Q We've got the L. M. initials on the front of this
11 tag. Evidently L. M. had them in his possession or her poss-
12 ession at one time, is that not correct?

13 A I would assume so. I don't know who L. M. would
14 be.

15 Q Would that be Larry Mullins?

16 A Very possibly, although I don't know.

17 MR. ISAACS: Judge, we have no objection to any of
18 these items being offered into evidence with the understanding
19 that they're being offered only to show that Mr. Linville
20 picked them up at Camp Scott after he arrived there. I take
21 it that's what they're being offered for, Mr. Wise?

22 MR. WISE: That is correct, Your Honor.

23 THE COURT: State's Exhibits 13, 33, 33-A-, 33-B,
24 32 and 34 are received.

25 MR. WISE: Thank you, Your Honor.

1 DIRECT EXAMINATION (Resumed)

2 BY MR. WISE:

3 Q And now, Mr. Linville, I hand you what's been marked
4 for identification purposes only as State's Exhibit No. 35.
5 And ask you to examine carefully and tell me if you can posi-
6 tively identify that, sir?

7 A Yes, sir, this bears my initials.

8 Q All right, sir, when did you affix your initials to
9 it, Mr. Linville?

10 A At the time I removed it from the ground.

11 Q What date was that?

12 A On June 13, 1977.

13 Q Would you tell us what is this that is contained in
14 what's been marked as State's Exhibit 35?

15 A This is a piece of black duct tape which was laying
16 on the ground in and around the flashlight and the roll of
17 duct tape.

18 Q Are you saying the State's Exhibit 9 -- you previous-
19 ly described this as the scene where the bodies were and told
20 us that this was the duct tape which has been marked State's
21 Exhibit 13?

22 A Yes, sir.

23 Q Where was this? Was it visible where you found it
24 in this photograph?

25 A I believe it was right here. I'm not sure that the

1 photograph depicts it.

2 Q Right here (indicating)?

3 A Yes, sir.

4 Q Is that where you acquired this?

5 A Yes, sir.

6 Q On the same date and the same time?

7 A Yes, sir.

8 Q What did you do upon taking it into your possession?

9 A I maintained possession of it until that evening
10 when I submitted it to the I. D. Section in Oklahoma City.

11 Q Just as you have State's Exhibits 33, 34, et cetera?

12 A Yes, sir.

13 MR. WISE: If it please the Court, the State notes
14 that we previously had a witness, I believe Miss Elder or
15 Miss Wilhite, who identified the objects shown in State's
16 Exhibits 10, 11 and 12, but my indication reflects that these
17 three photographs have not been introduced into evidence
18 because we were awaiting the arrival of Mr. Linville into
19 our testimony.

20 THE COURT: Which ones are you talking about?

21 MR. WISE: 10, 11 and 12 -- have they been admitted
22 into evidence?

23 THE COURT: They have been received by the Court as
24 evidence.

25 MR. WISE: Very well. We would therefore at this

1 time, further ask that State's Exhibit No. 35 be introduced
2 into evidence.

3 MR. ISAACS: Judge, we have no objection.

4 THE COURT: State's Exhibit No. 35 is received.

5 MR. ISAACS: With the understanding this is being
6 offered only to show that Mr. Linville had this in his posses-
7 sion at Camp Scott on that day and that it was found there.

8 THE COURT: That is all the weight we can give it at
9 this time.

10 We'll be in recess until 1:15 p. m. for lunch.

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

13 AFTERNOON SESSION

14 THE COURT: Mr. Wise, had you finished with your
15 direct examination?

16 MR. WISE: I had not particularly. At this time,
17 State would turn the witness over to the Defense.

18 THE COURT: You have finished your direct examination?

19 MR. WISE: I have at this time, Your Honor.

20 CROSS EXAMINATION

21 BY MR. ISAACS:

22 Q Mr. Linville, what time did you arrive at Camp Scott?

23 A Sir, I believe it was between 11:00 and 11:30 that
24 morning.

25 Q You said earlier you went there with Trooper Newton

1 of the Oklahoma Highway Patrol?

2 A From Pryor, yes, sir.

3 Q Who else was with you?

4 A Paul Esquinaldo, who is our technician for our
5 agency and also Larry Mullins, another technician.

6 Q What type of technician is Mr. Esquinaldo?

7 A Their both crime scene technicians.

8 Q What are you talking about when you say somebody is
9 a crime scene technician?

10 A Individuals whose profession and living is earned by
11 processing crime scenes.

12 Q What do you mean?

13 A By "processing" , I mean the lifting of latent
14 fingerprints, patent fingerprints, collecting and preservation
15 of evidence, just generally the investigative portion of a
16 crime scene.

17 Q When you arrived at Camp Scott, tell me what happen-
18 ed after you got down in the Kiowa Unit?

19 A We -- when I say "we", I mean myself and Mr. Esquinaldo
20 and Mr. Mullins, were shown a tent, Tent No. 7.

21 Q Excuse me for interrupting. Who showed you the tent?

22 A If I recall correctly, it would have been Agent
23 Carey Thurman, who was on the scene at that time.

24 Q Was anyone else with Agent Thurman?

25 A There was numerous individuals there, sir. I couldn't

1 give you the names of all of them.

2 Q Give me their names that you remember.

3 A Agent Ted Limpke was present at the scene when I
4 arrived, as was Carey Thurman and numerous other officers
5 who I don't know or didn't know at that time.

6 Q Was Sheriff Weaver, the Mayes County Sheriff in
7 that group?

8 A Yes, he was.

9 Q When you arrived at the tent, Tent No. 7, what
10 was the first thing you saw?

11 A Well, the tent itself and the flaps were --

12 Q Were the flaps open or were they shut?

13 A When I saw it, it's possible one of the flaps were
14 open but I believe they were both shut and we pulled one flap
15 open.

16 Q Who pulled the flap?

17 A Sir, I couldn't remember in that much detail. I
18 would assume it would have to be Esquinaldo or Mullins.

19 Q Did you at any time go inside Tent 7 and walk around
20 on the floor?

21 A Yes, sir.

22 Q Was that to move the cots out of the tent?

23 A I didn't do it, no, sir, it was not.

24 Q What prompted you to enter the tent?

25 A I entered the tent after it had been totally processed

1 and vacuumed, photographed, first of all and vacuumed and
2 after we were totally complete with what we refer to as
3 "trace evidence" or at least trying to obtain trace evidence
4 in the area of hair, fibers and materials, there were bloody
5 prints or what appeared to be blood footprints on the floor,
6 which I took portions of the floor, utilizing a chain saw on
7 one incident and a hand saw to obtain so my purpose in going
8 on the floor was to do just that, to remove portions of the
9 floor to preserve the lay footprints.

10 Q You don't know if anybody had been in that tent
11 after the homicides were discovered, do you?

12 A No, sir.

13 Q Do you know who wiped up the blood on the floor of
14 Tent No. 7?

15 A No.

16 Q Do you know what was used to wipe that blood up in
17 Tent No. 7?

18 A No, sir.

19 Q During the time that you were in the Kiowa Unit,
20 did anyone show you a towel that might have been used to wipe
21 up blood?

22 A No, sir.

23 Q Did anyone at any time show you a towel which was
24 later seized as evidence found at the unit counselor's tent?

25 A No, sir, I never saw the towel or a towel.

1 Q Have you ever examined it since that day?

2 A No, sir.

3 Q Describe the footprints in Tent 7?

4 A Sir, as I recall, the -- of course, they were first
5 photographed by Esquinaldo. As I recall, they were a
6 waffle-type pattern, similar but not exactly to a jungle
7 boot that I am familiar with in the military. It's just
8 a similar pattern of a --

9 Q Is that a circular pattern?

10 A Well, there were prints of that, yes, sir, on
11 the outside -- on the outside edge, there were what appeared
12 to be.

13 Q A suction cup type of pattern?

14 A I wouldn't say it was a suction cup type of print
15 that it made. I would say it was more like a ball, beads,
16 large beads raised for traction on a shoe.

17 Q Mr. Linville, since that time, have you ascertained
18 the make of the tennis shoe which would leave an imprint
19 such as the one you found in Tent 7 of the Kiowa Unit of
20 Camp Scott?

21 A No, other agents were assigned to that area.

22 Q Have you seen the shoe that matches that footprint?

23 A No, sir.

24 Q Did you find any bootprints outside the tent in
25 the Kiowa Unit?

1 A I did not, no, sir.

2 Q Did anyone make any plaster of paris cast of any
3 footprints or tire prints?

4 A It's my understanding there were plaster casts
5 made outside of my presence.

6 Q Did you view those footprints or tire prints
7 before the casts were made?

8 A No, sir.

9 Q After sawing up the floor -- let me back up just
10 a moment -- did you ascertain how entry was made into Tent 7
11 of the Kiowa Unit?

12 A It would be suppositional on my part but there
13 were indications of entry in the rear of the tent.

14 Q What indications?

15 A Well, the straps which held the tent around the
16 outer perimeter of the tent down to the wooden floor - built
17 up floor, wooden floor - and the straps had been pulled loose.

18 Q Was there any sign that anybody used a knife or
19 some sharp object to tear that?

20 A I don't recall on that tent.

21 Q After you had sawed up the floor in Tent 7, what
22 did you do?

23 A Well, of course, there were numerous things we did
24 previous to that. That was one of the very last things we
25 did.

1 Q What did you do before you sawed up the floor?

2 A Well, as I mentioned previously, we had photo-
3 graphed the scene extensively.

4 Q Are you talking about the entire Kiowa Unit or
5 Tent 7?

6 A Predominantly Tent 7, yes.

7 Q What else did you do?

8 A Well, pertaining to the tent, as I say, we photo-
9 graphed it and I had physically removed what appeared to be
10 foreign hair and fiber or at least hair and fiber in and
11 around the floor and on the floor of the tent, packaged it
12 for comparisons at a later date, if possible, and then we
13 vacuumed it after I had picked them up, we vacuumed the floor
14 and the contents of the vacuum cleaners, we would empty and
15 place in an evidence envelope.

16 Q Who brought the vacuum cleaner to Camp Scott?

17 A I would say it accompanied us, Esquinaldo, myself
18 and Mullins on the aircraft. It would have been in their
19 charge and it was either them that brought it or possibly
20 another one similar to that from the Tahlequah region. If
21 I'm not mistaken, the technicians had that piece of equipment
22 in their possession.

23 Q But you don't know for sure who had the vacuum
24 cleaner before you got to the Kiowa Unit, do you?

25 A Well, yes, as I say, the technicians had the

1 vacuum. It's a crime scene vacuum cleaner, sir, where the
2 -- it has an elaborate system of filters and everything and
3 I placed new filters from packages in to collect the mater-
4 ials that we swept.

5 Q My question is, you don't know who brought the
6 vacuum cleaner to the Kiowa Unit, do you?

7 A I am not sure that I understand your question
8 about "brought it to the Kiowa Unit".

9 Q You didn't bring it there, did you?

10 A I didn't physically carry it there.

11 Q That's what I mean, physically; that's a good
12 word for it. You didn't physically carry the vacuum cleaner
13 to the Kiowa Unit, did you?

14 A No.

15 Q You don't know who physically carried it to the
16 Kiowa Unit before you used it, do you?

17 A As I recall, it was Mr. Mullins or Esquinaldo, one
18 of those two.

19 Q But you don't know which one brought it there?

20 A No. That is certainly correct.

21 Q What is the brand name of that vacuum cleaner you
22 use?

23 A I don't know, sir.

24 Q Is it a special type or special model of vacuum
25 cleaner?

1 A It is designed specifically for crime scenes, yes,
2 sir.

3 Q Is there a smaller vacuum cleaner?

4 A Small hand-held type, powered by electricity.

5 Q You said you put new filters in the thing before
6 you used it. Was there anything else you did to that vacuum
7 cleaner before you turned it on and vacuumed the tent in the
8 Kiowa Unit where the homicides occurred?

9 A Yes, sir. I would have to examine the vacuum
10 cleaner again but as I recall, there is a cylindrical shaped
11 material that comes out in a small round extension, approxi-
12 mately two inches in diameter and I observed -- we clean
13 that and observed to make sure that there were no foreign
14 hair there or nothing extraneous to this particular case
15 and it was totalled cleaned.

16 Q Who was with you when you performed that?

17 A Oh, Esquinaldo and Mullins would have both been
18 with me, sir.

19 Q Is there anything else you do with a vacuum clean-
20 er before you use it?

21 A Not on this particular occasion. What I did was
22 make sure it was clean and placed the filter in it.

23 Q Now, you took pictures, you cut the floor up, you
24 vacuumed the crime scene, picked up evidence out of the
25 floor of the tent -- did you do anything else in reference

1 to Tent 7?

