

1 ROBERT BELL,
2 CALLED AS A WITNESS BY AND ON BEHALF OF THE PEOPLE, HAVING
3 BEEN DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION +

5 Q BY MR. CLONINGER: MR. BELL, WHAT IS YOUR
6 OCCUPATION, SIR?

7 A I AM A POLICE OFFICER WITH THE CITY OF LONG
8 BEACH.

9 Q HOW LONG HAVE YOU BEEN SO EMPLOYED?

10 A 23 YEARS.

11 Q WERE YOU EMPLOYED IN THAT CAPACITY IN MAY OF -
12 1983?

13 A YES, SIR, I WAS.

14 Q PARDON ME, 1975?

15 A YES, I WAS.

16 Q AND ON MAY 19TH OF 1975, DID YOU PARTICIPATE
17 IN AN INTERVIEW ALONG WITH DETECTIVE WOODWARD OF YOUR
18 DEPARTMENT?

19 A YES, SIR, I DID.

20 Q WAS THAT AN INTERVIEW OF MR. RANDY KRAFT?

21 A THAT'S CORRECT.

22 Q DO YOU SEE THE PERSON THAT YOU INTERVIEWED IN
23 1975 HERE IN COURT TODAY?

24 A YES, SIR. HE IS SEATED AT THE END OF THE
25 COUNSEL TABLE, LESS A MUSTACHE.

26 Q REFERRING TO THE GENTLEMAN IN THE PLAID

1 SHIRT?

2 A YES, SIR.

3 MR. CLONINGER: YOUR HONOR, MAY THE RECORD REFLECT
4 THE WITNESS HAS IDENTIFIED THE DEFENDANT?

5 THE COURT: YES.

6 Q BY MR. CLONINGER: SERGEANT BELL, DO YOU
7 RECALL THE CIRCUMSTANCES OF THAT INTERVIEW?

8 A YES, SIR, I DO.

9 MR. KOPENY: OBJECT, THE QUESTION IS VAGUE.

10 THE COURT: WELL, I WILL TREAT IT AS A FOUNDATIONAL
11 QUESTION. THAT WAY THE ANSWER WILL STAND.

12 Q BY MR. CLONINGER: SPECIFICALLY, THE PHYSICAL
13 CONDITIONS IS WHAT I AM REFERRING TO IN WHICH THE
14 INTERVIEW WAS CONDUCTED. DO YOU RECALL THOSE?

15 A YES, SIR. THE INTERVIEW TOOK PLACE IN AN
16 INTERVIEW ROOM --

17 MR. KOPENY: I OBJECT, THERE'S NO QUESTION PENDING.
18 THE ANSWER IS YES.

19 THE COURT: WELL, WASN'T HE ATTEMPTING TO EXPLAIN
20 THE PHYSICAL CIRCUMSTANCES, MR. KOPENY?

21 MR. KOPENY: WELL, YOUR HONOR, I THINK IF HE WAS,
22 IT'S NONRESPONSIVE. THE QUESTION PLEASE EXPLAIN THE
23 PHYSICAL CIRCUMSTANCES WOULD CALL FOR A NARRATIVE, AND I
24 THOUGHT THE QUESTION WAS FOUNDATIONAL.

25 THE COURT: ALL RIGHT. THE ANSWER IS YES. AND
26 THEN LET'S PROCEED WITH ANOTHER QUESTION, MR. CLONINGER.

1 Q BY MR. CLONINGER: YOU DO AT THIS TIME HAVE A
2 RECOLLECTION OF THE CIRCUMSTANCES PHYSICALLY UNDER WHICH
3 THE INTERVIEW WAS CONDUCTED; IS THAT RIGHT?

4 A YES, SIR, I DO.

5 Q LET ME JUST BACK UP FOR A SECOND AND ASK YOU
6 PRIOR TO THE TIME THAT THE INTERVIEW BEGAN, DID YOU HAVE
7 SOME SORT OF CONTACT WITH MR. KRAFT?

8 A WELL, I HAD NEVER HAD ANY PRIOR CONTACT WITH
9 MR. KRAFT.

10 Q WHEN WAS YOUR FIRST CONTACT WITH MR. KRAFT ON
11 THAT DATE?

12 A AT APPROXIMATELY 5:00 P.M. IN THE AFTERNOON
13 OF THAT DATE.

14 Q AND PHYSICALLY, WHERE DID THAT FIRST CONTACT
15 OCCUR?

16 A IN THE LONG BEACH POLICE DEPARTMENT IN, ON
17 THE THIRD FLOOR, IN THE INTERVIEW ROOM.

18 Q AND AT SOME POINT DURING THE INTERVIEW WAS A
19 TAPE RECORDER USED TO RECORD THE CONVERSATION?

20 A THAT'S CORRECT.

21 Q WAS THAT DONE AT THE VERY START OF THE
22 INTERVIEW OR WAS THERE SOME CONVERSATION BETWEEN YOURSELF
23 AND WOODWARD AND KRAFT BEFORE THE TAPE WAS TURNED ON?

24 A THERE WAS CONVERSATION PRIOR TO THE TAPE
25 RECORDER BEING TURNED ON.

26 Q OKAY. GOING TO THE PHYSICAL SURROUNDINGS,

1 SERGEANT, WOULD YOU DESCRIBE, PLEASE, THE LIGHTING
2 CONDITIONS THAT EXISTED IN THE ROOM DURING THE INTERVIEW
3 IN 1975?

4 A YES, SIR. THERE WAS OVERHEAD FLUORESCENT
5 LIGHTING IN CEILING LIGHTING.

6 Q WOULD YOU DESCRIBE THE LIGHTING AS GOOD
7 ENOUGH TO READ BY?

8 A OH YES, DEFINITELY.

9 Q DID YOU HAVE ANY TROUBLE SEEING MR. KRAFT?

10 A NO.

11 Q OKAY. WAS THE VENTILATION IN THE ROOM, IN
12 YOUR OPINION, NORMAL VENTILATION OR ADEQUATE VENTILATION?

13 A YES, SIR, IT WAS NORMAL VENTILATION.

14 Q OKAY. TO THE BEST OF YOUR RECOLLECTION,
15 WOULD YOU DESCRIBE THE FURNITURE THAT WAS IN THE ROOM
16 DURING THE INTERVIEW?

17 A THERE WAS A TABLE AND SEVERAL CHAIRS. I
18 DON'T RECALL IF THEY WERE FABRIC CHAIRS OR WOOD CHAIRS,
19 BUT THERE WAS SOME, SEVERAL, THREE OR FOUR CHAIRS, AT
20 LEAST A MINIMUM OF THREE CHAIRS, POSSIBLY FOUR.

21 Q NOW, WERE THERE ANY OTHER PARTICIPANTS IN THE
22 CONVERSATION OTHER THAN YOURSELF AND WOODWARD AND MR.
23 KRAFT?

24 A NO, SIR.

25 Q WOULD YOU INFORM THE COURT WHETHER OR NOT
26 THERE WERE ANY WEAPONS IN THE POSSESSION OF YOURSELF OR

1 MR. WOODWARD AT THE TIME THAT THE CONVERSATION TOOK PLACE?

2 A NO, SIR, THERE WAS NOT.

3 Q IS THERE A REASON FOR THAT?

4 A YES, SIR. DURING THAT PARTICULAR TIME PERIOD
5 WE HAD AN ORDER THAT WHILE WE WERE IN THE BUILDING,
6 NON-UNIFORM PERSONNEL WERE NOT TO CARRY WEAPONS. THEY
7 WERE TO REMAIN IN THE OFFICE GUN LOCKER OR IN YOUR LOCKED
8 DESK.

9 Q AND WERE YOU WHAT WOULD BE CONSIDERED AT THAT
10 TIME NON-UNIFORMED PERSONNEL?

11 A THAT'S CORRECT.

12 Q AND I GUESS YOU WOULD TRANSLATE THAT INTO THE
13 PLAIN CLOTHES POLICEMAN?

14 A YES, SIR.

15 Q SO WOULD IT THEN BE CORRECT TO SAY THAT THERE
16 WERE NO GUNS DISPLAYED OR POSSESSED BY EITHER YOU OR
17 WOODWARD DURING THE INTERVIEW?

18 A THAT WOULD BE CORRECT, YES.

19 Q COULD YOU TELL THE COURT AT THIS TIME WHETHER
20 MR. KRAFT WAS SUBJECTED TO ANY KIND OF PHYSICAL RESTRAINTS
21 AT ANY TIME WHILE YOU WERE IN HIS PRESENCE THAT DAY?

22 A NO, HE WAS NOT.

23 Q WAS HE EVER HANDCUFFED?

24 A NO.

25 Q DURING THE CONVERSATION WAS MR. KRAFT SEATED
26 IN A CHAIR?

1 A YES, SIR.

2 Q WAS HE, TO THE BEST THAT YOU COULD OBSERVE,
3 IN ANY WAY RESTRAINED FROM GETTING UP OR OUT OF THAT CHAIR
4 AT ANY TIME DURING THE CONVERSATION?

5 A NO. HE COULD HAVE GOTTEN UP IF HE WANTED TO.

6 MR. KOPENY: I AM GOING TO MOVE TO STRIKE AS
7 NONRESPONSIVE EVERYTHING AFTER NO. THE QUESTION CALLS FOR
8 PHYSICAL RESTRAINTS, AND THE ANSWER SOUNDS LIKE IT'S
9 TALKING ABOUT PERMISSION, WHICH IS NOT A PHYSICAL
10 RESTRAINT.

11 THE COURT: ALL RIGHT. ANYTHING BEYOND NO IS
12 STRICKEN.

13 Q BY MR. CLONINGER: AT ANY TIME ON THE DATE IN
14 QUESTION, THAT'S GOING BACK TO MAY 19TH OF '75, WHILE YOU
15 WERE IN HIS PRESENCE, WAS MR. KRAFT SEARCHED BY ANY POLICE
16 OFFICER?

17 A NOT IN MY PRESENCE, NO.

18 Q DURING THE CONVERSATION WAS HE IN HIS OWN
19 CLOTHING?

20 A YES, SIR.

21 Q HE WASN'T WEARING JAIL ISSUE CLOTHING; IS
22 THAT RIGHT?

23 A NO, SIR.

24 Q WAS MR. KRAFT ARRESTED, TO YOUR KNOWLEDGE, AT
25 ANY TIME THAT DAY?

26 MR. KOPENY: WELL, I OBJECT, IT CALLS FOR A LEGAL

1 CONCLUSION.

2 THE COURT: OVERRULED.

3 THE WITNESS: NO, HE WAS NOT ARRESTED.

4 Q BY MR. CLONINGER: AT ANY TIME WHILE YOU WERE
5 IN HIS PRESENCE, DID YOU HEAR ANYBODY TELL MR. KRAFT THAT
6 HE WAS UNDER ARREST?

7 A NO, SIR.

8 Q DID YOU EVER TELL HIM ON MAY 19TH, 1975 THAT
9 HE WAS UNDER ARREST?

10 A NO, SIR.

11 Q ARE YOU FAMILIAR WITH THE WAY ARRESTED
12 PERSONS ARE HANDLED INSIDE THE LONG BEACH POLICE STATION?

13 A YES, SIR.

14 Q AND ARE YOU AT THIS TIME FAMILIAR WITH HOW
15 THEY WERE HANDLED ON MAY 19TH OF 1975?

16 A YES, SIR.

17 Q WOULD AN ARRESTED PERSON BE SUBJECT TO SOME
18 SORT OF RESTRAINTS WHILE IN THE POLICE STATION?

19 MR. KOPENY: WELL, YOUR HONOR, I OBJECT. AGAIN,
20 UNLESS WHAT HE IS TALKING ABOUT IS THE OFFICER'S STATE OF
21 MIND, HE IS USING THE LEGAL TERM ARRESTED PERSON. AND I
22 THINK MR. CLONINGER HAS MADE A POINT MANY TIMES THAT
23 WHETHER OR NOT MR. KRAFT WAS UNDER ARREST IS SOMETHING THE
24 COURT IS GOING TO HAVE TO DECIDE.

