

STATE OF MICHIGAN

WASHTENAW COUNTY CIRCUIT COURT

In The Matter Of:

People v. Gary Leiterman

File No. 04-2017-FC

CRIMINAL JURY TRIAL CONTINUED

BEFORE HONORABLE DONALD E. SHELTON, JUDGE

Ann Arbor, Michigan-Tuesday, July 12, 2005

APPEARANCES:

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Ann Arbor, Michigan

Tuesday, July 12, 2005 at 8:01 a.m.

THE COURT CLERK: People v. Gary Earl Leiterman,  
case number 05-017.

MR. HILLER: Good morning, your Honor, Steven  
Hiller for the People.

MR. GABRY: Good morning, your Honor, Gary Gabry  
here with Mr. Leiterman.

THE COURT: Are you ready to proceed?

MR. HILLER: Yes, your Honor. I do have a matter  
that we think should be brought to the Court's attention.  
It came to my attention yesterday that a member of the  
Mixer family was not present during Jury selection and I  
think it Juror , the aquantinance is he is the Pioneer High  
School wrestling Coach, and the juror has or had a son on  
the wrestling team. She though there was some recognition  
on his part.

THE COURT: Thought there was?

MR. HILLER: She thought there was, yes.

THE COURT: And what is her name?

MS. GILBERT: Christie Gilbert.

MR. HILLER: Christie Gilbert.

THE COURT: That is you, ma'am?

MS. GILBERT: Yes.

THE COURT: What is your husbands name?

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MS. GILBERT: John (INAUDIBLE)

THE COURT: What's the boys name?

MS. GILBERT: (INAUDIBLE)

THE COURT: It's--who--

MS. GILBERT: But, they no longer wrestle on that team. (INAUDIABLE)

THE COURT: What's your position counsel? What do you want to do?

MR. HILLER: Your Honor, I think in light of the parent recognition between the parties, I would like the Court to inquire as to whether Mr. Phelps feels that he would be able to render a fair and partial verdict, if in fact, he is appointed.

THE COURT: All right. Bring him in. Mr. Phelps please have a seat there if you would. I have a couple of questions for you. Did you have some sons that were wrestlers?

MR. PHELPS: Yes, sir.

THE COURT: Did you--do you know any members of the Mixer family?

MR. PHELPS: Not that I know of.

THE COURT: Okay. All right. Do you--how old are your boys?

MR. PHELPS: I have four boys.

THE COURT: Okay, and what are their names?

1 MR. PHELPS: Dan, Kurt, Eric and Kevin.

2 THE COURT: And as far as you know, you don't know  
3 any members of the--of the Mixer family or their relatives?

4 MR. PHELPS: No.

5 THE COURT: Okay. It's going to be just a moment.  
6 Counsel. Thank you , Mr. Phelps. Something came up and I--I  
7 wanted to--why don't you keep your seat and we will bring  
8 the rest of the jury.

9 THE LEGAL CLERK: All rise for the jury, please.

10 THE COURT: Be seated. Good morning ladies and  
11 gentleman. We are now going to proceed with the opening  
12 statements of the attorneys. We are going to begin with the  
13 prosecutor.

14 MR. HILLER: Thank you, your Honor. Good morning  
15 Mr. Gabry, ladies and gentleman. What I am going to try to  
16 do for you in the next several minutes is give you an over  
17 view--a brief overview of what I expect to be able to  
18 prove to you during the course of the trial. What the  
19 evidence is going to show to you. Now, the Judge told you  
20 yesterday that an opening statement is not evidence.  
21 Nothing the attorney's say to you during the course of the  
22 trial is evidence. Certainly that's true. Evidence is the  
23 testimony that's given from the witness stand and the  
24 exhibits, the physical things, in this case there will be  
25 exhibits as well as photographs admitted during the course

1 of the trial. Those things, the testimony and the physical  
2 objects--photographs, are the evidence. If you think about  
3 those things as being the pieces of a jigsaw puzzle, our  
4 job is to assemble that to come up with a picture of what  
5 happened in March of 1969. The purpose of an opening  
6 statement is the top of a jigsaw puzzle box. It gives you  
7 an idea of what to look for and how to fit those pieces  
8 together, so you have some idea, while you are listening to  
9 the evidence, of what it is we expect to be able to prove.  
10 I think that it is helpful, at this point, to not only give  
11 you an idea of what it is I expect to be able to prove, but  
12 also to be able to give you a quick idea of what it is I  
13 have to prove in order for you to find the defendant  
14 guilty. Now, at the end of the trial, the Judge is going to  
15 give you psecific instruction on the elements of first and  
16 second degree murder. I want to, again, talk about that  
17 very breifly so that you have some idea going in about what  
18 it is I have to be able to prove. In order to prove the  
19 defendant guilty of murder, I have to prove, first of all  
20 that he killed Jane Mixer. I have to prove to you that he  
21 did that with one of several states of mind. Either that  
22 her intended to kill Jane Mixer or that he intended to do  
23 great bodily harm to Jane Mixer or that he knowingly  
24 created a very high risk of death or great bodily harm  
25 knowing that death or great bodily harm was likely to

1 result. If I prove those things to you beyond a reasonable  
2 doubt, then the defendant is guilty of second degree  
3 murder. If, on the other hand, I prove to you, and I submit  
4 that what we will prove to you is that the defendant killed  
5 Jane Mixer and that he did that with the intent to kill and  
6 he did it with premeditation and with deliberation. What  
7 that means is that he thought about his actions and chose  
8 his actions. I don't have to prove to you that he thought  
9 about it for a great long time, just long enough for him to  
10 have made a conscious decision to do what he did. If I prove  
11 those things to you with the evidence that satisfies you  
12 beyond a reasonable doubt then I've proven the defendant  
13 guilty of first degree premeditated murder. March 20, 1969,  
14 this was an exciting and probably a nervous time for Jane  
15 Louis Mixer. She was finishing her first year at the  
16 University of Michigan Law School. She and her boyfriend  
17 Phil Weisman had decided to marry. Jane had made  
18 arrangement through the use of a ride board and the  
19 University of Michigan Law School, she also put up a notice  
20 at the student union to get a ride to Muskegon to talk  
21 about her plans with her family. She had arranged for a  
22 ride home on the evening of March 20th with a man who had  
23 identified himself as David Johnson. Later, in the evening  
24 of March 20, 1969, Jane called a David Johnson who happened  
25 to live very close to the Law School. She ended up speaking

1 with his roommate, a man by the name of Joe Katulic. You  
2 will meet Joe Katulic and David Johnson this morning. The  
3 David Johnson of who she called. Joe Katulic told Jane  
4 Mixer that his roommate hadn't offered her a ride to  
5 Muskegon because he was doing a play that evening with the  
6 Gilbert and Sullivan Society on campus. She did not have  
7 the right David Johnson. Joe Katulic was the last person  
8 who was known to have talked to Jane Mixer. When she hadn't  
9 arrived home by late that evening, her father became quite  
10 concerned. He started calling Phil Weizman, started calling  
11 Jane's room and started calling the police. The next  
12 morning, March 21, 1969, about seven o'clock or so in the  
13 morning, a young man by the name of Mark Grow was leaving  
14 for school from his home on Cross Street in a small  
15 community called Denton, which is in Van Buren Township  
16 less than a mile outside of the Washtenaw County line, it's  
17 in Wayne County. As he headed for the school bus, he found  
18 in a field next to his house, a shopping bag. In the  
19 shopping bag was some article including a wrapped present.  
20 He picked the bag up, took it back to his house, gave it to  
21 his mother before he headed back off to the--to the school  
22 bus. As his mother looked through the bag and she saw  
23 something that caused her to become very concerned for her  
24 son's safety, because in the bag she found several spots of  
25 coagulated blood. She got into the car and she pulled out

1 of the driveway to go look for her some to make sure he was  
2 safe. As she pulled out of the driveway she looked across  
3 the street into the Denton Cemetary which was directly  
4 across from their house. It was there that she found Jane  
5 Mixer. Jane Louise Mixer died from two shout gun wombs to  
6 the head from a 22-caliber firearm. A women's stocking was  
7 wrapped twice around her neck and sinched tight and knoted.  
8 Detectives from the Michigan State Police and the State  
9 Police laboratory in Lansing came to the scene and  
10 processed it and collected evidence. They also went to the  
11 autopsy that was performed later that day and collected  
12 additional evidence. The evidence included a spot of blood  
13 scrapped off the back of Jane Mixer's left hand, clothing  
14 that she was wearing, the stocking that was tighed around  
15 her neck and what remained of the two bullets that ended  
16 her life. Those items were collected, they were taken to  
17 the State Police laboratory and they were processed to find  
18 what they could find in 1969. They were then stored by the  
19 State Police. You will learn that between July 1967 and  
20 July 1969, there were six other young women murdered and  
21 their bodies dumped in various places in the Ann Arbor  
22 area, and hte Jane Mixer's death was investigated as part  
23 of that bigger investigation. Eventually, a man was  
24 convicted on the last of those, but Jane Mixer's death  
25 remained unsolved until August of 2004. What changed in the

1 meantime was the development of science of DNA  
2 identification. Several years ago detectives --a new  
3 generation of detectives with the State Police took the  
4 stored evidence from this case out of the long-term  
5 evidence storage in Lansing and went through it and  
6 selected items to send to the laboratory. Items that they  
7 thought had a good possibility of resulting in DNA evidence  
8 being obtained. The laboratory scientist, Dr. Stephan  
9 Milligan, examined these articles and was able to find DNA  
10 profiles on several articles. He was able to get a DNA  
11 profile from a spot of blood and from several articles that  
12 were associated with Jane's body. The other thing that  
13 changed in the meantime was a development of something  
14 called COTIS, the Combined DNA Identification System. COTIS  
15 is a computerized data base of DAN profiles and what is  
16 allows law enforcement agencies to do, is to compare DNA  
17 profiled from a crime scene with known DNA profiles of  
18 offenders, and they do it quickly and efficiently. The  
19 State Police actually got two COTIS hits in this case. One  
20 from the spot of blood off the left hand, further testing  
21 confirmed that they belong to a man named John Ruelas. You  
22 will learn that John Ruelas is currently in prison for  
23 killing his mother in Jackson County. At the time that this  
24 crime occurred, he was four and a half years old. The  
25 reason why John Ruelas' blood is on Jane Mixer's hand has

1        been lost to it being three and a half decades. We know two  
2        things, we know that the DNA result showing John Ruelas'  
3        blood on her hand was not as a result of some kind of  
4        contamination. The State police scientist will explain to  
5        you how they know that is the case. We also know that a  
6        four and a half year old did not shoot Jane Mixer in the  
7        head twice, tied a stocking around her neck and drug her  
8        into the Denton Cemetery. There was a second COTIS hit in  
9        August of 2004. Sometime before that, the defendant, Gary  
10       Leiterman, had plead guilty in the Kalamazoo drug treatment  
11       court to a prescription fraud felony, and under State law a  
12       sample of his DNA was taken and put into the COTIS  
13       database. This COTIS database generated a notice that there  
14       was a hit, there was an association between a DNA profile  
15       from the evidence collected at Jane Mixer's homicide scene  
16       and the autopsy, and the defendants DNA. The State police,  
17       based upon this information, obtained a search warrant to  
18       take an additional known sample of Gary Leiterman's DNA,  
19       which was done and further testing confirmed that there was  
20       a DNA profile match between Gary Leiterman's DNA and the  
21       DNA found on the pantyhose that were worn by Jane Mixer,  
22       Dr. Milligan samples various areas of the pantyhose and  
23       places that he was able to visualize stains. It wasn't  
24       blood it wasn't semen. It was some kind of stain, one of  
25       the things laboratory scientists are looking for when they

1 are looking for DNA. You'll learn that DNA can come from  
2 blood, it can come from semen, but it is also in your skin  
3 cells and skin cells can be carried by saliva, by urine and  
4 they can be left if you rub something or touch something  
5 you can loose skin cells DNA. They couldn't tell what the  
6 stains were but they were able to find DNA of skins cells  
7 on different locations on the pantyhose. At these locations  
8 of the pantyhose--when they do DNA testing, the State  
9 Police for identification purposes, they check 13 genetic  
10 locations. They were able to develop profiles at all  
11 thirteen genetic locations at these three spots on the  
12 pantyhose the thirty-six year old evidence--thirty-five  
13 year old evidence at that time. There were 13 locations  
14 that they were able to devolpe complete locations on the  
15 pantyhose. The defendants profile matched all 13. You will  
16 hear testimony from Dr. Milligan that the statistical  
17 chance for a random match--what they do is, they calculate--  
18 the calculations that they use yeilds the various  
19 calculations of genetic information at each of those  
20 locations. You have statics that show the frequency in the  
21 populatoin that those alleal's appear. From that they are  
22 able to--by using statistical calculation they are able to  
23 determine two or three or all thirteen locations, they  
24 refer to them as loci. Dr. Milligan will tell you that the  
25 chance of a random person, from the Caucasian population

1 matching this profile in all 13 locations is smaller than 1  
2 in a 170 trillion. You will also learn some other things.  
3 One of the bullets--one of the bullets that killed Jane  
4 Mixer disintegrated, leaving only fragments and were  
5 recovered during the autopsy. The other one was badly  
6 damaged, but there was enough of the bullet left so that  
7 fire arms examiners could determine that it was a 22-  
8 callaber bullet and that is had markings of six lans and  
9 grooves. Now, those are markings that are left by the  
10 rifeling in the barrel of a firearm that projects--that  
11 gives spin to the bullet as it leaves the barrel to  
12 increase the accuracy, but those markings--those cuttings  
13 that they make into the barrel of the bullet--in the barrel  
14 of the gun, leave marks on the bullet. Those are called  
15 lans and grooves and we were able to determine that this  
16 bullet was fired from a gun with six lans and grooves. They  
17 couldn't determine whether it was twisted to the right or  
18 twisted to the left because the bullet was too badly  
19 damaged for that, but they could tell it had six lans and  
20 grooves. Now, there are hundreds of thousands of firearms  
21 in the United States that have six lans and grooves and  
22 that are 22-caliber. I wouldn't be able to prove to you  
23 that the defendant, at the time this homicide was  
24 committed, owned a firearm, a 22-caliber Ruger single six  
25 revolver. That was one of those firearms that and six lanns

1 and groves, and cannot be eliminated as the murder weapon.  
2 That gun is no longer available, it has not been found but  
3 we know we had it at the time and we know that it had  
4 rifeling characteristic consistent with the bullet that was  
5 removed from Jane Mixer's brain. You will also learn that  
6 the ligature from the stocking that was removed from Jane  
7 Mixer's neck at the autopsy was tested by the State Police  
8 laboratory for DNA. They found a lot of Jane Mixer's DNA on  
9 it, not surprisingly. They also found some male DNA, but  
10 there was so much of Jane Mixer's DNA that it seemed to be  
11 masking the male DNA that was recovered. There was not as  
12 much of the male DNA, there was a lot of Jane Mixer's. So,  
13 what was done, was that the DNA--what was done with the DNA  
14 that was extracted from the ligature, was sent to a private  
15 laboratory that does a special kind of testing that just  
16 looks at the male chromosome, it's called the YSTR testing.  
17 The YSTR testing that is done by the lab, called Bode  
18 technology was testing for 11 locations are the male  
19 chromosome. They were able to get a profile at eight of  
20 those genetic locations from the evidence that was submitted  
21 from the legature that was removed and the eleven profiles  
22 that they were able to develop eight out of the eleven  
23 profiles from that piece of evidence. They also tested the  
24 defendants DNA using the same process, just looking at the  
25 male chromosome, and he matched at all eight of those

1 locations. There will be other evidence, ladies and  
2 gentleman, that will be submitted during the course of the  
3 trial. Remember this is just an--an overview. The judge has  
4 asked you to keep an open mind and listen to the evidence  
5 carefully, and I ask you to do the same thing. At the end  
6 of the trial, when all of the evidence has been submitted,  
7 when you have everything before you, I submit to you that  
8 there will be sufficient evidence for you to believe  
9 beyond a reasonable doubt that the defendant, on the  
10 evening of March 20, 1969, or the morning of March 21,  
11 1969, put a gun to the head of Jane Mixer, shot her twice  
12 and ended her life. He wrapped a stocking around her neck  
13 after he had shot her, and he dragged her body into the  
14 Denton Cemetery. Placed her object around her. Covered her  
15 with her coat-- her rain coat and left her there. I will  
16 ask you at the end of this trial, to find the defendant  
17 guilty of first degree premeditated murder. Thank you.

18 THE COURT: Mr. Gabry, are you ready to proceed?

19 MR. GABRY: I am. Thank you, your Honor. If it  
20 please the Court. Mr. Hiller, good morning ladies and  
21 gentleman. There is no one in this courtroom that doesn't  
22 feel the loss and the pain of the Mixer family in the loss  
23 of their daughter. Mr. Hiller started out his opening  
24 statement talking to you about the elements. Outlining to  
25 you the difference between first and second degree murder.