2 A I didn't do the items you just named in that order,
3 but well, in and around Tent 7, after we had removed the
4 items and cots from the tent, all of the items of the girls
5 were inventoried.

6 Q What was done with the personal property of those
7 girls?

8 A I don't know. Other agents took possession of the
9 material.

10 Q After you had processed the tent, what was your
11 next duty at Kiowa Unit?

12 A Of course, this already had been pointed out, the
13 flashlight near the tree and also the duct tape.

14 Q You saw that when you first drove up?

15 A Yes, sir, that was pointed out to me immediately
16 and also what is referred to as a guitar capo and the glasses
17 and the glasses case and we laid a marker near the general
18 vicinity to make the area where it was at and the area was
19 roped off and after having processed the tent and all that,
20 then I came back and we took photographs of the items I
21 just mentioned, the flashlight.

22 Q Did you take these photographs we have here today?

23 A No, sir, Paul Esquinaldo took the photographs.
24 After the photographs were taken, I knealt down very care-
25 fully initialed -- put my initials on the items that I was

1 to recover. As I recall, I obtained a yellow box to place
2 the flashlight in and so I would carry it at a minimum and
3 the duct tape, and I obtained a small plastic --

4 Q Who was with you when you picked up the flashlight
5 and duct tape?

6 A I couldn't be for sure, sir.

7 Q Were there a lot of people around there, Mr.
8 Linville?

9 A There were numerous individuals in the area, yes,
10 sir.

11 Q A lot of OSBI Agents?

12 A Yes, sir, and other officers.

13 Q Was the Mayes County Sheriff's Office represented
14 in the area?

15 A Yes, sir.

16 Q How about the Oklahoma Highway Patrol?

17 A Yes, sir.

18 Q Was the FBI at the crime scene?

19 A I never saw them there.

20 Q Was there any volunteers there to assist you in
21 conducting a search?

22 A None whatever at that time.

23 Q Did any ambulance drivers help you search the
24 area?

25 A I am not aware of it; they may have helped other

1 officers or agents, but not to my knowledge.

2 Q Did you ever see a roll of rope in the Kiowa Unit
3 areaa?

4 A I was given a roll of rope by Sheriff Pete Weaver.

5 Q And where did that rope come from, if you know?

6 A I don't know. He gave it to me to transport as
7 evidence to the laboratory and I did.

8 Q Was this after you picked up the tape and flash-
9 light?

10 A Sir, it was on -- if I'm not mistaken, the follow-
11 ing day. It could have been the same day. I'd have to
12 refer to my notes, but I would say it was on Tuesday, so
13 certainly afterwards.

14 Q So you put the flashlight and the tape into your
15 plastic box and you moved on. Where did you go to then?

16 A I put the flashlight and the tape into a cardboard
17 box and I put the glasses and the glass case and the guitar
18 capo into a plastic box. I would say toward the end of the
19 day after the entire processing and had loaded everything in
20 the aircraft and flew back to Oklahoma City.

21 Q Agent Linville, did you interview any of the coun-
22 selors at Camp Scott?

23 A I was present during an interview of Carla Wilhite.

24 Q Where was that interview conducted?

25 A I couldn't tell you the building, but it was at the

1 site, in a screened-in building.

2 Q Who conducted the interview in your presence?

3 MR. WISE: If it please the Court, I am going to
4 have to object to this line of questioning as being outside
5 the scope of direct examination.

6 THE COURT: Sustained.

7 MR. ISAACS: Judge, last night, I went to the Law
8 Library and got a couple of cases I'd like to present to
9 support my argument. May I do so at this time before the
10 Court rules?

11 THE COURT: Court has already ruled. Why don't
12 you wait until another opportunity.

13 MR. ISAACS: Thank you, Judge.

14 Q (By Mr. Isaacs) Did anyone ask Carla Wilhite
15 questions in your presence?

16 MR. WISE: If it please the Court, Court has
17 already ruled on this line of questioning and we would also
18 advise the Court that Mr. Linville will be called again in
19 due time as various other pieces of evidence are brought in
20 but we confined this direct examination to what we presented
21 and ask that the Court keep the cross examination in the
22 same line.

23 MR. ISAACS: Your Honor, I ask that I be allowed
24 a short argument on the issues of cross examination.

25 THE COURT: I will look at the authorities that you

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brought.

MR. ISAACS: Judge, my cases are Lewis against the State, 459 P 2d, 309, stands for the proposition that the scope of cross examination should be liberally construed so as to permit any question on cross examination which reasonably tends to explain, contradict, discredit testimony given by the witness in chief to test his accuracy, memory, skill, veracity, character or credibility. Further, Thompson against the State, cross examination is permissible on any matter not formed with the subject matter in chief which tends to limit, explain or modify the same. That's 118 P 2d 269. I submit that this tends to explain and contradict some of the testimony given in chief.

MR. WISE: If it please the Court, the State of Oklahoma has no arguments with the cases of Lewis and Thompson which we are well aware of and believe that our objection is in line with exactly the rule in those cases.

MR. ISAACS: Judge, my question --

THE COURT: Do you wish to make an offer of proof or anything of that nature?

MR. ISAACS: It goes to explain what he did do at the Kiowa Unit. That's what we're questioning the witness about.

THE COURT: Since the direct examination did not cover the questioning of the young woman, the objection is

1 sustained. Exception noted. You may ask your next question,
2 Mr. Isaacs.

3 Q (By Mr. Isaacs) Moving back down into the Kiowa
4 Unit, can you tell me if there was a hair sample taken from
5 State's Exhibit No. 34, the hair balls, the two little balls?

6 A Yes, sir.

7 Q Was there a hair sample taken?

8 A On, pardon me, no, not a hair sample from that,
9 no, sir.

10 Q At any time during your processing the Kiowa Unit
11 in Camp Scott, did you enter the kitchen closet area where
12 tools and utensils were stored?

13 A I did not; other agents did.

14 Q On June 23rd, according to technical examination
15 reports, Lab No. LP 77-177, it was noted that Arthur Linville
16 submitted a piece of typing paper, Item 39, which he had
17 received from the Oklahoma Highway Patrol. Would you tell
18 me from which highway patrolman you received that typing
19 paper?

20 A Sir, I would have to see the actual evidence. I
21 don't recall a piece of typing paper.

22 Q Also, on the same technical report, the following
23 items were named as described as evidence which you submitted
24 for further tests or analysis by Oklahoma State Bureau of
25 Chemists: Item No. 6, one guitar cheater -- are we talking

1 about the capo that we have in evidence here?

2 A Yes, sir.

3 Q To whom was that given?

4 A Well, Larry Mullins, the technician, was present as
5 I obtained it and when we got to Oklahoma City, I released
6 it in his custody.

7 Q What tests did he run on that piece of evidence?

8 A You would have to ask him, sir.

9 Q One roll of black tape, Item No. 2, in the same
10 document, page four, submitted on June 13, 1977, and subse-
11 quently returned to Agent Linville on June 15th. To whom did
12 you submit that item of evidence?

13 A I didn't submit it to anyone. I originally submit-
14 ted it that night on the 13th, released it to Larry Mullins
15 and then on the 15th, I checked it out, took it to the camp
16 and released it to Agent Pat Wilkerson.

17 Q Were any tests run on that roll of tape?

18 A I requested a test be run and I am sure there were
19 but here again, whether there were or not, you'd have to ask
20 Mr. Mullins.

21 Q Item No. 1, a red plastic flashlight with a green
22 plastic bag taped over the lens with which masking tape, sub-
23 mitted on June 13th. To whom was that submitted?

24 A Exactly the previous material, to the Oklahoma City
25 office, at first that evening in the form of Larry Mullins and

1 then on the 15th, I checked it out and returned it and gave
2 it to Pat Wilkerson.

3 Q Is Mr. Tom Jordan, the tool mark examiner for the
4 Oklahoma State Bureau of Investigation?

5 A He serves in that capacity.

6 Q Which office does he operate out of?

7 A Tom Jordan operates out of ballistics.

8 Q Which city?

9 A Oklahoma City.

10 Q Was the flashlight dusted for fingerprints?

11 A We could not dust the flashlight at the scene,
12 sir, for fingerprints but that's exactly what I requested
13 be done at the Oklahoma City Office and I'm certain that it
14 was, yes.

15 Q Were any latent fingerprints lifted?

16 A I don't know.

17 Q Was the battery inside the flashlight dusted for
18 fingerprints?

19 A I assume that would be part of the overall examina-
20 tion.

21 Q Were any fingerprints found on the battery?

22 A Sir, you are asking me things that I -- only the
23 individual that conducted the examination would know and
24 would be able to testify to.

25 Q Then your answer is you don't know; is that correct?

1 A That's exactly right.

2 Q Thank you. It shows further in the report, Lab
3 No. 77-177, that the following item was submitted by Agent
4 Arthur Linville, one piece of typing paper on which typed
5 written information was listed. Do you remember what type-
6 written information was on it?

7 A No, sir, would you tell me the date that was
8 submitted?

9 Q June 23rd of '77, ten days after the homicides at
10 Camp Scott.

11 A No, sir, I would have no idea of the typing on
12 that. Now, it's possible when I obtain items such as that
13 for transportation, if all I am in is the chain, it could
14 have been sealed. I don't know what condition it was, but
15 I don't recall typing.

16 Q Agent Linville, on Technical Examination Report,
17 Lab No. S-77-332, at page four, it is noted that the follow-
18 ing evidence was submitted June 14, 1977, by Arthur Linville,
19 OSBI. One piece of black tape. Where did that come from?

20 A The one piece of tape?

21 Q Is that the same piece of tape we have here in
22 evidence today?

23 A There was several pieces of tape that were secured.
24 If I may see your examination report, I will tell you.

25 Q I hand the witness a copy of Lab No. S-77-332,

1 Technical Examination Report. Does that refresh your recol-
2 lection?

3 A Yes, sir.

4 Q Is that the same tape that you have here in your
5 hand, State's Exhibit No. 35?

6 A No, sir, it is not.

7 Q It is not?

8 A No.

9 Q Would you describe for me the piece of black tape
10 that you submitted as noted in this Technical Report?

11 MR. WISE: If it please the Court, if we are going
12 beyond the evidence that's already been introduced and dis-
13 cussed in direct examination, beyond the investigation at
14 Kiowa Camp, we would again object to any line of questioning.
15 It's outside the scope of direct. L. 17 & 25, No. S-77-~~132~~
or "F" 77-332?

16 If it please the Court, for clarification, our
17 position is that we, on direct examination, examined this
18 witness on matters which all took place on the 13th day of
19 June, 1977, and his disposition of those items. All of them
20 accumulated as best I recall my questioning, on the 13th.
21 If we get beyond that, we're outside the scope of direct
22 examination.

23 MR. ISAACS: Judge, I've been up all night, trying
24 to think of questions to ask this fellow.

25 THE COURT: Mr. Isaacs, I am going to overrule their

1 objection. On direct examination, it was brought out that
2 part of his duties was to observe technicians and oversee
3 technicians and preserve the crime scene, so I believe that
4 is broad enough to include your question, if he remembers
5 about this particular piece of tape.

6 Q Back to that particular piece of tape at Lab No.
7 S-77-332, Item No. G-1, do you recall where that piece of
8 tape was found, Agent Linville?

9 A It wasn't found. I do recall where I received it.

10 Q Where did you receive it?

11 A From Mr. Jack Shroff.

12 Q And was that piece of tape which Mr. Shroff had
13 found in his house, located just southwest of the scout tent?

14 MR. WISE: Again, we would object. We are getting
15 clear off of Camp Scott and over on another piece of property,
16 different date, different set of circumstances, outside the
17 scope of direct examination.

18 THE COURT: Objection is sustained as to that
19 question.

20 MR. ISAACS: I need some way to mark these, Judge,
21 so I won't have to go back over there. Can you give me just
22 a moment and I will get a different color of pen.

23 Q Agent Linville, on the 13th at Camp Scott, did you
24 take soil samples near the body?

25 A Not on the 13th that I recall, no, sir.

1 Q That was at a later date, also?

2 A Yes, sir.

3 Q Well, we'll cover that when we get to it.

4 Agent Linville, have you told me everything you know about
5 your investigation on the 13th of June at Camp Scott?

6 A I doubt it very seriously, no, sir.

7 Q Have you had a chance to read your report and
8 refresh your recollection of what occurred before coming
9 here to testify today?