25 AND SO THIS, THIS IS THE SAME PROBLEM AS THE
26 PREVIOUS QUESTION THAT MY OBJECTION WAS OVERRULED TO, AND

1 THAT IS THAT THE, THE DISTRICT ATTORNEY IS ASKING THE
2 WITNESS TO ASSUME SOME LEGAL FACTS THAT ULTIMATELY THE
3 COURT IS GOING TO HAVE TO DECIDE. I MEAN, THE QUESTION
4 SEEMS TO BE AIMED AT SAYING WELL GEE, IF HE WASN'T TREATED
5 THE WAY ARRESTED PERSONS ARE TREATED, THEN HE WASN'T
6 ARRESTED. BUT THE PROBLEM WITH THAT IS I THINK THAT IT
7 INVOLVES A LEGAL CONCLUSION OF THE WITNESS ABOUT WHAT
8 CONSTITUTES AN ARREST.

9 THE COURT: WELL, ISN'T THE QUESTION DIRECTED TO
10 HOW AN ARRESTED PERSON WAS TREATED IN MAY OF '75? NOW,
11 THAT ISN'T SAYING WHETHER OR NOT MR. KRAFT WAS UNDER
12 ARREST.

13 MR. KOPENY: WELL, YOUR HONOR, THE PROBLEM IS THAT
14 THIS WITNESS WOULD HAVE TO EXPRESS A LEGAL OPINION THAT
15 THOSE PEOPLE THAT WERE TREATED THAT WAY WERE THE ONES THAT
16 WERE ARRESTED AS OPPOSED TO SAY BOOKED OR SOMETHING ELSE.
17 THAT IS NOT A LEGAL TERM THAT THE COURT IS GOING TO HAVE
18 TO DECIDE ON, AND THE WITNESS HAS ALREADY BEEN ALLOWED TO
19 TESTIFY THAT KRAFT WAS NOT ARRESTED.

20 AND AGAIN, I DON'T KNOW WHY THE COURT
21 OVERRULED MY OBJECTION BUT SUSTAINED NUMEROUS OBJECTIONS
22 OF THE SAME TYPE WHEN THE PROSECUTOR OBJECTED ON
23 CROSS-EXAMINATION. BUT IT SEEMS TO ME THAT THE WITNESS
24 SHOULD NOT BE ALLOWED TO TESTIFY TO THAT LEGAL CONCLUSION.
25 AND WE WON'T KNOW WHETHER THEY WERE REALLY ARRESTED FROM
26 THE LEGAL POINT OF VIEW. ALL WE WILL KNOW FROM HIS ANSWER

1 IS WHAT HE THINKS ABOUT WHETHER THEY WERE ARRESTED.

2 THE COURT: MR. CLONINGER, YOU WANT TO BE HEARD ON
3 THE OBJECTION?

4 MR. CLONINGER: NO, SIR, I WILL SUBMIT IT.

5 THE COURT: WELL, IF THE QUESTION IS DIRECTED TO
6 THE OFFICER'S BELIEF THAT SOMEBODY IS UNDER ARREST AS
7 OPPOSED TO A LEGAL CONCLUSION THAT THEY WERE IN FACT UNDER
8 ARREST, THEN I WILL PERMIT IT. BUT I SUPPOSE MR. KOPENY
9 HAS GOT A VALID POINT, AS TO LEGALLY WHETHER A PERSON WAS
10 UNDER ARREST OR NOT. SO IF WE ARE INTERESTED IN WHAT THE
11 OFFICER THOUGHT, HIS STATE OF MIND, I AM GOING TO ALLOW
12 IT.

13 Q BY MR. CLONINGER: SERGEANT BELL, DO YOU HAVE
14 IN YOUR MIND, SIR, AN IDEA OF WHAT IT MEANS FOR A PERSON
15 TO BE UNDER ARREST?

16 A YES, SIR, I DO.

17 Q WHAT DOES THAT MEAN TO YOU?

18 A IT MEANS A PERSON IS TAKEN INTO CUSTODY. HE
19 IS BOOKED INTO THE JAIL FACILITY. HE IS PHOTOGRAPHED. HE
20 IS FINGERPRINTED, AND AN ARREST REPORT IS FILED, NAMING
21 THE CHARGES ON WHICH HE WAS ARRESTED FOR.

22 Q NOW, YOU SOMETIMES INTERVIEW PEOPLE BEFORE
23 THEY WERE ACTUALLY BOOKED, RIGHT?

24 A THAT IS CORRECT.

25 Q BUT THEY ARE TOLD THEY ARE UNDER ARREST; IS
26 THAT CORRECT?

1 A THAT IS CORRECT.

2 Q AND IF YOU ARE INTERVIEWING A PERSON WHO IS
3 UNDER ARREST, ARE THEY SUBJECTED TO SOME SORT OF PHYSICAL
4 RESTRAINT ON THEIR MOVEMENT?

5 A YES. THEY ARE NOT ALLOWED TO LEAVE THE AREA
6 IN WHICH THEY ARE BEING INTERVIEWED.

7 MR. KOPENY: I MOVE TO STRIKE AS NONRESPONSIVE.
8 THE QUESTION, THE QUESTION ASKED FOR PHYSICAL RESTRAINT
9 AND THE ANSWER AGAIN SOUNDED TO ME LIKE IT WAS TALKING
10 ABOUT PERMISSION. HE DIDN'T ASK WHETHER OR NOT THEY WERE
11 SUBJECT TO PHYSICAL RESTRAINT.

12 THE COURT: SUSTAINED.

13 MR. KOPENY: MOVE TO STRIKE.

14 THE COURT: GRANTED.

15 Q BY MR. CLONINGER: WHEN A PERSON WHO IS, HAS
16 BEEN ARRESTED IS BEING INTERVIEWED, TO THE BEST OF YOUR
17 KNOWLEDGE, AND THEY ARE UNDER ARREST, ARE THEY TOLD THAT
18 THEY ARE UNDER ARREST?

19 A YES, SIR.

20 Q IS IT EXPLAINED TO THE ARRESTEE HE IS NOT
21 FREE TO MOVE AROUND AND WOULD HAVE TO ASK PERMISSION TO
22 LEAVE OR THAT HE WOULD NOT BE FREE TO LEAVE?

23 A WELL, I CAN'T ANSWER THAT. IF A PERSON IS
24 UNDER ARREST, I DON'T -- I DON'T TELL THEM NO, YOU CAN'T
25 LEAVE. IF THEY TRY TO LEAVE THEN I WILL TELL THEM THEY
26 CAN'T, BUT I DON'T PERSONALLY TELL THEM THAT RIGHT FROM

1 THE BEGINNING.

2 Q OKAY. AT ANY TIME WHILE YOU WERE PRESENT
3 WITH MR. KRAFT DID YOU HEAR ANYONE, INCLUDING YOURSELF,
4 ADVISE MR. KRAFT DURING THE INTERVIEW ON MAY 19TH OF '75
5 THAT HE WAS NOT FREE TO LEAVE EITHER THE POLICE STATION OR
6 THE INTERVIEW ROOM?

7 A NO.

8 Q DID YOU SEE AT ANY TIME WHILE MR. KRAFT WAS
9 IN THE STATION HOUSE ON THAT DATE, MR. KRAFT SUBJECTED TO
10 ANY SORT OF RESTRAINTS THAT YOU WOULD ASSOCIATE WITH
11 RETRAINTS ON THE MOVEMENTS OF AN ARRESTED PERSON?

12 A NO.

13 MR. KOPENY: YOUR HONOR, I OBJECT BECAUSE THE
14 QUESTION IS VAGUE.

15 THE COURT: OVERRULED.

16 THE WITNESS: NO.

17 Q BY MR. CLONINGER: NOW SERGEANT BELL, THERE
18 WAS A CONVERSATION WITH THE DEFENDANT ABOUT CERTAIN THINGS
19 THAT HAVE PRECEDED THE TIME THE TAPE WAS ACTUALLY TURNED
20 ON IN MAY OF '75; IS THAT RIGHT?

21 A YES, SIR.

22 Q AND COULD YOU TELL THE COURT THE REASON FOR
23 THAT PRIOR CONVERSATION?

24 A IT'S BEEN MY PRACTICE OVER THE YEARS THAT I
25 INTERVIEW A PERSON PRIOR TO PUTTING IT ON TAPE RECORDING
26 JUST TO CONDENSE AND TO CLARIFY ANY AREAS PRIOR TO GOING

1 TO TAPE SO THAT THE TAPE IS MORE CLEAR.

2 Q IS THAT PRACTICE ENGAGED IN BY YOU SO THAT
3 THE CONVERSATION ON THE TAPE RECORDER DOES NOT WANDER OFF
4 INTO IRRELEVANT AREAS?

5 MR. KOPENY: OBJECTION, LEADING.

6 THE COURT: SUSTAINED.

7 Q BY MR. CLONINGER: SERGEANT BELL, AT MY
8 REQUEST -- CAN I HAVE JUST A SECOND, YOUR HONOR?

9 THE COURT: YES.

10 (OFF THE RECORD DISCUSSION.)

11 Q BY MR. CLONINGER: I WOULD LIKE TO YOU TAKE A
12 LOOK AT EXHIBIT 1-A, PEOPLE'S EXHIBIT 1-A IN THIS HEARING,
13 IF YOU WOULD, PLEASE?

14 A YES, SIR.

15 Q HAVE YOU SEEN THAT BEFORE?

16 A YES, I HAVE.

17 Q THE OTHER DAY IN COURT, WHEN YOU HAD ARRIVED
18 HERE TO TESTIFY AND WHILE YOU WERE WAITING, WERE YOU
19 REQUESTED TO LOOK THAT DOCUMENT OVER?

20 A I WAS, SIR.

21 Q AND WERE YOU REQUESTED TO LOOK THAT OVER FOR
22 THE PURPOSE OF DETERMINING WHETHER IT APPEARED TO BE AN
23 ACCURATE TRANSCRIPT OF YOUR INTERVIEW WITH MR. KRAFT IN
24 MAY OF '75?

25 A YES, SIR.

26 Q DOES THAT APPEAR TO YOU TO BE AN ACCURATE

1 TRANSCRIPT OF YOUR TAPED INTERVIEW WITH THE DEFENDANT ON
2 THAT DATE?

3 A IT DOES, SIR.

4 Q SERGEANT BELL, AT THE END OF THE INTERVIEW
5 WITH MR. KRAFT ON MAY 19TH, 1975, WHAT DID MR. KRAFT DO?

6 A HE LEFT THE STATION.

7 Q DID YOU SEE ANYBODY RESTRAIN MR. KRAFT FROM
8 LEAVING THE STATION AT ANY TIME?

9 MR. KOPENY: OBJECT, THERE IS NO FOUNDATION.

10 THE COURT: WELL, DID HE SEE --

11 MR. KOPENY: THERE IS NO PERSONAL KNOWLEDGE THAT HE
12 EVEN SAW HIM LEAVE THE STATION. HE JUST SAID HE LEFT.

13 THE COURT: MAY I HAVE THE QUESTION PLEASE?

14 (RECORD READ.)

15 THE COURT: OVERRULED.

16 THE WITNESS: NO, I DID NOT.

17 Q BY MR. CLONINGER: AT ANY TIME DID YOU, AFTER
18 THE INTERVIEW WAS CONCLUDED AND THE TAPE WAS TURNED OFF,
19 DID YOU HEAR ANYBODY TELL MR. KRAFT THAT HE WAS UNDER
20 ARREST?

21 A NO.

22 Q DID YOU HEAR ANYBODY, INCLUDING YOURSELF
23 AFTER THE INTERVIEW WAS CONCLUDED, TELL MR. KRAFT THAT HE
24 WAS NOT FREE TO LEAVE THE STATION?