1 Ladies and gentleman, when you hear the testimony, listen  
2 to the autopsy and view the pictures that I suspect Mr.  
3 Hiller will be presenting to you, there should be no  
4 question in your mind that Jane Mixer was murdered and that  
5 whoever did that, did it with premeditation and with  
6 deliberation. There were two bullets placed into her head.  
7 There was a stocking wrapped around her neck. This wasn't  
8 an accident. This wasn't some form of, I don't know, an  
9 unintentional act. This was an act of a cold blooded  
10 killer. This was not the act of Gary Leiterman. Thirty-six  
11 years you are being asked to go back in time to a different  
12 place, a different view of life, different attitudes. But  
13 to go back--we will take you back, Mr. Hiller will take you  
14 back to those thirty-six years when, for thirteen hours  
15 Jane Mixer was lost. Because, what we do know is that at  
16 6:30, there about, she talked to her boyfriend, Mr.  
17 Whitesman; dropped her off, spent some time with her and  
18 left her knowing what her plans were. Knowing that she was  
19 supposed to be picked up by this person. A person who  
20 identified himself as David Johnson. A person who responded  
21 to a note, apparently, and had made arrangement. We know  
22 that these were pre-arranged things because I believe you  
23 will hear from Ms. Mixer's dad, that she had called ahead  
24 of that day and informed them, that's why he was worried  
25 that she had arranged a ride, that she would be coming

1 home. Thirty-six years is a long, long time, and you're  
2 going to deal with hearing the testimony of some witnesses  
3 that go back to that and that have made be told certain  
4 things, don't recall certain things. We're going to try to  
5 show you as much as we can from that time, thirty-six years  
6 ago. When thirteen hours after, Phil Whitesman heard from  
7 his fiance', her body was discovered about five or six  
8 miles away, out in the country. Discovered under the  
9 circumstances that Mr. Hiller said, and then we had three  
10 detectives; Max Little, Ken Krouse and Ken Taylor from the  
11 Ypsilanti Post that began to do this investigation into  
12 unraveling those thirteen hours and it was an extensive  
13 investigation. An investigation that focused on  
14 fingerprints ballistics, firearms identification,  
15 handwriting, on a search for a car that a young man saw out  
16 there, in trying to put together these pieces of Jane  
17 Mixer's disappearance and the finding of her death. The  
18 dates of Ms. Mixer's body being discovered. The authorities  
19 found another young girl, I believe was Dawn Basom,  
20 thirteen years old, that was abducted from Ypsilanti and  
21 was found the next day. And that Ann Arbor experience and  
22 escalation of these deaths of young women through out that  
23 summer of 1969, while men walked on the moon, people were  
24 afraid to walk in Ann Arbor and it calumniated and the  
25 killings stopped when John Norman Collins was apprehended

1 for the murder of Karen Sue Bydamin. A murder that the  
2 authorities built their evidence around through testimony  
3 of witnesses and through scientific evidence available at  
4 that time, trace evidence, neutron analysis of fiber and  
5 hairs. What they learned, through that, was that John  
6 Norman Collins had taken care of Karen Sue Bydamin into his  
7 uncle, state troopers home. Into the basement, the laundry  
8 room, and killed her there and then dumped her body  
9 elsewhere. Then the killing stopped. Now, thirty-six years  
10 later, the prosecutor and the government, through a mass of  
11 resources, comes to you and says they solved the mystery.  
12 Look at that evidence and look at what I expect you to see  
13 from that evidence. That will be for you to determine. This  
14 was powerful. Based on what we know from C.S.I. and Law and  
15 Order why are we here at trial. Well you will find out in  
16 the course of the next few weeks why we are here. I 'd like  
17 to give you an overview, the other side of that point so  
18 that you have a more rounded appreciation why Gary  
19 Leiterman stands before you presumed innocent. Exercising  
20 his rights, your rights, all of our rights to remain silent  
21 and to hear the witnesses confront him with the evidence  
22 against him and to see if the evidence that is brought  
23 against him meet that standard that Mr. Hiller has to  
24 follow--has to meet to your satisfaction. That is proved  
25 beyond a reasonable doubt. A doubt based on reason. Looking

1 at that evidence in these three--with these three basic  
2 principals in mind. We cannot just say, well there's  
3 something that has been lost over time. The evidence is  
4 going to show that there has been a lot lost, ladies and  
5 gentleman. That's not anyone's fault. That's an expectation  
6 when someone decides to re-open old wounds and look at an  
7 old case. A lot of what you will hear is the movement of  
8 evidence and the gathering of evidence and tied together  
9 the evidence to get it to a place. I'm going to ask you to  
10 look at how that evidence was gathered. 2005, 1969--worlds  
11 apart. The difference in crime gathering techniques. A  
12 processing of a crime scene. Clearly the handling of a  
13 substance in 1969 that--that most detectives weren't even  
14 aware was going to be found in the future, that we had the  
15 ability to discover. How would that happen? How would that--  
16 how was this evidence gathered? What we do know is that  
17 one of the crucial things that Mr. Hiller refers to as lost  
18 in time, is some human blood. That under their theory of a  
19 case belongs to a five--four month eight year old boy  
20 (sic.) and there is was dropped on Jane Mixer's hand. What  
21 we do know, and what we will prove, is that DNA can come on  
22 to someone in a number of ways. Scientists can't tell you  
23 how the DNA got placed there. They can't tell you when it  
24 got placed there. We are dealing with DNA on articles, on  
25 transient, moveable articles. But one of them is a drop of

1 blood from a young boy. You're going to hear evidence of  
2 three different worlds--three totally different worlds.  
3 Gary Leiterman's world in 1969, that of a drug  
4 pharmaceutical representative. A job that he held--that he  
5 had gotten--that he had a couple years prior to this  
6 homicide, after returning from the service in the Navy  
7 during the--the war, while he was stationed, I believe in  
8 South America near Mexico. After graduation from high  
9 school he was living in his own home. He had roommates. He  
10 had friends, close friends. He hunted. He owned guns. He  
11 owned a Rooger single 6-22. He bought ammunition for those  
12 guns. He got involved in some activities. I think you will  
13 hear some testimony about him working towards him getting  
14 his high school reunion put together with some other  
15 people. Dated occasionally and went about his life. Jane  
16 Mixer's world was the University of Michigan, it's law  
17 school. The intense demands placed on any law student.  
18 Additional political work, community activities involving  
19 working with some law professors. World totally foreign to  
20 Gary Leiterman. And the third world, ladies and gentleman,  
21 the world of John David Ruelas. The world of the young boy  
22 that the prosecutor contends whose blood was found on Jane  
23 Mixers hand. That world was downtown Detroit, living with a  
24 mother and a step-sister in an abusive situation. His  
25 father had been murdered. He grew up to murder to his

1 mother. Three totally disconnected worlds. Suddenly, based  
2 on the evidence that the prosecutor brings before you,  
3 thirty-five years later, connected only by the discoveries  
4 of the Michigan State Police laboratory personnel in their  
5 investigations. You'll hear a lot about statistics. What  
6 you'll also hear is that John David Ruelas' DNA carried  
7 into the Michigan State Police Department Lab. as a result  
8 of killing his mother is physical evidence taken from that  
9 killing was there in that lab. DNA you'll hear testimony  
10 about, particularly as we now deal with it, is almost  
11 frightening as to its sensitivity. The evolution of the  
12 science in the past few years has been staggering, down to  
13 the fact that a few cells--a few human cells are copied,  
14 duplicated, xeroxed--I think is the term, to create enough  
15 DNA to do a profile. But that profile grows from just cells  
16 and the ability for contamination to occur is dangerously  
17 real. There in the lab, in 2002, Mr. Gary Leiterman's DNA  
18 from a swab taken by the police as a result of his drug  
19 addiction he experienced in his later life. John Rulass's  
20 DNA from clothing he wore and added at the same day,  
21 within--at least I understand, Jane Mixer's evidence is  
22 begun to be examined. There's difficulties here and the  
23 questions you have to answer are: well do we just blow off  
24 the lost boy? Do we disregard John David Ruelas' blood or  
25 the contamination and the fact that there was a problem in

1 the lab? It's reasonable to explain why John Ruelas'  
2 profile shows up in some blood, type A, same as Jane  
3 Mixer's scrapped from her hand. Should you accept or  
4 believe that the evidence conviction--convinces you that  
5 that blood comes from John David Ruelas and that he dripped  
6 blood on Jane Mix. You can't brush that off as lost, you  
7 need to look at that. The prosecutor has chosen to re-open  
8 this case--re-open these wombs. He has singled out Gary  
9 Leiterman, as the defendant. He has chosen to disregard  
10 questions such as: how does a boy from the Cass area,  
11 downtown Detroit, end up in Ann Arbor, end up dripping  
12 blood on Jane Mixer? He's chosen to disregard or ruled out  
13 the possibility that there's contamination within that lab.  
14 He identified, and the detectives identified there suspect  
15 and they went out and they built their case, and they threw  
16 all the resources that they could--they don't have the  
17 murder weapon, they know it was reported stolen. It was  
18 reported stolen in 1987, they told me that in the  
19 information they provided us with. That's what I am talking  
20 about. You're seeing all of the evidence in the whole  
21 picture. No one's hid the gun ownership. No one's connected  
22 Gary Leiterman's gun to this murder. No ones connected Gary  
23 Leiterman's prints to the unkown latten prints that were  
24 found associated with the crime scene. Ladies and  
25 gentleman, no one has tied or identified the unknown DNA

1 that Mr. Hiller didn't tell you about that the lab found on  
2 other articles of Jane Mixer;s clothing. It's not cut and  
3 dry. Gary Leiterman has exercised his right to be tried by  
4 you, not by lab scientist, not by a young set of detectives  
5 or the Washtenaw County Prosecutors office. He's asked you  
6 to listen to their evidence. We're confident that when you  
7 hear all that evidence, ladies and gentleman, moving  
8 forward thrity-six years into the future and trying to  
9 explain those thirteen hours of Jane Mixer's disapperance,  
10 can't be answered by the three worlds that you've heard of:  
11 Ruelas, Leiterman, Mixer, and then you be called upon to  
12 follow the instructions that the judge has given you.  
13 Because what we will have here is even more mystery and  
14 even more uncertainty and on that basis you can't convict.  
15 I want to thank you for your attention. I realize this will  
16 be a difficult case to sit through. All of us, again, feel  
17 for what this young lady went through.

18 THE COURT: Mr. Hiller, call your first witness.

19 MR. HILLER: We call Daniel Mixer.

20 THE COURT: Sir, if you would come forward. If you  
21 would stop there and face this lady and raise your right  
22 hand. Right there is fine.

23 THE COURT CLERK: Do you swear of affirm to tell  
24 the truth, the whole truth and nothing but the truth.

25 MR. MIXER: I do.

1 (Witness sworn at 8:53 a.m.)

2 THE COURT CLERK: Have a seat right up there.

3 THE COURT: Sir, I need you to state and spell  
4 both, your first and last names.

5 THE WITNESS: My name is Dan Mixer. Dan, D-a-n M-  
6 i-x-e-r.

7 THE COURT: Thank you. Prosecutor.

8 MR. HILLER: Thank you, your Honor.

9 CROSS EXAMINATION

10 BY MR. HILLER:

11 Q Good morning--

12 A Good morning.

13 Q --Mr. Mixer. In which community do you currently live?

14 A What community?

15 Q Do you currently live?

16 A I live in Musk--in Ferrisburg or Spring Lake, Michigan.

17 Q In March of 1969 where did you live?

18 A I lived on 1386 Ridge Street Muskegon, Michigan.

19 Q And what was your profession?

20 A I'm a Dentist--retired dentist.

21 Q Were you married?

22 A Yes.

23 Q Did you and your wife have any children?

24 A We had three children.

25 Q Can you name them for me please?

1 A My oldest was Barbara, the second one was Jane, and the  
2 third one is my son Dan.

3 Q Dr. Mixer, I want to show you a picture that's been marked  
4 peoples proposed exhibit number one, I want to ask you if  
5 you recognize the person in the picture?

6 A That is my daughter.

7 Q Which daughter, sir?

8 A Daughter Jane.

9 MR. HILLER: Your Honor, I move for the admission of  
10 peoples exhibit one.

11 MR. GABRY: No objection, your Honor.

12 THE COURT: Prosecution exhibit one is admitted.

13 THE WITNESS: Pardon.

14 THE COURT: I was talking to him. You'll have another  
15 question.

16 BY MR. HILLER:

17 Q In march of 1969, what was Jane doing?

18 A Jane was a law student at the University of Michigan.

19 Q What year of law school was she in?

20 A First year of law school.

21 Q Would Jane come home to visit from time to time?

22 A Occasionally, yes. She's--

23 Q Were you expecting her to visit on March 20, 1969?

24 A Yes, I was.

25 Q How was it that you had come to expect her arrival?

1 A Well it was spring vacation and she decided to come home. I  
2 think she had news to tell us at the time. We were  
3 anticipating.

4 Q When you say she had decided to come home, how do you know  
5 this?

6 A She kept incontact with us.

7 Q What news were you anticipating?

8 A Well we knew at the time that she had a friend--a boyfriend  
9 at the time and--and we were not surprised when we found  
10 out later on that she was going to tell us she had marriage  
11 plans, and she was going to change--transfer from the  
12 University of Michigna law school to Columbia, I believe,  
13 at the end of the first year of law school.

14 Q Did you talk to Jane about her plane to come to Muskegon on  
15 March 20, 1969?

16 A Not on the 20<sup>th</sup>. She had told us previously that she had-I  
17 think she had adviertised for a ride to Muskegon, which was  
18 a common thing in those days, I think there was a notice on  
19 the bulletin board in the Union.

20 Q And, Did she tell you anything about who she planned to  
21 ride with or when she was planning to come?

22 A She mentioned a name.

23 Q Do you remember that name?

24 A I think it was Dave Johnson. I don't know how--I don't know  
25 the first name but I know it was Johnson. That's all I

1 know.

2 Q At what time were you expecting her arrival?

3 A She said she was going to leave between 5:30 and six, and I  
4 expected her to be home by 9:30. Approxemetly three and a  
5 half hours, one hundred and sixty five miles away.

6 Q Did there come a time when you began to become concerned?

7 A Yes, by eleven o'clock.

8 Q Jane had not arrived home by then.

9 A Had not heard form her, had not arrived.

10 Q What did you do?

11 A I telephoned Phil Whitesman, and that was her friend at the  
12 time.

13 Q Her boyfriend?

14 A Yes, and I asked--I told him, I said I--I expected Jane at  
15 9:30 and it was 10:30--eleven o'clock and she had not shown  
16 up. And Phil said--I think he said that he'd seen her at  
17 5:30, I think he might have dropped her off at the law  
18 quad, not too far from the union.

19 Q What did you do next?

20 A I had called Phil and he said, well she should have been  
21 home. Then I called the State Police and reported--I was  
22 going to say she was misding but I got the usual answer  
23 that they don't consider a person missing at least for 24  
24 to 48 hours.

25 Q Did you try calling Janes room at the--

1 A No I did not.

2 Q Did you try to call Phil anymore that evening?

3 A I called him at two o'clock in the morning, I think, and he  
4 hadn't--he had not--he had no answer for what happened. He  
5 couldn't tell me what happened. I didn't know.

6 Q Did you do anything else to try to find Jane?

7 A Yes, I did. I had--I was apprehensive and I even got into  
8 the car, must have been 12:30--one o'clock in the morning  
9 and I drove as far as Neuneca, which is on the way to Ann  
10 Arbor, thinking that possibly there might have been an  
11 accident or something. I had also telephoned the State  
12 Police and asked--asked them if there had been any report  
13 of an accident between Ann Arbor and Muskegon, Michigan and  
14 they said they had none.

15 Q The next day, the 21<sup>st</sup>--

16 A Yes.

17 Q Did you go to work that morning?

18 A I went to work that morning.

19 Q Did you have patients that morning?

20 A I did.

21 Q Did something happen while you were at work?

22 A Yes. An officer from the State Police came into my office.  
23 He informed me there had been a body found in the Ann Arbor  
24 area and possibly I should go to Ann Arbor and identify the  
25 body. He didn't tell me the name we have found, he just

1           said they had found someone.

2   Q       What did you do?

3   A       I called my wife. I--I immediately left the office and I

4           said Ann--I said they want us to drive Ann Arbor and I said

5           get ready to move and so by twelve o'clock, I think, we

6           were on our way to Ann Arbor, we drove.

7   Q       Were did you go in Ann Arbor?

8   A       We went to the State Police post in Ypsilanti.

9   Q       When you got there, what happened?

10   A       Well, they put us in an office about 12 feet square and

11           they were--there were officers there and they brought in

12           mug shots of different people and they brought in names of

13           people that I might know and I couldn't identify any of the

14           pictures and I couldn't recognize any of the names they

15           gave me.

16   Q       How long did you stay at the State Police post?

17   A       How long did I stay there?

18   Q       Yes.

19   A       We were there until 4 o'clock in the afternoon and we

20           hadn't--we had not had any lunch ans so I suggested that we

21           would like to get a bite to eat, so they said there was a

22           restaurant a block away and I--we went down to the

23           restaurant and we got in there and there was the Ann Arbor

24           Newspaper in there an there was the Ann Arbor Newspaper

25           with my daughter listed as the victim.

1 Q Did there come a time when you went to the University of  
2 Michigan Hospital?

3 A Yes.

4 Q At what time was that?

A 5 I would say it must have been five or 5:30—five o'clock, -  
6 -somewhere around there and they took us to the morgue at  
7 the hospital.

8 Q When you got to the morgue, what did you do?

A 9 Well, they took us to the morgue, they exposed the body,  
10 and it was my daughter Jane.

11 Q Was there any question?

12 A No. No questions.

13 Q Were you given any of her property at that time by the  
14 police?

A 15 I think they gave me a watch that she wore. That's about  
16 the only thing I got. I got no clothing or anything--or  
17 any other--I received nothing else.

18 Q Do you recall receiving any property from the State  
19 Police later?

20 A No.

21 Q Dr. Mixer, thank you. I don't have any further questions  
22 for you. Mr. Gabry may have some.

23 THE COURT: Cross examination.

24 MR. HILLER: Thank you, your Honor.

25 CROSS EXAMINATION

1 BY MR. GABRY:

2 Q Good morning Mr. Mixer.

3 A Good morning.

4 Q Jane did her under-graduate work where? Where did she get  
5 to under-grad school?

6 A She went to University of Michigan.

7 Q She had basically been down her for about five years then?

8 A Well, she was in her fifth year.

9 Q And she had traveled home before?

10 A Yes she had.

11 Q Did-was she the type who would drop in to surprise you or  
12 would she let you know ahead of time?

13 A No she would let us know before--when she was coming.

14 Q So this particular occasion was that unusual?

15 A No.

16 Q And in fact some number of days before the 20<sup>th</sup> she had  
17 indicated to you she--

18 A Yeah she was, it was spring vacation time.

19 Q Do you have any recollection of how many days notice you  
20 had that she was going--

21 A I think she--it would have been three or four days in  
22 advance.

23 Q So she had arranged this ride probably around four days,  
24 three days in advance?

25 A I assume she did.

1 Q Do you recall whether she identified the person providing  
2 the ride?

3 A No she--she did not identify the person really. She gave  
4 me the name of I think of a Johnson but, it was nobody  
5 that I knew.

6 Q Alright, but when she called to advise you she would be  
7 coming home she did give you the name Johnson then?

8 A I'm not sure she did, possibly.

9 Q Had there been previous occasions when she didn't show up  
10 as expected?

11 A No.

12 Q She was pretty dependable that way?

13 A Very dependable person.

14 Q Based on your relationship with your daughter, and what  
15 she might know of you, would she expect you to worry if--

16 A Yes, absolutely.

17 Q Now, you've already indicated to the jury that you  
18 expected about three to three and a half hours travel  
19 time?

20 A Yes.

21 Q There were no weather problems that evening?

22 A There were no weather problems.

23 Q So when she didn't show up around eleven, you became very  
24 concerned?

25 A Pardon.

1 Q You were very concerned--

2 A Yes, I was concerned by eleven o'clock.

3 Q Would you have expected your daughter to have advised you

4 if she was going to be running two hours behind?

5 A We didn't have cell phones then and was--under the

6 circumstances she would have let us know if there was a

7 reason for her delay.

8 Q She had a phone in her room, did she not?

9 A I don't know. You mean in Ann Arbor Law quad? I don't know

10 if she did or not.

11 Q You don't recall if you ever called her in her room?

12 A I don't remember a phone in her room.

13 Q Dr. Mixer, do I understand, that objects such as a yellow

14 rain coat, some articles of clothing on a hanger were

15 never turned over to you from the State Police?

16 A They were not turned over to me.

17 Q Thank you for your time.

18 THE COURT: Any further questions? Anything

19 further, Mr. Hiller?

20 MR. HILLER: Yes, your Honor.

21 THE COURT: Then lets do it.

22 RE-DIRECT EXAMINATION

23 BY MR. HILLER:

24 Q I want to show you a document that--number 70--it's a

25 little hard to read. It's a copy of--a copy no doubt. I

1 would like you to look down in this corner and see if you  
2 recognize that as your signature.