10 A It would be a difficult question to answer to say
11 everything I know. You'd just have to pose a question and
12 if I could answer it, I told you that my main function there
13 was to oversee the crime scene of predominantly the tent.

14 Q Have you read your reports that you made on the
15 13th before coming here?

16 A Yes, sir, those reports; yes, sir.

17 Q Has your testimony here today covered everything
18 in your reports?

19 A As to what I did.

20 Q Yes.

21 A I think in general, yes, sir. I can't recall a
22 specific incident, something that you haven't covered. It's
23 just the processing of the scene and collection of evidence.

24 MR. ISAACS: Judge, I believe that's all I have
25 of this witness at this time. However, I'd like for him not

1 to be released and could we have the same agreement, Mr.
2 Linville, that I already have with Mr. Kennedy, that you
3 be on 24-hour call. If I have to call you back, will you
4 come back?

5 A Certainly, if the Court calls me back.

6 MR. WISE: We intend to call this witness again.

7 THE COURT: So, as I understand it, they will be
8 calling this witness again for other portions of the case
9 in chief.

10 MR. WISE: That's exactly right.

11 THE COURT: Is there any redirect?

12 MR. WISE: No, Your Honor, we do not have any at
13 this time.

14 THE COURT: Now, do I understand this witness can
15 be excused today or should I have him remain for the rest
16 of the afternoon for further testimony?

17 MR. WISE: He may be excused for today.

18 (WHEREUPON, the witness was excused and withdrew
19 from the hearing room.)

20 MR. WISE: If it please the Court, with regard to
21 our next witness, the State has received a message that one
22 of our witnesses, quite elderly in years, has a chronic ill-
23 ness in the family and is from out of state. We would like
24 to call him next, out of time, in order to facilitate him
25 in getting back to California. It might take us a few minutes

1 THE COURT: Do you need a short recess?

2 MR. WISE: A short recess, and we would ask the
3 Court to let us put him on out of time, out of sequence.

4 THE COURT: We'll take a ten minute recess.

5 (Following a ten minute recess, proceedings con-
6 tinued as follows:)

7 THE COURT: Call your next witness.

8 MR. WISE: State would next call Mr. Louis Linsey.
9 Mr. Linsey, would you stand and raise your right hand to be
10 sworn by the Court?

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

13 THE WITNESS: I do.

14 LOUIS LINSEY,

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

17 DIRECT EXAMINATION

18 BY MR. WISE:

19 Q Mr. Linsey, would you state to the Court and the
20 record, you full name, sir?

21 A L. H. Linsey.

22 Q Where do you reside, Mr. Linsey?

23 A At the present time, in California.

24 Q And Mr. Linsey, back in the sixties, particularly
25 say '66, '68, what was your occupation or profession?

1 A Record Clerk at the Oklahoma State Reformatory.

2 Q Which of the State Reformatories?

3 A Well, at Granite.

4 Q All right, and for how long did you hold that
5 capacity -- what year?

6 A Oh, thirty-eight years.

7 Q My goodness, when did you leave that position?

8 A Oh, in '69, first day of August, I believe.

9 Q All right, sir, now Mr. Linsey, during that time
10 as Record Clerk at Granit Reformatory, what were your respon-
11 sibilities and duties?

12 A Well, I had to go after all escape and parole
13 violators and keep a record of every inmate that came in and
14 make records for every department in the institution.

15 Q Did that include photographic records?

16 A Photographic and fingerprints.

17 Q Now, did you have facilities there in the way of
18 darkrooms for photographic processing?

19 A Yes, we had that responsibility.

20 Q All right, sir, did you have people to assist you?

21 A Yes, we had inmate help.

22 Q All right, sir, did you ever know an individual
23 by the name of Gene Leroy Hart?

24 A Yes.

25 Q How do you know him?

1 A Well, he worked in my office.

2 Q Was he an inmate?

3 A He was an inmate.

4 Q And assigned to help you, I gather?

5 A Assigned to help me.

6 Q What would that have been, if you recall?

7 A Well, it would have been '69 -- I don't remember
8 when he left. He left before I did.

9 Q And you left in '69?

10 A I left in '69.

11 Q All right, sir. Now, in addition to your respon-
12 sibilities at Granite, did you also utilize your photography
13 abilities as, what we might say, as a free-lance photographer?

14 A Yes, the Warden gave me permission to take wedding
15 pictures of local officers' wives, you know, and if they had
16 a girl getting married, they were permanent friends of ours.

17 Q Now, in 1968, did you have such an occasion?

18 A Yes, sir.

19 Q All right, sir. I'm going to show you what's been
20 marked as -- let me do this -- let me hand you what's been
21 marked for identification purposes only as State's Exhibit
22 36, and I'll ask you, Mr. Linsey, will you withdraw from
23 what's been marked as Exhibit 33 (sic)?

24 A (Witness complies.)

25 Q Now, would you look at what's been marked as

1 State's Exhibit 36-A, and examine that carefully for me?

2 A (Witness complies.)

3 Q Is that familiar to you, sir?

4 A Yes, sir, it certainly is.

5 Q How is it familiar to you, Mr. Linsey?

6 A Well, I took these pictures at the --

7 Q Now, you're saying "pictures", both of them,
8 36-A and B?

9 A Yes, sir, at the wedding and reception of these
10 friends of ours.

11 Q And who would that have been?

12 A The girl -- the bride was Sandra Savage and I
13 can't think of her husband's name. But I didn't know him
14 as well as I did her. Sarah and her father and her mother
15 because they belonged to the same church and had a grocery
16 store. We traded with them.

17 Q Certainly. I appreciate that. Would you tell me
18 a little bit about the circumstances, when you went to the
19 wedding to take those photographs. Did Mr. Hart go with you?

20 A No, I intended to take him, as I remember, but
21 the institution frowned on me taking them out into the
22 public. Of course, if I wanted to go around the institution
23 to take pictures of livestock and such as that, I did take
24 them because I needed his help. But my wife helped me that
25 day and carried part of my equipment I had to have, and that's

1 the reason I wanted to take Gene but I didn't on that trip.

2 Q Now, you called him "Gene" so I presume if you
3 would see him again you would be able to recognize him
4 probably?

5 MR. ISAACS: We'll stipulate that he's talking
6 about Gene Hart and Gene Hart's the man in the middle, be-
7 tween Mr. Pitchlynn and myself.

8 THE COURT: Very well. I don't know that the
9 State is willing to enter into that stipulation.

10 MR. WISE: I would just as soon let Mr. Linsey --

11 THE COURT: Very well.

12 Q (By Mr. Wise) Mr. Linsey, do you see Gene Leroy
13 Hart in the courtroom?

14 A Yes.

15 Q Would you point him out to us, please?

16 A Over there (indicating).

17 Q What is he wearing? Would you tell me the color
18 of the clothes he has on?

19 A Well, it's a striped sweater there and he has
20 glasses on.

21 MR. WISE: Very well. The State would now ask
22 the record to reflect that he has identified the Defendant
23 herein.

24 THE COURT: Very well.

25 Q Now, tell me, Mr. Linsey, as you completed the

1 taking of these photographs of this wedding, how were those
2 films processed?

3 A Well, Gene would develop the negatives and print
4 the pictures for me.

5 Q In that same laboratory?

6 A In the same laboratory adjoining my office.

7 Q All right, and then would you take orders from the
8 family, I presume?

9 A Yes, Sandra told me how many she wanted of each
10 shot as I made, as I went around and shooting two or three
11 here and two or three over there.

12 Q All right, and then what did you do when you deliver-
13 ed those photographs? Did you deliver -- well, how did you
14 deliver them?

15 A Well, I took them to Sandra and her mother and
16 father, oh, it was about a week before I was able to get the
17 negatives developed and printed, along with my regular print-
18 ing work.

19 Q All right. Would you -- did you keep back any or
20 make any extra prints?

21 A No, I took everything and delivered it to the
22 family.

23 Q What about the negatives?

24 A Negatives also.

25 Q You gave the negatives to the family?

1 A Yes.

2 Q So you took to the family, if I understand you,
3 every print that they ordered and the negatives?

4 A That is right.

5 Q Now, Mr. Linsey, would it have been possible for
6 Mr. Gene Leroy Hart to have made another print there in the
7 darkroom?

8 A Oh, it's possible, sure.

9 Q And would that have been without your knowledge?

10 A Well, yes.

11 Q But other than that, can you explain any other way
12 that there would have been any more prints?

13 A No, I don't have any answer for that.

14 Q Would you recognize Sandra's new name if I mentioned
15 it to you?

16 A Yes.

17 Q Looper?

18 A Looper, yes, that's it. I haven't seen any of
19 them for nine or ten years so I've forgotten a whole lot of
20 that.

21 MR. WISE: I have no further questions. Thank
22 you.

23 CROSS EXAMINATION

24 BY MR. ISAACS:

25 Q Mr. Linsey, you trained Gene Hart and taught him

1 how to develop photographs, did you not?

2 A Yes.

3 Q How long did it take to train him?

4 A Oh, not long, he was a pretty smart old boy and
5 he caught on pretty quick.

6 Q How many helpers did you have over there at the
7 Granite Reformatory?

8 A Oh, four or five, they went - come and go, you
9 know.

10 Q As a part of the duties of working for you, Mr.
11 Linsey, was it one of Gene Hart's responsibilities to take
12 fingerprints of inmates who came to the institution?

13 A They all did, if it was something come up and
14 needed to be done, whoever was handy did that. You know,
15 they rolled fingerprints and did typing for me and typing
16 up the fingerprint cards and work cards, whatever.

17 Q Was Gene a pretty good fingerprint man?

18 A Why, sure. He was a good clerk.

19 Q How long did Gene work for you, Mr. Linsey?

20 A Well, I don't know. I don't have the record and
21 haven't seen it for so long, several months.

22 Q Nine months?

23 A Probably over a year, maybe.

24 Q During that time, can you estimate for me how many
25 pictures Gene Leroy Hart developed?

1 A Oh, no. We made the world's pictures. We had to
2 make about twenty on each inmate that came through.

3 Q You said awhile ago you did a lot of free-lance
4 work?

5 A Well, we did.

6 Q Including going into the yard?

7 A We took pictures of the institution from the top
8 of the mountain and we went out to the barn and took pictures
9 of registered livestock, which they had to have pictures of
10 each one and all of that. A lot of work.

11 Q Did Gene ever go with you to make those pictures?

12 A Yes, I took him whenever I could outside the wall.

13 Q Did Gene ever take any of those pictures?

14 A Huh?

15 Q Did you ever permit Gene to operate the camera?

16 A Oh, yeah, sure.

17 Q Mr. Linsey, you didn't have an enlarger at the
18 Granite Reformatory?

19 A Oh, sure, we had an enlarger.

20 Q Did you?

21 A Yeah.

22 Q Were most of your pictures five by -- 3 1/2 by 5
23 prints?

24 A Yes, because that was the size of the camera and
25 that's the size of the negative. It was a 5 by 7 negative

1 but we shot two on each 5 by 7 which made 3 by 5 prints.

2 Q And were those what we call contact prints when
3 they were printed?

4 A Yes.

5 Q When you're in the general population at Granite
6 Reformatory, are you permitted to carry a billfold?

7 A Yes.

8 Q Or a wallet?

9 A Yes.

10 Q Is there any restrictions on what you carry in
11 your billfold or in your wallet?

12 A Oh, sure, there's many restrictions.

13 Q You can't carry contraband?

14 A You can't carry contraband, that's right.

15 Q But you can carry photographs?

16 A Photographs.

17 Q Mr. Linsey, was Gene Hart a good helper?

18 A He was a good clerk.

19 MR. ISAACS: Thank you.

20 THE COURT: Redirect?

21 MR. WISE: Thank you very much, and Your Honor,
22 this is the witness that the State respectfully asks that he
23 be excused so that he can get back to his sick wife in
24 California.

25 THE COURT: Any problems?

1 MR. ISAACS: Thank you for coming, Mr. Linsey.

2 (WHEREUPON, the witness was excused and withdrew
3 from the hearing room.)

4 MR. WISE: If it please the Court, the State would
5 next call Mr. Larry Mullins.

6 Mr. Mullins, would you come forward and raise your
7 right hand?

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

10 THE WITNESS: Yes, I do.

11 LARRY MULLINS,

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

14 DIRECT EXAMINATION

15 BY MR. WISE:

16 Q Mr. Mullins, would you state your full name to the
17 Court and the record, please?

18 A Larry C. Mullins.

19 Q What is your occupation or profession?

20 A I'm a fingerprint technician with the Oklahoma
21 State Bureau of Investigation in Oklahoma City.

22 Q How long have you been so employed?

23 A Approximately five years.

24 Q And Mr. Mullins, in the month of June, or specifi-
25 cally June 13th, 1977, were you assigned to the Locust Grove

1 area?