25 A NO.

26 Q AND I GUESS I SHOULD CLEAR THIS UP: WHEN WAS

1 THE LAST TIME YOU SAW MR. KRAFT THAT DAY? COULD YOU TELL
2 WHEN AND WHERE YOU SAW HIM THE LAST

3 A YES, SIR. I SAW HIM LAST WHEN HE EXITED THE
4 INTERVIEW ROOM AND WALKED DOWN THE HALLWAY WITH DETECTIVE
5 WOODWARD.

6 Q AND AFTER THAT DATE WHEN WAS THE NEXT TIME
7 THAT YOU SAW MR. KRAFT?

8 A AT HIS PRELIMINARY HEARING IN '83, '84,
9 WHATEVER DATE THAT WAS, I AM NOT SURE. THAT WAS THE NEXT
10 TIME I SAW HIM.

11 Q OKAY. GOING TO THAT PRELIMINARY HEARING,
12 SERGEANT BELL, HAS IT BEEN POINTED OUT TO YOU THAT IN SOME
13 TESTIMONY IN THAT HEARING THAT YOU HAD INDICATED THAT TAPE
14 RECORDING OF THE INTERVIEW OF MR. KRAFT ON MAY 19TH OF '75
15 WAS NOT MADE?

16 A YES, SIR.

17 THE COURT: I DIDN'T HEAR THE END OF THE QUESTION.

18 MR. CLONINGER: THAT A TAPE RECORDING -- I WAS
19 ASKING THE WITNESS, YOUR HONOR, IF HE HAD INDICATED IN HIS
20 TESTIMONY AT THE PRELIMINARY HEARING THAT A TAPE RECORDING
21 OF THE INTERVIEW OF KRAFT WAS NOT MADE.

22 THE COURT: ALL RIGHT.

23 MR. CLONINGER: IN '75.

24 THE COURT: AND YOUR ANSWER WAS?

25 THE WITNESS: YES.

26 Q BY MR. CLONINGER: YOU HAVE BEEN SHOWN THAT

1 PARTICULAR PART OF THE TRANSCRIPT; IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q WAS THERE AN ERROR IN YOUR TESTIMONY AT THE
4 PRELIMINARY HEARING?

5 A YES, THERE WAS.

6 Q WHAT WAS WHAT THE REASON FOR THAT ERROR?

7 A I JUST DID NOT RECALL A TAPE RECORDING BEING
8 MADE.

9 Q SERGEANT BELL, DO YOU KNOW WHETHER OR NOT MR.
10 KRAFT WAS PHOTOGRAPHED WHILE HE WAS PRESENT IN THE POLICE
11 STATION ON MAY 19TH OF 1975?

12 A YES, SIR.

13 Q AND CAN YOU TELL THE COURT WHETHER OR NOT HE
14 WAS PHOTOGRAPHED?

15 A YES, HE WAS.

16 Q HOW DO YOU KNOW THAT?

17 A I SAW A PHOTOGRAPH OF HIM THAT YOU SHOWED ME.

18 MR. KOPENY: COULD I JUST HAVE THE ANSWER, THE
19 ENTIRE ANSWER READ?

20 THE COURT: YES.

21 MR. KOPENY: THANK YOU.

22 (RECORD READ.)

23 Q BY MR. CLONINGER: SERGEANT BELL, I WOULD
24 LIKE YOU TO TAKE A LOOK, PLEASE, AT DEFENDANT'S EXHIBIT B,
25 AS IN BOY, AND ASK YOU IF THE PHOTOGRAPH TO WHICH YOU JUST
26 REFERRED IS ONE OF THE PHOTOGRAPHS IN THAT MUG SHOW-UP

1 YOU, SIR?

2 THE WITNESS: I HAVE GOT IT, SIR, THAT'S OKAY. I
3 AM REMOVING PICTURE NUMBER 3, COLOR PHOTOGRAPH, AND I AM
4 REMOVING SOME WHITE TAPE WHICH COVERS A PLACARD THAT SAYS
5 LONG BEACH, CALIFORNIA, POLICE DEPARTMENT, HAS A DATE ON
6 IT OF 5-19-75.

7 Q BY MR. CLONINGER: SERGEANT BELL, IF MR.
8 KRAFT HAD BEEN ARRESTED AND BOOKED AT THE POLICE STATION
9 ON MAY 19TH OF 1975, WOULD THAT PICTURE LOOK ANY DIFFERENT
10 THAN IT DOES?

11 A YES, SIR, IT WOULD.

12 MR. KOPENY: I OBJECT, IT CALLS FOR A CONCLUSION.

13 THE COURT: COULD YOU EXPLAIN THAT OBJECTION A
14 LITTLE MORE.

15 MR. KOPENY: YEAH, I THINK WHETHER HE WAS ARRESTED
16 IS NOT SOMETHING THE WITNESS CAN TESTIFY.

17 THE COURT: I THOUGHT WE WERE LIMITING IT AS TO
18 WHAT HIS STATE OF MIND WAS, NOT AS TO WHAT ACTUALLY
19 HAPPENED.

20 MR. KOPENY: WELL, IF HIS ANSWER TO THIS IS
21 PERMITTED, I DON'T KNOW IF THE LIMITATION WILL APPEAR ON
22 THE RECORD, UNLESS I OBJECT.

23 THE COURT: WELL, THE COURT IS RECEIVING THIS AS
24 WHAT THE OFFICER THOUGHT, NOT AS TO THE LEGAL CONCLUSION.

25 THE WITNESS: COULD YOU REPEAT THAT QUESTION,
26 PLEASE?

1 Q BY MR. CLONINGER: YES, LET ME DO THAT. IF
2 MR. KRAFT HAD BEEN ARRESTED AND BOOKED AT THE LONG BEACH
3 POLICE STATION ON MAY 19TH OF '75, THE DAY THIS PICTURE
4 WAS TAKEN, WOULD THIS PICTURE LOOK ANY DIFFERENT?

5 A YES, IT WOULD.

6 Q LET ME BACK UP AND ASK YOU ARE YOU FAMILIAR
7 WITH THE PROCEDURE THAT IS USED AT THE POLICE DEPARTMENT
8 AND THAT WAS USED IN 1975 --

9 A YES, SIR.

10 Q -- FOR DESIGNATING ON A BOOKING PICTURE
11 WHETHER A PERSON WAS ARRESTED IN CONNECTION WITH THE
12 TAKING OF THAT PICTURE?

13 A YES, SIR.

14 Q AND WHAT IS THE WAY THAT YOU CAN TELL WHETHER
15 THE PICTURE WAS TAKEN IN CONNECTION WITH AN ARREST?

16 A THERE IS A SIX DIGIT PHOTO NUMBER ATTACHED TO
17 THIS PLACARD WHICH CORRESPONDS WITH THE INDIVIDUAL'S NAME
18 AND GOES INTO HIS D.R. FILE IN OUR RECORD BUREAU. AND
19 THAT IS ANOTHER WAY OF IDENTIFYING HIM THROUGH THE PHOTO
20 NUMBER.

21 Q AND THAT PHOTO NUMBER IS THEN ASSOCIATED WITH
22 THE BOOKING FROM THE ARREST?

23 A THAT'S CORRECT, SIR.

24 Q AND THE PICTURE THERE OF MR. KRAFT DID NOT
25 HAVE SUCH A SIX DIGIT NUMBER ON, IT, DOES IT?

26 A NO, SIR, IT DOES NOT.

1 Q SERGEANT BELL, ARE YOU FAMILIAR WITH A POLICE
2 PROCEEDURE OR A TECHNIQUE OF ASKING PEOPLE WHO ARE BEING
3 INVESTIGATED IN CONNECTION WITH EITHER A CRIME OR AN
4 UNEXPLAINED SET OF FACTS, TO HAVE A PICTURE TAKEN FOR
5 INVESTIGATION PURPOSES NOT ASSOCIATED WITH AN ARREST?

6 A YES, SIR.

7 Q AND CAN YOU TELL THE COURT WHY THAT IS DONE?
8 MR. KOPENY: OBJECTION, IRRELEVANT.

9 THE COURT: MR. CLONINGER?

10 MR. CLONINGER: WELL, I THINK THE DEFENSE HAS
11 SUGGESTED, YOUR HONOR, THAT BECAUSE THERE IS A PICTURE OF
12 MR. KRAFT TAKEN AT THE POLICE STATION ON THIS DATE THAT HE
13 MUST THEREFORE HAVE BEEN ARRESTED. AND I THINK IT'S
14 INCUMBENT UPON ME AT THIS TIME TO HAVE THE RECORD CLEAR AS
15 TO WHETHER OR NOT THE ONLY REASON THAT A PERSON'S PICTURE
16 COULD BE TAKEN IN THIS FASHION WOULD BE AN ARREST OR
17 WHETHER OR NOT, OR WHETHER THE PERSON'S PICTURE COULD BE
18 TAKEN IN CONNECTION WITH AN INVESTIGATION THAT DOES NOT
19 INVOLVE AN ARREST. I THINK THE COURT SHOULD HAVE SOME
20 INFORMATION ON THAT, ON WHAT THE PROCEDURE IS.

21 THE COURT: ANYTHING ELSE, MR. KOPENY?

22 MR. KOPENY: YES, YOUR HONOR, I THINK ALL THE
23 DISTRICT ATTORNEY CAN DO IS ESTABLISH THAT THIS WITNESS
24 DIDN'T THINK MR. KRAFT WAS UNDER ARREST AND HE HAS ALREADY
25 DONE THAT.

26 THE COURT: OVERRULED.

1 THE WITNESS: YES. I HAVE HAD PICTURES TAKEN OF
2 INDIVIDUALS THAT WE HAVE TALKED TO AS MUCH FOR ELIMINATION
3 AS FOR IDENTIFICATION OF A PARTICULAR INCIDENT.

4 Q BY MR. CLONINGER: SO, FOR INSTANCE, IN A
5 CASE WHERE THERE ARE WITNESSES WHO SAW A PERSON DO
6 SOMETHING, AND YOU HAVE A PERSON WHO MAY OR MAY NOT BE A
7 SUSPECT, IT MIGHT BE THE CASE WHERE THAT PERSON WOULD BE
8 ASKED TO HAVE THEIR PICTURE TAKEN SO THAT PICTURE COULD BE
9 SHOWN TO WITNESSES FOR ELIMINATION PURPOSES OR FOR
10 CONFIRMATION?

11 A THAT IS ABSOLUTELY RIGHT, YES.

12 Q THIS PARTICULAR PICTURE HERE, YOU CAN'T TELL
13 US WHETHER THIS WAS TAKEN FOR THAT PURPOSE OR NOT; IS THAT
14 RIGHT?

15 A I CAN'T, NO.

16 Q YOU CAN'T?

17 A I WOULD ASSUME SO, BECAUSE THERE'S NO PHOTO
18 NUMBER ON IT.

19 MR. KOPENY: I MOVE TO STRIKE EVERYTHING AFTER I
20 CAN'T, NO.

21 THE COURT: YES. THAT LATTER PORTION OF THE
22 ANSWER, EVERYTHING AFTER "I CAN'T" WILL GO OUT.

23 Q BY MR. CLONINGER: YOU JUMPED AHEAD TO MY
24 NEXT QUESTION. DOES THE ABSENCE OF THE PHOTO NUMBER
25 SUGGEST ANYTHING TO YOU, THOUGH, ABOUT WHY THEIR PICTURE
26 WOULD HAVE BEEN TAKEN?

1 MR. KOPENY: I OBJECT, IT CALLS FOR A CONCLUSION.

2 MR. CLONINGER: I THINK IT'S A CONCLUSION THAT THE
3 WITNESS IS FULLY QUALIFIED TO MAKE, YOUR HONOR. HE IS A
4 POLICE OFFICER OF OVER TWO DECADE'S EXPERIENCE WITH THIS
5 POLICE DEPARTMENT, AND HE KNOWS HOW THESE THINGS ARE DONE.