3 A That's my signature.

4 Q Thank you.

5 MR. HILLER: No further questions, your Honor.

6 THE COURT: Anything further?

7 MR. GABRY: No, your Honor.

8 THE COURT: Thanks, sir. You may step down.

9 You're excuse.

10 (Witness excused at 9:10 a.m.)

11 MR. HILLER: I will call Phil Weitzman. Your  
12 Honor, is Dr. Mixer excused?

13 THE COURT: Yes.

14 MR. HILLER: Remain in the courtroom.

15 THE COURT: He's not going to re-called. Sir,  
16 come forward. Would you stop there, face the clerk and  
17 raise your right hand. This lady right here.

18 THE COURT CLERK: Do you solomy swear to tell the  
19 truth, the whole truth and nothing but the truth?

20 MR. WEITZMAN: Yes.

21 (Witness sworn at 9:11 a.m.)

22 THE COURT CLERK: Have a seat right there.

23 THE COURT: Would state and spell both your first  
24 and last names.

25 THE WITNESS: My name is Phillip Weitzman. P-h-i-

1 l-l-i-p, W-e-i-t-z-m-a-n.

2 PHILLIP WEITZMAN

3 DIRECT EXAMINATION

4 BY MR. HILLER:

5 Q Sir, where do you currently live.

6 A I currently live in London, England.

7 Q In March of 1969, where were you living?

8 A Ann Arbor.

9 Q And what were you doing in Ann Arbor at that time?

10 A I was studying at graduate school--studying for my Ph.D.  
11 in Economics.

12 Q In what, excuse me?

13 A Sorry. Studying for my Ph.D. in Economics in graduate  
14 school.

15 Q And, who was Jane Mixer?

16 A Jane--Jane was a former student of mine. I was a teaching  
17 fellow here and then we became friends and then we had a  
18 relationship.

19 Q In March of 1969, had you and Jane made any decisions  
20 about your future.

21 A Yes, we had. We decided to get married and was to move to  
22 New York after I got my degree and she would continue on  
23 with her law studies in New York.

24 Q I would like to show you a photograph that has been marked  
25 as People's purposed exhibit 1.1. Do you recognize that

1 photograph and the people in it?  
2 A I certainly recognize the people in it, yes. On the left,  
3 that's--that's Jane, and on the right, that's me.  
4 MR. HILLER: Your Honor, I move for the admission  
5 of the exhibit 1.1.  
6 THE COURT: Any objection?  
7 MR. GABRY: None, your Honor.  
8 THE COURT: It is admitted.  
9 BY MR. HILLER:  
10 Q In--on March 20, 1969, did you see Jane?  
11 A Yes, I did.  
12 Q When did you see Jane?  
13 A I--I--I think I saw her in the morning and then later on  
14 in the afternoon before she left for the--for Muskegon.  
15 Q Do you remember where you saw her in the afternoon?  
16 A Yes, I think--if my memory serves me correctly, I--I  
17 picked her up at the law quad and sat and talked for a  
18 bit, approximately about 5:15--5:30 and then I dropped her  
19 off at the law quad. She was preparing to leave.  
20 Q And she told you about her travel plans?  
21 A Yes.  
22 Q What did she tell you about her travel plans?  
23 A She had put a--a notice on the bulletin board, I think in  
24 the law quad asking for a--a ride to Muskegon and someone--  
25 --someone contacted her and offered her a ride to Muskegon

1 and he was supposed to pick her up at about six o'clock  
2 that evening,  
3 Q When you say--when you refer to the law quad can you  
4 explain what your talking about?  
5 A Well, the--the law school there is pretty much self  
6 contained in a quadrangle. Buildings are around a block  
7 with a central courtyard and part of that is classrooms  
8 and part of that is residential and she was living in the  
9 residential part of the law quad.  
10 Q She had an apartment in the--in the law quadrangle?  
11 A A room, or an apartment, yes.  
12 Q And you dropped her off at about what time?  
13 A About six o'clock, or maybe a few minutes before.  
14 Q Had she told you what time she expected to be picked up?  
15 A About six o'clock.  
16 Q She--when you dropped her off, did she have anything with  
17 her?  
18 A I--I'm--I don't recall. I don't know.  
19 Q Were you planning to join Jane and her family that  
20 weekend?  
21 A Yes, I was. The plan was--was that she would go home--I  
22 think that was a Thursday night, I'm not sure, but she  
23 would go home and spend the next couple of nights with her  
24 family and then I would join her, I think that Sunday  
25 night and then we would come back to Ann Arbor together

1           again.

2   Q    After you dropped Jane off the evening of March 20<sup>th</sup>, did

3           you speak with her again?

4   A    Yes, I called at about 6:15 or 6:20, or something like

5           that just to check to see if she had gotten off on her

6           way, and she was still there.

7   Q    Did she express any concern to you at that point?

8   A    No.

9   Q    Was that the last time you spoke with her?

10   A    Yes.

11   Q    Did you try to call anymore that evening?

12   A    Um, I'm not sure. I don't believe I did, but I am not

13           sure.

14   Q    At some point did you receive a call from her father?

15   A    Yes, I did.

16   Q    Had you met her father?

17   A    Yes.

18   Q    About what time did you receive a call from Dr. Mixer?

19   A    It was--it was late evening, probably about 11-11:30 at

20           night.

21   Q    And, why did Dr. Mixer tell you he called?

22   A    He told me that Jane had not arrived and that he was

23           concerned and that if she had left at six o'clock, which

24           is when she had planed to leave, she certainly would have

25           been in Muskegon by then.

1 Q Were you concerned about her at that point?

2 A Not--not really, because--first--first I knew that she  
3 didn't leave at six o'clock, she had left later than that  
4 and secondly, I thought that an hour late on a drive to  
5 Muskegon from Ann Arbor--it just didn't seem--it just  
6 didn't seem to be something concerned about at that point.

7 Q Did you do anything in response to Dr. Mixer's phone call  
8 at that time?

9 A Not at that time, no.

10 Q Did Dr. Mixer call again?

11 A Yes. He called in the middle of the night, three or four  
12 o'clock in the morning and he was quite concerned and at  
13 that point I was very concerned also.

14 Q And did you do anything in response to that, though?

15 A I have--I have to say that my recollection of that is--is--  
16 --is not good. I--I know--I know that the police report  
17 said I did something, but I just don't recall doing it.

18 Q At any point that evening, or the next morning, did you  
19 try calling Jane's room?

20 A No. In the morning--in the morning I went to--I went to  
21 the law quad and I had access to her room and I want to  
22 see if I could determine--get the name and address of the  
23 person who was supposed to pick her up. That--that was in  
24 the morning.

25 Q Did she tell you that name?

1 A Not--yes.

2 Q What name had she told you?

3 A It was a Dave or David Johnson.

4 Q Now, you said you got into her room?

5 A I--I spoke to someone--I was known there, of course,  
6 because I was a frequent visitor and someone gave me the  
7 key and I went into her room.

8 Q Did you find anything in her room?

9 A I don't--I don't recall if I did find anything in her  
10 room.

11 Q You were looking specifically for any information about--  
12 A Who was to--who was to pick her up.

13 Q When was it that you had discovered that Jane had been  
14 murdered?

15 A Um, as soon--soon after I came back from--from the law  
16 quad. I--there was a knock on the door from the police. I  
17 believe it was the Ann Arbor Police, I am not sure, but I  
18 think it was the Ann Arbor Police, and they asked me some  
19 questions and at that point they informed me that--that  
20 she had been killed.

21 Q Do you know when Jane had made these arrangements with  
22 Dave Johnson?

23 A I don't know the specific day, but I know--I know it was a  
24 few days, even a week before because she knew--she knew  
25 she was going and she had--she had called her parents, and

1           certainly I knew. So, I think it was, three or four days  
2           before or a week before.

3    Q       Thank you Mr. Weitzman. I don't have any further questions  
4           for you ,but Mr. Gabry might have some.

5                         THE COURT: Cross Examination.

6                         MR. GABRY: Thank you, your Honor.

7                                 CROSS EXAMINATION

8    BY MR. GABRY:

9    Q       How long did you know Ms. Mixer?

10   A       I--I--I met her--she was my student beginning in early  
11           1966.

12   Q       She graduated from the University of Michigan and was  
13           excepted into the law school?

14   A       Yes.

15   Q       The summer before she started law school, was she in the  
16           area or had she been away from you, if you know?

17   A       I'm not sure, but I think she was--I think she was in the  
18           area.

19   Q       How frequently might you see Ms. Mixer?

20   A       Almost daily.

21   Q       So, the day before, or the daytime hours she was to leave  
22           for Muskegon, had anything unusual occur or had been  
23           reported to you having occurred?

24   A       No.

25   Q       I believe that you indicate to Mr. Hiller that you had

1           seen her in the morning?

2    A    Yes.

3    Q    And then later on in the day?

4    A    Yes.

5    Q    Do you know--do you recall what you were doing during the  
6           time period you weren't with her?

7    A    I don't recall specifically, but I know that I was--I was  
8           very busy working on my dissertation and I was attending  
9           some classes, so I imagine it was of that nature.

10   Q    Mr. Weitzman, I understand then that you went over to  
11           Jane's apartment later that afternoon, and that's where  
12           you two spent some time together. Is that correct?

13   A    That's correct.

14   Q    And there was some problem with the parking and that you  
15           couldn't park too close to the law quad?

16   A    Yeah. I mean it was--I had a car and I was parked a few  
17           blocks away.

18   Q    Where did you live at the time?

19   A    On South Fifth Avenue.

20   Q    So, do I understand then, that after you and Jane spent  
21           some time together, you both walked back to your car?

22   A    I think that I dropped her off--oh yes, we walked back to  
23           my car, we were talking in my car and then I dropped her  
24           off at the law quad.

25   Q    Okay. So, you were done with whatever you were doing,

1 going over to see Ms. Mixer at her room in the residence  
2 at the school. Did she appear to be packed already? Could  
3 you tell by looking around?

4 A I don't--I don't believe I went into her room that day,  
5 prior to her--to the following morning. I don't believe I  
6 was in her room that day.

7 Q You walked back to your car then--

8 A Yes.

9 Q --and talked in your car. You drove her back to--and  
10 dropped her off at her room.

11 A Right.

12 Q Did you walk her up to the door?

13 A No. I would have dropped her off on the street.

14 Q Did you notice if she had any blood on her?

15 A I didn't notice--I didn't notice any blood.

16 Q You were with her, did you hold hands?

17 A Perhaps.

18 Q Did she express any concerns or any fears?

19 A The concerns were about the weekend with the--with her  
20 parents. Not concerns about the trip or anything of that  
21 nature.

22 Q She was a little worried about how--how the plans might go  
23 over with her dad?

24 A And mom.

25 Q In the days prior to her leaving, had she expressed any

1 fear or anything as far as anything unusual happened?  
2 Approaches by anyone unusual or anything of that nature?  
3 A No.  
4 Q Do you know the name Gary Leiterman?  
5 A Own--only from all of these proceedings and the press.  
6 Q Was it a name that was familiar to you back in 1969?  
7 A No.  
8 Q You mentioned that after you dropped her off, and you feel  
9 that was around six o'clock that evening?  
10 A Probably a few minutes before because I knew that she was  
11 supposed to be picked up at six, so it must have been a  
12 few minutes before then.  
13 Q You called then, within a half hour to see if she had  
14 left?  
15 A Yes.  
16 Q But you didn't call again?  
17 A As I--as I said, I--I--don't recall calling again.  
18 Q In that conversation, did she express any concern or fear  
19 that the person wasn't going to pick her up?  
20 A Um, well I think she was worried about getting--about  
21 getting home, getting a ride and getting home to eat  
22 dinner with her family. I think there was some concern of  
23 that nature, that she wasn't going to get home.  
24 Q Did she discuss with you a plan B, or another alternative  
25 way home?

1 A No.

2 Q And then you never heard from her again.

3 A That's correct.

4 Q The police officers involved in this case, they talked you  
5 quite a few times over the following days, did they not?

6 A Yes.

7 Q Do you recall having a conversation with either a Trooper  
8 Dawn Wilson or a Sergeant Patrick Lyons about a note card  
9 that you found?

10 A I have--I--I have reviewed that police report and I have  
11 no reason to think it's not true, I just don't have a  
12 recollection of it.

13 Q And that refers to basically that--a note card with a name  
14 Dave Johnson printed in the upper left hand corner had  
15 been provided by you to the police.

16 A That's what--that's--that's the police report. I just  
17 don't recall that.

18 Q Let's clarify then. You had a chance to review this part  
19 of the police report?

20 A Yes, I have.

21 Q In here--it makes reference to another card that you  
22 actually saw posted at the Union?

23 A Yes.

24 Q So, to your knowledge there would have been two places, at  
25 least, that Ms. Mixer had posted a notice?

1 A No. I don't know--I don't know what--I don't recall what  
2 that second card was, so I can't be certain where it was  
3 and if I found it, where I found it. But, I do know that  
4 there was a note up on the bulletin board in the law quad.

5 Q On April first, it is indicated that you turned over to  
6 these officers, a note card that had in the upper left  
7 hand corner, a name of Dave Johnson that she made out  
8 while she was talking to her parents. You have no reason  
9 to disbelieve that?

10 A I have no reason to disbelieve that.

11 Q Do you have a recollection of actually being there when  
12 she called and told her mom or dad--

13 A I have a vague recollection of her speaking to her  
14 parents, yes.

15 Q Do you have any recollection if she was dressed to go home  
16 when you dropped her off?

17 A No.

18 MR. GABRY: One second, your Honor.

19 BY MR. GABRY:

20 Q And I think it goes without saying that Jane Mixer had a  
21 phone in her room?

22 A Yeah, I believe so, yes.

23 Q It wasn't a community phone somewhere. As far as you know  
24 it was in her room?

25 MR. GABRY: Thank you, your Honor.

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THE COURT: Any further questions, Mr. Hiller?

RE-DIRECT EXAMINATION

BY MR. HILLER:

Q Mr. Weitzman, you indicated that you have no recollection—you told Mr. Gabry you have no recollection if she was dressed to go home when you dropped her off. Do you recall—did she have a suitcase when you dropped her off?

A I don't think so, no.

Q Did--are you familiar with the book "Catch 22"?

A Yes.

Q Did you own a copy of "Catch 22" at that time?

A Yes.

Q Do you know what became of that book?

A I had loaned it to Jane and learned that it was subsequently found.

MR. HILLER: No further questions.

THE COURT: Anything further?

MR. GABRY: No, your Honor.

THE COURT: You may step down, you are excused.

(witness excused at 9:33 a.m.)

MR. HILLER: Your Honor, People call Joseph Katulic.

MR. GABRY: Your Honor, I ask that the photograph be taken down?

1 THE COURT: Sir, come up here please. If you  
2 would just stop there, face this lady, and raise you right  
3 hand.

4 THE COURT CLERK: Do you solemnly swear to tell  
5 the truth, the whole truth and nothing but the truth?

6 MR. KATULIC: I do.

7 (Witness swoon at 9:34 a.m.)

8 THE COURT CLERK: Have a seat right over there.

9 THE COURT: Sir, would state and spell both you  
10 first and last names?

11 MR. KATULIC : Joseph Katulic. J-o-s-e-p-h, K-a-  
12 t-u-l-i-c.

13 THE COURT: Thank you. Prosecutor.

14 DIRECT EXAMINATION

15 JOSEPH KATULIC

16 BY MR. HILLER:

17 Q Good morninig, Mr. Katulic.

18 A Good morning.

19 Q Mr. Katulic, in what community do you live?

20 A Ann Arbor, Michigan.

21 Q How long have you live here?

22 A I started out here as a student in 1966, so probably close  
23 to 20 some odd years.

24 Q Mr. Katulic, you and I had an opportunity to speak before  
25 today, is that correct?

1 A Yes.

2 Q You mentioned to me that you may have, from time to time,  
3 physical difficulties while you are on the stand?

4 A Yes. I have Percussions Disease.

5 Q And, does that manifest itself sometimes under times of  
6 stress?

7 A It does. Sometimes my facial expressions won't be as alive  
8 as they sometimes are.

9 Q Mr. Katulic, back in March of 1969, where were you living?

10 A 700 South State Street.

11 Q And what's located at 700 South State Street?

12 A The fraternity that I belonged to, it's Theta Delta Ki.

13 Q Do you know where the law quad is?

14 A Yes, it's kiddy corner from the Theta Delta Ki.

15 Q Kiddy corner from the fraternity you were living with at  
16 the time?

17 A Correct.

18 Q Did you have a roommate when you were living with the  
19 Theta Delta Ki in March of 1969?

20 A Yes.

21 Q And what was his name?

22 A David Johnson.

23 Q What were your living arrangements with David Johnson?

24 A The fraternity was laid out in what was called a suite  
25 system, which means you had a living room and a bedroom.

1 The living room was for studying and things. Each one of  
2 those suits were assigned to two people. You had your own  
3 phone and everything.

4 Q Do you remember the evening of March 20, 1969?

5 A Yes.

6 Q What--what were you doing that evening?

7 A I was studying back in the living room area.

8 Q Did you have dinner?

9 A Yes, we had dinner about six o'clock. The house had--we had  
10 a service for dinner.

11 Q I'm sorry, you had what?

12 A The house had a service--everybody ate together.

13 Q Okay. Family style eating arrangement?

14 A Yeah.

15 Q Did the house have any ruled regarding dinner?

16 A Yes. It was a different era so you had to dress for dinner  
17 which meant a coat and tie--a suit and tie.

18 Q What time did dinner end that day?

19 A Probably normal time, which would mean seven o'clock or  
20 so.

21 Q And after that, what did you do?

22 A Went upstairs and changed and started to do my studying.

23 Q Was your roommate, Dave Johnson, home that evening?

24 A He had been there, I think for dinner, and he was in--  
25 (INAUDIBLE) which is a Gilbert and Sullivan production, so

1 he left shortly after dinner.

2 Q And where was that production being performed?

3 A In the theater.

4 Q When you were studying--is there a study area in the  
5 fraternity or were you studying in your room?

6 A In the room. Everybody has two desk in their room with a  
7 telephone.

8 Q Did you receive any telephone calls that night?

9 A Yes.

10 Q Can you tell me about that telephone call?

11 A Around ten--I was studying and around ten o'clock I got a  
12 phone call from an individual and she said, is David  
13 Johnson there, and I said no and she said, can you tell me  
14 if he is still going to be going to Muskegon. I said, I  
15 don't really think so because right now he is on stage at  
16 the theater over by Lansing and it's probably not going to  
17 be done until eleven and there are some things after that  
18 that are going to be happening. That was then end of my  
19 discussion.

20 Q The person who called, was it a male or a female?

21 A Female.

22 Q Did she say anything else?

23 A Yeah, she said, well in case this is the right or wrong  
24 number, tell him that Janie Mixer called.

25 Q And you believe that call came in about what time?

1 A Ten o'clock.

2 Q How do you know that?

3 A Well, I had just been--this is going to sound rather  
4 involved, but I had just been elected the President of the  
5 fraternity and shortly after the call came in, I walked  
6 out into the hallway and was sharing it with everybody and  
7 then I got kidnaped to be taken down to Binboes.