2 A Yes, sir, I was.

3 Q Where did you respond to or report to in Locust
4 Grove area that morning?

5 A I initially responded to the Camp Scott area where
6 the scene happened.

7 Q All right, sir, what were your responsibilities
8 when you arrived there?

9 A I was requested to assist in the gathering of
10 evidence and the transportation of the evidence.

11 Q All right, sir. I am going to show you what's been
12 introduced in evidence as State's Exhibit No. 9, and ask
13 is that a true and correct appearance as you saw it that
14 morning of those two pieces of evidence?

15 A Yes, sir, it is.

16 Q With specific regard to the object in the far left-
17 hand corner, what is that, sir?

18 A That is a red flashlight which was found near the
19 scene.

20 Q All right, sir. Now, I'll hand you what's been
21 marked as State's Exhibit No. 8. Is that a more detailed
22 photograph of the same item?

23 A Yes, sir, it is.

24 Q And as part of your responsibility and duties that
25 day, did you take that flashlight or assist with Mr. Linville

1 -- did you know Mr. Linville, excuse me?

2 A Yes, sir, I do.

3 Q Were you working with him that day?

4 A Yes, sir, I was.

5 Q And did you go with him to Oklahoma City in the
6 transportation of some of this evidence?

7 A Yes, sir, I did.

8 Q Did it include that item that we're looking at,
9 shown as that flashlight?

10 A Yes, sir, it is.

11 Q Now, when you got to Oklahoma City at the State
12 Crime Laboratory, was that specific item, that flashlight,
13 disassembled in the process of processing, I think you call
14 it, for various items of evidence?

15 A It was not processed that evening. It was proces-
16 sed the next day.

17 Q Were you present when it was processed?

18 A Yes, sir, I was.

19 Q I'll hand you now -- let me ask you, how was it
20 processed? Was it disassembled, in other words?

21 A Yes, sir, the flashlight was disassembled.

22 Q And did you find a battery in it, for example?

23 A Yes, sir, the battery was inside.

24 Q Did you find other things that might be foreign to
25 a flashlight?

1 A Yes, sir.

2 Q For example, what?

3 A There was a piece of paper inside the flashlight.

4 Q I'll hand you what's now been marked as State's
5 Exhibit No. 38, and ask can you positively identify that,
6 sir?

7 A Yes, sir, this is the piece of paper that was
8 removed from the flashlight.

9 Q You say "paper", what kind of paper?

10 A It's newspaper.

11 Q It's newspaper? All right. Would you tell the
12 Court and the record, where was that located within the
13 flashlight and what did you observe?

14 A I removed the battery and saw the paper inside
15 the flashlight at the bottom, between the battery and the
16 bottom of the flashlight.

17 Q All right, sir, and I'll hand you now -- what
18 else was there about that flashlight as shown in State's
19 Exhibit No. 8, what was about the outside of the front of the
20 flashlight that was foreign to most flashlights?

21 A There was a portion of plastic that was taped to
22 the outside of the flashlight. This plastic was taped with
23 a piece of white masking tape.

24 Q When you say "plastic", there is various colors of
25 plastic. What did this resemble or what color was it, or what

1 can you tell us about it?

2 A It was a piece of green plastic.

3 Q Would it be comparable or similar to a garbage bag
4 or something of that nature?

5 A Yes, sir.

6 MR. ISAACS: Object, leading question.

7 THE COURT: Sustained.

8 Q Now, I'll ask you, in your presence, were those
9 items that you have just described, the tape and plastic,
10 removed from that light?

11 A Yes, sir, they were.

12 Q Did you personally do that?

13 A Yes, sir, I did.

14 Q I'll hand you what's previously been marked for
15 identification purposes only as State's Exhibit No. 37 and
16 ask you, what is that? Can you identify it?

17 A May I open it up?

18 Q Certainly.

19 A Yes, sir. This is the masking tape that was
20 removed from the flashlight.

21 Q By whom?

22 A By myself.

23 Q How did you make that positive identification, Mr.
24 Mullins?

25 A My initials and the date.

1 Q Would you point to them there for our benefit?

2 A My initials and date

3 Q Very good. Will you return that back to the
4 package for safekeeping?

5 I now hand you what's been marked as State's
6 Exhibit 39, and make the same inquiry of you. Can you posi-
7 tively identify that and tell us what it is, please?

8 A Yes, sir, these are the pieces of plastic that were
9 removed from the flashlight.

10 Q From that flashlight displayed in State's Exhibit
11 No. 8?

12 A Yes, sir, they are.

13 Q How do you make that positive identification?

14 A My initials appear on the piece of plastic.

15 Q All right, sir. Would you put that back in its
16 container, please?

17 A (Witness complies.)

18 Q Now, Mr. Mullins, I am going to ask you as to
19 what disposition was made of these three items which have
20 been marked for identification purposes as State's Exhibits
21 37, 38 and 39 after you had removed them as you just testi-
22 fied?

23 A The newspaper which was found in the flashlight
24 was processed for latent fingerprints. However, none were
25 found.

1 Q What else was done?

2 A It was subsequently released to Mr. Bruce Plank
3 on March 13, 1978.

4 Q Is he also an OSBI forensic staff member?

5 A Yes, he is.

6 Q Documents?

7 A Documents examiner, yes, sir.

8 Q Continue.

9 A The masking tape was released to Mr. Tom Jordan
10 of the Firearms and Tool Marks Division on June the 19th,
11 1977.

12 Q So it still stayed within your organization labora-
13 tories?

14 A Yes, sir.

15 Q What happened to the third piece?

16 A The plastic was released to the OSBI Laboratory
17 Division on June 21st, 1977.

18 Q And it still stayed within the OSBI?

19 A Yes, sir, it did.

20 Q When you first observed State's Exhibit No. --
21 the flashlight displayed in State's Exhibit No. 8, you
22 testified previously, if I understand you, and I'm just
23 trying to clarify -- you said it had plastic and you dis-
24 played it and it was taped. Was there any break in that
25 plastic? Was there a hole or anything in it?

1 A Yes, sir, there was.

2 MR. ISAACS: Object. Leading question.

3 THE COURT: I think it was, Mr. Wise. He started
4 the answer which I didn't hear. I'll let it stand. Try
5 not to lead.

6 MR. WISE: I'll rephrase the question.

7 Q Would you tell us the state of that plastic, please?

8 A There was a small hole in the plastic.

9 Q Where?

10 A In the front, apparently to let the light through.

11 MR. WISE: Your witness, counselor.

12 MR. ISAACS: Judge, could I have five minutes?

13 THE COURT: Recess?

14 MR. ISAACS: Yes, sir. Just need to run through
15 these quickly.

16 THE COURT: All right. Why don't you use the five
17 minutes to look over these. Are you going to offer these
18 with this witness, Mr. Wise?

19 MR. WISE: Yes, I was.

20 THE COURT: If you are, I thought he could use the
21 five minutes to look them over.

22 MR. WISE: Very well. Since they were found at
23 the scene, we will at this time, respectfully submit to the
24 Court for admission of State's Exhibits 37, 38 and 39.

25 THE COURT: I will take that under advisement until

1 he has had a chance to look at them and we'll take a five
2 minute recess.

3 (Following a five minute recess proceedings
4 continued as follows:)

5 THE COURT: Mr. Wise, which exhibits did you just
6 offer?

7 MR. WISE: I believe they were 37, 38 and 39, if
8 my memory serves me correctly. That's correct, Your Honor,
9 37, 38 and 39.

10 MR. ISAACS: Judge, at this time, we enter an ob-
11 jection to the chain of custody which Mr. Wise is offering
12 solely for the purpose of identifying the objects this
13 witness has collected and observed, whatever period they
14 were in his possession. We have no objection to that.

15 THE COURT: Perhaps I misunderstood. You object
16 to the admission of them because of the lack of chain of
17 custody?

18 MR. ISAACS: Certain notations on each one of
19 these envelopes indicate that several people had these items
20 in their possession. We object to anything other than using
21 these items of evidence to establish that he picked them up
22 at Camp Scott and passed them on to someone else.

23 THE COURT: Well, the objection is sustained until
24 chain of custody is established and explained.

25 MR. WISE: Very well, Your Honor.

1 CROSS EXAMINATION

2 BY MR. ISAACS:

3 Q Mr. Mullins, on the 13th day of June, 1977, you
4 were a fingerprint technician employed by the Oklahoma State
5 Bureau of Investigation; is that correct?

6 A Yes, sir.

7 Q What is a fingerprint technician, sir?

8 A A technician is an employee of the Bureau, whose
9 primary responsibility is classification, searching, filing
10 of fingerprint cards, which are received from various law
11 enforcement agencies throughout the State of Oklahoma.12 Q You don't hold yourself out as an expert witness,
13 do you?

14 A Yes, sir, in fingerprints, I do.

15 Q What is your background and training in that field
16 of expertise?17 A I received my original training with the FBI in
18 Washington, D. C., the initial training period.

19 Q What did that original training include?

20 A Sir, the original training period included eight
21 hours a day sessions, five days a week, which were taught
22 by qualified fingerprint experts for approximately 500 hours.
23 Upon completion of that --

24 Q How many hours a week?

25 A Forty hours a week. Upon completion of that

1 initial 500 hours, I was transferred to the National
2 Fingerprint Files with the FBI in Washington, D. C.

3 Q How long were you with the FBI in Washington,
4 D. C.?

5 A Approximately twenty months.

6 Q Have you had any other training or experience in
7 the field of fingerprint identification?

8 A I have attended several seminars.

9 Q When and where?

10 A Sir?

11 Q When and where did you attend those seminars?

12 A I attended one, the Law Enforcement Training Coun-
13 cil, which is located in Oklahoma City.

14 Q Who taught that seminar?

15 A A gentleman from the FBI by the name of Thomas
16 Gunnery, who worked in the Latent Fingerprints Section.

17 Q How many days did the seminar last?

18 A Five days.

19 Q Will you tell me when and where you attended the
20 other seminars?

21 A I attended one approximately four years ago in
22 Ardmore, I believe, which lasted two days.

23 Q Who taught that one?

24 A It was sponsored by the Law Enforcement Training
25 Council of Oklahoma.

1 Q Can you give me the names of some of the books
2 that you consider to be learned in the field of fingerprint
3 identification and fingerprint techniques?

4 A The most renowned book The Science of Fingerprint-
5 ing, which the FBI puts out. A gentleman by the name of
6 Charles O'Hara of Chicago has one out on fingerprint identi-
7 fication.

8 Q Is there any other books that you consider to be
9 authoritative in the field of fingerprint identification
10 or fingerprint technique. By "technique", I mean the lift-
11 ing of fingerprints.

12 A Not that I can recall, no, sir.

13 Q On these items of evidence that Mr. Wise had you
14 identify, were any latent fingerprints lifted?

15 A There was a latent fingerprint lifted from the
16 reflector on the flashlight.

17 Q And how many fingerprints were lifted from the
18 battery inside the flashlight?

19 A None, sir.

20 Q Were you able to make a comparison of other finger-
21 prints and make an identification of the fingerprint from
22 the reflector?

23 A No, sir, there was no identification made.

24 Q Directing your attention to the piece of paper that
25 was in the bottom of the flashlight, what technique is used

1 by the Oklahoma State Bureau of Investigation to lift finger-
2 prints from paper?

3 A The process most used and the first process used
4 in this case was treating the paper with a chemical called
5 anhydron.

6 Q Is that what turns the paper black or brown?

7 A Anhydron when it reacts with paper will turn the
8 paper dark purple. After completing the anhydron process
9 on the paper, we also treated it with a chemical called
10 silver nitrate, which turns the paper black like that.

11 Q What technique is used when you attempt to lift
12 latent fingerprints from tape, such as the tape we have
13 here in one of the folders?

14 A The tape here in the folder was not processed for
15 latent.

16 Q Was the green plastic which covered the lens of
17 the flashlight dusted for fingerprints?

18 A Yes, it was.

19 Q Did they put some kind of black dust on that plas-
20 tic?

21 A In the case of the plastic, we used a magnetic
22 powder which is similar to dust. However, it's magnetized.

23 Q Did you lift any fingerprints from the plastic?

24 A No, sir.

25 Q What date was on that newspaper that was in the

1 the bottom of the flashlight?

2 A I cannot recall that there was a date on it. I
3 really don't remember.

4 Q What newspaper did it come from, The Tulsa World,
5 Tulsa Tribune, Pryor Daily Times, Daily Oklahoman; do you
6 know that?