6 MR. KOPENY: I THINK THE COURT ALREADY HAS ALL THE
7 INFORMATION THAT IS NEEDED FOR THE DISTRICT ATTORNEY TO
8 ARGUE THAT THE COURT SHOULD DRAW THAT CONCLUSION. BUT HE
9 HAS ALREADY SAID HE DIDN'T KNOW WHY THIS PICTURE WAS
10 TAKEN.

11 THE COURT: I AM GOING TO SUSTAIN, MR. CLONINGER,
12 BASED ON THE WITNESS'S ANSWERS.

13 MR. CLONINGER: I HAVE NO FURTHER QUESTIONS.

14 THE COURT: ALL RIGHT. MR. KOPENY,
15 CROSS-EXAMINATION?

16 CROSS-EXAMINATION +

17 Q BY MR. KOPENY: MR. BELL, WHEN YOU TESTIFIED
18 AT THE PRELIMINARY HEARING ABOUT THE TAPE RECORDER, THERE
19 BEING NO TAPE RECORDER PRESENT OR WORDS TO THAT EFFECT,
20 ARE YOU SAYING NOW THAT YOU JUST COULDN'T REMEMBER THAT,
21 IN FACT, THE CONVERSATION HAD BEEN TAPE RECORDED?

22 A THAT'S CORRECT.

23 Q WELL, NOW DO YOU REMEMBER WHETHER OR NOT IT
24 WAS TAPE RECORDED?

25 A YES, SIR.

26 Q AND NOW YOU REMEMBER THAT IT WAS?

1 A YES, SIR.

2 Q DID YOU DO SOMETHING TO REFRESH YOUR
3 RECOLLECTION ABOUT THAT BEFORE YOU CAME TO COURT TO
4 TESTIFY TODAY?

5 A YES, SIR. I -- YES, SIR.

6 Q WHAT DID DO YOU?

7 A I HAVE LISTENED TO THE TAPE AND I HAVE READ
8 THE TRANSCRIPT.

9 Q WHEN?

10 A WELL, I HAVE -- I LISTENED TO THE TAPE AND
11 READ THE TRANSCRIPT WHEN I WAS, SEVERAL MONTHS AGO.

12 Q WHEN IS THE FIRST TIME YOU EVER WERE AWARE OF
13 THAT TAPE BEING RECORDED AFTER THE DATE OF THE INTERVIEW,
14 I AM SORRY, THAT TAPE BEING IN EXISTENCE BEFORE THE DATE
15 OF THE INTERVIEW?

16 A SEVERAL YEARS AGO.

17 Q CAN YOU GIVE ME A YEAR?

18 A NO, I CAN'T.

19 Q CAN YOU GIVE ME A PERIOD OF YEARS?

20 A WELL, IT WAS BETWEEN THE PRELIMINARY HEARING
21 AND NOW.

22 Q WELL, SO THERE WAS -- IF I CORRECTLY
23 UNDERSTAND YOU THEN, THE FACT THAT YOU TAPE RECORDED THE
24 INTERVIEW OF MR. KRAFT JUST COMPLETELY ESCAPED YOUR MEMORY
25 IMMEDIATELY AFTER THE INTERVIEW WAS OVER; IS THAT RIGHT?

26 MR. CLONINGER: OBJECTION, YOUR HONOR, THE QUESTION

1 IS ARGUMENTATIVE AND MISSTATES THE WITNESS'S TESTIMONY.

2 MR. KOPENY: I SAID THE NEXT TIME AFTER THE
3 INTERVIEW WAS AFTER THE PRELIMINARY HEARING HE WAS AWARE
4 OF IT EXISTING. I DON'T THINK -- I DON'T THINK IT
5 MISSTATES THE EVIDENCE. I DON'T THINK THE WITNESS SAID
6 THAT. LET'S HAVE HIS ANSWER REREAD IF THE COURT -

7 THE COURT: WHY DIDN'T WE, INSTEAD OF TAKING THE
8 TIME TO DO THAT, WHY DON'T WE JUST CLARIFY IT BY ASKING
9 HIM. I THINK YOU ARE RIGHT, BUT IF THERE IS SOME
10 CONFUSION IN THE RECORD, I WOULD LIKE TO GET IT STRAIGHT.

11 Q BY MR. KOPENY: AFTER THE INTERVIEW WAS OVER,
12 WHEN WAS THE NEXT TIME YOU WERE AWARE OF THE EXISTENCE OF
13 THE TAPE RECORDING?

14 A IT WAS SOMETIME BETWEEN THE PRELIMINARY
15 HEARING AND NOW, SIR.

16 Q SO IT'S JUST -- IT JUST VANISHED FROM YOUR
17 MEMORY RIGHT AFTER THE END OF THE INTERVIEW; IS THAT YOUR
18 TESTIMONY?

19 A I WASN'T ASKED BETWEEN THE TIME OF THE
20 INTERVIEW AND THE PRELIMINARY HEARING WHETHER THERE WAS
21 ONE TAKEN OR NOT, AND DURING THAT, I GUESS AN EIGHT YEAR
22 PERIOD, YES, IT DID VANISH FROM MY MEMORY, YES, SIR.

23 Q WELL, YOU DON'T NEED TO BE ASKED SOMETHING
24 FOR IT TO BE IN YOUR MEMORY, DO YOU?

25 A DEPENDS. MAYBE I NEED TO BE ASKED IF IT
26 TRIGGERED, YES.

1 Q WELL, YOU WERE ASKED AT THE PRELIMINARY
2 HEARING, RIGHT?

3 A THAT'S CORRECT.

4 Q AND IT WASN'T TRIGGERED, RIGHT?

5 A NO, SIR, IT WAS NOT.

6 Q NOW, DID YOU DO SOMETHING TO GO BACK TO CHECK
7 YOUR RECORDS OR TO CHECK YOUR REPORTS OR TO CHECK THE
8 INFORMATION AVAILABLE TO YOU AT THE LONG BEACH POLICE
9 DEPARTMENT WHEN YOU WERE ASKED THAT QUESTION AT THE
10 PRELIMINARY TO DETERMINE WHETHER OR NOT THE INTERVIEW HAD
11 BEEN TAPE RECORDED?

12 A COUNSEL, I DIDN'T RECALL THAT THERE HAD BEEN
13 ONE DONE UNTIL LATER, UNTIL AFTER THE PRELIMINARY HEARING
14 WHEN IT WAS BROUGHT TO MY ATTENTION.

15 Q WHEN WAS IT BROUGHT TO YOUR ATTENTION AFTER
16 THE PRELIMINARY HEARING?

17 A SEVERAL YEARS AGO, AND I DON'T KNOW THE DATE.

18 Q WOULD IT HAVE BEEN WITHIN A YEAR OF THE
19 PRELIMINARY HEARING?

20 A I DON'T KNOW, COUNSEL.

21 Q I UNDERSTAND YOU DON'T KNOW THE DATE. HOW
22 MANY YEARS AFTER THE PRELIMINARY HEARING WAS IT THAT YOU,
23 IT WAS BROUGHT TO YOUR ATTENTION THAT THERE WAS A TAPE
24 RECORDING OF THAT INTERVIEW?

25 A I DON'T KNOW.

26 Q CAN YOU GIVE ME AN ESTIMATE?

1 A COUNSEL, I DON'T KNOW.

2 Q WELL NOW, WHEN YOU FIRST SAW THE TAPE
3 RECORDING AFTER TESTIFYING AT THE PRELIMINARY HEARING,
4 THAT WAS SOMETHING THAT WAS SIGNIFICANT TO YOU, WASN'T IT?

5 A SEEING THE TAPE RECORDER SIGNIFICANT?

6 Q SEEING THE TAPE RECORDING OF THE KRAFT
7 INTERVIEW OF MAY 19TH, 1980 -- PARDON ME, 1975, THAT WAS
8 SIGNIFICANT WHEN YOU SAW, IT IN YOUR MIND, WASN'T IT?

9 A YES. IT -- IT BROUGHT BACK TO ME THAT THERE
10 WAS ONE TAKEN, YES.

11 Q WELL, DIDN'T IT ALSO BRING TO YOUR MIND THE
12 FACT THAT YOU HAD GIVEN TESTIMONY UNDER OATH THAT WAS NOT
13 TRUE AT THE PRELIMINARY HEARING?

14 A WELL, I DIDN'T KNOW THAT IT WAS NOT TRUE. I
15 DID NOT RECALL ONE TAKEN. I DIDN'T DELIBERATELY SAY THERE
16 WAS NOT ONE TAKEN. I DID NOT KNOW THAT THERE WAS ONE
17 TAKEN, COUNSEL.

18 Q AT PRELIMINARY HEARING IN ANSWER TO THE
19 QUESTION "THIS CONVERSATION THAT YOU HAD WITH MR. KRAFT,
20 WAS IT TAPE RECORDED "YOU ANSWERED "NO," PERIOD, DIDN'T
21 YOU?

22 A THAT WAS TO THE BEST OF MY RECOLLECTION AT
23 THAT TIME.

24 MR. CLONINGER: I OBJECT, YOUR HONOR. THAT DOES
25 NOT FULLY QUOTE THE WITNESS'S ANSWER.

26 MR. KOPENY: YOUR HONOR, IT DOESN'T QUOTE ALL THE

1 WITNESS'S ANSWER, BUT THAT'S ALL HE ANSWERED TO THAT
2 QUESTION ON PAGE 144 OF THE NOVEMBER 2ND PRELIMINARY
3 HEARING TRANSCRIPT.

4 MR. KOPENY: I THINK I AM ENTITLED TO ASK THE
5 WITNESS THAT QUESTION IF, EVEN IF IT DOESN'T FULLY QUOTE
6 HIS ANSWER.

7 THE COURT: I WILL ALLOW YOU ON REDIRECT TO BRING
8 OUT THE ENTIRE SUBJECT MATTER IN THAT REGARD.

9 MR. CLONINGER: THANK YOU.

10 Q BY MR. KOPENY: THAT WAS YOUR ANSWER, WASN'T
11 IT, "NO, SIR"?

12 A IF THAT'S WHAT YOU SAY. I HAVEN'T -- I DON'T
13 HAVE A COPY OF THAT SO I AM TAKING YOUR WORD FOR IT, SIR.

14 Q DON'T TAKE MY WORD FOR IT.

15 A CAN I HAVE THE NOVEMBER 2ND TRANSCRIPT?

16 MR. KOPENY: MAY I APPROACH THE WITNESS, YOUR
17 HONOR?

18 THE COURT: YES.

19 Q BY MR. KOPENY: I AM GOING TO SHOW HIM THE
20 NOVEMBER 2ND, 1983 VOLUME OF THE PRELIMINARY HEARING
21 TRANSCRIPT. IF YOU WOULD LIKE TO TAKE A LOOK AT THIS AND
22 FAMILIARIZE YOURSELF WITH IT SO YOU CAN BE SURE THAT THAT
23 IS YOUR TESTIMONY. IN FACT, AFTER YOU HAVE DONE THAT I
24 WOULD LIKE YOU TO LOOK AT PAGE 144 AT THE TOP FEW LINES,
25 IN FACT, MAYBE THE TOP 10 LINES?

26 A ALL RIGHT, SIR.

1 Q AND THEN LET ME KNOW WHEN YOU ARE DONE,
2 PLEASE.

3 A ALL RIGHT, SIR.

4 Q THAT WAS YOUR ANSWER TO THAT QUESTION, WASN'T
5 IT?

6 A YES, SIR. NOT TO MY KNOWLEDGE IS THERE.

7 Q NOT TO THAT QUESTION THOUGH, IS IT?

8 A WELL, YOU ASKED ME TO READ 1 THROUGH 10 AND
9 IT'S ENCOMPASSED IN THAT WITHIN 1 THROUGH 10 LINES.

10 Q SIR, HOW ABOUT THE QUESTION I ASKED YOU ABOUT
11 ON CROSS-EXAMINATION, THIS CONVERSATION THAT YOU HAD WITH
12 MR. KRAFT WAS IT TAPE RECORDED? TO THAT, WITHOUT THE
13 QUALIFICATION, YOU ANSWERED "NO", DIDN'T YOU?