8 Q What is Binboes?

9 A It was a peanuts and beer place that used to play honky-  
10 tonk piano and you would sing along with it.

11 Q You say you got kidnaped, what do you mean?

12 A If you can do the math, you will find out that I am 20 at  
13 that point in time, so the upper classmen would kidnap the  
14 person who was elected. Being they would have false I.D.  
15 for them and take them in with false I.D. and then they  
16 would sit and drink beer. It was--it wasn't a voluntary  
17 departure.

18 Q I have a feeling that you didn't resist very much.

19 A Um, no, it was fun plus--no, I didn't resist too hard.

20 Q Now, were was Binboes located? Was it in the same--Ann  
21 Arbor?

22 A It was on Washington Street. I think that were the  
23 Washington Brewery is now or right by the Amidais  
24 restaurant, it was in that block.

25 Q So just one block from here?

1 A Yes.

2 Q And, you were kidnaped about what time?

3 A It would have been a little after ten or so. It was right  
4 after the phone call.

5 Q How long did you stay at Binboes?

6 A To the best of my recollection, probably would have been a  
7 couple three hours. Usually people--most people would come  
8 and go out to Binboes about the same time we did and they  
9 wouldn't start the band until about 10:30 and then we  
10 would spend a couple of hours there, so it was probably  
11 about a couple of hours.

12 Q Did you see your roommate that night?

13 A I don't remember whether I did or not, for sure. I may not  
14 have protested too much about the beer, and had a little  
15 bit more of it than I needed.

16 Q After you were finished at Binboes, were did you go?

17 A back to the fraternity.

18 Q Did Jane Mixer ever call back?

19 A No.

20 Q The next day, did you become aware of anything concerning  
21 Jane Mixer?

22 A We were watching TV in the TV room, which was downstairs  
23 and folks were watching TV and there were reports coming  
24 in--from my standpoint, was the first time the reports  
25 were coming in including her name.

1 Q And these were news reports about her murder?

2 A Yes.

3 Q And did you recognize the name that they were using on the

4 reports?

5 A Yes.

6 Q Did you talk to the police?

7 A Well, actually, as we were finishing watching up the TV,

8 we turned around and Detective Little was standing at the

9 back of the room.

10 Q Detective Max Little?

11 A Yes.

12 Q And did you talk to Detective Max Little?

13 A We did because I was taking over as fraternity president

14 and we had to make some arrangements. He wanted to talk to

15 some people in the house, so I spoke with him.

16 Q Did you--did you tell him about the phone call?

17 A Yes.

18 Q Did you tell him about Binboes.

19 A I think I actually did. I didn't right away.

20 Q Why not?

21 A Because it was false I.D. and I was relatively--I was a

22 senior--I mean a junior in college and the gravity didn't

23 fully weigh on me until a couple, three or four hours

24 later and I told him about it then.

25 Q Now, as fraternity president, did you give an assistance

1 to the police investigators who were looking into Jane's  
2 murder?

3 A Yes. They wanted to speak to the house in general and then  
4 they also wanted to take some samples of a couple of  
5 phrases that they had in mind that someone had written  
6 some place. It's been thirty some odd years so I can't  
7 remember the details of that part of it. They had some  
8 phrases that they wanted--that people had written and they  
9 also took everybody's fingerprints in the fraternity.

10 Q Did you help coordinate that?

11 A Yes.

12 Q Do you recall, is that something they talked to you about  
13 that day? Or did that come later?

14 A I need help. I didn't understand when you said that.

15 Q That's a bad question, that's why. Did the police talk to  
16 you about getting writing samples and fingerprints that  
17 day--the first day that they came, or--

18 A When I ran across them in the TV room?

19 Q Yes.

20 A No.

21 Q Do you recall how long it was before they came back and  
22 talked to you about doing that?

23 A It wasn't longer than about a day or so.

24 Q Mr. Katulic, thank you very much. I don't have further  
25 questions for you. Mr. Gabry may have some questions.

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THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. GABRY:

Q Mr. Katulic, do you recall what police officer you relayed the information about the phone call to?

A I thought it was Detective Little.

Q That would be Detective Max Little?

A I think. I remember Detective Little, but I don't remember the first name. It was Max Little, I think.

Q And when you told him about this phone call, do you remember when it was in proximately to you getting the call--the next day, two days later, three?

A It was the next day.

Q You didn't call the police and tell them about the phone call, correct?

A Well, when we had a discussion about what was going on, I did. But I didn't--did I call and tell them, no. It was part of one of our other discussions.

Q So, the police showed up before you told anybody about the phone call?

A Well, no, because I walked out--right after the phone call came, I walked out into the--into the--it's like a hallway, cause it's a large house. I walked out and I said that I just got a really squarely call from someone that said David Johnson is going to take her to Muskegon, and

1           then when I got kidnaped and was taken to Binboes, there  
2           were three of four fraternity brother's that were in the  
3           area, but nobody--

4   Q       Okay, so you--you might have lost me there for a minute. So  
5           you, got done with the phone call--

6   A       Right.

7   Q       Went out into the hallway and announced to who ever was  
8           there about the phone call?

9   A       Yes.

10  Q       And they, then, kidnaped you and took you to Binboe's?

11  A       Yeah.

12  Q       Okay. And Binboes is a place where people throw--throw  
13          their peanut shells right on the floor?

14  A       Yes.

15  Q       And they drink the beer there? Are you certain, sir, that  
16          you told the detectives, when you talked with them, about  
17          the phone call? That the women identified themselves--  
18          identified herself as Jane Mixer, or Janie Mixer?

19  A       I'm pretty sure.

20  Q       Was it unusual for David Johnson to get a wrong phone--a  
21          wrong David Johnson call?

22  A       No.

23  Q       There were other people who had called Dave Johnson or  
24          David Johnson?

25  A       Yes.

1 Q So as far as you knew, there was apparently at least  
2 another David Johnson somewhere in the phone directory of  
3 Ann Arbor?

4 A Yes, but usually once--yes.

5 Q It's not that unusual of a name, is it?

6 A I don't know, but we used to get phone calls from other  
7 David Johnson's.

8 Q And this was one that was basically looking for a David  
9 Johnson who was supposed to give someone a ride to  
10 Muskegon?

11 A Yes.

12 Q Did--did David Johnson own a car?

13 A Yes.

14 MR. GABRY: Thank you, your Honor.

15 THE COURT: You may step down. You're excused,  
16 sir. Thank you.

17 (witness excused at 9:50 a.m.)

18 MR. HILLER: I will call David Johnson. Is Mr.  
19 Katulia excused, your Honor?

20 THE COURT: Yes. Mr. Johnson would you face the  
21 clerk and raise your right hand?

22 THE COURT CLERK: Do you solemnly swear to tell  
23 the truth, the whole truth and nothing but the truth?

24 MR. JOHNSON: I do.

25 (Witness sworn at 9:51 a.m.)

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THE COURT CLERK: Have a seat right up there.

THE COURT: Excuse me. Counsel, would you approach, please.

(Bench conference at 9:51 a.m.)

(Court resumed at 9:52 a.m.)

THE COURT: Would you state and spell both your first and last names?

MR. JOHNSON: Sure. My name is David Johnson, D-a-v-i-d. last name Johnson, J-o-h-n-s-o-n

DIRECT EXAMINATION

DAVID JOHNSON

BY MR. HILLER:

Q Mr. Johnson, where do you currently live? What community?

A I live in Honor, Michigan. It is West of Traverse City.

Q Back in March of 1969, where were you living?

A I was living in a fraternity house, Theta Delta Ki at 700 South State Street at the corner of, I think it was, Monroe and State Street.

Q What were the living arrangements that you had in March of 1969?

A I'm not sure how many rooms were in the fraternity house, but we had a suite system, so I shared a bedroom and a study room with Joe Katulic on the second floor.

Q On March--in the evening of March 20, 1969, do you know where you were?

1 A Is that a Friday night?

2 Q It would have been a Thursday night.

3 A Um, Thursday night, I was in a play--a Gilbert Sullivan

4 show called (INAUDIBLE) at the True Blood Theater and I

5 went over there about 6:30. That was our call to sign in,

6 put on makeup and the play, I'm thinking, lasted until

7 about ten 10:30 by the time we got out of costume. After

8 the play I went to a beer bar in downtown Ann Arbor called

9 Binbos. Thursday night was always sort of a night when

10 fraternity guys went down--there was a band--a dixieland

11 band and there was sing-a-long. It was sort of a

12 traditional thing that we did on Thursday nights. That

13 Thursday night after the show was over, I went to Binbos

14 and sang and drank beer and threw peanuts on the floor.

15 Q How do you know you were in a play that night?

16 A Well, I have produced a program that I saved--a scrapbook

17 and it does have the dates in there and it does have a

18 head-shot of my role in the play.

19 Q When you say that you were in the play, you were actually

20 performing?

21 A I was.

22 Q On stage?

23 A Yes.

24 Q What role?

25 A Private Willis.

1 Q Was there any publicity put up around campus to advertise  
2 the play?

3 A Um, yeah. There were adds in the paper, but I do--I do  
4 recall that there were--those head shots that were in the  
5 program--things like, winter weekend and homecoming and  
6 the Gilbert Sullivan would take the major players in the  
7 show and put them on publicity boards. I do remember one  
8 definitely because being in the window of Folits book  
9 store during that time to promote the show and--and--I'm  
10 not sure where else there might have been--there might  
11 have been those publicity boards but they were typically  
12 put in bookstore windows and in the League and the Union,  
13 but I cannot--I wouldn't be able to tell you for sure that  
14 I saw--I saw those boards any where other than Folits  
15 bookstore, on State Street.

16 Q Now, would that program, or the advertisement, have your  
17 name on it?

18 A It had--it usually had the name of the character that you  
19 played across the top of the picture and then your name at  
20 the bottom.

21 Q Here is People's marked purposed exhibit number 71. Do  
22 you recognize that?

23 A Yes, I do.

24 Q What is that?

25 A This is a program for the show that was presented from

1 March 19 to March 22, 1969.

2 Q Those dates are indicated in the program?

3 A They are.

4 Q Does that also have your picture in it?

5 A It does. The picture is here and my name is listed as  
6 Private Willis in the cast.

7 MR. HILLER: Your Honor, I would ask for the  
8 admission of this exhibit.

9 THE COURT: Any objection?

10 MR. GABRY: No, your Honor.

11 THE COURT: 71 is admitted.

12 BY MR. HILLER:

13 Q Mr. Johnson, we're going to have to keep that for a while.

14 A That's fine.

15 Q About what time did you get to Binbos?

16 A Oh, um, I'm guessing I was defiantly there by eleven  
17 o'clock.

18 Q Was your roommate there?

19 A Um, I-I-I can't say for sure, but there were a number of  
20 fraternity brother's and I-it was always typ-again, I  
21 don't want to be flipping with-Joe was often times  
22 kidnaped, because we made a joke of him having his  
23 birthday because you usually got a free piture of beer and  
24 they would sing "Happy Birthday" and it was always Joe. We  
25 would always try to make sure he was there as sort of a

1           joke to have it sort of be his birthday. So at all  
2           likelihood he was there among--  
3    Q       You don't have a clear recollection of him being there,  
4           but--  
5    A       I don't. I mean, I can't say for sure.  
6    Q       About how long did you stay?  
7    A       Um, Often times we stayed until it closed, but I would say  
8           probably for a couple of hours, til--I would say about one  
9           o'clock. We usually would close the place, but I would  
10          guess probably about one o'clock.  
11   Q       Did you ever know a person by the name of Jane Mixer?  
12   A       I did not.  
13   Q       Did you ever agree to take Jane Mixer to Muskegon?  
14   A       No.  
15                       MR. HILLER: Thank you, I have no further  
16                       questions.  
17                       THE COURT: Cross examination.  
18                       MR. GARBY: Nothing, your Honor.  
19                       THE COURT: You may step down, sir.  
20                       THE WITNESS: All right, thank you.  
21                       (witness excused at 9:56 a.m.)  
22                       MR. HILLER: Your Honor, may we approach?  
23                       THE COURT: Yes.  
24                       (bench conference at 9:59 a.m.)  
25                       ( Court resumed at 10:00 a.m. )

1 THE COURT: We are going to take our morning  
2 break at this time ladies and gentleman. We will be in  
3 recess for approximately 15 minutes. Please go with Ms.  
4 Washington.

5 THE LEGAL CLERK: All rise please.

6 THE COURT: Please be seated. I did want to  
7 indicate for the record that I advised counsel that when  
8 Mr. Johnson came in I recognized him. I never knew that he  
9 had any involvement. Mr. Johnson was, for many years, a  
10 teacher in Saline and taught my children in school. In  
11 fact, until he moved recently, we sang together in a mens  
12 choir, Measure for Measure. I dispose that for whatever--  
13 obviously it doesn't make any difference in this case, but  
14 if you wanted to raise an issue, I would be happy to hear  
15 it. Any problem?

16 MR. GABRY: No, your Honor.

17 MR. HILLER: None, your Honor.

18 THE COURT: All right. For a big town, it is  
19 awful small. We're in recess.

20 THE LEGAL CLERK: All rise please  
21 (Court in recess at 10:01 a.m.)

22 (Court resumed at 10:21 a.m.)

23 THE LEGAL CLERK: All rise, please. The Washtenaw  
24 County Trial Court is now back in session.

25 THE COURT: Please be seated. Bring in the jury.

1 MR. GARBY: May we approach, your Honor?  
2 THE COURT: Yes.  
3 (Bench conference at 10:22 a.m.)  
4 (Court resumed at 10:23 a.m.)  
5 THE COURT: Please be seated. Call your next  
6 witness.  
7 MR. HILLER: People call Mark Grow.  
8 THE COURT: Sir, come up here if you would. If  
9 you would stop there, face the clerk and raise your right  
10 hand.  
11 THE COURT CLERK: Do you solemnly swear to tell  
12 the truth, the whole truth and nothing but the truth?  
13 MR. GROW: I do.  
14 (Witness sworn at 10:23 a.m.)  
15 THE COURT CLERK: Have a seat right up there.  
16 THE COURT: First, state and spell both you first  
17 and last names.  
18 THE WITNESS: Mark, M-a-r-k, Grow, G-r-o-w.  
19 THE COURT: Prosecutor.  
20 MR. HILLER: Thank you, your Honor.  
21 MARK GROW  
22 DIRECT EXAMINATION  
23 BY MR. HILLER:  
24 Q Mr. Grow, in what community do you currently live?  
25 A I live out in Jackson, in Rives Township.

1 Q On March 21, 1969, where did you live?  
2 A Up on Denton.  
3 Q Where's Denton?  
4 A It's a little village in, I believe, Belleville.  
5 Belleville is the mailing address--between Belleville and  
6 Ypsilanti.  
7 Q Who did you live there with?  
8 A My parents and my sister and my brother.  
9 Q Can I ask you to speak up just a little?  
10 A Certainly.  
11 Q What street did you live on in Denton?  
12 A Cross Street.  
13 Q Is Cross Street near any major roads?  
14 A Michigan Avenue.  
15 Q Is that also known as US-12?  
16 A Yes, it is.  
17 Q Your house on Cross Street, was it near any--well, was it  
18 near a cemetery?  
19 A Yes, it was.  
20 Q Where was the cemetery located in relation to your house?  
21 A Kiddy corner, across the street.  
22 Q Well, first of all I would like for you to take a look at  
23 People's purposed exhibit number two. It's an overhead  
24 phonograph. I ask if you recognize that as an overhead  
25 photograph of the area that you are talking about.

1 A Yes.

2 Q What is that area?

3 A Denton.

4 Q Does this area show both the cemetery—does this photograph  
5 show both the cemetery and where your house was located?

6 A Yes, it does.

7 Q This is a more recent photograph, but as far as the area  
8 around your house and the cemetery, does it appear an  
9 accurate representation of what it was back then?

10 A Yes, it was, with the exception of a house that was built  
11 later on.

12 Q Let me show you purposed exhibit number three which is a  
13 closer in view. Can you locate your house on the  
14 photograph?

15 A Yes, I can.

16 Q And can you point to that please?

17 A Sure, it's right up here (INAUDIBLE).

18 Q So, your house is up in this corner. On of them is father  
19 West than the other, which one is yours?

20 A The one further West.

21 Q Is this a fair and accurate representation of how things  
22 looked back then?

23 A Yes, it is.

24 Q Are there any differences?

25 A With the exception of the house, and an addition of what

1           seems to be a few pine trees.

2   Q    And the house that is just East of where you house was,  
3           was that there at the time?

4   A    No, it was not.

5                   MR. HILLER: Your Honor, with that understanding,  
6           I move for the admission of People's exhibits two and  
7           three.

8                   THE COURT: Any objection?

9                   MR. GABRY: None, your Honor.

10                   THE COURT: Two and three for the prosecution are  
11           admitted.

12   BY MR. HILLER:

13   Q    How old were you on March 21, 1969?

14   A    14.

15   Q    Using that photo that was just given to you, would you  
16           explain to the jury where your house was again and where  
17           the cemetery is located?

18   A    My house was right here, the cemetery is right here.

19   Q    And is there any kind of fence around the cemetery?

20   A    Yes, there is.

21   Q    Can you show where there are openings to the fence?

22   A    Sure. The opening is right in this area right here and  
23           this is the fence line all down through here, and this is  
24           the entry way for automobiles.

25   Q    Thank you. Do you remember the morning of March 21, 1969?

1 A Yes, I do.

2 Q You were 14 years old--14 years old, were you in school at  
3 that time?

4 A Yes, I was.

5 Q And, how did you get to school?

6 A I walked. I walked to the bus stop.

7 Q And where was the bus stop?

8 A It was on Denton Road.

9 Q What time would you leave for school in the morning--what  
10 time did you leave for school in the morning that morning?

11 A 6:30, seven o'clock.

12 Q Were your parents up at that time?

13 A No.

14 Q When--when you left for school that morning, did anything  
15 usual happen?

16 A Well, I followed the same routine. I'd gotten up, gotten  
17 ready. I walked outside on our front porch and checked out  
18 how warm or how cold it was in the morning. When I did  
19 that, I noticed that there was a bag lying across from the  
20 cemetery in an upright position--

21 Q Can you describe the bag for me?

22 A Sure, it was a brown bag and, to me, it was pretty obvious  
23 that there was something in it. I thought it was odd  
24 because it was standing upright instead of, perhaps it  
25 looked like it was tossed out the window. So it looked

1           like it was sat there. I went back in and finished getting  
2           ready and walked to school. Came up on the bag, looked  
3           inside of it and seen the present and the note cards from  
4           college, I believe and took it back home.

5    Q       Can you show the jury, please, where you found the bag.

6    A       I found the bag right across from the entry way on the  
7           opposite side of the road where this field was.

8    Q       Now, that house was not there at that time, is that  
9           correct?

10   A       No.

11   Q       And it was just a field?

12   A       Yeap.

13   Q       And the bag was on the opposite side of the street from  
14           the cemetery?

15   A       Right. The bag was on the opposite side of the street  
16           lying right where the road ends, if you will, and the  
17           grass--the field begins.