7 A At the initial time, I did not know it but it
8 was found out later it came from the Tulsa World, I believe.

9 Q On June 13th, I believe Agent Linville told us
10 you went with him to the Kiowa Unit at Camp Scott to process
11 the area; is that a correct statement?

12 A Yes, sir, it is.

13 Q Will you tell me what you did when you arrived at
14 the Kiowa Unit?

15 MR. WISE: If it please the Court, we will object
16 on the grounds that this is outside the scope of direct
17 examination. This witness was examined only on one item,
18 that was the flashlight. All of our questions were confined
19 questions to that flashlight and we would object to any
20 line of questioning that exceeds that direct examination.

21 THE COURT: Was your question directed to June 13th?

22 MR. ISAACS: Yes, Your Honor.

23 THE COURT: Objection is overruled.

24 A Would you please repeat the question?

25 Q When you arrived at the Kiowa Unit, would you tell

1 me what you did while you were there; what you observed?

2 A Upon my arrival there, we consulted with Agent
3 Carey Thurman of the OSBI.

4 Q You and Mr. Linville?

5 A Mr. Linville and Mr. Esquinaldo, yes, sir. We
6 conferred with Agent Thurman and he gave us a brief detail
7 of what we had.

8 Q Where did you have that conference with Agent
9 Thurman? Directing your attention to the blackboard, can
10 you show me where you talked to him? Where he was in the
11 Kiowa Unit? This is the road leading into the unit; this
12 would be the staff tent where the bodies were found - over
13 in here someplace --

14 A May I step down?

15 THE COURT: Yes, and would you turn that black-
16 board my way just a little bit?

17 A You want to know where we had the conference?

18 Q Yes.

19 A Approximately in this area (indicating), I believe.

20 Q Were there a lot of vehicles out there?

21 A I don't recall seeing any, no, sir.

22 Q Were there a lot of people in the area?

23 A There were several people in the area, yes, sir.

24 Q Law enforcement personnel?

25 A Most of them were law enforcement, yes.

1 Q Had the area been corded off with rope when you
2 arrived?

3 A Yes, sir, the area was very well secured when we
4 arrived.

5 Q Tell me what you did after you had the conversation
6 with Agent Thurman?

7 A Agent Linville, Mr. Esquinaldo, myself proceeded
8 to -- we initially looked over the scene to see exactly what
9 we had.

10 Q The scene -- you mean the bodies under the trees;
11 is that correct?

12 A Yes, the bodies by the trees and where the tent
13 was where the girls were in.

14 Q Tell me what you saw when you opened the tent
15 where the girls had been housed the night before?

16 MR. WISE: If it please the Court, we would renew
17 our objection. We're now going over to a tent in the Kiowa
18 area. It's no relationship to the direct examination regard-
19 ing a red and white flashlight.

20 THE COURT: Sustained.

21 Q Directing your attention back to the area where the
22 red and white flashlight was found under the trees, tell me
23 what you did when you later went back to that area?

24 A Mr. Esquinaldo photographed the evidence at the
25 direction of Mr. Linville. Upon completion of the photographs,

1 Mr. Linville proceeded to collect the evidence.

2 Q What did you do?

3 A At this point, I was observing.

4 Q After you collected the evidence, what did you do?

5 A After we collected the evidence there, we proceed-
6 ed to go to where the tent area was and proceeded to process
7 that area.

8 Q All right. When you got down to the tent area, did
9 you have a flashlight with you?

10 A I don't remember if the flashlight was with us at
11 that time. Mr. Linville had it in his possession.

12 Q Did you have any evidence in your possession at
13 that time, Mr. Mullins?

14 A Not that I recall, sir.

15 Q Okay. What happened then?

16 A We went to the tent area to proceed to process the
17 tent area.

18 Q What did you do then?

19 A We finished up the tent area, we collected the
20 evidence and we went back.

21 Q How did you process the tent area?

22 MR. WISE: If it please the Court, we renew our
23 objection.

24 MR. ISAACS: We've got the flashlight down there,
25 Judge.

1 MR. WISE: If it please the Court, the flashlight
2 was recovered at the scene of the bodies.

3 THE COURT: You can ask him questions about how
4 he gathered and transported evidence. That was brought out
5 on direct.

6 MR. ISAACS: Thank you, Your Honor.

7 Q Tell me how you gathered and transported the
8 evidence there near the tent?

9 A The items inside the tent -- first of all, it was
10 photographed, the tent area was photographed.

11 Q Did anybody go inside in your presence before
12 photographs were taken?

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

14 Q Go ahead. You photographed the interior of the
15 tent; then, what happened?

16 A As I recall, the cots inside the tent were trans-
17 ported outside.

18 Q Who moved those cots?

19 A Agent Linville and some other people; I don't
20 remember their names.

21 Q What type of footwear did you have on that day?

22 MR. WISE: If it please the Court, what his foot-
23 wear is has nothing to do with the collection and accumula-
24 tion of evidence.

25 THE COURT: Sustained.

1 Q What type of footwear did Agent Linville have on?

2 MR. WISE: Same objection.

3 THE COURT: Sustained.

4 MR. ISAACS: Show my exception on both of those,
5 Judge. Give me two exceptions.

6 Q Now, Mr. Mullins, will you tell me what you did
7 after the cots were moved out of the tent?

8 A Upon removal of the cots, they were processed for
9 latent fingerprints.

10 Q How did you do that?

11 A With powder.

12 Q Did you dust the cots yourself?

13 A Yes, sir.

14 Q Were you able to obtain any latent fingerprints?

15 MR. WISE: Again, we are going to object, Your
16 Honor. We are getting into another area, Tent No. 7.

17 MR. ISAACS: Judge, this beats anything I ever saw.
18 We're talking about the 13th day of June.

19 THE COURT: Mr. Isaacs, I'm about to overrule his
20 objection.

21 MR. ISAACS: Thank you.

22 Q Now, would you answer my question, how you proces-
23 sed the cots to determine if there were any latent finger-
24 prints?

25 A I proceeded to spray fingerprint powder over the

1 cots in an attempt to lift latent fingerprints.

2 Q Were you able to find any?

3 A There was a latent print on one of the cots, sir.

4 Q Were you able to compare that to any of the prints
5 in your possession and make an identification?

6 A No, sir; no identification was made with that
7 print.

8 Q Did you fingerprint any other items in the tent?
9 Did you dust for latent fingerprints?

10 A No, sir.

11 Q Did you attempt to remove fingerprints from any
12 item inside that tent other than the cots?

13 A No, sir.

14 Q After you had dusted the cots and attempted to
15 remove latent fingerprints, what did you do?

16 A As I recall, we gathered the evidence and proceeded
17 to go back to Oklahoma City.

18 Q Who went back to Oklahoma City with you?

19 A It was Agent Linville, myself and Mr. Esquinaldo.

20 Q Mr. Mullins, what time of day was it when you and
21 Agent Linville and Agent Esquinaldo went back to Oklahoma
22 City?

23 A We arrived back in Oklahoma City approximately
24 9:00 or 9:30 that evening.

25 Q During the day that you were there at Camp Scott,

1 did anybody mention the name Gene Leroy Hart in your presence?

2 MR. WISE: Again, Your Honor, we'll have to object.
3 We're getting far afield from the collection of evidence.

4 THE COURT: Overruled; you may answer.

5 A (By Mr. Mullins) No, sir, I do not recall the
6 name being mentioned.

7 Q When you got back to Oklahoma City, what did you
8 do with the evidence you had collected?

9 A The evidence was taken to the OSBI Laboratory
10 there in Oklahoma City.

11 Q Who did you give it to or who did you deposit it
12 with?

13 A It was submitted.

14 Q What do you mean "submitted"; is that when you
15 lock it up in a locker?

16 A Yes, sir.

17 Q Then, what was done with it?

18 A Nothing was done with it that evening. It was
19 locked up that night.

20 Q The next day, did you do something with it?

21 A Yes, sir.

22 Q What did you do with it?

23 A The next evening is when I processed the -- disassem-
24 bled and processed the flashlight.

25 Q When the flashlight was delivered to the OSBI

1 Headquarters in Oklahoma City, was it still intact?

2 A Yes, sir, it was.

3 Q Nobody had taken it apart and looked at it?

4 A No, sir.

5 Q All right. You processed the flashlight. Were
6 you able to find any evidence which you thought would be
7 helpful to you?

8 A Aside from the latent print on the reflector, no,
9 sir, not from the flashlight itself.

10 Q Agent Mullins, I have a technical report that has
11 a lab number LP-77-177, and it is noted here that Technician
12 Esquinaldo photographed the scene after which he, Mullins
13 and OSBI Agent Arthur Linville collected numerous items of
14 evidence. The date on that is June 13th of '77. Following
15 that sentence, it states: "Plaster casts of apparent shoe
16 track and tire track were made by Technician Esquinaldo."
17 Were you present when he made that impression?

18 A Yes, sir, I was.

19 Q Would you describe for me how that track, shoe-tire
20 track looked?

21 MR. WISE: If it please the Court, we are getting
22 afield. It was not taken by this respondent.

23 MR. ISAACS: He saw it, Judge; he's competent.

24 THE COURT: If he gathered it or transported it,
25 I will let you continue.

1 Q Did you see it?

2 A Yes, sir, I saw it.

3 Q Did you help transport it?

4 A Yes, sir, it did go back with us.

5 Q What did it look like?

6 A Are you talking about the shoe track?

7 Q Tire, first and then the shoe.

8 A The tire track just appeared to be a normal tire.

9 I can't see nothing distinguishable about that.

10 Q Can you show me on the diagram of the Kiowa Unit
11 where the tire impression was taken?

12 A May I step down?

13 THE COURT: Sure.

14 A I believe it was in this area right in here
15 (indicating).

16 MR. ISAACS: Let the record show somewhere in the
17 area of Tent 1.

18 Q Will you show me on the diagram where the shoe
19 imprint was taken?

20 A The shoe track was taken in this area, back over
21 here (indicating).

22 Q Approximately how far from the location of the
23 bodies was that impression taken?

24 A Approximately fifty to sixty feet.

25 Q Was that in the grass -- in a grassy area?

1 A Grass and dirt; there was some grass there.

2 Q Will you describe for me the appearance that that
3 shoe imprint had there in the ground, where that plaster
4 cast was used to lift it?

5 A Just appeared to be a normal shoe track. I
6 couldn't see nothing distinguishable about it.

7 Q No design that was unique?

8 A Not that I can recall, any specific design.

9 Q Do you know the shoe size of that shoe track?

10 A No, sir.

11 Q What was done with the shoe imprint or the plaster
12 cast of the shoe imprint?

13 A That was taken by Mr. Esquinaldo?

14 Q Yes, sir.

15 A It was submitted to Mr. Bruce Plank of the OSBI,
16 Document Examination Section.

17 Q While you were there in the Kiowa Unit, Mr. Mullins,
18 you had a chance to look inside Tent 7, did you not? We
19 talked about that.

20 A The tent where the girls were found?

21 Q Yes, sir.

22 A Yes, sir, I looked in it.

23 Q Did you see a puddle of blood that had appeared
24 to have been wiped up?

25 A Yes, sir, there appeared to be a substance in the

1 floor area.

2 Q Did it appear to you to have been wiped up?

3 A Yes, sir.

4 Q Did you find any piece of evidence which, in your
5 opinion, could have been used to wipe that blood up?

6 A No, sir, I didn't.

7 Q Did anybody ever mention to you anything about a
8 towel found in the counselor's tent there in the Kiowa Unit?

9 A No, sir, I don't remember.

10 Q Did you ever in your capacity as an OSBI Investi-
11 gator, enter the counselor's tent of the Kiowa Unit?

12 A No, sir, I was not; I didn't never enter the tent.

13 Q Did you ever enter any other tents other than
14 Tent 7?

15 A No, sir.

16 Q Who removed the masking tape from the lens of the
17 light?

18 A I did.

19 Q Was the flashlight dusted on the outside for fin-
20 gerprints?

21 A Yes, sir.

22 Q Were you able to obtain any prints?

23 A No, sir.

24 Q The piece of paper in the bottom of the flashlight
25 was removed by whom?

1 A It was removed by me, sir.

2 Q Later on, did you make a comparison of masking
3 tape found on the flashlight, with the roll of tape found
4 at another location?