14 A THAT IS ABSOLUTELY CORRECT.

15 Q THEN THIS FOLLOW-UP QUESTION YOU WERE ASKED
16 WAS THERE SOME EFFORT TO TAPE RECORD IT AND YOU SAID "NO,
17 NOT TO MY KNOWLEDGE. I DON'T RECALL ANY TAPE RECORDING."

18 A THAT'S CORRECT.

19 Q SO THE TESTIMONY THAT YOU GAVE AT THE
20 PRELIMINARY HEARING WAS FALSE, WASN'T IT?

21 MR. CLONINGER: I OBJECT TO THE QUESTION AS ASKING
22 FOR A CONCLUSION ON THE PART OF THE WITNESS.

23 THE COURT: I AM GOING TO SUSTAIN.

24 MR. KOPENY: IT'S A QUESTION OF FACT. I AM NOT
25 ASKING HIM A LEGAL OPINION.

26 THE COURT: I HAVE SUSTAINED THE OBJECTION.

1 Q BY MR. KOPENY: ALL RIGHT. YOU DIDN'T TELL
2 THE TRUTH WHEN YOU TESTIFIED AT THE PRELIMINARY HEARING
3 NO, IN ANSWER TO THAT QUESTION, DID YOU?

4 MR. CLONINGER: OBJECTION, YOUR HONOR. THE
5 QUESTION IS ARGUMENTATIVE AND IT ASSUMES FACTS NOT IN
6 EVIDENCE.

7 THE COURT: WELL, ON THE LATTER GROUND, I AM GOING
8 TO SUSTAIN.

9 Q BY MR. KOPENY: YOUR ANSWER "NO" ON PAGE 144
10 OF THE PRELIMINARY HEARING ON LINE 4 WAS NOT TRUE, WAS IT?

11 MR. CLONINGER: WELL, I OBJECT TO THE QUESTION AS
12 BEING VAGUE ARE YOU SURE NOW OR SURE OF THE WITNESS'S
13 RECOLLECTION AT THE TIME?

14 MR. KOPENY: WELL, IF COUNSEL THINKS THAT THE TRUTH
15 CHANGES OVER TIME IN TERMS OF THIS QUESTION, I DISAGREE.

16 MR. CLONINGER: WELL --

17 THE COURT: WHY WE ARE GOING INTO THIS SO DEEP WHEN
18 THE WITNESS HAS SAID HE WAS WRONG, HE MADE A MISTAKE
19 THERE, HE SAID THERE WAS NO TAPE. HE HAS ACKNOWLEDGED
20 THAT. WE NOW KNOW THERE IS A TAPE. BUT IF, I WILL ALLOW
21 THE ANSWER TO THE QUESTION.

22 MR. KOPENY: THE ANSWER WAS IN, WASN'T IT?

23 THE COURT: I DIDN'T HEAR THE ANSWER, SO THAT'S THE
24 REASON I WOULD LIKE TO HEAR IT AGAIN.

25 THE WITNESS: COULD I HAVE THE QUESTION AGAIN?

26 MR. KOPENY: MAYBE WE SHOULD HAVE IT. IN FACT, I

1 ASK THAT THE QUESTION AND ANSWER BE REREAD PLEASE.

2 THE COURT: WELL, IF YOU ARE SAYING THERE WAS AN
3 ANSWER, I WILL HAVE THAT DONE THEN.

4 (THE FOLLOWING QUESTION READ BY THE REPORTER:)

5 "YOUR ANSWER 'NO' ON PAGE 144 OF THE PRELIMINARY
6 HEARING ON LINE 4 WAS NOT TRUE, WAS IT?")

7 THE COURT: WAS THERE AN ANSWER TO THAT?

8 THE REPORTER: NO, SIR.

9 THE COURT: I DIDN'T HEAR ONE.

10 MR. KOPENY: WHAT'S THE ANSWER?

11 THE WITNESS: NO.

12 Q BY MR. KOPENY: THAT WAS IMPORTANT TO YOU
13 WHEN YOU FIRST SAW OR LEARNED ABOUT THE TAPE RECORDING OF
14 THE CONVERSATION AFTER THE DATE OF YOUR TESTIMONY AT THE
15 PRELIMINARY HEARING, THAT WAS SIGNIFICANT IN YOUR MIND,
16 WASN'T IT?

17 MR. CLONINGER: OBJECTION, THAT IS IRRELEVANT.

18 THE COURT: I THOUGHT THAT HAD BEEN ASKED AND
19 ANSWERED ALSO, MR. KOPENY. I THINK HE ANSWERED THAT
20 QUESTION.

21 Q BY MR. KOPENY: WAS PART OF THE REASON THAT
22 IT WAS SIGNIFICANT WHEN YOU SAW THAT TAPE RECORDING OF THE
23 INTERVIEW WITH KRAFT, THAT YOU HAD CREATED THE IMPRESSION
24 AT THE PRELIMINARY HEARING THAT NO SUCH TAPE RECORDING
25 EXISTED?

26 A I WAS SURPRISED THAT THERE WAS A TAPE, AND

1 YES TO YOUR ANSWER.

2 Q ALL RIGHT. SO DID YOU DO SOMETHING WHEN YOU
3 LEARNED ABOUT THE TAPE RECORDING'S EXISTENCE IN ORDER TO
4 CLEAR UP THE IMPRESSION THAT YOU HAD CREATED AT THE
5 PRELIMINARY HEARING OF MR. KRAFT TO THE CONTRARY?

6 A I DON'T UNDERSTAND. I DON'T UNDERSTAND YOUR
7 QUESTION.

8 Q ALL RIGHT. WHEN YOU LEARNED ABOUT THE TAPE
9 RECORDING OF MR. KRAFT, DID YOU THEN AT THAT TIME OR
10 IMMEDIATELY AFTER LEARNING ABOUT IT, DO SOMETHING TO
11 COMMUNICATE THE FACT THAT THE IMPRESSION YOU CREATED AT
12 THE PRELIMINARY HEARING ABOUT THERE NOT BEING A TAPE
13 RECORDING?

14 A I BELIEVE I WAS ADVISED BY THE ORANGE COUNTY
15 D.A.'S OFFICE THAT THERE WAS, THAT THAT'S HOW I -- TO THE
16 BEST OF MY RECOLLECTION, THAT'S HOW I BECAME AWARE OF IT.

17 Q BY WHO IN THE D.A.'S OFFICE TOLD YOU ABOUT
18 ABOUT IT?

19 MR. CLONINGER: OBJECTION, THAT IS IRRELEVANT.

20 THE COURT: WHAT IS THE RELEVANCY, MR. KOPENY?

21 MR. KOPENY: YOUR HONOR, I DON'T BELIEVE SOME OF
22 THE WITNESS'S TESTIMONY AND WHAT I INTEND TO DO IS ASK THE
23 PERSON THAT HE CLAIMS HE TOLD, AND I THINK THAT IT WOULD
24 BE IMPORTANT FOR YOUR HONOR TO KNOW THAT THAT'S WHO THE
25 WITNESS CLAIMS HE TOLD WHEN I CALL THAT WITNESS.

26 MR. CLONINGER: WELL, I WILL WITHDRAW MY OBJECTION.

1 THE COURT: ALL RIGHT.

2 THE WITNESS: I DIDN'T SAY I TOLD ANYBODY, COUNSEL.
3 I SAID I WAS TOLD.

4 Q BY MR. KOPENY: ALL RIGHT. WHO TOLD YOU?

5 A I BELIEVE IT WAS MR. BROWN.

6 Q OKAY. DO YOU KNOW WHEN THAT WAS?

7 A NO, SIR.

8 Q WELL, ALL YOU CAN TELL ME IS THAT IT WAS
9 AFTER 1983 THE TIME OF THE PRELIMINARY?

10 A YOU GOT IT. YES, SIR.

11 Q YOU SAW IT SEVERAL MONTHS AGO, THOUGH AGAIN,
12 CORRECT?

13 A YES, SIR.

14 Q AND WHAT WERE THE CIRCUMSTANCES IN WHICH YOU
15 SAW IT AGAIN?

16 A IT WAS IN THE ORANGE COUNTY DISTRICT
17 ATTORNEY'S OFFICE, MR. CLONINGER'S, AND I LISTENED TO IT
18 AND READ THE TRANSCRIPT.

19 Q DID THE LONG BEACH POLICE DEPARTMENT RETAIN A
20 COPY OF THE TAPE RECORDING OR THE TRANSCRIPT OF IT?

21 MR. CLONINGER: OBJECTION, THAT IS IRRELEVANT.

22 THE COURT: AGAIN MR. KOPENY, WOULD YOU EXPLAIN THE
23 RELEVANCY OF WHETHER HE RETAINED A COPY OR NOT?

24 MR. KOPENY: WELL, YOUR HONOR, YES, YOUR HONOR, BUT
25 I WOULD ASK THAT THE WITNESS BE EXCUSED.

26 THE COURT: ALL RIGHT. SERGEANT, RATHER THAN GOING

1 OUT, DO YOU WANT TO STEP BACK IN THE JURY ROOM FOR JUST A
2 MINUTE

3 THE WITNESS: THANK YOU.

4 THE COURT: THE RECORD WILL SHOW THAT SERGEANT BELL
5 IS IN THE JURY ROOM AND HAS CLOSED THE DOOR AND IS OUT OF
6 THE COURTROOM.

7 MR. KOPENY: YOUR HONOR, I THINK THAT WHETHER OR
8 NOT THE LONG BEACH POLICE DEPARTMENT HAD A COPY OF THE
9 TAPE RECORDING AT THE TIME OF THE PRELIMINARY HEARING
10 BEARS DIRECTLY ON THIS COURT'S ABILITY TO EVALUATE HIS
11 CREDIBILITY. AND IF IN FACT THERE WAS ONE AVAILABLE TO
12 HIM AT THE TIME THAT HE TESTIFIED DURING THE PRELIMINARY
13 HEARING, AND HE LIED AT THE PRELIMINARY HEARING OR
14 TESTIFIED FALSELY, EVEN THOUGH THE INFORMATION WAS
15 AVAILABLE, THAT THAT SHOULD BEAR ON YOUR HONOR'S
16 EVALUATION OF HIS TESTIMONY HERE, IN TERMS OF BOTH
17 CREDIBILITY AND WEIGHT.

18 THE COURT: OBJECTION OVERRULED. WILL SOMEBODY --
19 THANKS.

20 SERGEANT, DO YOU REMEMBER THE QUESTION? I
21 HAVE OVERRULED THE OBJECTION. WOULD YOU LIKE THE QUESTION
22 REREAD?

23 THE WITNESS: I THINK IT WAS WAS THERE A COPY KEPT
24 BY THE LONG BEACH POLICE DEPARTMENT?

25 MR. KOPENY: YES.

26 THE WITNESS: I DON'T KNOW IF THERE WAS OR NOT.

1 Q BY MR. KOPENY: IS THERE A USUAL PROCEDURE
2 THAT THE LONG BEACH POLICE DEPARTMENT FOLLOWED IN 1975
3 CONCERNING TAPE RECORDED STATEMENTS OF SUSPECTED MURDER
4 SUSPECTS?

5 MR. CLONINGER: OBJECTION, THAT IS IRRELEVANT.

6 THE COURT: WELL, I THINK THE PART THAT'S
7 IRRELEVANT AND MR. CLONINGER OBJECTED TO, IS SUSPECTED
8 MURDER, THAT PEOPLE SUSPECTED MURDER.

9 MR. CLONINGER: IN PART, YOUR HONOR, BUT THE USUAL
10 PROCEDURE, IF THE WITNESS HAS NO ACTUAL KNOWLEDGE OF THIS
11 PARTICULAR TAPE, THE USUAL PROCEDURE, HOW IS THAT RELEVANT
12 TO THE INQUIRY?