18   Q       When you looked in the bag, can you describe with a little  
19           more detail, what you saw inside?

20   A       It was a--it was a birthday present, for one. I knew this  
21           because I had taken the card, out of curiosity, under the  
22           ribbon and opened it up and read it. It was a birthday  
23           card which had an apology in it for being late. She said  
24           happy birthday--

25   Q       You said she, how do you know it was a she?

1 A Because her name was on it.

2 Q Do you remember the name?

3 A I want to say Jennifer or Jenny.

4 Q Now, once you found this, once you saw what was in it ,

5 what did you do?

6 A I put the card back underneath the ribbon and I took it

7 back home. I was going to wake up my mother. That was kind

8 of odd because she never usually got up, but she was

9 sitting on the couch. I took it home and gave it to her.

10 Q Did you stay at all?

11 A For a few minutes. I had taken a bundle that they had

12 wrapped up in rubber band of note cards and I handed the

13 package over to my mother and I was just looking through

14 those note cards.

15 Q Do you recall what the note cards appeared to be about?

16 A Well, they were study cards from the classes she was

17 taking. I don't recall which one I was reading at the

18 time.

19 Q How long did you stay after you had taken the bag back to

20 your house?

21 A A couple of minutes. Then my mother shewed(SIC.) me off,

22 and told me I should be going so I didn't miss the bus.

23 Q And what did you do at that point?

24 A I handed over the cards to her and I walked down to the

25 school bus.

1 Q What--what route, again, did you take to get to the school  
2 bus?  
3 A From the house--I lived here and walked all the way down  
4 Denton Road. And at the corner there was a house, I  
5 believe this is a little bit further, but there was a  
6 house where the bus stop was, on the corner.  
7 Q That's where you waited?  
8 A Yes.  
9 Q Did anything else happen unusual that morning?  
10 A Well, I was sharing with my school friends what I had  
11 found. I thought that was kind of odd and my mother  
12 rushed--she was driving of course, and she ran--basically  
13 ran through the stop sign and squealed out of Denton Road  
14 and I found out later she was going to my aunts house. She  
15 lives on Denton.  
16 Q Your aunt lived near by?  
17 A Yes.  
18 Q Bus came I assume, and you went to school?  
19 A Bus came and, of course, we all got on.  
20 Q When school was over, you returned home by bus as well?  
21 A Yes, I did.  
22 Q What time did you get home?  
23 A About three or 3:30, I think.  
24 Q What did you find when you returned home?  
25 A Well the bus driver had asked if anyone had heard anything

1 about what was going on in Denton. I thought it was kind  
2 of odd so I said, no, why. He said--

3 MR. GABRY: Your Honor, I object as to what the  
4 bus driver said. As it is hearsay.

5 MR. HILLER: I will withdraw the question.

6 BY MR. HILLER:

7 Q Don't tell us what the bus driver said, but tell us what  
8 you found when you got home.

9 A When I got home--on my way home, there were numerous  
10 amounts of police cars and an ambulance down--close to the  
11 proximity to where I live. As I was walking home I was--the  
12 closer I got, of course, the police officers stopped me  
13 and asked me where I was going. I told them where I lived.  
14 I was going home. They began questioning me.

15 Q They did question you at that time?

16 A Yes, they did.

17 Q Now, when you were leaving for school that morning, did  
18 you notice anything in the cemetery?

19 A No, I did not.

20 MR. HILLER: Mr. Grow, I don't have any further  
21 questions for you at this time. Thank you very much.

22 THE COURT: Cross examination.

23 MR. GABRY: Thank you.

24 CROSS EXAMINATION

25 BY MR. GABRY:

1 Q Mr. Grow, the path that you take to school, always goes by  
2 the cemetery?  
3 A Yes, sir.  
4 Q And the actual angle to the cemetery entrance that you  
5 refer to, to Mr. Hiller, is not directly across the street  
6 from your house, is it?  
7 A No, it is not.  
8 Q It's kind of at a 45 degree angle?  
9 A Yes, I guess I would agree to that, yes.  
10 Q When you left the house, did you leave through the garage  
11 or did you leave through the front door?  
12 A Front door.  
13 Q And then you proceeded to head in the direction of the bus  
14 stop, but actually head for the bag?  
15 A I am a little confused by that question. I saw the bag,  
16 and it was on the route that I take to the bus stop so  
17 I-both.  
18 Q Did you focus on the bag?  
19 A Yes, I did.  
20 Q Did you walk by where the body was ultimately found?  
21 A Yes, I did.  
22 Q And then you picked up the bag and walked back past where  
23 the body was found?  
24 A Yes, I did.  
25 Q And then you gave the bag to your mother?

1 A Right.

2 Q And went by a third time?

3 A Yes, I did.

4 Q But, you never saw anything laying there in the cemetery?

5 A No, thank God.

6 Q You indicated that there was a group of guys that hung  
7 around—I think you called them Denton boys—the Denton  
8 boys--

9 A I don't recall--

10 Q You and your friends.

11 A I don't recall referring to them as the Denton boys. I  
12 recall--if we're talking about at the bus stop--

13 Q Do you recall whether or not you had an opportunity to  
14 talk to Detective Sargent Denise Powell on Friday January  
15 7, 2005?

16 A Yes, I do.

17 Q Did she discuss with you, and ask you about kids hanging  
18 out in the Denton Cemetery?

19 A Yes, she did.

20 Q And you identified to her a group that called themselves  
21 the Denton Boys?

22 A Yes, I did.

23 Q And those would be the Middlebrook brothers?

24 A There were some of them, yes.

25 Q The young man named Lipford, Lars--

1 A Yes. Yes, sir.

2 Q What about a Pacheco?

3 A No.

4 Q What about anyone with the last name of Ruelas?

5 A No.

6 Q Do you know a person by the name of Gary Leiterman?

7 A No, sir.

8 Q Did you have gloves on when you picked up this bag?

9 A No, I did not.

10 Q When you took it back, did you go through it--did you do  
11 any additional stuff other than what you told the jury so  
12 far?

13 A No, I did not.

14 MR. GABRY: That's all I have, your Honor.

15 THE COURT: Anything further?

16 MR. HILLER: Nothing further.

17 THE COURT: You may step down. You are excused,  
18 sir.

19 THE WITNESS: Okay, thank you.

20 (witness excused at 10:38 a.m. )

21 MR. HILLER: Your Honor, at this time, we would  
22 ask to play Nancy Grow's testimony.

23 THE COURT: Ladies and gentleman, this is one of  
24 those times when I said there was a third category and  
25 that is evidence that I specifically instructed you, you

1       could consider. This is the testimony of Nancy Grow that  
2       was taken at a preliminary examination in this matter.  
3       Counsel stipulated and I ruled that Ms. Grow is  
4       unavailable do to health reasons to attend the trial, so  
5       you may consider this testimony and give it the same  
6       weight as if she testified live right here in Court today.

7               MR. HILLER: Thank you, your Honor. Can we lower  
8       the lights, I think it might be a little easier to see.

9               THE COURT: That's in the way.

10              DIRECT EXAMINATION

11              NANCY GROW

12              (video recording from previous Preliminary Examination at  
13              10:39 a.m.)

14   BY MR. HILLER:

15   Q    On March 21, 1969, where were you living?

16   A    On Cross Street.

17   Q    What township is that in, Van Buren?

18   A    Yes.

19   Q    And, I am going to have to ask you to speak up.

20   A    I'm sorry.

21   Q    That's is in Wayne County?

22   A    Yes.

23   Q    Yes.

24   A    I think so.

25   Q    You need to answer yes or no--

1 THE COURT CLERK: Either, yes or no or I don't  
2 know. I'm sorry, we are recording this so I do need you to  
3 try to speak up a little bit.

4 THE WITNESS: Okay, I will try.

5 MR. HILLER: And, also if you could answer using  
6 words. (INAUDIBLE)

7 THE WITNESS: Okay.

8 BY MR. HILLER:

9 Q Now, Ms. Grow, on March 21, 1969 who did you live with?

10 A My husband.

11 Q Did you have any children at the time?

12 A Three.

13 Q Is one of your children Mark?

14 A Yes.

15 Q Ms. Grow, I would like you to look at the photograph to  
16 your right. Do you recognize it as an overhead photograph  
17 of the Denton Cemetery area?

18 A Yes.

19 Q Do you see the house that you lived in, in that  
20 photograph?

21 A Not really?

22 MR. HILLER: May I approach, your Honor?

23 THE COURT: Yes.

24 BY MR. HILLER:

25 Q Are you able to pick out your house now?

1 A No, I am not.

2 Q Do you remember the morning of March 21, 1969?

3 A Yes.

4 Q What happened that morning that makes it stand out?

5 A My son had left for school, I was standing at the door to  
6 see if off. He walked down the street--we had a vacant lot  
7 right next to us and he found a package and he came  
8 running back to me with it. I took the package from it,  
9 and said you better get going, your going to miss the bus.  
10 I took it in the house and sat down on the couch and  
11 looked in there. There was some school papers in it and a  
12 card from her mother--for her mother from her. I put back  
13 in there and as I did, I turned and I saw the blood  
14 coagulated down the side of the package. It scared me and  
15 I don't know why. I came out of the garage and when I did  
16 I saw something laying in the cemetery because it was  
17 right close to the opening. I got out of the car and I  
18 just lost it. I got back into the car and drove to my  
19 sisters, screaming.

20 Q You said you looked at--

21 A I looked at her, yes.

22 Q I would like to show you a photograph. Do you recognize  
23 what I am showing you?

24 A Yes. This is the opening and she was (INAUDIBLE)

25 THE COURT CLERK: I am sorry, I can't hear you.

1 THE WITNESS: I'm sorry. There's a--there's a  
2 road right here and she was just right inside the fence  
3 there where the opening is to go inside the cemetery.

4 BY MR. HILLER:

5 Q Is that a fair and accurate representation of what you saw  
6 that morning?

7 A Yes.

8 MR. HILLER: Your Honor, I move for the admission  
9 of (INAUDIBLE)

10 MR. GABRY: No objections.

11 THE COURT: 16 is admitted

12 BY MR. HILLER:

13 Q Once you had seen the body, what did you do?

14 A Got back in the car. All I wanted was my son. Like I said,  
15 I had never been so scared-drove down to the corner but  
16 the bus picked him up and he wasn't there, so I drove to  
17 my sisters which is just around the corner and my brother-  
18 in-law-my sister tried to calm me down. She called the  
19 police and my brother-in-law drove over there to confirm  
20 it because then I was in denial saying, maybe it's a  
21 dummy, maybe it's a dummy. My brother-in-law drove over  
22 there and I basically said, don't touch anything, don't go  
23 in there. He didn't, he just self confirmed that it was.  
24 My sister called the school to make sure that my son got  
25 there safe. That's about it.

1 Q Did you return to your house that day?

2 A Uh-uh.

3 Q About what time--

4 A Yes, I did. I'm sorry. I didn't realize I did that. Yes, I  
5 did. It must have been about--it was about 7:30, I  
6 guess--eight, maybe a little after. I have no idea.

7 Q Where the police there already when you got there?

8 A Um, I don't remember. I don't remember that. I think they  
9 were getting there, yes.

10 Q Do you remember whether it was detectives or people in  
11 uniforms that arrived first.

12 A I know that detectives came to the door, I know that.  
13 There were police officers there too.

14 Q You say that you got out of the car and looked at the  
15 body--

16 A Yes.

17 Q --that morning.

18 A Yes.

19 Q How close did you get to the body.

20 A Right there at her feet.

21 Q You went into the cemetery?

22 A Huh-uh.

23 Q Yes?

24 A Yes, I did. I'm sorry.

25 Q Can you describe what you saw?

1 A She was laid out. She had a bullet whole in her head—in  
2 her temple. There was blood coagulating down the side of  
3 her face. She had a nylon stocking around her throat. She  
4 had a yellow rain coat like throwed(sic.) over her. Her  
5 feet were showing, and she had nylons on. I remember that.  
6 I remember that as clear--I didn't understand--it was too  
7 much. I must have seen her good because when the  
8 detectives brought her school book, I picked her out of  
9 the school book just by looking down.

10 Q Did you tell the police that morning that you had gone  
11 into the cemetery?

12 A They did not ask, and I did not tell them. I was ashamed  
13 of that.

14 Q Did you touch the body?

15 A No, no, no.

16 Q Did you disturb anything around her body at all?

17 A No. No, I stood right--basically if you see that picture,  
18 I stood right at--further away from her feet than this.

19 Q While you were there, other than police officers, did you  
20 see anyone else go into the cemetery?

21 A No. No, we didn't.

22 MR. HILLER: Ms. Grow, thank you. That is all the  
23 questions that I have. Mr. Gabry might have some from you.

24 THE COURT: Cross examination.

25 MR. GABRY: Thank you, your Honor.

CROSS EXAMINATION

1  
2 BY MR. GABRY:

3 Q Good morning, ma'am.

4 A Good morning.

5 Q I'm going to ask you to think about the bag for a moment.  
6 I am going to try to get a picture in my mind. When Mark  
7 brought this bag into you, there was nothing obvious  
8 about it when you first saw it as far as blood on it?

9 A No.

10 Q That I (sic.) remember?

11 A No.

12 Q Can you describe--when you talk about where there was  
13 blood--you told the police there was blood in the bag--can  
14 you--

15 A No.

16 Q In the inside?

17 A No, on the side of the bag.

18 Q I meant the side. Can you tell if these were like drops  
19 or--

20 A I think they were drops and then they coagulated.

21 Q Was it of a large quantity or were a few?

22 A If I remember there was like, maybe three of four.  
23 Possibly more, but that is all I remember.

24 Q DO you remember Mark, going through the bag at all?

25 A No. No, he didn't.

1 Q Do you remember Mark looking at some cards or something  
2 that were in the bag?

3 A Not that I know of--that they we talked--we really didn't  
4 talk about it, Mark and I didn't after that. I never  
5 really talked to him about it.

6 Q If I heard you correctly, you said you backed your car out  
7 of--

8 A The garage.

9 Q --the garage. Is your garage located--you tell me--When  
10 you left the garage, which did you go, East or West?

11 A I backed my car--like coming out of my garage it was this  
12 way, I backed it out like this. As I pulled out, she was  
13 right over on the side of the cemetery.

14 Q But what I want--what I want to understand is where your  
15 garage is in relation to the house and the cemetery.

16 A Across the street actually, like here to there. Not real  
17 far, actually.

18 Q So, your garage would be built to the East of the house?

19 A I guess.

20 Q What did you say?

21 A I said, I guess. I am not sure. It's on this side of the  
22 garage. The cemetery is here. Say the cemetery is here--

23 Q You got to keep your voice up. Let me do it this way. If  
24 there had been some testimony already this morning by  
25 someone, already, that this is your house, where would

1 your garage be? Would it be on this side of the house or  
2 would it be this way?  
3 A It is right across the street for the cemetery, the house  
4 is, and the garage is on this side of the house.  
5 Q This way?  
6 A Which way does the house run?  
7 Q If the house runs--the front of the house runs East and  
8 West--this is Cross Street--  
9 A Okay.  
10 Q Is your garage to the East of the house or West of the  
11 living portion?  
12 A (INAUDIBLE)  
13 Q What I--so you were able to see this cemetery when you  
14 were--  
15 A From the drivers side mirror when I backed out--  
16 Q --backed out and turned the direction you were going to  
17 go?  
18 A When I put it in drive to go forward, she was right  
19 directly in front. Just a little ways--I drove for a few  
20 minutes and then I looked over and there she was.  
21 Q Did you then stop the car on the side of the road?  
22 A I did.  
23 Q And then went into the cemetery?  
24 A Yes, I did.  
25 Q Do you remember anything about the young ladies arm?

1 A I think one was up over her head, like--I think. It has  
2 been a long time. But , it seems like it was.

3 Q But you were still able to make--make out the features on  
4 her face.

5 A Oh yes.

6 Q You have a daughter named Dawn and a son that's Michael,  
7 and he's the youngest. Is that fair?

8 A He's about four and a half.

9 Q When Mark left for school, would Dawn have been going to  
10 school also?

11 A We don't--I don't remember.

12 Q But your youngest son, would he have been in school?

13 A No.

14 Q Was your husband home at the time you went after Mark?

15 A Yes, I think.

16 Q How far away is your--it is your sister's house--how far  
17 away?

18 A Um, three blocks or more, I don't know how to tell you.

19 Q Does it take you more than ten to get there?

20 A No. Not at all.

21 Q You mentioned that your brother-in-law then left. What's  
22 his name?

23 A George (INAUDIBLE)

24 Q George (INAUDIBLE).

25 THE COURT CLERK: I'm sorry can you spell that?

1 THE WITNESS: L-i-n-d-b-l-a-d

2 BY MR. GABRY:

3 Q Did he leave immediately?

4 A I don't remember. I think he did go to work, I am sure.

5 Q And, if I remember your testimony correctly, you don't  
6 remember, if when you left your sister's house, the police  
7 were already there or not. Do you remember that?

8 A No, I don't.

9 Q That's a long time. Do you remember what you would have  
10 been wearing on your feet that winter--spring day?

11 A Shoes.

12 Q Do recall what type they may have been?

13 A A loafer type, I think and a night gown.

14 Q As you approached the figure in the cemetery--as you came  
15 up to the scene and could see that stockings were on the  
16 young ladies legs, that was part of what you could see?

17 A Yes, I could see that she had nylons on.

18 Q I am going to switch gears on you just for a minute. Who  
19 is Julia Linblad?

20 A It's my sister's daughter.

21 Q Would she have been at the home the prior evening?

22 A Not--we were talking about that--no, not that I can  
23 remember. My other niece, Diane was there. She had come to  
24 visit with her--she was there.

25 Q Do you know a person by the name of Jeff Whillet?

1 A Yes, I do.

2 Q Who is that?

3 A That's my nieces ex-husband.

4 Q Which niece?

5 A Julia.

6 Q Okay. So, your recollection is that, that prior day, which  
7 would have been Thursday the 20<sup>th</sup>, Diane would have been at  
8 the home with you that evening?

9 A My home, yes. Diane was at my home.

10 Q Had you gone away any time the evening of the 20<sup>th</sup> that  
11 would have cause Julie or Julia to babysit for you?

12 A Not that I can remember.

13 Q As far as your recollection, everybody stayed home  
14 Thursday night?

15 A Yes. My niece, my husband and I--he was working in the  
16 garage on his motorcycle.

17 Q Your husband's name is Jack?

18 A Jack, yes.

19 Q The garage--I got an idea, is somewhere in view of the  
20 area where the body was found?

21 A Yes. I would say the garage door is like this and right  
22 over like that, in that area, is where the opening is.

23 Q Without getting into what you might have been told by  
24 anyone, at any point in time that evening before you  
25 retired for bed, did anyone in your family say that

1 anything strange had happened--anything unusual?

2 A No, not to my knowledge.

3 Q In fact, your husband--I think you have a recollection of

4 how long he actually stayed outside and worked on the

5 motorcycle?