5 A No, sir, I did not.

6 Q Did one of the OSBI Agents make that comparison?

7 A Yes, sir.

8 Q Who was that?

9 A That was Mr. Tom Jordan of the Firearms Division.

10 Q Who was in charge of the investigation at Camp
11 Scott when you arrived?

12 A I believe it was Ted Limpke, as I recall.

13 Q Who was in charge of gathering evidence in the
14 Kiowa Unit area on June 13th of '77?

15 A Agent Arthur Linville.

16 Q Have you told me everything you did on June 13th
17 of '77 in the Kiowa Unit?

18 A Yes, sir, to the best of my recollection.

19 Q Were you present when somebody pointed out a pair
20 of glasses to Agent Linville?

21 A I wasn't present at that exact time. However, I
22 did come to where they were a little later.

23 Q Where were those glasses?

24 A They were just off of the driveway by one of the
25 tents.

1 Q You say "off the driveway", to the left or right
2 facing west?

3 A (No reply.)

4 Q Facing west, going into the Kiowa Unit, would it
5 be to the left or to the right?

6 A West is going to Kiowa Camp?

7 Q Yes, sir, toward the top of the map.

8 A It was just off to the right.

9 Q Did you see a glasses case, red object?

10 A Yes.

11 Q Where was that?

12 A That was close to the glasses, the glasses them-
13 selves.

14 Q How far from it?

15 A Just a few feet. I really don't know the exact
16 measurement.

17 Q Now, on the 14th of June, you were requested to
18 assist Agent Esquinaldo in processing the scene of a burglary,
19 were you not?

20 MR. WISE: If it please the Court, we would again
21 renew our objection. It's beyond the scope of direct examina-
22 tion.

23 THE COURT: Sustained.

24 MR. ISAACS: Just a moment, Judge. Let me see if
25 I have got anymore questions.

1 Q Have you told everything you know about these
2 items of evidence?

3 A The three items I previously identified.

4 Q Yes, sir, the piece of newspaper, the plastic,
5 tape.

6 A The piece of plastic was found around the flash-
7 light. I removed it and processed it for prints, submitted
8 it to the OSBI Laboratory Division for further evidence.
9 The piece of masking tape was found around the flashlight.
10 I removed it, submitted it to Mr. Tom Jordan for further
11 analysis. The paper which was found in the bottom of the
12 flashlight, I removed it and processed it for latent prints.

13 Q That's all you know about those items; is that
14 correct?

15 A Yes, sir.

16 Q Have you told me everything you know about the
17 flashlight and any of its involvement in this incident at
18 Camp Scott?

19 A The flashlight was found at the scene and it was
20 collected by Mr. Linville and transported back to Oklahoma
21 City.

22 MR. ISAACS: That's all I have at this time, Judge.
23 I would like for the witness to be on call, 24-hour notice.
24 I would like to call him back at a later date in the event
25 that Mr. Wise does not call him.

1 THE COURT: I think that's the arrangement you
2 have with the OSBI through Mr. Wise's office.

3 MR. ISAACS: If I'll give you 24-hours notice,
4 would that be sufficient?

5 A (By Mr. Mullins) Yes, sir.

6 THE COURT: Is there any redirect?

7 MR. WISE: No redirect, Your Honor.

8 THE COURT: You may leave, subject to recall
9 agreement.

10 (WHEREUPON, the witness was excused and withdrew
11 from the hearing room.)

12 MR. FALLIS: State would call Paul Boyd.

13 THE COURT: Are you Mr. Boyd?

14 THE WITNESS: I'm Mr. Boyd. Yes, sir.

15 THE COURT: Would you raise your right hand, please.
16 Do you swear to tell the truth, the whole truth and nothing
17 but the truth, so help you God?

18 THE WITNESS: I do.

19 MR. ISAACS: Judge, at this time, I would like to
20 re-urge my motion that I am provided with all copies of all
21 fingerprint records and all copies of fingerprints by finger-
22 print technicians. There's been some testimony about latent
23 fingerprints and I have not received any report discussing
24 any latent fingerprints now on the flashlight.

25 THE COURT: I ordered that you be provided with

1 all technical reports within five days after they became
2 available.

3 MR. WISE: If it please the Court, we have provided
4 him with all reports that we do have.

5 MR. ISAACS: Now Judge, that's just a sham. They
6 give me what they want and Mr. Wise says don't give me one
7 and I don't have to give it to Mr. Isaacs. I'm entitled to
8 it because it's exculpatory evidence.

9 THE COURT: Do you have a report for your use, Mr.
10 Wise, concerning fingerprints at all?

11 MR. WISE: Not that I haven't given him. Every
12 report that I have, Your Honor, I have forwarded to him
13 within five days.

14 THE COURT: The Order was when you got one, you
15 make it available within five days.

16 MR. WISE: I've done it in 24 hours.

17 THE COURT: And I think we talked about at Prelim-
18 inary Hearing, it would be done immediately.

19 MR. WISE: That's right.

20 THE COURT: My Order still stands.

21 MR. ISAACS: My Motion is that the State of Okla-
22 homa, Judge, not particularly Mr. Wise.

23 THE COURT: The Order that I originally entered, Mr.
24 Isaacs, still stands.

25

1 A She's a Chemist with the Oklahoma State Bureau of
2 Investigation.

3 Q Are you acquainted with a person by the name of
4 Dennis Reimer?

5 A Yes, sir, he is also a Chemist with the Oklahoma
6 State Bureau of Investigation.

7 Q And as of the day of June 13th, 1977, were you
8 acquainted with Dr. Hoffman, Forensic Pathologist, who serves
9 the State of Oklahoma?

10 A Yes, sir, I was.

11 Q Did you have an occasion to see any or all of these
12 people on that date?

13 A Yes, sir, I did.

14 Q Tell His Honor where and when you saw these people?

15 A At the Medical Examiner's Office on 41st Street in
16 Tulsa, Oklahoma, at approximately 1:30 in the afternoon of
17 June 13th, 1977.

18 Q And do you know what the occasion was for you being
19 there then?

20 A Yes, I do.

21 Q What was that, please?

22 A To assist in the examination of evidence on the
23 three subjects at the morgue.

24 Q Now, Mr. Boyd, did you personally assist in taking
25 possession of any property during the processing of those

1 young children?

2 A Yes, I did.

3 Q Mr. Boyd, I'll hand you, sir, what has been marked
4 for purposes of identification as State's Exhibit No. 4, and
5 ask that you examine that item of clothing, please.

6 A Yes, it's a pajama top I received on June 13, 1977,
7 at the Medical Examiner's Office in Tulsa, Oklahoma.

8 Q Mr. Boyd, at the time you received this particular
9 item of clothing, was it in the same condition as it appears
10 right now?

11 A No, it was not.

12 Q Could you tell His Honor in what manner was it
13 different?

14 A When the pajama top was received, it had some black
15 duct tape across the front of it. It also had a three-strand
16 spiral cord attached to the front of it.

17 Q I'll hand you, sir, what has been marked for
18 purposes of identification as State's Exhibit No. 41, and
19 would you look at that item contained within the paper,
20 please?

21 A (Witness complies.) It appears to be the same
22 tape that was attached to the pajama top when I received it
23 on June 13, 1977.

24 Q That was there in the Medical Examiner's Office?

25 A Yes, sir, in Tulsa, Oklahoma.

1 MR. ISAACS: Object to the leading question.

2 THE COURT: Sustained.

3 MR. FALLIS: Well, I thought that's where we were.

4 Q You mentioned, sir, another items that you said
5 was attached at that time to the little girl's pajama top,
6 and what was on the tape? What item was that again, please?

7 A It was a three-spiral cord - cotton cord, that
8 was attached to the pajama top.

9 Q Do you recall how it was attached to the pajama
10 top, please?

11 A It was taped to the pajama top with black tape.

12 Q I'll hand you what has been marked as State's
13 Exhibit 42 for identification purposes only and first of
14 all, do you recognize the contents of the envelope?

15 A Yes, it's the same cord that was attached to
16 the pajama top by tape at the Medical Examiner's Office in
17 Tulsa, Oklahoma.

18 Q Mr. Boyd, I'll hand you what has been marked as
19 Exhibit No. 43, and observe it appears to be cloth in nature.
20 Could you examine that and tell the Court if you have seen
21 it before?

22 A Yes, sir, I saw it on June 13, 1977, at the
23 Medical Examiner's Office in Tulsa, Oklahoma. It was removed
24 from the subject Denise Milner - Doris Denise Milner.

25 Q Do you recall where, with relationship to the bottom

1 of the little girl - the body of the little girl that parti-
2 cular item was first observed by you?

3 A Yes, sir, it was around her neck.

4 MR. ISAACS: Mr. Fallis, what was that exhibit
5 number?

6 MR. FALLIS: No. 43.

7 Q And I'll hand you, sir, what has been marked as
8 State's Exhibit No. 44, an item contained in a plastic bag.
9 Do you recognize that particular item?

10 A Yes, this was also received by me on June 13, 1977,
11 at the Medical Examiner's Office in Tulsa, Oklahoma. This
12 was also around the neck of Doris Denise Milner.

13 Q Mr. Boyd, could you open that package and tell
14 the Court if that item is in the same condition as it was
15 when you first observed it on the 13th day of June, 1977?

16 A No, it is not.

17 Q Could you explain to His Honor how it appeared
18 different to you today than it was the day of June 13, 1977?

19 A The day it was removed on June 13, 1977, the terry
20 towel was rolled in a cylinder and a green thread had laced
21 this up with this cord through the center of it.

22 Q Thank you, sir.

23 THE COURT: Is the cord part of that exhibit?

24 MR. FALLIS: It has been marked with it inside the
25 bag, as Exhibit No. 44, Your Honor.

1 THE COURT: All right.

2 MR. ISAACS: Before you fasten that back up,
3 could I look at that, Mr. Fallis?

4 MR. FALLIS: You may. May I proceed, Your Honor?

5 THE COURT: Go ahead, Mr. Fallis.

6 Q I'll hand you what has been marked for identifi-
7 cation purposes as State's Exhibit No. 45. Do you recognize
8 that particular item, Mr. Boyd?

9 A Yes, this is a sample of a hair attached to the
10 pajama top which I received on June 12, 1977, at the
11 Medical Examiner's Office in Tulsa, Oklahoma, which was
12 marked Milner.

13 Q Now, Mr. Boyd, all of these items, beginning with
14 State's Exhibit No. 40, the pajama top through State's
15 Exhibit No. 45, the hair that you have identified as being
16 recovered at the Medical Examiner's Office, what did you do
17 with these items?

18 A They were collected there in the Medical Examiner's
19 Office and I returned them back to my office in Oklahoma City,
20 the Oklahoma State Bureau of Investigation.

21 Q You took them back there?

22 A Yes, by vehicle.

23 Q All right, sir. Did you observe or see any other
24 items that were collected by you from the body of the little
25 Milner girl?

1 A Yes, some tape. It was removed from around her
2 wrists and also another length of three-strand cord.

3 Q Now, concerning the tape that was removed from
4 around her wrist, were you present when the removal took
5 place?

6 A Yes, I was there.

7 Q Do you recall and can you explain for the Court
8 how you recall the removal of the tape occurring?

9 A Yes. Dr. Neal Hoffman of the Medical Examiner's
10 Office cut the tape from the wrist and also the cord and
11 it was placed in a brown paper sack.

12 Q Excuse me, you say he cut the tape and the cord?

13 A He cut the tape and the cord from --

14 Q You are saying both tape and cord around her wrist?

15 MR. ISAACS: Object. Leading question.

16 THE COURT: Overruled.

17 Q Is that correct, Mr. Boyd?

18 A That's true.

19 Q And do you recall the order of the tape and the
20 cord; that is, can you say the tape was on top of the cord
21 or was the cord on top of the tape - if you remember?

22 A As well as I remember, the cord was over the tape.
23 I'm sorry - the cord was placed on the wrist and the tape
24 was over the cord.

25 Q Tape had been placed over the cord?

1 A Right.

2 Q I'll hand you what's been marked for purposes of
3 identification as State's Exhibit No. 46. Again, an object
4 contained within a waxed paper container. Could you examine
5 that just a minute, please.

6 A (Witness complies.) Yes, this is the same tape
7 that was removed by Dr. Neal Hoffman and given to me on
8 June 13, 1977.

9 Q The tape you have testified about being over the
10 cord on the girl's hand?

11 A Yes, sir, off the Milner girl's hand, yes.

12 Q All right, sir. And State's Exhibit No. 47, sir,
13 do you recognize that item that's been marked?

14 A Yes, this was the cord that was placed on Doris
15 Denise Milner's hand, cut by Dr. Hoffman of the Medical
16 Examiner's Office in Tulsa, Oklahoma, and released to me
17 on June 13, 1977.