13 MR. KOPENY: THIS IS THE SAME APPROACH THAT THE
14 PROSECUTOR IS PERMITTED WITH REGARD TO THE PHOTOGRAPH.

15 THE COURT: I AM GOING TO OVERRULE THE OBJECTION.

16 THE WITNESS: I DON'T BELIEVE THERE WAS, NO.

17 Q BY MR. KOPENY: SO IF, IF A MURDER SUSPECT'S
18 STATEMENT WAS TAPE RECORDED, THERE WAS NO SET PROCEDURE ON
19 HOW TO RETAIN THE TAPE IN YOUR DEPARTMENT AT THAT TIME?

20 A THE TAPE WAS RETAINED IN THE DETAIL OFFICE
21 AND A SUMMARY WAS DONE AND, WHEN REQUESTED, A
22 TRANSCRIPTION WAS DONE.

23 Q IS THERE ANY WRITTEN RECORD MADE OF THE FACT
24 THAT A MURDER SUSPECT'S STATEMENT HAS BEEN TAPE RECORDED?
25 WAS THERE IN 1975 IN YOUR DEPARTMENT?

26 A I DON'T BELIEVE THERE WAS ANY POLICY, NO,

1 SIR.

2 Q WELL, DID YOU -- WAS IT YOUR POLICY OR WAS IT
3 YOUR PRACTICE TO MAKE A WRITTEN RECORD OF THE FACT THAT
4 YOU HAD TAPE RECORDED THE STATEMENT OF A MURDER SUSPECT?

5 A I DID SOMETIMES AND OBVIOUSLY I DID IN THIS
6 ONE.

7 Q YOU PREPARED REPORTS ABOUT THIS INTERVIEW,
8 DIDN'T YOU?

9 A YES, SIR.

10 Q YOU DIDN'T INCLUDE THE FACT THAT THE
11 INTERVIEW HAD BEEN TAPE RECORDED IN THE REPORT, DID YOU?

12 A NO, I DID NOT, SIR.

13 Q WHY NOT?

14 A I CAN'T ANSWER THAT. I DON'T KNOW WHY. I
15 DON'T KNOW.

16 Q WELL, IS THERE A SUMMARY OF THIS TAPE
17 RECORDING IN THE RECORDS OF THE LONG BEACH POLICE
18 DEPARTMENT?

19 A YES, SIR.

20 Q AND DID YOU PREPARE IT OR DID SOMEONE ELSE?

21 A I PREPARED IT.

22 Q WHEN?

23 A THE FOLLOWING DAY, I BELIEVE ON THE 20TH.

24 Q DO YOU REMEMBER DOING THAT?

25 A YES, SIR.

26 Q WELL THEN, ON THE DAY AFTER THE INTERVIEW YOU

1 STILL HAD IN YOUR MEMORY THE FACT THAT THE TAPE RECORDING
2 EXISTED, DIDN'T YOU?

3 A YES, SIR.

4 Q WHAT DID YOU DO WITH THE SUMMARY?

5 A I FILED IT AND IT WENT TO OUR RECORD BUREAU
6 AND A COPY WENT INTO THE FILE.

7 Q AND DID IT SAY WHAT IT IS, A SUMMARY OF A
8 TAPE RECORDED STATEMENT?

9 A NO, SIR. IT SAID INTERVIEW.

10 Q WOULD THERE BE ANY -- WELL, DID YOU LISTEN TO
11 THE TAPE IN ORDER TO MAKE THE SUMMARY?

12 A NO, SIR.

13 Q WOULD THERE BE ANY WAY THAT ANYONE LOOKING AT
14 YOUR SUMMARY COULD YOU, COULD TELL THAT THE INTERVIEW HAD
15 BEEN TAPE RECORDED?

16 A YES.

17 Q WOULD THERE BE ANY WAY THAT ANYONE, LOOKING
18 AT ANY OF THE DOCUMENTS THAT YOU PREPARED IN CONNECTION
19 WITH THE INVESTIGATION OF THE DISAPPEARANCE OF MR.
20 CROTWELL, COULD TELL THAT YOU HAD MADE A TAPE RECORDING OF
21 THE INTERVIEW OF MR. KRAFT?

22 A I DON'T BELIEVE SO.

23 Q WHY DID YOU TAPE RECORD THE STATEMENT?

24 A I TAPE RECORD MOST STATEMENTS. AGAIN, I
25 CAN'T ANSWER YOU WHY I FORGOT THAT IT WAS THERE, BUT I
26 DID. THAT'S ALL I CAN SAY.

1 Q I JUST ASKED WHY YOU TAPE RECORDED IT.

2 A FOR PERMANENT RECORD.

3 Q WELL, WHO DECIDED THAT THE STATEMENT WOULD BE
4 TAPE RECORDED?

5 A I DON'T RECALL.

6 Q DO YOU ACTUALLY REMEMBER THE INTERVIEW?

7 A YES, SIR.

8 Q I MEAN YOU REMEMBER SITTING THERE?

9 A CERTAINLY.

10 Q AND DO YOU KNOW WHICH CHAIR YOU AND WOODWARD
11 HAD?

12 A NO.

13 Q WELL, DO YOU REMEMBER HOW WOODWARD WAS
14 DRESSED?

15 A I AM SURE HE HAD A COAT AND TIE ON OR AT
16 LEAST A SHIRT AND TIE. I DOUBT IF HE HAD A COAT.

17 Q YOU ARE SURE OF THAT BECAUSE THAT'S WHAT HE
18 USUALLY WORE?

19 A THAT'S CORRECT.

20 Q NOT BECAUSE YOU REMEMBER IT, THOUGH?

21 A THAT'S CORRECT.

22 Q DO YOU REMEMBER HOW YOU WERE DRESSED THAT
23 DAY?

24 A SHIRT AND TIE.

25 Q WELL, HOW IS IT THAT YOU RECALL THE CLOTHING
26 THAT MR. KRAFT --

1 A I DON'T BELIEVE I SAID I RECALL THE CLOTHING.

2 Q YOU DON'T REMEMBER WHAT HE WAS WEARING?

3 A DID I TESTIFY TO THAT? I DON'T RECALL THAT I
4 DID.

5 Q DO YOU REMEMBER WHAT MR. KRAFT WAS WEARING
6 THE DAY OF THE INTERVIEW?

7 A SIMILAR TO WHAT HE HAS ON TODAY.

8 Q CAN YOU DESCRIBE IT?

9 A NO, SIR.

10 Q BEFORE THE INTERVIEW, DID YOU KNOW THAT MR.
11 KRAFT HAD BEEN CONTACTED AND MIGHT BE COMING DOWN TO THE
12 STATION?

13 A I WAS TOLD BY DETECTIVE WOODWARD A FEW
14 MINUTES PRIOR TO THE INTERVIEW THAT HE HAD CONTACTED MR.
15 KRAFT AND THAT HE HAD REQUESTED THAT HE COME DOWN TO THE
16 STATION.

17 Q WHEN MR. WOODWARD TOLD YOU THAT BEFORE THE
18 INTERVIEW, DID YOU KNOW WHO MR. KRAFT WAS?

19 A I KNEW THE NAME, BUT I DID NOT KNOW WHO HE
20 WAS, NO.

21 Q WHAT DID YOU KNOW ABOUT THE NAME KRAFT BEFORE
22 YOU, WHEN MR. WOODWARD TOLD YOU HE WAS COMING DOWN TO THE
23 STATION?

24 A TO THE BEST OF MY RECOLLECTION, OFFICER
25 WOODWARD, DETECTIVE WOODWARD TOLD ME THAT MR. KRAFT HAD
26 BEEN, WAS A PERSON WHO HAD BEEN WITH MR. CROTWELL THE

1 NIGHT BEFORE EASTER, AND THAT HE WANTED TO TALK TO HIM
2 ABOUT IT.

3 Q DID YOU KNOW WHO MR. CROTWELL WAS AT THAT
4 TIME?

5 A YES.

6 Q HOW DID YOU LEARN ABOUT MR. CROTWELL?

7 MR. CLONINGER: OBJECTION, THAT IS IRRELEVANT.

8 THE COURT: OH, I SUPPOSE WHAT THE OFFICER'S
9 KNOWLEDGE WAS AT THE TIME OF THE INTERVIEW WOULD BE --
10 OVERRULED.

11 THE WITNESS: I KNEW THAT MR. CROTWELL WAS THE
12 PERSON WHO HAD BELONGED TO THE HUMAN SKULL THAT WE HAD
13 FOUND OF A HUMAN HEAD THAT WE HAD FOUND SOMETIME PRIOR TO
14 THAT. AND WE HAD LEARNED OF HIS IDENTIFICATION A FEW DAYS
15 BEFORE THIS INTERVIEW, TO THE BEST OF MY RECOLLECTION.

16 Q WHEN YOU SAY WE, WHO DO YOU MEAN?

17 A MYSELF, DETECTIVE WOODWARD AND THE OTHER
18 MEMBERS OF THE HOMICIDE DETAIL.

19 Q WHO WAS IN CHARGE OF THE HOMICIDE DETAIL AT
20 THAT TIME?

21 MR. CLONINGER: OBJECTION, THAT IS IRRELEVANT.

22 THE COURT: SUSTAINED.

23 Q BY MR. KOPENY: WHO WAS DETECTIVE WOODWARD'S
24 SUPERVISOR AT THE TIME?

25 MR. CLONINGER: OBJECTION, IT'S IRRELEVANT.

26 THE COURT: SUSTAINED.

1 Q BY MR. KOPENY: DID YOU GIVE DETECTIVE
2 WOODWARD DIRECTIONS WITH REGARD TO HIS INVESTIGATION OF
3 THE DISAPPEARANCE OF CROTWELL?

4 A NO, SIR.

5 Q DID HE GIVE THEM TO YOU?

6 A NO, SIR.

7 Q WERE YOU OF EQUAL RANK?

8 A YES, SIR.

9 Q WERE YOU WORKING THE CROTWELL CASE TOGETHER?

10 A NO, SIR.

11 Q WERE YOU WORKING IT AT ALL?

12 A NO, SIR. I SHOULDN'T SAY THAT, NO, I WASN'T
13 ASSIGNED THE CASE. IN FACT, I DON'T BELIEVE ANYBODY WAS
14 ASSIGNED THE CASE. I WAS PRESENT AND WAS ASKED TO ASSIST
15 DETECTIVE WOODWARD. HE ASKED ME TO ASSIST HIM.

16 Q WHEN HE ASKED YOU TO ASSIST HIM, DID HE GIVE
17 YOU THE INFORMATION OR HOW DID YOU GET THE INFORMATION
18 ABOUT THE CROTWELL CASE?

19 A WELL, IT WAS COMMON KNOWLEDGE IN THE OFFICE
20 AND -- AND HE'S THE ONE THAT TOLD ME ABOUT MR. KRAFT.

21 Q WHAT DID HE TELL ABOUT MR. KRAFT?

22 MR. CLONINGER: OBJECTION, IT'S IRRELEVANT.

23 THE COURT: ONCE AGAIN, I THINK THE OFFICER'S
24 KNOWLEDGE CONCERNING MR. KRAFT PRIOR TO THE INTERVIEW
25 MIGHT HAVE SOME RELEVANCE AS TO SOME OF THE LEGAL ISSUES
26 THAT THE COURT IS GOING TO BE CALLED UPON TO RECALL. SO

1 OVERRULED.

2 THE WITNESS: I THINK I ANSWERED THAT ALREADY, THAT
3 HE TOLD ME THAT MR. KRAFT HAD BEEN THE PERSON THAT HAD
4 BEEN SEEN WITH MR. CROTWELL THE LAST TIME HE WAS SEEN, THE
5 LAST TIME MR. CROTWELL WAS SEEN.