6 A You mean earlier? I really don't know how much time.

7 Q Do you recall making a statement about your husband

8 leaving--

9 A He left and then he got to Big Boys, got something to eat

10 and then came back. Probably about 45 minutes to an hour

11 after that we went to bed.

12 Q That was actually quite late in the evening, was it not?

13 A Yes, it was.

14 Q Around eleven or twelve, I think you told Detective

15 Schroder?

16 A I don't remember exactly the time, but it was late, yes.

17 Q Now, your home also has a big Bay window that looks out

18 into the front?

19 A Yes, it did.

20 Q And it also did not have shades or curtains that you kept

21 closed, is that correct.

22 A To my knowledge--I have curtains, but I didn't have

23 drapes--like, where they cover the window.

24 Q And your attention was drawn to anything occurring in the

25 cemetery until the next morning?

1 A Yes.

2 MR. GABRY: Thank you, your Honor.

3 THE COURT: Mr. Hiller, anything else?

4 MR. HILLER: No, your Honor. Thank you.

5 THE COURT: Thank you, Ms. Grow. You may step  
6 down.

7 (End of video testimony from previous examination at  
8 11:01 a.m.)

9 THE COURT: Call your next witness.

10 MR. HILLER: Jeff Willet.

11 THE COURT: Will you move that chair—that is what  
12 I was concerned about. We need to move those chairs. Put  
13 them behind you. Stop there, face the clerk, raise your  
14 right hand, sir.

15 THE COURT CLERK: Do you swear to tell the truth,  
16 the whole truth and nothing but the truth?

17 MR. WILLET: Yes, I do.

18 (Witness sworn at 11:02 a.m.)

19 THE COURT CLERK: Have a seat right up there.

20 THE COURT: Sir, will you state and spell both  
21 your first and last names?

22 THE WITNESS: Jefferey Willet.

23 THE COURT: Spell Jeffery.

24 THE WITNESS: J-e-f-f-e-r-y W-i-l-l-e-t.

25 THE COURT: Thank you. Prosecutor.

1 MR. HILLER: Thank you, your Honor.

2 JEFFERY WILLET

3 DIRECT EXAMINATION

4 BY MR. HILLER:

5 Q Good morning, Mr. Willet.

6 A Morning.

7 Q Um, do you know Mark and Nancy Grow?

8 A Yes, I do.

9 Q How do you know them?

10 A I was part of the family for a while. I was married to  
11 Julie Linblad when she was babysitting that night.

12 Q Well, let's not get ahead of ourselves. Who is Julie  
13 Linblad to--

14 A That's Aunt Nancy's niece.

15 Q Julie's mother is who to Nancy Grow?

16 A Her sister.

17 Q Now, back in March of 1969, did you know--had you already  
18 gotten to know the Grow's at that time?

19 A Yes. I pretty much grew up with them in the village that  
20 we lived in.

21 Q What village was that?

22 A Denton--Denton.

23 Q Okay. Had you and Julia began dating at that time?

24 A Yes we have.

25 Q Now, do you remember when Jane Mixer's body was found in

1 the Denton cemetery across from the Grow's house?

2 A I was called into the office--I was at school, and two  
3 detectives come in to talk to me on, more or less, what I  
4 had seen and the description of the vehicle I had seen  
5 that night.

6 Q All right. Lets talk about that. On the evening of March  
7 20<sup>th</sup>, what were you doing on? What did you do that evening?

8 A I had got off work--me and my buddy had got off work and  
9 Julie was babysitting at Aunt Nancy's, which was across  
10 from the graveyard--

11 Q That's Nancy Grows?

12 A Yeah.

13 Q Okay.

14 A When she would babysit I would drive by every night, toot  
15 my horn and flash my lights on and off. She would turn the  
16 light on the house on, and I would know that everthing was  
17 okay, then I would proceed on taking my buddy Kurt home  
18 and then I would go home.

19 Q What was Kurt's last name?

20 A Kurt Amerman.

21 Q Is he still with us?

22 A No. He died back in the '70's.

23 Q Okay.

24 A So--

25 Q Where were you taking Kurt home from?

1 A We worked on--right off of Haggerty Road.

2 Q What kind of a business was it?

3 A We planted flowers and it was--

4 Q Was it--was it a retail business, or was it a service kind  
5 of business?

6 A It was retail.

7 Q Was it a flower store?

8 A Well they had a bunch of greenhouses and they had their  
9 house in front of it and we would go there everyday after  
10 school and go to work.

11 Q Do you recall how late you worked that evening?

12 A Not really. I mean, when we go off we just wanted to get  
13 out of there, you know, so it wasn't--if I did remember  
14 the time back then, I just can't think of it right now. I  
15 know it was dark out when I was going down the road to  
16 check on Julie because I turned my brights on. I seen a  
17 gent--I seen--I seen a car parked there.

18 Q Lets slow down a bit. Lets go back to where--what time it  
19 was when you got out of work. You said it was dark out. Do  
20 you remember if it had been dark out for a while or it has  
21 just recently gotten dark?

22 A It had just recently gotten dark.

23 Q This was March 20<sup>th</sup>, is that correct.

24 A I believe that's what it was, yes.

25 Q Now, what route would you take to get to the Grow's house?

1 A I would come up--we'd come down either Ecorse or Michigan  
2 Avenue, which ever way I would decide to go home on, which  
3 usually I took Ecorse. I would go down Denton Road. I  
4 would go over the railroad tracks and I would go down to  
5 Cross Street and then I would go I would go down towards  
6 the graveyard.

7 Q You--do you recognize the photograph behind you. That's  
8 People's exhibit number three?

9 A Yeah. It's--

10 Q Are you able to--let me give you this--can you show us the  
11 route, first of all, that you were traveling as you went  
12 from the Grow's house.

13 A I'd come from this direction and make my turn and go down  
14 the road here. About right here is about when I turned my  
15 brights on.

16 Q That's right about the edge of the cemetery?

17 A Some what. I was probably about a car-car length and a  
18 half right before the whole cemetery. The car was parked  
19 right here and here is the entrance and by the time I got  
20 about right here, I'd seen someone come out of the  
21 cemetery. They wouldn't look at me. What they did is they  
22 kind of shuffled behind the car and went up to it, got  
23 into it, and when he pulled out he threw gravel all over  
24 our car, which was my mom and dads at the time. Then me  
25 and Kurt, being young and crazy like we were, figured

1 well, we are going to go beat his butt. SO we are going  
2 after him now. We come out through here and by the time I  
3 got to Michigan Avenue, which they had a cut off road  
4 right here where you just dip down into the ditch and cut  
5 over to Michigan Avenue. It wasn't really part of the road  
6 or anything, it was homemade. By the time I got there, I  
7 couldn't even see taillights anymore. That's how fast he  
8 was going. He threw gravel all the way until he got onto  
9 Michigan Avenue. When I seen that, I came back--came back  
10 around to the road right here--then went back over, tooted  
11 my horn, hit my lights and then she flashed the lights off  
12 and on. Then I proceeded back around the same direction  
13 and then I took Kurt home. Kurt lived over the tracks,  
14 where I lived down towards Ecorse Road.

15 Q Now on either time through, either the first time and then  
16 you came around again to flash your lights--

17 A Right.

18 Q --for your girlfriend--

19 A Right.

20 Q --did you notice anything in the cemetery?

21 A No, I never really paid that much attention to looking in  
22 the cemetery as I did looking towards the house making  
23 sure everything was okay there. At that time, there was an  
24 open field and then the house. There wasn't a bunch of  
25 houses around it like it is now.

1 Q Are you able to describe the vehicle?

2 A It was lime green, '68 Chevy station wagon and it had wood  
3 graining on the side. That's what made it kind of stick  
4 out in my mind.

5 Q Are you able to describe the person?

6 A Well according to the height of the car, he was almost  
7 even--evenly level head wise as far as the top of the car  
8 and that time had dark hair I could see. Of course it was  
9 a night. But like I said, he would never--what he was he  
10 just--say the car was parked here and the entrance is here,  
11 he just kind of shuffled out this way and then went right  
12 straight for the car and door and then got in. All I  
13 really got to see was the back of him. I never really got  
14 to see the front of--he never looked at us, lets out it  
15 that way. What kind of surprised me too was, when I hit my  
16 brights, normally people would turn and look at 'ya. He  
17 never did.

18 Q Earliest this could have been and the latest this could  
19 have been?

20 A Back then, being 16, time wasn't something I kept on eye  
21 on to tell you the truth. All I know is that is was dark  
22 and we got off of work and I was going home.

23 Q How late would you typically work? What was the name of  
24 the business?

25 A Um, that's a good one too, now. Kolanski's.

1 Q How late would you typically work at Kolanski's?

2 A See, that varied. I mean sometimes we would get off at  
3 seven, sometimes eight, sometimes--most of the time we  
4 would get off at 8:30, nine o'clock.

5 Q Okay. Now, when the car took off, what exactly did you see  
6 it do?

7 A He got in, he started spinning out on the grass and hit  
8 the gravel and it splattered all over the front of our  
9 car.

10 Q Cross Streets a gravel road?

11 A Yeah. And then as he veered around the corner, he was  
12 spinning back and forth and that's when I started to  
13 accelerate up and go after him. Like I said, by the time I  
14 got to Michigan Avenue, he was already one. He had already  
15 hit that dip and was on Michigan Avenue and I could barely  
16 see his lights, so I knew there was no way I was going to  
17 catch him. Plus, as he was pulling out, I do remember  
18 seeing a double flags on the fender of the car. Which,  
19 back then, usually meant it was a big block, so I figured  
20 it was a big motor he had in that. It was kind of the  
21 flags of the Chevy emblem that they had back then. I know  
22 the way that he got on Michigan Avenue, there was no way  
23 I--'cause all I had was a little 289 Ferro, my parents car  
24 and I knew I wasn't going to catch him. That's when I--I  
25 stopped pursuit right there.

1 Q When you said you were able to see the crossed flags, at  
2 what point--where was he located and where were you  
3 located?

4 A All right. Here's the entrance, the car's parked right  
5 there. I was probably just before the entrance and he come  
6 pulling put right here spinning--spinning gravel to get  
7 around this--when he come around this curve, at one point,  
8 we thought he was going to loose it because that is a real  
9 sharp curve right there at that area and it's all  
10 gravel--it was all loose gravel back then and he just kept  
11 spinning until he got to that little dip and he hit  
12 Michigan Avenue and he was gone.

13 Q Where did you see the flags though? Where was he--where was  
14 his car located?

15 A The car was located right here. Now as he come out this  
16 way, all right, to get back onto the gravel part, I could  
17 see that whole side of the vehicle. I could see all the  
18 wood grain, the lime green and the flags on the--they were  
19 right up on the fender, the front fender.

20 Q Okay. What direction onto Michigan Avenue did he go?

21 A He was headed Eastbound.

22 Q Eastbound?

23 A Yeah.

24 Q Thank you, sir. I don't have any further questions.

25 A All right.

1 THE COURT: Cross examination.

2 MR. GABRY: Thank you, your Honor.

3 CROSS EXAMINATION

4 BY MR. GABRY:

5 Q Mr. Willett, after this happened did you go home and tell  
6 your folks?

7 A Um, I might have mentioned something to them about it. I  
8 wanted to let them know if there were any scratch marks on  
9 the hood, that it wasn't because I was out gallivanting  
10 around or whatever. I drove by to check up on Julie, like  
11 they knew I did every night when she was babysitting  
12 there. I let them know, seeing it was their vehicle.

13 Q I ask because the police contacted you, is that correct?

14 A They came to the school where I was at. They called me  
15 into the office and said there were two detectives that  
16 wanted to talk to me.

17 Q This was the very next Friday?

18 A Right.

19 Q The very next school day?

20 A Right.

21 Q You were at tenth grade up at Belleville High School?

22 A Right.

23 Q Do you have any idea how the police came to know about  
24 you?

25 A The only I figure is at the time when they explained to me

1 . . . what happened--

2 Q Well let me stop you there for a minute. Not at the time

3 they explained to you what happened. How did they know to

4 even look for you?

5 A I guess they got a hold of my parents.

6 Q Okay.

7 A I would assume that somebody called my parents because I

8 had seen something that night.

9 Q And you told them that evening, your parents, about this

10 lime green, Chevy station wagon with wood paneling and the

11 racing emblems?

12 A Right, well, it is not really racing. It was that emblem

13 that was always on the car.

14 Q That's what I am referring to. The cross Chevy flags..

15 A Right.

16 Q And that's been consistent for the past thirty-six years,

17 you recall that car?

18 A Yeap.

19 Q Now, I want to make sure I understand this. You say pull

20 out. You were heading Westbound along what is Cross

21 Street, correct?

22 A Right.

23 Q And this car, as you are approaching, is parked parallel

24 to--

25 A Actually Westbound.

1 Q --okay, but actually off of--

2 A Right, he was off on the grass because there's--there's a  
3 pretty good size skirting of grass and then there's the  
4 fence. Right here there is a pretty good size skirting and  
5 there's the fence right there. He was parked almost even  
6 with the entrance, the back end was.

7 Q The back end of the station wagon--

8 A Yes.

9 Q --parked even with that gateway that goes into the  
10 cemetery?

11 A Huh-huh.

12 Q You saw him coming out of that gateway?

13 A Yeah, because e came straight out behind the car and then  
14 right straight down to the door.

15 Q Did you see him slam any doors on the station wagon, close  
16 it up at all?

17 A No. The only door that I seen him close was the one he got  
18 in.

19 Q Then the gravel splatter as he--

20 A As he come off the grass and hit the gravel it flew up on  
21 the car.

22 Q Could it had been after ten o'clock at night when this  
23 happened?

24 A I said (INAUDIBLE) back then. I probably knew it back  
25 then. I could have been it doesn't quit--it could have

1           been. I am not quite sure. I know it was dark.

2   Q       That next day, after you talked with the police, did you

3           do something with them?

4   A       Yes. They came to the school and got me. First, they took

5           me out to breakfast and they explained why they--well

6           first they explained in front of the principal before he

7           would let us go, why they were there and what it was all

8           about and what I had seen. Then they took me out to

9           breakfast and then they took me down to the Chevy dealer

10          and I pointed out vehicle that was similar to the same one

11          that I had seen that night. With the wood grain and the

12          lime green and--

13   Q       Where do you live in conjunction with the cemetery?

14   A       Let's see. It's way back over here, across the railroad

15          tracks.

16   Q       It's still in the village of Denton?

17   A       Yeah. Actually, Van Born Road ended right at our yard.

18   Q       Do you know anyone with the last name of Pacheco?

19   A       Pardon me.

20   Q       Do you know anyone with the last name of Pacheco?

21   A       No.

22   Q       Do you know anyone with the last name of Ruelas?

23   A       Rulat(sic.)?

24   Q       Ruelas?

25   A       No.

1 Q Did you know Gary Leiterman?  
2 A No.  
3 Q Do you recall originally when you talked to the police,  
4 back in 1969, you said anything to those detectives about  
5 actually seeing the man walk out of the cemetery?  
6 A I described everything that I had seen that night, yeah.  
7 They asked and I told them.  
8 Q Including seeing someone walk out of the cemetery?  
9 A I'm pretty sure I mentioned that, yeah.  
10 MR. GABRY: Thank you, your Honor.  
11 THE COURT: Anything further?  
12 MR. HILLER: No, your Honor.  
13 THE COURT: You may step down, you are excused,  
14 sir.  
15 (witness excused at 11:20 a.m.)  
16 MR. HILLER: I call Richard Schoenberger.  
17 THE COURT: Would you stop there, face the clerk  
18 and raise your right hand?  
19 THE COURT CLERK: Do you solemnly swear to the  
20 truth, the whole truth and nothing but the truth?  
21 MR. SCHOENBERGER: I do.  
22 (Witness sworn at 11:21 a.m.)  
23 THE COURT CLERK: Have a seat right up there.  
24 THE COURT: Sir, I need you to state and spell  
25 both you first and last names.

1 THE WITNESS: My name is Richard Schoenberger, R-  
2 i-c-h-a-r-d S-c-h-o-e-n-b-e-r-g-e-r.

3 THE COURT: Thank you. Prosecutor.

4 MR. HILLER: Thank you.

5 RICHARD SCHOENBERGER

6 DIRECT EXAMINATION

7 BY MR. HILLER:

8 Q Good morning, Mr. Schoenberger.

9 A Good morning.

10 Q Where do you currently live? In what community?

11 A Manistee, Michigan.

12 Q In March of 1969, what did you do for a living?

13 A I was a Trooper at the Ypsilanti Post.

14 Q State Police?

15 A Yes.

16 Q When did you hire into the State Police?

17 A Would have been October of 1968. I attended their recruit  
18 school.

19 Q Are you retired now?

20 A I am.

21 Q When did you retire?

22 A In 1994.

23 Q Were you assigned to the Ypsilanti Post right after  
24 recruit school?

25 A Yes, I was.

1 Q Do you recall if you were working on March 21, 1969?

2 A Yes.

3 Q What shift would you have worked that day?

4 A The midnight shift.

5 Q What would the midnight shift be?

6 A It's usually midnight to eight a.m.

7 Q You would have been getting off about eight o'clock in the

8 morning?

9 A Yes.

10 Q Okay. Did you work past eight o'clock that day?

11 A Yes, I did.

12 Q What was the reason for that?

13 A Sometime prior, probably after seven a.m., there was a

14 call received at the Michigan State Police Post that there

15 was a body at the Denton Cemetery and I was a probationary

16 Trooper at that time, and that call was assigned to

17 Trooper Lalone. I went to him and asked him if I could

18 ride along so that I could get the experience of perhaps

19 another call.

20 Q Trooper Lalone was an experienced Trooper at that time?

21 A Yes, he was.

22 Q And is he still with us?

23 A Not that I am aware of.

24 Q Now, were you in uniform at that time?

25 A Yes, I was.

1 Q Was Trooper Lalone also uniformed?

2 A Yes.

3 Q What did you do after--after you spoke to Trooper Lalone,  
4 what did you do?

5 A He told me that it would be okay if I went along with him,  
6 so he and I left the post and drove out to the cemetery.

7 Q Were you familiar with that area?

8 A Yes.

9 Q Would you look at the photograph behind you, People's  
10 exhibit number three, and tell you--tell me if you  
11 recognize that as a photograph of the area of the Denton  
12 Cemetery?

13 A Yes.

14 Q How long did it take you and Trooper Lalone to get there?

15 A Just a couple of minutes. It couldn't be more than five  
16 minutes.

17 Q At that time, where was the State Police post in Ypsilanti  
18 located?

19 A Right downtown on--I believe that's Michigan Avenue there.

20 Q When you and Trooper Lalone got there, what did you do?

21 A We came around on the Denton Road, and as we came around  
22 the cemetery, there is a gated, or at least an opening, in  
23 the fence and we notice a body in the cemetery and Trooper  
24 Lalone pulled his car into the--into that driveway. That  
25 would be between those two pieces of fence.

1 Q Are you able to locate that area on the photograph?

2 A I'm not for sure, but I think it would be along this area

3 in here.

4 Q Your indicating this--this is Cross Street here?

5 A Yes, yes.

6 Q There seems to be kind of a warrant area here, would that

7 correctly correspond to it?