18 Q Now, sir, I'll hand you an envelope which has
19 been marked for purposes of identification as State's Exhibit
20 No. 48. Reference only the envelope. Do you recognize that
21 particular item?

22 A Yes, this is the envelope that I placed a hair
23 in on June 14th, 1977, that was removed from the tape - from
24 the inner surface of the tape. One tape had been taped
25 around the hand and the other tape was on top of it and one

1 piece of hair or three pieces of hair was taken off that
2 tape and placed in here.

3 Q Well, as I understand it, you say it was between
4 two pieces of tape?

5 A Right.

6 Q When you say "piece of tape", are you referring
7 to what you just identified, the tape from the hand area of
8 Doris Denise Milner or the tape that was on the pajama top
9 area?

10 A I'm sorry. The hair was removed from the tape
11 from the hands of the Milner girl.

12 MR. FALLIS: If it please the Court, for the pur-
13 pose of the record, I might advise although this particular
14 envelope is at this time sealed, we are offering only - or
15 having identified only the envelope itself, the contents
16 had been prepared - the contents of that envelope had been
17 prepared and would be in a later portion of this chain of
18 evidence on that particular item.

19 THE COURT: What is the exhibit number on the en-
20 velope?

21 MR. FALLIS: No. 48, Your Honor.

22 THE COURT: So what he described as the hair
23 removed from the tape is actually in the envelope?

24 MR. FALLIS: He described the envelope in which he
25 placed the hair.

1 THE COURT: So 48 is only the envelope?

2 MR. FALLIS: Yes, Your Honor.

3 THE COURT: I understand.

4 Q (By Mr. Fallis) Now, Mr. Boyd, concerning these
5 exhibits that you have just identified as State's Exhibits
6 45, 46, 47, 48, what did you do with those items, please,
7 sir, after you had recovered them there at the Medical
8 Examiner's Office?

9 A As I stated, they were returned back to the Okla-
10 homa City Office on June 13, 1977. On June 14th, I examined
11 them for the hair, removed the hair. On June 21st, 1977,
12 these items were given to OSBI Chemist, Dennis Reimer.

13 MR. FALLIS: If it please the Court, we would
14 reserve offer on these items at this time. They have been
15 marked and we have no further questions of this witness.

16 THE COURT: Cross examine?

17 MR. ISAACS: Can we have a moment to look at the
18 evidence?

19 CROSS EXAMINATION

20 BY MR. ISAACS:

21 Q Mr. Boyd, I'll hand you State's Exhibit No. 44
22 for identification. Can you notice anything peculiar about
23 the knots tied in that rope?

24 A No, sir.

25 Q What kind of knot is it?

1 A Just a regular knot.

2 Q That's not unusual at all, is it? I hand you
3 State's Exhibit 47, and direct your attention to the knot
4 nearest the -- if I could, the lefthand knot. Can you tell
5 me what type of knot that is?

6 A I'm not sure. It appears to be a slip knot of
7 some sort but I'm not sure.

8 Q Mr. Boyd, directing your attention to the right
9 hand knot on State's Exhibit 47, can you tell me what type
10 of knot that is?

11 A It appears to be the same size knot on either end
12 of it.

13 Q Do you know the name of either one of those knots?

14 A No, I do not.

15 Q I'll hand you the cord which was in the envelope
16 bearing identification State's Exhibit 42. Can you tell me
17 what type of knot is in the righthand part of that rope?

18 A It appears to be similar.

19 Q Do each of those knots on all of those cords that
20 have knots in them at this time appear to be the same type
21 of knot?

22 A Similar in nature, yes, sir.

23 Q Have you in the past, Mr. Boyd, investigated
24 crimes involving strangulation by cord or ligatures?

25 A Yes.

1 Q Have you in the past investigated crimes where
2 this particular type of knot was used in a rope?

3 A This is not my line of investigation on knots, so
4 I couldn't say.

5 Q Thank you for being candid. You testified earlier
6 that the towel, State's Exhibit, I believe it's 45 -- excuse
7 me, 44 for identification had been altered since the time it
8 was removed from the body, and I believe you said that at
9 the time it was removed that the cord was sewed into the
10 towel some way?

11 A Yes, it was.

12 Q Would you describe more fully how that cord was
13 fixed into that towel?

14 A It appears this towel had been rolled and a cord
15 was in the center of the towel, and it came out in the center
16 of the towel and had been stitched closed by a green thread.
17 This cord here was going through the center of the towel.

18 Q Mr. Boyd, when you first saw that towel and that
19 cord, was that towel in the mouth of one of the victims or
20 around the neck?

21 A It was below the mouth in an area right under the
22 chin.

23 Q Did it appear to have been in the mouth at one
24 time?

25 A It possibly could have.

1 Q In your past experience as an expert witness, have
2 you, in the past, investigated homicides where that particu-
3 lar type of device was used as a gag?

4 A Not to my knowledge, no, sir.

5 Q Have you ever investigated homicides in the past
6 where that particular type of device was used as a strangu-
7 lation device?

8 A Not to my knowledge.

9 Q Your particular line is fingerprinting; is that
10 correct?

11 A Yes, sir, it is.

12 Q Is there any particular name for that type of
13 cotton cord that we have there?

14 A All I know, it's three-strand spiral cotton cord.

15 Q Did you make any technical investigation of any
16 of that evidence offered -- not offered, but identified at
17 this time?

18 A Investigation of the cord.

19 Q Any technical investigation of any of the evidence
20 on that table?

21 A On the tape we removed from the hands, I separated
22 and tried to determine if there were any fingerprints on the
23 tape, at which time I located a hair between one wrap of tape
24 and another wrap of tape on top of it.

25 Q Was that hair later analyzed by a technician, to

1 determine a particular race?

2 A This hair was given to Dennis Reimer, our chemist,
3 on June 21st, 1977. I did not analyze the hair, no, sir.

4 Q Did you find any fingerprints on any of the tape?

5 A The only print that was on the tape was the print
6 of the Milner girl's left palm, I believe. It was left or
7 right, I don't remember the palm at this time.

8 Q And that's the only print?

9 A The only print that was found on the tape, yes.

10 Q Did you make a technical report concerning that
11 finding?

12 A Not on that finding, just the verbal report, the
13 fact it was eliminated, that it belonged to the young lady.
14 There was no reason to report it.

15 Q In the course of your investigation, did you attempt
16 to, by some means, ascertain the type of thread that was used
17 to sew that cord into the towel?

18 A I did not.

19 Q Did anyone do that, to your knowledge?

20 A Possibly, but not to my knowledge.

21 Q Have you told me everything you did in reference
22 to this investigation on June 13th?

23 A Yes, sir, I believe I have.

24 Q On June 14th, what did you do in reference to the
25 matters at Camp Scott?

1 A On June 14th?

2 Q Yes, sir.

3 MR. FALLIS: Excuse me, Your Honor. I would object
4 if he's placed at Camp Scott as being outside the scope of
5 direct examination. We don't want to belabor this matter.

6 THE COURT: I believe on direct examination, he
7 stated he examined the items on the 14th. I believe that
8 was --

9 MR. FALLIS: Yes, sir, back in Oklahoma City. If
10 the question was meant to place him at Camp Scott on the
11 14th, we would object.

12 THE COURT: Sustained.

13 Q Did you examine those items of evidence in Okla-
14 homa City on the 14th?

15 A Yes, sir, I did.

16 Q And for what purpose?

17 A To determine if there was any evidence of value
18 such as fingerprints or hair such as this, any type of
19 evidence.

20 Q Is that all you did with reference to those items?

21 A That's all, yes.

22 Q What did you do after you had examined them?

23 A They were stored there until the 21st of June and
24 then they were released to Mr. Reimer, our chemist.

25 Q Mr. Boyd, did you compare the ends of tape that

1 were found on the bodies of the little girls?

2 A I did not, no, sir.

3 Q Well, it appears that's all the same type of tape?

4 A Yes.

5 Q Has anybody found that tape didn't come from the
6 roll that we have here?

7 A I'm not sure, sir.

8 Q Is there any way we can find out about that?

9 A This tape was given to Dennis Reimer and what he
10 did with it after that, I don't know.

11 Q Was there any masking tape on any of the little
12 girls?

13 A Not that I recall, no, sir.

14 Q On the 21st, you released those items of evidence
15 to Mr. Reimer; is that correct?

16 A That's correct, yes, sir.

17 Q Is that the only thing you have done with reference
18 to the investigation at Camp Scott?

19 A Yes, sir, that's all.

20 Q Have you told me everything you know about this
21 case?

22 A To my knowledge, yes, sir.

23 Q Have you interviewed any witnesses?

24 A No, sir, I have not.

25 MR. ISAACS: Just a second, Judge.

1 Q Did you make any comparisons on any of the hairs
2 found in the tape?

3 A No, sir, I did not make any comparison.

4 MR. ISAACS: That's all I have of this witness,
5 Your Honor.

6 THE COURT: Any redirect?

7 MR. FALLIS: Just one question, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. FALLIS:

10 Q Mr. Boyd, you mentioned a fingerprint that you
11 identified as being from the little Milner girl on part of
12 the tape?

13 A Yes.

14 Q All right, sir, was the tape from the pajama area
15 or from the hand area?

16 A This was tape that was cut from the hand area.
17 The tape was cut and placed - Dr. Hoffman placed this in a
18 paper bag and whenever I examined it, the indentation was
19 there and I wanted to make sure it was the same print belong-
20 ing to the young lady and it was identified as belonging to
21 her.

22 MR. FALLIS: Thank you. No further questions.

23 THE COURT: Any cross examination on this?

24 MR. ISAACS: Nothing.

25 MR. WISE: Is he finally excused, Your Honor? We

1 would so request.

2 THE COURT: Is that all right with you, Mr. Issacs?

3 MR. ISAACS: Yes.

4 (WHEREUPON, the witness was excused and withdrew
5 from the hearing room.)

6 MR. WISE: If it please the Court, State would
7 next call Mr. Dennis Reimer.

8 MR. ISAACS: Judge, can we take a short recess in
9 anticipation of a long cross examination?

10 THE COURT: Let's take about a five minute recess.
11 This will be the last recess before we adjourn today.

12 (Following a five minute recess, proceedings
13 continued as follows:)

14 THE COURT: Call your next witness.

15 MR. WISE: State would next call Mr. Dennis Reimer.

16 THE COURT: Would you raise your right hand. Do
17 you swear to tell the truth, the whole truth and nothing but
18 the truth, so help you God?

19 THE WITNESS: I do.

20 DENNIS WAYNE REIMER,

21 called as a witness on behalf of the State, having been first
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. WISE:

25 Q Mr. Reimer, would you state your full name to the

1 Court and the record, please?

2 A Dennis Wayne Reimer.

3 Q What is your business or profession, sir?

4 A I'm employed by the Oklahoma State Bureau of
5 Investigation as a Forensic Chemist.

6 Q Mr. Reimer, were you so employed on the 13th day
7 of June, 1977?

8 A Yes, I was.

9 Q And on that date, did you have an occasion to
10 respond to a request at the State Medical Examiner's Office
11 in Tulsa?

12 A Yes, I did.

13 Q Do you recall approximately what time you may have
14 arrived at that location?

15 A At around noon on that day.

16 Q All right, sir, and were you there when examination
17 and autopsies were performed on the three victims of this
18 crime?

19 A Yes, sir.

20 Q And did you stay until that was completed?

21 A Yes, sir.

22 Q And as a result of your obligation there, did you
23 then take from the Medical Examiner or receive from -- I
24 shouldn't say take -- receive from the Medical Examiner
25 certain items of evidence?

1 A Yes, sir.

2 Q Did you receive from the Medical Examiner the swabs
3 that were taken in the progress of his examination?

4 A Yes, sir.

5 Q Did you receive the blood samples that were taken
6 during the course of his examination?

7 A Yes, sir.

8 Q Did you receive the swabs, both vaginal, anal and
9 oral from each of these victims?

10 A Yes, I did.

11 Q Did you also receive the smears that were made
12 from those swabs, both vaginal, anal and oral of the three
13 victims?

14 A Yes, sir, I did.

15 Q At my request, have you brought those with you
16 to this courtroom today?

17 A Yes, sir.

18 Q Would you produce them, please?

19 A (Witness complies.)

20 Q Now, let's stop right there for a moment, Mr.
21 Reimer, for simplicity. You have laid out three boxes here.

22 A These are boxes which contain the slides when I
23 received them on that day.

24 Q Would those be called the smear and those the
25 smears taken by Dr. Hoffman?

1 A Yes.

2 Q I'm now marking as State's Exhibit 49, 50 and 51,
3 for the record. Would you look at each of those and tell
4 us from which victim is 49?