6 Q BY MR. KOPENY: IS THAT ALL?

7 A YES, SIR. TO THE BEST OF MY RECOLLECTION,
8 YES, SIR.

9 Q DID HE TELL YOU THAT MR. KRAFT WAS GAY?

10 A NO, SIR.

11 Q DID HE TELL YOU THAT HE CONSIDERED MR. KRAFT
12 A SUSPECT IN THE DEATH OF MR. CROTWELL?

13 A NO, SIR.

14 Q DID YOU CONSIDER MR. KRAFT A SUSPECT IN THE
15 DEATH OF MR. CROTWELL WHEN YOU PARTICIPATED IN THE
16 INTERVIEW?

17 A NO, SIR.

18 Q DO YOU KNOW IF WOODWARD CONSIDERED HIM A
19 SUSPECT AT THAT TIME?

20 MR. CLONINGER: OBJECTION.

21 A I DIDN'T KNOW WHAT HE WAS THINKING, BUT I
22 DON'T BELIEVE HE DID.

23 MR. CLONINGER: WITHDRAWN.

24 MR. KOPENY: WHY DON'T YOU BELIEVE HE DID?

25 MR. CLONINGER: OBJECTION, CALLS FOR SPECULATION ON
26 THE PART OF THE WITNESS.

1 THE COURT: I THINK THAT WOULD CALL FOR
2 SPECULATION, MR. KOPENY. SUSTAINED.

3 Q BY MR. KOPENY: DID WOODWARD DO OR SAY
4 ANYTHING TO YOU THAT LED YOU TO YOUR CONCLUSION THAT HE
5 DID NOT CONSIDER KRAFT A SUSPECT AT THE TIME OF THE
6 INTERVIEW?

7 A HE DIDN'T TELL ME THAT HE THOUGHT HE WAS AND
8 HE DIDN'T ARREST HIM.

9 Q AND THAT LED TO YOU CONCLUDE THAT WOODWARD
10 DIDN'T THINK HE WAS A SUSPECT?

11 A YES, SIR.

12 Q WERE YOU INVOLVED IN THE INVESTIGATIONS OF
13 OTHER MURDERS BESIDES THE MURDER OF CROTWELL AROUND MAY OF
14 '75?

15 MR. CLONINGER: OBJECTION, YOUR HONOR, THAT ASSUMES
16 FACTS NOT IN EVIDENCE.

17 THE COURT: SUSTAINED.

18 Q BY MR. KOPENY: WERE YOU INVOLVED IN THE
19 INVESTIGATION OF MURDERS IN MAY OF '75?

20 A YES, SIR.

21 Q WERE THERE A SERIES OF THEM THAT WERE
22 UNSOLVED AT THAT POINT THAT YOU BELIEVED TO BE RELATED?

23 A THERE WAS SOME SERIES MURDERS GOING ON AT
24 THAT TIME, YES. I DON'T -- I WASN'T ASSIGNED TO ANY OF
25 THE SERIES MURDERS, NO.

26 Q BUT YOU WERE AWARE OF THEM?

1 A YES, SIR.

2 Q DID YOU HAVE ANY SUSPICION OR REASON TO
3 BELIEVE THAT THE INVESTIGATION INTO THE DISAPPEARANCE OF
4 CROTWELL WAS IN ANY WAY RELATED WITH THOSE SERIES OF
5 MURDERS?

6 A NO, THERE WAS NOTHING TO INDICATE THAT.

7 Q IN YOUR MIND THEY WERE NOT RELATED?

8 A IN MY MIND THEY WERE NOT RELATED, THAT'S
9 CORRECT.

10 Q AND YOU WERE NOT ASSIGNED TO ANY OF THEM?

11 A NO, SIR, I WASN'T WORKING ANY OF THE SERIES
12 MURDERS.

13 THE COURT: SO THE COURT CAN UNDERSTAND THE TERM
14 SERIES MURDERS, SERGEANT, DOES THAT HAVE THE SAME MEANING
15 TO YOU AS SERIAL MURDERS?

16 THE WITNESS: YES, SIR.

17 THE COURT: ALL RIGHT, THANK YOU.

18 Q BY MR. KOPENY: I TAKE IT BY THAT YOU THOUGHT
19 THE SERIES MURDERS WERE MURDERS THAT YOU BELIEVED INVOLVED
20 THE SAME SUSPECT OR SUSPECTS?

21 MR. CLONINGER: OBJECTION, THAT IS IRRELEVANT.

22 MR. KOPENY: WELL, I WAS JUST TRYING TO MAKE SURE.

23 THE COURT: I AM GOING TO ALLOW THAT, MR.
24 CLONINGER, BECAUSE THAT IS JUST CLEARING UP WHAT I HAD
25 THAT QUESTION MY MIND ABOUT SO --

26 THE WITNESS: YES, SIR.

1 Q BY MR. KOPENY: YOU WERE NOT DETECTIVE
2 WOODWARD'S SUPERIOR OFFICER AT TIME OF THE INTERVIEW; IS
3 THAT RIGHT?

4 MR. CLONINGER: OBJECTION, ASKED AND ANSWERED.

5 THE COURT: THAT HAS BEEN ASKED AND ANSWERED.

6 MR. CLONINGER: MOVE TO STRIKE.

7 THE COURT: GRANTED. HE SAID NO.

8 Q BY MR. KOPENY: DID YOU GIVE WOODWARD
9 DIRECTIONS IN HIS WORK AROUND MAY OF '75?

10 MR. CLONINGER: SAME OBJECTION.

11 THE COURT: SORRY, MR. CLONINGER?

12 MR. CLONINGER: SAME OBJECTION.

13 THE COURT: I THOUGHT IT HAD BEEN ASKED AND
14 ANSWERED, MR. KOPENY, BUT JUST TO MAKE THE RECORD CLEAR, I
15 WILL ALLOW THE ANSWER.

16 THE WITNESS: NO, I DID NOT.

17 Q BY MR. KOPENY: WAS -- WAS THE INFORMATION
18 THAT YOU GOT ABOUT KRAFT COMING DOWN TO THE STATION, THE
19 FIRST INFORMATION THAT YOU HAD ABOUT THE DISAPPEARANCE OF
20 CROTWELL?

21 A NO. I HAD KNOWN THAT HE DISAPPEARED. I
22 DON'T UNDERSTAND -- WOULD YOU REPHRASE YOUR QUESTION,
23 PLEASE?

24 Q WELL, LET ME ASK THIS: WAS, IN YOUR MIND,
25 WAS WOODWARD ASSIGNED TO INVESTIGATE A POSSIBLE MURDER OF
26 CROTWELL IN MAY OF '75?

1 A TO THE BEST OF MY RECOLLECTION, COUNSEL, THE
2 CAUSE OF DEATH WAS UNDETERMINED, AND WE DIDN'T KNOW THAT
3 IT WAS A MURDER OR IF IT WAS ACCIDENTAL, SUICIDE. WE HAD
4 NO IDEA WHAT KIND OF A DEATH IT WAS. AND IT WAS JUST A
5 DEAD BODY AT THAT PARTICULAR TIME. I MEAN, THAT WAS THE
6 TYPE OF REPORT, TYPE OF HEADING. AND AS FAR AS I KNOW,
7 THERE WAS NO PARTICULAR ASSIGNMENT TO THAT CASE. I
8 BELIEVE THAT DETECTIVE WOODWARD WAS JUST LOOKING INTO IT
9 TO TRY TO FIND OUT HOW, IN FACT, HE DID DIE.

10 Q SO WOODWARD NEVER TOLD THAT YOU HE CONSIDERED
11 KRAFT A SUSPECT IN THE MURDER OF CROTWELL ANY TIME BEFORE
12 THE INTERVIEW TOOK PLACE; IS THAT RIGHT?

13 MR. CLONINGER: OBJECTION, ASKED AND ANSWERED.

14 THE COURT: SUSTAINED.

15 Q BY MR. KOPENY: DID WOODWARD EVER TELL YOU
16 THAT HE SUSPECTED THAT CROTWELL WAS THE VICTIM OF A MURDER
17 BEFORE THE INTERVIEW OF MR. KRAFT?

18 A NO.

19 Q YOU HAVE TALKED ABOUT THE FACT THAT ON THIS
20 OCCASION YOU TALKED TO MR. KRAFT BEFORE YOU TURNED ON THE
21 TAPE RECORDER, CORRECT?

22 A THAT'S CORRECT.

23 Q DO YOU ACTUALLY REMEMBER DOING THAT?

24 A I REMEMBER TWO CONVERSATIONS WITH MR. KRAFT,
25 YES.

26 Q DO YOU ACTUALLY REMEMBER NOW ONE OF THEM WAS

1 TAPE RECORDED?

2 A YES, SIR, I DO REMEMBER NOW.

3 Q SO CAN YOU TELL ME APPROXIMATELY IN TIME HOW
4 FAR INTO THE INTERVIEW THE TAPE RECORDER WAS TURNED ON?

5 A I WOULD HAVE TO LOOK AND SEE WHAT TIME THE
6 RECORDING STARTED. I BELIEVE WE PROBABLY TALKED TO HIM
7 FOR MAYBE, AND THIS IS JUST A GUESS, TWENTY MINUTES OR SO,
8 MAYBE HALF AN HOUR. I AM NOT SURE, BUT THAT'S NORMALLY THE
9 LENGTH OF TIME THAT WE, THAT WE TALK TO SOMEONE PRIOR TO
10 RECORDING IT.

11 Q WELL, DO YOU ACTUALLY REMEMBER THE FIRST
12 CONVERSATION WITH MR. KRAFT?

13 A YES, SIR, I DO. IT WAS VERY SIMILAR TO THE
14 SECOND.

15 Q YOU CAN SEPARATE IT IN YOUR MIND FROM THE
16 TAPED PORTION OF THE CONVERSATION NOW, CAN'T YOU?

17 A YES, I CAN.

18 Q DURING THAT FIRST CONVERSATION THAT WASN'T ON
19 THE TAPE, DID YOU EVER ADVISE MR. KRAFT OF HIS MIRANDA
20 RIGHTS?

21 A NO, SIR.

22 Q DID YOU EVER TELL MR. KRAFT THAT YOU
23 SUSPECTED THAT CROTWELL WAS MURDERED?

24 A I DON'T BELIEVE I DID, NO.

25 Q DID WOODWARD EVER ADVISE HIM OF HIS MIRANDA
26 RIGHTS IN YOUR PRESENCE?

1 A NO.

2 Q DID HE EVER TELL HIM THAT, TELL KRAFT THAT HE
3 SUSPECTED CROTWELL HAD BEEN MURDERED?

4 A I DON'T BELIEVE HE DID.

5 Q DID YOU TELL MR. KRAFT THAT IT WOULD BE
6 NECESSARY FOR YOU OR WOODWARD TO CHECK OUT HIS STORY THAT
7 HE GAVE YOU OFF THE TAPE RECORDER?

8 A I DON'T RECALL THAT.

9 Q WELL, DID YOU EVER USE WORDS LIKE "WELL, WE
10 WILL HAVE TO CHECK THAT OUT" IN TALKING TO MR. KRAFT IN
11 THAT INTERVIEW ROOM?

12 A I DON'T KNOW THAT I SAID THAT. I THINK ON
13 THE TAPE THERE IT DOES SAY THAT THAT WAS SAID. I DON'T
14 KNOW WHO SAID IT.

15 Q WELL, ON THE TAPE IT SAYS ON THE THIRD LINE
16 OF PEOPLE'S, I GUESS, WHAT IS IT 1-A, YOU HAVE IT THERE IN
17 FRONT OF YOU, DON'T YOU?

18 A YES, SIR.

19 Q IT'S MARKED PEOPLE'S 1-A?

20 A YES, SIR.

21 Q WOULD YOU READ THE THIRD LINE AFTER THE
22 DOUBLE LINE WHERE THE TRANSCRIPTION STARTS?

23 A THIRD LINE AFTER THE DOUBLE LINE?

24 Q YOU SEE A DOUBLE LINE ON PAGE 1 THERE?

25 A OKAY. TODAY IS MAY 19TH -- IS THAT THE ONE?

26 Q NO.

1 A NO?

2 Q YOU SEE A BIG DOUBLE LINE ACROSS THE MIDDLE
3 OF THE PAGE?

4 A OH, YES.

5 Q SEE WHERE THAT THIRD LINE STARTS WITH THE
6 WORD BELL?

7 A YES.

8 Q WILL YOU READ THAT?

9 A YES. "THINGS LIKE THIS THAT WE ARE GOING TO
10 HAVE TO CHECK OUT, TAPE WAS TURNED OFF," OKAY.

11 Q NOW, DOES THAT INDICATE TO YOU THAT THE TAPE
12 WAS TURNED ON AND THEN TURNED OFF AGAIN AND THEN TURNED ON
13 AGAIN?