8 A Right, that--if there is a break in the fence then yes

9 that would be it.

10 Q You say Trooper Lalone pulled the car into--up on to that

11 grassy area?

12 A There's a break in the fence and it looks like a driveway

13 and so he pulled the car into the beginning of that, but

14 not completely into the cemetery. So it would be off the

15 road and into that driveway.

16 Q And once he had done that, what did you do?

17 A Stopped the car and he and I got out of the car and went

18 over to the body.

19 Q I'm going to hand you People's purposed exhibit 69 and ask

20 you if you can recognize that a photograph that you might

21 have seen before?

22 A Yes.

23 Q What is that?

24 A That shows the area where we pulled the patrol car in and

25 the--picture of her body inside the cemetery fence.

1 Q And is there--is that a fair and accurate representation  
2 of what you and Trooper Lalone saw that morning?

3 A Yes.

4 MR. HILLER: Your Honor, I move for the admission  
5 of People's exhibit 69.

6 MR. GABRY: I have no objection, your Honor.

7 THE COURT: 69 is admitted.

8 BY MR. HILLER:

9 Q Now, are you able to see that?

10 A Yes.

11 Q Trooper Schoenberger, using the pointer--the laser pointer  
12 that you have up there, could you show the jury on this  
13 photograph where the car was pulled and where the body was  
14 located.

15 A You see that, does it stay? I can see it here. Where am I.

16 Q Maybe it doesn't reach out that far.

17 A I can see it here, but--

18 Q Well, maybe you can just describe then.

19 THE COURT: Or maybe he can just walk up to the  
20 podium and do it.

21 BY MR. HILLER:

22 Q Just walk up to the podium.

23 A Our patrol car went--ended up in this area right here and  
24 the body was here.

25 Q You can go ahead and take the witness stand again. Did you

1 and Trooper Lalone actually approach the body?

2 A Yes. I can't remember exactly. I don't believe we actually

3 touched the body or anything like that, but I don't

4 remember.

5 Q What was the purpose for approaching the body?

6 A To see, in fact, if the person was dead.

7 Q How close did you get to the body, as you recall?

8 A I would say within a couple of feet.

9 Q And from where you could you tell this women was dead.

10 A Yes, it was our opinion that she was at that time.

11 Q Once you determined that, what did you do?

12 A Went back to the patrol car and called the Michigan State

13 Police Post and asked for some detectives to come out.

14 Q Did you remain there?

15 A Yes.

16 Q What was the reason for remaining there?

17 A So that somebody would remain with the body at all times.

18 Q Did you or Trooper Lalone--from the time that you

19 approached the body and the time the detectives arrived,

20 did you and Trooper Lalone approach the body again?

21 A No.

22 Q Where did you stay?

23 A In the patrol car.

24 Q Did the patrol car remain parked where it was originally

25 pulled in?

1 A I don't remember when we moved it, but at some point it  
2 was moved. I don't remember.

3 Q Did anyone else approach the body from the time that you  
4 and your partner first approached it and when the  
5 detectives arrived?

6 A No.

7 Q How long did you stay at the scene?

8 A I stayed there until the crime lab got there and I  
9 observed the crime lab for a period of time and by that  
10 time I then went home, I have been long past my shift and  
11 observed the crime lab for awhile and then went home.

12 Q Do you recall about what time that would have been that  
13 you finally went home?

14 A I can not recall that at all.

15 Q Who were the detectives that came out?

16 A Detective Taylor and Detective Krause from the Michigan  
17 State Police post there in Ypsilanti.

18 Q Do you remember any other detectives coming?

19 A I don't.

20 Q Now you remember the crime lab coming?

21 A Yes.

22 Q Do you know any of the people who came down?

23 A No.

24 Q Did you participate in collecting any physical evidence at  
25 the scene?

1 A No.

2 Q Did you do any interviews of witnesses in the  
3 neighborhood or canvass the neighborhood?

4 A No.

5 Q From the time you got there until the time the detectives  
6 first arrived, did anyone disturb the body in any way?

7 A No.

8 Q Mr. Schoenberger, thank you very much. I don't have any  
9 further questions.

10 THE COURT: Cross examination.

11 MR. GABRY: Thank you, your Honor.

12 CROSS EXAMINATION

13 BY MR. GABRY:

14 Q I just have a few questions about People's exhibit 69. In  
15 that photograph is it fair for me to say that the actual  
16 road surface—the traveled road surface of Cross Street is  
17 not visible?

18 A Yes.

19 Q It would be, for the jury's benefit, to the South of the  
20 picture, is that correct?

21 A Correct.

22 Q So this area that we see in the photograph is all what has  
23 been described as a grassy kind of shoulder from the road  
24 up to the fence?

25 A Yes.

1 Q Now, in that exhibit, I notice off on the right hand side,  
2 there's a, I don't know, a bucket or a pail or something  
3 white--  
4 A I see that.  
5 Q Do you know what that is?  
6 A I have no idea.  
7 Q So that obviously wasn't there when you pulled up?  
8 A Correct.  
9 Q Because if it was you would have run over it, right?  
10 A Correct.  
11 Q So whatever was being marked by somebody in exhibit 69,  
12 for whatever purpose, that would have been driven over by  
13 you and Trooper Lalone drive your car, correct?  
14 A Possibly, yes.  
15 Q You also indicated that both of you walked through this  
16 opening in the area in the gate?  
17 A Yes.  
18 Q Each exited from either side of the car?  
19 A Correct.  
20 Q And then going into the front of the car and joining up  
21 and going to the body, correct?  
22 A Yes.  
23 Q Did you stay on the same side of the body, or did you go  
24 on opposite sides?  
25 A I can't remember.

1 Q After determining that the person was deceased, you didn't  
2 lift or remove any of the covering to check for vitals?  
3 A No.  
4 Q Do you recall whether you or Trooper Lalone checked for a  
5 pulse?  
6 A I don't believe we did, but I don't—I can't absolutely say  
7 either way.  
8 Q Do you remember anything about the positioning of the  
9 hands of the body when you observed it?  
10 A No.  
11 Q Is it fair to say no one moved them or changed them in any  
12 fashion? Was anyone around there when you arrived?  
13 A No.  
14 Q Trooper Lalone had ben a Trooper for how long?  
15 A I--I--I don't know, but I would say more than five or six  
16 years.  
17 Q You got the impression from your year of working there  
18 that he was experienced?  
19 A Yes.  
20 Q Did the police car get moved before the crime scene team  
21 showed up, so the crime scene team wouldn't see where the  
22 police car was?  
23 A I believe that's possible, but I don't remember.  
24 Q Cause really, it shouldn't have been pulled up there,  
25 should it?

1 A I would agree with you and say that probably not.

2 Q So any evidence that might have been visible within the

3 road surface ending and the start to the cemetery would

4 have been compromised?

5 A I don't know that for sure, but it is possible.

6 Q Do you know who Detective Max Little was, at the Post?

7 A I don't remember whether he was at the Post or he wasn't.

8 Q Really, you don't remember Max Little?

9 A As a person or at this particular time?

10 Q At this particular time.

11 A Yea, I don't remember him.

12 Q Okay. So, if he filed a police report that indicated that

13 you and Trooper Lalone were to conduct a canvass in the

14 neighborhood, you don't--you didn't do that or you don't

15 recall doing that?

16 A I don't recall doing that. I was there to observe.

17 Q How did you get back to the Post?

18 A I have no recollection of that.

19 MR. GABRY: Thank you.

20 THE COURT: Any further questions?

21 MR. HILLER: Nothing further, your Honor. Thank

22 you.

23 THE COURT: You may step down. You are excused,

24 sir, thank you.

25 (witness excused at 11:37 a.m.)

1 MR. HILLER: I'll call Ken Kraus.  
2 THE COURT: Sir, stop there if you would and face  
3 the clerk and raise your right hand.  
4 THE COURT CLERK: Do you solemnly swear to tell  
5 the truth, the whole truth and nothing but the truth?  
6 MR. KRAUS: I do.  
7 (Witness sworn at 11:38 a.m.)  
8 THE COURT CLERK: Have a seat right up there.  
9 THE COURT: Sir, state and spell both your first  
10 and last names.  
11 THE WITNESS: First name is Kenneth, K-e-n-n-e-t-  
12 h, last name is Kraus, K-r-a-u-s.  
13 THE COURT: Thank you. Prosecutor.  
14 KENNETH KRAUS  
15 DIRECT EXAMINATION  
16 BY MR. HILLER:  
17 Q Good morning, sir.  
18 A Good morning.  
19 Q In which community do you currently live?  
20 A I live in Plymouth, Michigan.  
21 Q In March of 1969, what was your occupation?  
22 A I was a detective with the Michigan State Police.  
23 Q Where were you assigned?  
24 A At the Ypsilanti Post.  
25 Q What was your rank?

1 A Detective.

2 Q When did you start at the Michigan State Police?

3 A April 9, 1956.

4 Q How long did you work there?

5 A 25 years.

6 Q So you retired in '91?

7 A 1991, right.

8 Q Is that right, did I do my math right? What year did you

9 retire?

10 A 1981.

11 Q Do you recall if you were working on the morning of March

12 21, 1969?

13 A Yes, I was.

14 Q And, where were you assigned at that point?

15 A I was at the Ypsilanti Post in the detective bureau.

16 Q How many detectives were at the Ypsi post at that time?

17 A I don't know, five or six. I don't remember exactly how

18 many we had.

19 Q Did there come a time that day when you were sent to the

20 Denton Cemetery in Wayne County?

21 A Yes, there was.

22 Q About what time were you sent out there?

23 A It was about 7:30 in the morning.

24 Q Did you go alone or did you take someone with you?

25 A I went with Detective Ken Taylor and Cadett Boprie.

1 Q Who was that again?

2 A Cadette Boprie.

3 Q Boprie. How long did it take you to get from the Post to

4 the cemetery?

5 A Ten minutes.

6 Q About what time did you arrive?

7 A Around 7:40, 7:45, something like that, I guess.

8 Q When you got there what did you find?

9 A Well we found the officer--the area was protected by a

10 couple of uniformed Troopers and we found a deceased in

11 the cemetery in the South side.

12 Q Who were the Troopers--the uniformed Troopers that were

13 there?

14 A Richard Schoenberger and Robert Lalone.

15 Q Where were they when you arrived?

16 A All I can remember is they were protecting the area. They

17 were stationed so that no one could go into the area where

18 the body was at.

19 Q That would be their--

20 A That was their primary function to protect the scene.

21 Q You recall anything about where their car was parked?

22 A I do not.

23 Q When you arrive at a scene like this--when you arrived at

24 a scene like this, what was your primary function?

25 A Well, to just view the scene more than anything. We did

1 not contaminate it because of the crime lab coming to the  
2 scene, so it was just a visual observation of the area,  
3 basically that's all it was.

4 Q When you had got there, had the crime lab--had the crime  
5 lab already been called?

6 A I don't think so.

7 Q Did you or Detective Taylor approach the body?

8 A I did not--I did not and I don't believe Taylor did  
9 either, but I don't know for sure, but I don't think so.

10 Q What did you do when you got there?

11 A Like I say, we did a visual observation and then started  
12 pursuing whatever information we had.

13 Q Did someone protect the body until the crime lab arrived?

14 A Best of my knowledge, yes.

15 Q Can you describe the scene for me, please.

16 A Well, it's a small cemetery and it's fence was cyclone  
17 fence--there is not too much I can describe really.

18 Q What about Jane Mixer's body?

19 A Well, it was--as I recall it was laid, covered on the  
20 ground with a raincoat or a jacket of some type, as I  
21 recall.

22 Q About what time did the crime lab arrive?

23 A I do not know. I was not at the area when they arrived. I  
24 don't know what time they got there.

25 Q How long did you stay there?

1 A As I recall, just a short time. There was nothing more I  
2 could do there.

3 Q Did--did any other detectives come to the scene other than  
4 the crime lab?

5 A I believe there were other officers that came there. I  
6 believe Max Little came out there--

7 Q Now, who was Max Little?

8 A Max Little was my supervisor--Sergeant Max Little, my  
9 supervisor at the detective bureau.

10 Q You believe he was there?

11 A I believe he came out there.

12 Q Would he have been the person in charge of the scene until  
13 the crime lab got out there?

14 A I would say, yes.

15 Q Did you collect any evidence while you were at the scene.

16 A No, I did not.

17 Q Did you interview any witnesses in the area?

18 A I believe I might have been present--I personally didn't,  
19 but I believe I was present when contact was made with the  
20 lady that lived there along with her son. (INAUDIBLE)

21 Q The Grow's?

22 A The Grow's, right.

23 Q Once you left the scene did you continue to work on the  
24 case that day?

25 A I am sure I did, yes.

1 Q Do you recall what you did?

2 A Um, no, not really other than trying to determine who the  
3 victim was.

4 Q How did you go about determining that?

5 A Well, we had checked some self tele-banks that were out in  
6 the morning as we come into work and there was one in  
7 particular, I believe it was Ann Arbor Police Department  
8 that we pursued. Which eventually lead to our conclusion.

9 Q Do you recall if you went to the law--the University of  
10 Michigan Law School that day?

11 A I did.

12 Q What was your purpose for going there?

13 A To seek out any information we might be able to about the  
14 victim. We also--I say we because I was with other  
15 officers, Max Little in particular, and we went to the  
16 room of the victim and looked for anything we might be  
17 able to help us identify her.

18 Q Do you recall finding anything in her room that was  
19 pertinent to the case?

20 A The thing that sticks with me is that the telephone book  
21 in her room was open and there was a mark by a name.

22 Q Do you recall the name?

23 A David Johnson.

24 Q Did you seize that telephone book?

25 A I did not.

1 Q Do you know if it was seized?

2 A It was seized.

3 Q Do you recall if you went to the basement of the law  
4 library?

5 A I believe we did, but I don't remember anything specific.

6 Q Do you recall seeing--in connection with this  
7 investigation, do you recall seeing a Ann Arbor-Ypsilanti  
8 telephone book with the words "Muskegon" and "Mixer"  
9 written on it?

10 A Yes, I did.

11 Q I can show you People's purposed exhibit 52, and I will  
12 ask you if you recognize that as something you've seen  
13 before?

14 A That is a photograph of the phone book.

15 Q Is that the phonebook--when you talk about the phone book  
16 that was found in Jane Mixer's room, is this the same  
17 phonebook or is this a different phone book.

18 A This would be a different phonebook.

19 Q Do you recall where you saw that?

20 A I don't recall specifically where I seen it, it was in the  
21 early stages of the investigation, but I don't remember  
22 just exactly where I seen it.

23 Q Do you recall if you ever had possession of the phonebook  
24 that was shown in this photograph?

25 A I don't recall. I could have but I don't recall.

1 MR. HILLER: If I could have a moment, your  
2 Honor.

3 BY MR. HILLER:

4 Q Detective Kraus, did you continue after March 21, 1969,  
5 did you continue to work on this investigation?

6 A Yes, I did.

7 Q Do you recall if there were other homicides of young women  
8 in the area at that time that you worked on it?

9 A Yes, there were.

10 Q In total, do you recall how many homicides there were in  
11 the area that (INAUDIABLE) the investigation?

12 A Oh I would say seven or eight.

13 Q Thank you detective, I don't have any further questions  
14 for you.

15 THE COURT: Cross examination.

16 MR. GABRY: Thank you, your Honor.

17 CROSS EXAMINATION

18 BY MR. GABRY:

19 Q Detective Kraus, in preparation for testifying today, have  
20 you had an opportunity to review any material?

21 A Yes, I did.

22 Q What did you review?

23 A A couple of reports that they were able to locate that had  
24 my name on it.

25 Q In fact, most of the reports are not filed by you under

1 your signature, is that correct?

2 A Some are, some aren't.

3 Q A number of reports that I handed out to you to review,  
4 seem to have detectives working in tandem with another  
5 detective--

6 A That's correct.

7 Q How does it work as to who does the report if your working  
8 in tandem?

9 A Usually who ever is taking the notes?

10 Q So does the report reflect what both officers were  
11 involved in doing?

12 A I would say, yes.

13 Q Now, on this particular dat, March 21, you responded from  
14 the Post right to the cemetery, is that correct?

15 A Correct.

16 Q And, as you got there, the only two people that you saw  
17 were the uniformed Troopers that you saw that had gotten  
18 there before you and Detective Taylor?

19 A I don't recall if there's anybody else around there--I  
20 don't recall.

21 Q Would it have been something that would have been noted if  
22 there was particularly a civilian around?

23 A I don't think so, but I don't know.

24 Q At this time when the call came in for the body at Denton  
25 Cemetery, there had already been two homicides that your

1 post was working, is that correct?

2 A I would have to check dates, I don't know.

3 Q Would you argue with an investigation into the death of

4 Mary Flesar or Flezar, whose body was found August 8,

5 1967?

6 A I wouldn't argue with it, no.

7 Q Okay. And then Joe Snell or Shell whose body was found

8 July of 1968?

9 A I wouldn't argue with that, no.

10 Q And then are you-based on your recollections, was there

11 anymore prior to Jane Mixer on March 20, 1969?

12 A Just off the top of my head I don't--I don't know. I would

13 have to check. I don't have the--I don't remember all the

14 dates.

15 Q I understand. It was a pretty bad time for law enforcement

16 back in that summer of '69, was it not?

17 A Very active.

18 Q In addition to the Michigan State Police being involved in

19 the investigation, there were how many other jurisdictions

20 looking into the various homicides that occurred in

21 Washtenaw County then?

22 A I would think three.

23 Q City of Ann Arbor?

24 A City of Ann Arbor.

25 Q Sheriff's Department?

1 A Sheriff's Department and Washtenaw--Ypsilanti Police  
2 Department.

3 Q Was there a particular supervisor or person in charge of  
4 coordinating these investigations?

5 A Not at the beginning.

6 Q So at the time Jane Mixer's body was found, this was being  
7 handled as an independent investigation?

8 A I suppose it could be clasified as that.

9 Q As one of the investigation officers, was there concern on  
10 the finding of Ms. Mixer's body of a continuing pattern?

11 A I don't think so, at that point.

12 Q Okay. Do you recall who you left the scene with?

13 A It would have been Detective Sargent Taylor.

14 Q So, your departure from that scene--you stay with Taylor?

15 A Pardon?

16 Q You stayed with Detective Taylor that full day?

17 A No, I do not.

18 Q Do you know when you leave him?

19 A Well, I have to get my car. I moved with him out to the  
20 cemetery and we have to go back to the office where my car  
21 was out so I could go about my business.

22 Q Were you with him when he talked to the Mixer family?

23 A I don't--I do not believe so, no.

24 Q Were you with him when interviews at the law quad were  
25 being conducted?

1 A What?

2 Q There were some interviews that were conducted at the law  
3 quad, is that correct? University of Michigan Law School?

4 A Many--many I interviews.

5 Q And were some of those conducted--I guess what I am trying  
6 to get at is that I--I--Mr. Hiller showed you a picture of  
7 a phone book--

8 A Right.

9 Q --we use the word seized in the courtroom but basically  
10 you didn't take that phonebook and do anything with it?

11 A I do not recall taking it, no.

12 Q What he showed you was a photograph depicting of--

13 A Of a phonebook.

14 Q --of a phonebook, did you recall whether or not you ever  
15 marked or ever put any identifying marks for later  
16 reference on a phonebook?