5 A State's Exhibit 49 is a box which contains slides
6 from Doris Milner.

7 Q And 50?

8 A State's Exhibit 50, is a box which contains the
9 slides from Lori Farmer.

10 Q And 51, please?

11 A 51, is a box containing slides from Michele Guse.

12 Q Can you positively identify each of these exhibits?

13 A Yes, sir.

14 Q Would you show us how you make that identification?

15 A I have written on all three of them. I say
16 "Received at Tulsa at M. D.'s Office." My initials are on
17 it, the date and I have written "Slide smears" on each box.

18 THE COURT: Excuse me, Mr. Wise. I can't tell
19 whether the witness is saying "swabs" or "slides".

20 MR. WISE: Slides, excuse me, Your Honor.

21 Q What date is that, please, Mr. Reimer?

22 A 6-13-77.

23 Q Now, if you will take those and set those to one
24 side. Will you withdraw now the blood -- why don't we go
25 now to the blood vials. Let me put a marker on each of those

1 and I'll hand those back to you. Now, I'll ask you what has
2 been marked as State's Exhibit 52?

3 A State's Exhibit 52 is a glass vial which contains
4 the blood from Lori Farmer.

5 Q And State's Exhibit 53?

6 A Was the glass vial containing the blood from Doris
7 Milner.

8 Q And State's Exhibit 54?

9 A State's Exhibit 54 is a glass vial which contains
10 the blood from Michele Guse.

11 Q Can you positively identify each of those items?

12 A Yes, sir, my initials are on them.

13 Q Did you receive those at the same time and under
14 the same conditions as you have previously testified?

15 A Yes, sir.

16 Q Now, will you produce the swabs, please?

17 A (Witness complies).

18 Q Now, Mr. Reimer, I am going to hand you what has
19 been marked for identification purposes only as State's
20 Exhibit 55, and to ask, what is that, sir?

21 A It's a white envelope which contains the anal
22 swabs from Michelle Guse, which I received at the Medical
23 Examiner's Office.

24 Q All right, sir. You are going to have to speak up
25 a little more distinctly. State's Exhibit 56?

1 A State's Exhibit 56 is a white envelope which
2 contained oral swabs from Michelle Guse, I received at the
3 Medical Examiner's Office.

4 Q State's Exhibit marked 57?

5 A State's Exhibit 57 is a white envelope containing
6 anal swabs from Doris Milner. I received at the Medical
7 Examiner's Office.

8 Q Exhibit 58?

9 A State's Exhibit 58 is a white envelope containing
10 the vaginal swabs from Doris Milner, I received from the
11 Tulsa Medical Examiner's Office.

12 Q State's Exhibit 59?

13 A State's Exhibit 59 is a white envelope containing
14 oral swabs from Doris Milner, I received at the Medical
15 Examiner's Office.

16 Q State's Exhibit marked 60?

17 A State's Exhibit 60 is a white envelope containing
18 vaginal swabs from Lori Farmer. I received at the Medical
19 Examiner's Office.

20 Q State's Exhibit 61?

21 A State's Exhibit 61 is a white envelope containing
22 the oral swabs from Lori Farmer, which I received at the
23 Medical Examiner's Office.

24 Q State's Exhibit 62?

25 A State's Exhibit 62 is a white envelope containing

1 the anal swabs of Lori Farmer, I received at the Medical
2 Examiner's Office.

3 Q And State's Exhibit 63?

4 A And State's Exhibit 63 is a white envelope con-
5 taining vaginal swabs from Michelle Guse, which I received
6 at the Tulsa County -- Tulsa Medical Examiner's Office.

7 Q Now, Mr. Reimer, I will ask you, having received
8 those, and I understand from your testimony they were all
9 received on June 13, 1976?

10 A Yes, sir.

11 Q And what did you do with those items that you
12 enumerated when you took those into your custody?

13 A I transported them to the Tahlequah Laboratory
14 later that night.

15 Q Excuse me -- I had the wrong year, '77 -- June 13th
16 of '77?

17 A Yes, sir.

18 Q You transported them to where, please?

19 A Laboratory in Tahlequah.

20 Q Thereafter, where did you take them?

21 A On June 20, 1977, I then transported them to
22 Oklahoma City.

23 Q To the State Laboratory in Oklahoma City?

24 A Yes, sir.

25 Q And you brought them from that laboratory to here

1 today?

2 A I received them again in your office today.

3 Q From the laboratory?

4 A Yes, sir.

5 Q Now I am going to hand you what has been previously
6 marked as State's Exhibit No. 39, which has been marked for
7 identification purposes only and has previously been des-
8 cribed as a piece of green plastic. Do you recognize that,
9 sir?

10 A I recognize the container.

11 Q And how do you make that recognition?

12 A There are writings on here when I received this
13 container and when I transferred it.

14 Q When did you receive it?

15 A I received it on June 21st, 1977, from Larry
16 Mullins.

17 Q When did you relinquish it?

18 A I transferred it to Ronnie Clodfelter on June 29th,
19 1977.

20 Q Clodfelter?

21 A Yes.

22 Q Now, is he a member of the Oklahoma State Bureau
23 of Investigation also?

24 A One of the members of the Forensic Laboratory,
25 yes, sir.

1 Q All right, sir, I hand you what has been previously
2 marked as State's Exhibit 37, and make the same inquiry.

3 Can you identify that, sir?

4 A Yes, I can.

5 Q How do you make that identification?

6 A It's the envelope which I received on June the
7 21st, 1977, and transferred.

8 Q Who did you receive it from, if you know?

9 A I don't recall.

10 Q All right, sir.

11 A I received it from the secretary who works at the
12 Bureau in Oklahoma City.

13 Q So you received the evidence from evidence vault;
14 is that correct?

15 A It was transferred from someplace to my custody.

16 Q When did you relinquish it?

17 A I transferred it to Ronnie Clodfelter on June 29th,
18 1977.

19 Q So, again, the same gentleman we spoke of before
20 with the other piece of evidence?

21 A Yes, sir.

22 Q Now, you have previously testified, Mr. Reimer,
23 that you were present throughout the entirety of the autopsy;
24 is that correct?

25 A Yes, sir.

1 Q And did you see various items removed by Dr.
2 Hoffman from the form of Denise Milner?

3 A Yes, sir.

4 Q Would you tell us what some of those consisted
5 of, please?

6 A It was a pajama top, or a shirt, which was covered
7 with tape and small pieces of cord and other material.

8 Q All right, sir. Did you thereafter take those
9 items into your custody?

10 A I received them briefly.

11 Q From the Medical Examiner's Office?

12 A Yes, sir.

13 Q And where did you transport them to, please?

14 A I simply marked the sacks which they were dropped
15 into and I gave custody of that sack to Paul Boyd.

16 Q So that was simultaneously with Mr. Boyd's handling
17 of it?

18 A Yes, sir, it is.

19 Q And is that true of the ligature and other items
20 which were taken at that time?

21 A It was all one item at that time. It was simply
22 placed in a sack.

23 Q All right, sir, and your initialling on that sack
24 is only to say that your acknowledgement of that happening
25 in your presence?

1 A I gave that item a number at that time.

2 Q All right, is that true of the ligature that was
3 removed?

4 A I had that ligature. I removed the ligature
5 from part of the shirt and tape at a later date.

6 Q All right, sir. Now, what is State's Exhibit 47,
7 I believe?

8 A Yes.

9 Q Have you had an occasion to have that in your cus-
10 tody?

11 A Yes, I did have this in my custody.

12 Q How do you make that determination?

13 A It was removed from an item which I received from
14 Paul Boyd in Oklahoma City on June 21st, 1977.

15 Q All right. I'll hand you what has been marked
16 as State's Exhibit No. 42. Have you had an occasion to
17 handle that?

18 A Yes, I have.

19 Q Will you tell the circumstances of that?

20 A I removed this cord from the shirt on June 29, 1977,
21 after I had received custody of that again.

22 Q From Paul Boyd?

23 A From Paul Boyd.

24 Q All right, sir. I hand you what has been previous-
25 ly marked as State's Exhibit 44, and make the same inquiry

1 of you?

2 A This item was originally attached to the shirt.
3 I don't know who removed it but I received custody of this
4 item again on June 16th, 1977, at Camp Scott.

5 Q All right, and then what did you do with it, sir?

6 A I transported it to the laboratory at Tahlequah.
7 And on the 20th, I transported it to the laboratory in Okla-
8 homa City.

9 Q To the State Headquarters, into the evidence
10 locker?

11 A Yes, sir.

12 Q And what has been marked as State's Exhibit 45,
13 did you have an occasion to transport and handle that?

14 A I received this from Paul Boyd on the 21st day of
15 June, 1977, and placed it in the evidence storage area in
16 the laboratory in Oklahoma City.

17 Q State's Exhibit 43, have you had an occasion to
18 transport or handle that?

19 A I received this from Paul Boyd in Oklahoma City
20 on June 21st, 1977, and placed it into the evidence storage
21 area on that day.

22 Q All right, sir, State's Exhibit 46?

23 A This I received from Paul Boyd on the 21st of
24 June, 1977, and placed it in the evidence storage area at
25 Oklahoma City.

1 THE COURT: Was that No. 48?

2 MR. WISE: That was 48, Your Honor.

3 Q This is marked as State's Exhibit 46?

4 A I can't locate any of my markings on this parti-
5 cular exhibit.

6 Q You didn't handle that. I'll hand you what has
7 been previously marked as State's Exhibit 41. Would you
8 examine that, please, and see if you had an occasion to have
9 that in your custody, sir?

10 A This is a piece of tape which I witnessed removed
11 from the shirt on March 6th of this year.

12 Q All right, sir. What did you do after it came
13 into your custody?

14 A It was given to Ron Clodfelter on that same date.

15 Q Ron Clodfelter?

16 A Ron Clodfelter.

17 Q All right, sir, fine.

18 MR. WISE: That was No. 41, Your Honor. Your wit-
19 ness, counselor.

20 MR. ISAACS: Do you want to start now, Judge, or
21 do you want to recess?

22 THE COURT: Is there any problem with Mr. Reimer
23 coming back for cross examination?

24 A (By Mr. Reimer) No, sir.

25 THE COURT: Do you anticipate it will be extensive?

1 MR. ISAACS: Oh, longer than twenty minutes, I'd
2 say, more like an hour.

3 THE COURT: Why don't we recess at this point then
4 until Monday morning. I want to make one announcement and
5 that is in regard to Courtroom B. I am advised that that
6 room in the Graham Community Center will be used for some
7 other purpose, so no items of personal property should be
8 left there by anyone.

9 The hearing will resume Monday morning at 9:45
10 a. m., with the cross examination of Chemist Reimer. The
11 Defendant is placed in the custody of the Mayes County
12 Sheriff until that time.

13 MR. ISAACS: Judge, one more matter. I'd like
14 an Order from the Court that Sheriff Weaver give me the
15 underwear that I brought to Gene Leroy Hart. I brought him
16 some clean underwear and when he came over here, they took
17 it out of his cell and we brought him some clean clothes
18 and the clothes they took off of him. We'd like to have
19 an Order from the Court that these clothes that he was
20 wearing, they can take anything out of there they want to,
21 but the clothes that we bring him to wear, we'd like for
22 him to be able to wear them to court, especially the clean
23 underwear.

24 THE COURT: I wasn't aware -- is Sheriff Weaver
25 here?

1 MR. WISE: Here's Sheriff Weaver, Your Honor.

2 THE COURT: Sheriff, there's been some question
3 about some clean clothing brought for Mr. Hart that he'd
4 like to wear. Do you know anything about that?

5 SHERIFF WEAVER: Only from his family. He received
6 clothes from his family yesterday or the day before.

7 THE COURT: Did you know anything about any clean
8 clothes that have been taken from him?

9 MR. ISAACS: A pair of size 32 underwear, shorts
10 -- undershorts?

11 THE COURT: Would you check into it, Sheriff,
12 please?

13 SHERIFF WEAVER: Yes.

14 MR. ISAACS: Judge, I'd like to also have back
15 the uniform - the clothes that he was wearing when he came
16 here from the penitentiary. The people at the penitentiary
17 that because every time they bring him up here, he loses the
18 clothes he's wearing when he comes up.

19 THE COURT: Sheriff, would you check into that,
20 please?

21 SHERIFF WEAVER: Yes.

22 THE COURT: We are adjourned.

23 (WHEREUPON, the cause in hearing was recessed until
24 9:45 a. m., June 12, 1978.)

25