17 A No, I do not.

18 Q When you seize evidence--when you collect evidence as a  
19 detective, do you initial it, date it in some fashion to  
20 make it unique for subsequent identification?

21 A I would say yes.

22 Q Were you present when Detective Taylor interviewed Ms.  
23 Grow?

24 A I'm thinking that I was but I can't say specifically or- I  
25 believe I was.

1 Q Do you have any independent recollection of what happened  
2 with the bag that was supposedly found there that morning?

3 A I believe that Detective Taylor umpired that bag.

4 Q Do you have any independent recollection of why  
5 individuals at the law quad were being asked questions  
6 about an I.D. bracelet?

7 A That's news to me. I am not aware of that.

8 Q Do you recall whether you were present when--with  
9 Detective Little when Joseph Potalik was interviewed  
10 relative receivin a phone call the evening of the 20th?

11 A I believe I was, but I don't remember any specifics.

12 Q Let me ask you this. How long at this time had you been a  
13 police officer?

14 A Thirteen years.

15 Q And you had been with the detective bureau about--

16 A Two years.

17 Q Two years at the time. Had that individual, Mr. Katulic,  
18 indicated someone saying that she was Jane Mixer, call  
19 that evening? Given the investigation, would that  
20 information had been put into a report?

21 A I would think so.

22 Q Do you recall later that month, in the company of, and I  
23 believe this is Trooper Don Wilson--

24 A Detective Don Wilson.

25 Q He is a detective?

1 A Yeah.

2 Q Detective Don Wilson---did either you or he in conjunction  
3 in a meeting with Phil Weitzman, receive a note card that  
4 Mr. Weitzman turned over indicating the name David Johnson  
5 on it?

6 A I don't remember that.

7 Q Do you recall the name Joan Scuronski?

8 A Not to (INAUDIBLE), no.

9 Q DO you have any recollection having that name identified  
10 to you as someone that may have had some conflict with  
11 Jane Mixer?

12 A Does not mean anything to me, no.

13 Q Do you recall trying to locate what Kroger store, or where  
14 Kroger stores where located in Ann Arbor, in June of that  
15 time period?

16 A I do not recall that, no.

17 Q Let me approach it from this prospective. Within days of  
18 the finding of Mix-Ms. Mixer's body, where there  
19 particular avenues that the detective bureau over sought  
20 as far as trying to collect specific information, first of  
21 all relative to prints. Were people being fingerprinted?

22 A On the dates that she was discovered, no. I don't think  
23 people were being fingerprinted, no.

24 Q But, on the days subsequent to her discovery, was one of  
25 the jobs assigned out, to get a lot of people

1 fingerprinted?

2 A Correct.

3 Q Do you know, or have any idea where latent prints were  
4 developed from?

5 MR. HILLER: Your Honor, I think that would cause  
6 for hearsay.

7 THE COURT: Well he can testify if he knows in  
8 the course of the investigation. If he remembers. Go  
9 ahead, sir.

10 THE WITNESS: My understanding is that there were  
11 prints found on a handle of a piece of luggage. That is my  
12 understanding.

13 BY MR. GABRY:

14 Q Was it another job assignment to try and obtain  
15 handwriting samples from a number of people?

16 A Yes, we did.

17 Q For what purpose? What was that to be--

18 A Comparison--for comparison to the writing on the  
19 phonebook.

20 Q Which we don't know where that is from, correct? You don't  
21 know where that is from--

22 A I don't.

23 Q -that's probably fair to say. And then what about the  
24 automobiles? Was there any particular type of automoblie  
25 that was being searched for?

1 A At one point, I believe, we were interested in a  
2 particular chevrolet model. I think it was a Capris but I  
3 am not sure if they made that make then, but it was a  
4 Chevrolet--as I recall as Chevrolet model that we were  
5 somewhat interested in.

6 Q Sedan or station wagon, if you recall.

7 A I don't recall.

8 Mr. GABRY: One second, your Honor. Nothing  
9 further.

10 THE COURT: Anything further, Mr. Hiller?

11 RE-DIRECT EXAMINATION

12 BY MR. HILLER

13 Q Mr. Gabry asked you if you marked evidence that was  
14 collected so that you make it unique so that you can  
15 identify it later on. You indicated that that was  
16 something that you would normally do.

17 A That was something we would normally do, that's right.

18 Q Now---

19 A With exceptions.

20 Q With exeptions. Now, the phone-the picture of the  
21 phonebook that I showed you earlier, did you have any  
22 trouble recognizing its uniqueness?

23 A No. I had no problem with that.

24 Q Do you have a clear recollection of having seen that early  
25 on in the investigation?

1 A Yes, I do.

2 Q You have a clear recollection that someone, we don't know  
3 who as of yet, but someone took that into custody—took  
4 that into evidence?

5 A That's correct.

6 MR. HILLER: I have nothing further, your Honor,  
7 thank you.

8 THE COURT: Anything further, Mr. Gabry?

9 MR. GABRY: No, your Honor.

10 THE COURT: Thank you, you may step down and you  
11 are excused.

12 (Witness excused at 12:05 p.m.)

13 MR. HILLER: Ken Taylor.

14 THE COURT: Come right up here, sir, please. Sir.  
15 Well you can't have the bench, but you can have the  
16 witness chair. Will you face the clerk and raise your  
17 right hand? Stay right here. That's all right.

18 THE COURT CLERK: Do you solemnly swear to tell  
19 the truth, the whole truth and nothing but the truth?

20 MR. TAYLOR: I do.

21 (Witness sworn at 12:06 p.m.)

22 THE COURT CLERK: Have a seat right up there.

23 THE COURT: We will get traffic signals in here  
24 one of these days and that will help everybody. Will spell  
25 both your first and last name.

1 THE WITNESS: Kenneth E. Taylor.  
2 THE COURT: Spell Kenneth, please.  
3 THE WITNESS: K-e-n-n-e-t-h.  
4 THE COURT: And Taylor.  
5 THE WITNESS: T-a-y-l-o-r.  
6 THE COURT: Thank you. Prosecutor.  
7 MR. HILLER: Thank you, your Honor.

8 KENNETH TAYLOR

9 DIRECT EXAMINATION

10 BY MR. HILLER:

11 Q Good morning, sir. Where do you currently live?

12 A Pardon.

13 Q In what community do you currenty live?

14 A Livonia.

15 Q Back in March of 1969, what was your occupation?

16 A I was a Detective Sargent at the Michigan State Police  
17 attached to the Ypsilanti State Police Post.

18 Q When did you start with the State Police?

19 A October 8, 1950.

20 Q And when did you retire?

21 A October 28, 1977.

22 Q Do you recall the morning of March 21, 1969?

23 A Pardon.

24 Q Do you recall the morning of March 21, 1969?

25 A Yes, to a degree. We were--I was at the Michigan State

1 Police Post in Ypsilanti and the--a lady called the post  
2 and said that she thought there was a body in the cemetery  
3 at Denton, Michigan and that her son had brought in a  
4 package with blood on it. Two Troopers went to the scene  
5 and then Detective Kraus and I went to the scene in my car  
6 and determined the individual was dead, and after a mutual  
7 discussion we decided to call the crime lab in Lansing and  
8 from that point on we stayed at the scene. The crime lab  
9 arrived and did their investigation. There was some  
10 discussion then as to where we would have an autopsy of  
11 the individual. We were in Wayne County but, after, again,  
12 some discussion of the officers that were there, we  
13 decided that we would like to have the autopsy in  
14 Washtenaw County with Dr. Henry if at all possible. This  
15 is related to our State Police Post and they called and-I  
16 also called and talked to Dr. Hendricks was agreeable to  
17 this. Dr. Burton, who was the pathologist in Wayne County  
18 was also agreeable to this. The ambulance from Wayne  
19 County arrived and told then what was going on, that we  
20 were discussing going to Ann Arbor, and then when Dr.  
21 Burton said this was okay with him, we called an ambulance  
22 from Ann Arbor and they took the body to the University of  
23 Michigan Hospital in Ann Arbor.

24 Q Well, let's back up.

25 A Okay.

1 Q Um, do you-first of all, do you recall a bout what time of  
2 day you and Detective Kraus arrived at the Denton  
3 Cemetery--at the scene?  
4 A About what time of day?  
5 Q About what time--  
6 A My hearing is not the greatest.  
7 Q I will try to speak up and you tell me if I am not loud  
8 enough.  
9 A Okay.  
10 Q About what time of day did you and Detective Kraus get to  
11 the Denton Cemetery?  
12 A I'll say roughly 8:30.  
13 Q And there were two Troopers there when you arrived?  
14 A Yes.  
15 Q Do you remember who they were?  
16 A Lalon and Shoenberger.  
17 Q Do you remember where their car was parked?  
18 A No.  
19 Q When you got there, what did you do?  
20 A Well, We observed the body--out there--we didn't go out to  
21 the body. We talked to the lady that had called in. We  
22 talked to the two Troopers. We started checking with some  
23 of the neighbors. We blocked off this dirt road that was  
24 there--this was on the dirt road that ran along side the  
25 cemetery. We waited for the crime lab. That was pretty

1           much what we did right at that point.

2   Q       You say that you did not approach the body?

3   A       I did not, no.

4   Q       Did anyone else approach the body while you were there?

5           Other than--other than the crime lab people and the

6           ambulance driver.

7   A       We--no.

8   Q       Was someone assigned to keep an eye on the body to make

9           sure it wasn't tampered with?

10  A       I don't remember, but this would be a natural circumstance

11           that we would do--yes. I can't say--no. I have to say no.

12           I don't know whether there was or not.

13  Q       Would that be something you would normally do under these

14           circumstances though?

15  A       Yes, definitely.

16  Q       Now, at some point did Max Little come to the scene as

17           well?

18  A       Pardon.

19  Q       Did Max Little come to the scene as well?

20  A       I believe so, yes.

21  Q       Was he part of these discussions about whether the body

22           was going to go to Washtenaw or Wayne County for autopsy?

23  A       He very easily could.

24  Q       But, you remember participating in these discussions?

25  A       Yes.

1 Q Why was that a question if the body was in Wayne County?

2 A Why was that a question? We--we had two girls relatively

3 recently killed and we were maybe of the opinion that

4 maybe this might be a continuation of these two girls. And

5 Dr. Hendricks had done the post-mortem on the girls and if

6 she was from--well the other two girls were from Eastern

7 Michigan which is in Ypsilanti. If this was another one

8 that would be from, perhaps, Eastern Michigan, we would

9 keep everything, probably, close to us and we could do an

10 investigation easier. This is--this is probably what we

11 were talking about. This is the discussion that we would

12 be having on something like this.

13 Q Now, had you worked on either of those two previous

14 homicides?

15 A Yes.

16 Q Had you been at those crime scenes?

17 A Pardon.

18 Q Had you been either of those two crime scenes?

19 A Yes.

20 Q There were other murders of young women that followed Jane

21 Mixer's murder, is that right?

22 A Yes.

23 Q Did you work on those as well?

24 A Um, I worked on one more.

25 Q Do you recall when that was?

1 A No.

2 Q Where those crime scenes different than Jane Mixer's?

3 A Yes.

4 Q How were they different?

5 A They were realtively hidden in brush or trees, and in one  
6 case in a small dump. Whereas Ms. Mixer was layed out in a  
7 completely open space in a cemetery where there were no  
8 trees or brush in the area where the body was found, which  
9 was different than the other ones we had.

10 Q What about the condition of the victims?

11 A Pardon.

12 Q Was the condition of the victims different?

13 A The first--the first girl had been dumped in what we would  
14 call--what I would call a small dump and her body was skin  
15 and bones. The skin was like leather. Second girl, as I  
16 remember, was left in a really bushy area in a ditch. I  
17 can't really remember what happened on the second girl,  
18 but the first girl was on Geddes and--Road and the second  
19 girl was in that general locality in Washtenaw County.

20 Q Do you recall if it appeared to you that the other victims  
21 had been treated differently by their killer than Jane  
22 Mixer was?

23 A The first girl was in such a shape that--as I remember the  
24 patholigist was in the opinion that she might have been  
25 knifed. Before--before or after death, I don't know. There

1 wasn't really enough to do what you would call a real  
2 post-mortem. The second girl, I can't really recall  
3 anything about. The next girl was sexually brutalized. I  
4 know this. I remember this. She was sexually brutalized  
5 either before or after death. A silk stocking was wrapped  
6 around her neck.

7 Q You didn't--

8 A Pardon.

9 Q You didn't approach Jane Mixer's body, but did you go to  
10 the autopsy?

11 A Yes.

12 Q At the autopsy did you observe any indications that Jane  
13 mixer had been sexually brutalized in this way?

14 A Pardon.

15 Q At the autopsy, did you observe anything that made you  
16 think that Jane Mixer had been sexual brutalized in the  
17 way the other girl had?

18 A Um, at the autopsy itself, no. We ascertained that she was  
19 having her menstrual period and there was no indication  
20 that there was any sexual activity that we could tell. I  
21 am not a doctor, of course, but there was no indicatio  
22 nthat we could tell of that.

23 Q Well when you say that the other victim was sexually  
24 brutalized--

25 A Pardon

1 Q When you say the other victim was sexually brutalized,  
2 what are you referring too? Can you describe what you saw  
3 with that victim?

4 A The girls were repeatedly beaten by a belt--a buckle  
5 section of the belt so that it was on their skin. The one  
6 girl had a stick shoved up her vagina. Those two things I  
7 remember.

8 Q Was there--ultimately was there a task force put together  
9 to investigate this series of crimes?

10 A Pardon.

11 Q Was there a task force put together to investigate this  
12 series of crimes?

13 A Yes.

14 Q And did you serve on that task force?

15 A No.

16 Q Now, do you recall about how long you stayed at the scene  
17 with Jane Mixer's body?

18 A Two hours. The ambulance--when the ambulance left for Dr.  
19 Hendericks in Ann Arbor, I left the scene. The crime lab  
20 was there and I left the scene.

21 Q Do you recall being there when the--when the ambulance took  
22 Jane's body away?

23 A Yes.

24 Q In those situations is it typical to have an officer  
25 accompany the murder victims body to the morgue to obtain

1 a chain of custody on?

2 A No.

3 Q Do you know if it was done in this case?

4 A No, I don't know whether it was or not.

5 Q Did you continue to work on this case, that day after you

6 left the crime scene?

7 A Yes.

8 Q What did you do?

9 A Well, we went over to the law quad. By this time she had

10 pretty well been identified as being a law quad

11 inhabitant. I checked with people over there to see if

12 they knew anything about what was going on. Talked to a

13 number of people. As I remember, Mr. Mixer, himself, was

14 at the State Police Post in Ypsilanti and we were talking

15 to him about what his daughter had been doing. The Ann

16 Arbor Police Department was also involved doing some

17 checking to see what, if anything, was going on that they

18 could help with. I would say that was basically it then.

19 Q Do you remember if you collected any evidence at the law

20 quad?

21 A Pardon.

22 Q Do you remember if you collected any evidence at the law

23 quad?

24 A Did I talk to any other?

25 Q Did you collect any evidence at the law quad?

1 A We--we collected a telephone book which had "Mixer"  
2 written on one of the covers and some other items that I  
3 can't recall.

4 Q Do you remember where that telephone book with the word  
5 "Mixer" was found?

6 A Their--we went into the law quad and there were buildings  
7 all around it and they had, what I would say, was the main  
8 area. You go downstairs and there were two pay telephone  
9 booths, right at the base of the stairs. They had a number  
10 of large bulletin boards in the hall way on both sides of  
11 the telephone booths. I think this telephone book was in  
12 one of them. This was--these were paid telephone--they  
13 had telephone books in each booth.

14 Q Do you remember--do you remember who collected that  
15 telephone book?

16 A Well, according to everything, I did- I couldn't-and right  
17 now I really wouldn't be sure of that.

18 Q Do you have a recollection of it being there, though?

19 A Yes.

20 Q I will show you People's purposed exhibit 52. Do you  
21 recognize that photograph? Is that anything you've seen  
22 before?

23 A Well it's the cover of an Ann Arbor-Ypsilanti telephone  
24 book. So I would say, yes

25 Q Let me direct you attention to this and see if that helps

1           you remember.

2   A       And we have handwritting which says "Muskegon, Mixer" on  
3           it, and that would be the one we picked up.

4   Q       Is this a fair and accurate picture of the-of the cover of  
5           the telephone book that you saw in the basement of the law  
6           school?

7   A       Yes.

8                       MR. HILLER: Your Honor, I move for the admission  
9           of People's exhibit 52.

10                      THE COURT: Any objection?

11                      MR. GABRY: No, your Honor.

12                      THE COURT: 52 is admitted. Are you going to show  
13           it to the jury?

14                      MR. HILLER: Not at this time, your Honor.

15                      THE COURT: All right.

16   BY MR. HILLER:

17   Q       Did you talk to the Mixer family that afternoon or  
18           evening?

19   A       Pardon.

20   Q       Did you talk to the Mixer family that afternoon or  
21           evening?

22   A       I don't remember that. I remember Mr. Mixer was in the  
23           Post in Ypsilanti and we had talked back and forth there,  
24           but I don't remember going any place and talking to them.

25   Q       Thank you, I have no further questions for you but Mr.

1 Gabry might have some questions.

2 THE COURT: Counsel would you approach the bench?

3 (Bench conference at 12:29 p.m.)

4 (Court resumed 12:29 p.m.)

5 THE COURT: We are going to recess for the day,  
6 you may step down sir.

7 THE WITNESS: Thank you.

8 (Witness excused for that day 12:29 p.m.)

9 THE COURT: We are going to recess for the day,  
10 ladies and gentleman. This is the first day in which I  
11 anticipate there may be, or may not be, some media  
12 coverage of this. I need you to recall my specific  
13 instructions to you about discussing this case or having  
14 any contact. Don't read the papers and be very careful  
15 about the radio and television that you encounter. Report  
16 any reports that you happen to hear on this matter. Do you  
17 have any questions? Tomorrow-excuse me just a moment.  
18 Tomorrow we will be starting at our regular time and going  
19 until 12:30. You will get a long lunch hour while I work  
20 on some other things and then we will resume in the  
21 afternoon, approximately 2:30, and then continue for the  
22 rest of the afternoon. Do you have any questions about our  
23 schedule? I will see you at 8:30 am. Please go with Ms.  
24 Washington.

25 THE LEGAL CLERK: All rise please.

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THE COURT: I would like to see you in chambers  
just briefly.

(Court concluded at 12:31 p.m.)

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STATE OF MICHIGAN )  
COUNTY OF WASHTENAW )

I certify that this transcript, consisting of 146 pages,  
is a complete, true, and correct transcript to the best of  
my ability, of the proceedings held in this case on  
Tuesday, July 12 2005 before the Honorable Donald E.  
Shelton, Circuit Court Judge.

DATED: December 12, 2005

          SJ          

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