14 A WELL, THAT'S WHAT IT INDICATES, YES.

15 Q WELL, DO YOU REMEMBER THAT HAPPENING?

16 A NO, I DON'T.

17 Q DO YOU REMEMBER SAYING THINGS LIKE THAT WE
18 ARE GOING TO HAVE TO CHECK OUT?

19 A NO, I DON'T SPECIFICALLY RECALL SAYING THAT.

20 Q WELL, DO YOU REMEMBER SOMETHING LIKE THAT
21 BEING SAID TO MR. KRAFT BY EITHER YOU OR WOODWARD?

22 A I DON'T RECALL IT, NO.

23 Q WHY WAS THE TAPE TURNED OFF IN THE MIDDLE OF
24 THAT SENTENCE?

25 A I DON'T KNOW.

26 Q DO YOU SPECIFICALLY REMEMBER ANYTHING ON THIS

1 TRANSCRIPT?

2 A YES, SIR. BUT I CAN'T ANSWER THAT QUESTION.
3 I DON'T KNOW WHY IT WAS TURNED OFF.

4 Q ALL RIGHT. DO YOU SPECIFICALLY REMEMBER
5 WOODWARD SAYING THE DATE AND TIME?

6 A I CAN'T SAY THAT I SPECIFICALLY RECALL HIM
7 SAYING THE DATE AND TIME, NO.

8 Q WELL, ISN'T IT TRUE THAT YOUR ONLY MEMORY OF
9 THIS EVENT IS THE TRANSCRIPT?

10 A NO, IT'S NOT TRUE.

11 Q WELL, YOU HAD A FAILURE OF RECOLLECTION IN
12 1983 ABOUT THE FACT THAT THERE WAS A TAPE?

13 A THAT'S TRUE, YES.

14 Q AND YOU HAVE A FAILURE OF RECOLLECTION NOW
15 ABOUT THE FEW THINGS THAT I HAVE ASKED YOU ABOUT OUT OF
16 THE TRANSCRIPT, CORRECT?

17 A WELL, THOSE TO ME ARE VERY INSIGNIFICANT.

18 Q IT WAS INSIGNIFICANT TO YOU THAT YOU
19 CONFRONTED MR. KRAFT WITH THE FACT THAT THINGS HE WAS
20 TELLING YOU HAVE TO BE CHECKED OUT?

21 MR. CLONINGER: I OBJECT, YOUR HONOR, THAT ASSUMES
22 FACTS NOT IN EVIDENCE.

23 MR. KOPENY: WELL, I THINK PEOPLE'S 1-A IS IN
24 EVIDENCE, YOUR HONOR.

25 MR. CLONINGER: WELL, YOUR HONOR, MR. KOPENY IS
26 DRAWING THE CONCLUSION FROM THAT PHRASE THAT, THE PHRASE

1 THINGS LIKE THIS THAT WE ARE GOING TO HAVE ON CHECK OUT
2 REFERS TO AN INVESTIGATION INTO THE DEATH OF MR. CROTWELL.
3 IT COULD ALSO MEAN THAT THE OFFICER IS GOING TO HAVE TO
4 CHECK OUT THE TAPE RECORDER AND THAT IS WHY THE TAPE IS
5 TURNED OFF.

6 THE COURT: SUSTAINED.

7 Q BY MR. KOPENY: DID YOU TELL MR. KRAFT I AM
8 GOING TO HAVE TO CHECK OUT THE TAPE RECORDER?

9 A I DON'T RECALL. I DON'T KNOW WHY THAT
10 STATEMENT WAS MADE.

11 Q WAS THERE ANY PROBLEM WITH THE TAPE?

12 A I DON'T RECALL.

13 Q DO YOU REMEMBER CHECKING OUT THE TAPE
14 RECORDER?

15 A I DON'T RECALL.

16 Q WELL, TELL ME THE SUBJECTS THAT YOU REMEMBER
17 INDEPENDENT OF THIS TRANSCRIPT. TELL ME THE SUBJECTS, YOU
18 KNOW, WITHOUT LOOKING AT TRANSCRIPT THAT YOU REMEMBER
19 DISCUSSING WITH MR. KRAFT BEFORE YOU TURNED ON THE TAPE
20 RECORDER?

21 A TALKED TO HIM ABOUT BASICALLY SAME THINGS
22 THAT WERE TALKED TO HIM ABOUT ON THE TAPE, YES, SIR.

23 Q WHY DON'T YOU JUST TELL ME WHAT THOSE ARE
24 THAT YOU REMEMBER INDEPENDENT OF LOOKING AT THE
25 TRANSCRIPT?

26 A WE ASKED HIM WHAT HIS MOVEMENTS WERE THE

1 NIGHT THAT HE WAS WITH MR. CROTWELL --

2 MR. CLONINGER: I OBJECT, YOUR HONOR, THE WITNESS
3 IS BEING INTERRUPTED. HE HASN'T FINISHED HIS ANSWER.

4 MR. KOPENY: DID I INTERRUPT YOU?

5 THE WITNESS: YES, SIR, YOU CERTAINLY DID.

6 MR. KOPENY: I AM SORRY. GO AHEAD.

7 THE WITNESS: ALL RIGHT. WE ASKED HIM TO, WHAT HIS
8 MOVEMENTS WERE THE NIGHT HE WAS WITH MR. CROTWELL, WHAT
9 THEY DID, WHERE THEY WENT, AND THAT IS WHEN HE EXPLAINED
10 WHAT HE DID AND WHERE THEY WENT.

11 Q BY MR. KOPENY: IS THAT IT?

12 A THAT'S BASICALLY ALL THIS IS ABOUT, SIR.

13 Q CAN YOU BE ANY MORE SPECIFIC ABOUT THE
14 SUBJECTS THAT YOU DISCUSSED WITH HIM?

15 A WELL, I CAN TELL YOU PRETTY MUCH WHAT, WHAT
16 HE SAID AND WHAT WE SAID, IF THAT'S WHAT YOU WANT.

17 Q WELL, I AM JUST TALKING ABOUT BEFORE THE TAPE
18 RECORDER WAS TURNED ON.

19 A WELL, LIKE I EXPLAINED TO YOU, COUNSEL, THE
20 QUESTIONS AND ANSWERS ASKED AND GIVEN WERE BASICALLY THE
21 SAME AS THEY WERE ON TAPE. THAT'S OUR POLICY. MY POLICY
22 IS TO GO OVER THEIR STATEMENTS PRIOR TO TURNING ON THE
23 TAPE SO THAT WE DON'T WANDER OFF FROM THE SUBJECT MATTER.
24 AND IF THERE IS ANY WANDERING THEN WE TAKE CARE OF IT IN
25 THE INITIAL CONVERSATION.

26 Q WAS IT YOUR POLICY TO TAPE RECORD STATEMENTS

1 IN INVESTIGATIONS OF DEAD BODIES?

2 A NOT ALL THE TIME, NO.

3 Q DID YOU FOLLOW-UP MR. KRAFT'S ANSWERS ON THE
4 TAPE RECORDER IN GREATER DETAIL THAN YOU HAD BEFORE THE
5 TAPE RECORDER WAS TURNED ON?

6 A I DON'T BELIEVE SO.

7 Q DID YOU USE THE TERM MR. CROTWELL IN
8 QUESTIONING MR. KRAFT BEFORE THE TAPE RECORDER WAS TURNED
9 ON?

10 A I WOULD IMAGINE I DID. I CAN'T SAY FOR
11 POSITIVE.

12 Q BEFORE THE TAPE RECORDER WAS TURNED ON, DID
13 MR. KRAFT EVER TELL YOU THAT HE WAS WITH MR. CROTWELL?

14 A YES.

15 Q BY NAME?

16 A OH NO, NOT BY NAME. NO, I DON'T BELIEVE
17 HE -- I DON'T THINK MR. KRAFT EVER KNEW WHAT HIS NAME WAS.

18 Q IN FACT, DID MR. KRAFT TELL YOU AT THE TIME
19 WHEN THE TAPE RECORDER WAS NOT TURNED ON THAT HE DIDN'T
20 BELIEVE THAT THE PERSON THAT HE WAS WITH WAS THE SAME
21 PERSON YOU WERE ASKING ABOUT?

22 A I DON'T RECALL THAT. HE COULD HAVE, BUT I
23 DON'T RECALL HIM SAYING THAT.

24 Q WELL, DO YOU REMEMBER HIM EVER ADMITTING TO
25 YOU THAT THE PERSON HE WAS WITH WAS THE SAME PERSON YOU
26 WERE TALKING ABOUT?

1 A I DON'T BELIEVE HE KNEW. WE DIDN'T KNOW.

2 Q YOU DON'T THINK HE KNEW OR YOU KNEW?

3 A NOT AT THAT TIME, NO, SIR.

4 Q WELL, AT ANY TIME BEFORE THE INTERVIEW WAS
5 OVER, DO YOU THINK HE KNEW?

6 MR. CLONINGER: OBJECTION, CALLS FOR SPECULATION ON
7 THE PART OF THE WITNESS.

8 MR. KOPENY: I AM ONLY ASKING HIS STATE OF MIND.

9 THE COURT: WELL, IT WAS JUST BEING OFFERED AS TO
10 THE WHAT THE OFFICER THOUGHT, BUT IT'S CERTAINLY
11 SPECULATION ABOUT WHAT MR. KRAFT THOUGHT.

12 MR. KOPENY: WELL, WE DON'T KNOW, YOUR HONOR, HOW
13 MUCH INFORMATION THE WITNESS GOT FROM MR. KRAFT BEFORE THE
14 TAPE WAS TURNED ON. HE MAY HAVE HAD A SOLID BASIS FOR
15 DRAWING THAT CONCLUSION. ANYWAY, I THINK WHAT IS
16 IMPORTANT IS WHAT HE THOUGHT. I THINK A POLICEMAN COULD
17 VERY WELL HAVE DRAWN AN INCORRECT CONCLUSION. BUT I AM
18 NOT ASKING THE COURT TO ACCEPT HIS CONCLUSION ABOUT WHAT
19 MR. KRAFT KNEW OR DIDN'T KNOW AS TRUE. I AM JUST OFFERING
20 IT TO SHOW WHAT WAS ON HIS MIND.

21 THE COURT: MR. CLONINGER, YOU STARTED TO SAY
22 SOMETHING?

23 MR. CLONINGER: I SAID I WILL WITHDRAW THE
24 OBJECTION.

25 THE COURT: OH, ALL RIGHT.

26 THE WITNESS: CAN I HAVE THE QUESTION AGAIN?

1 MR. KOPENY: I'LL TRY TO REPHRASE IT JUST TO SAVE
2 TIME.

3 Q BY MR. KOPENY: AT ANY TIME BEFORE THE
4 INTERVIEW WAS CONCLUDED, DID YOU THINK MR. KRAFT KNEW
5 WHETHER OR NOT HE WAS WITH THE SAME PERSON YOU WERE
6 TALKING ABOUT, THAT IS, CROTWELL?

7 A I DON'T THINK I COULD ANSWER. I DON'T KNOW
8 WHAT HE WAS THINKING.

9 Q BUT HOW ABOUT YOU? DID YOU EVER TELL MR.
10 KRAFT DURING THE TIME THE TAPE RECORDER WAS TURNED OFF
11 THAT YOU BELIEVED HE WAS WITH MR. CROTWELL?

12 A VERY POSSIBLE THAT I DID, BUT I CAN'T SAY
13 POSITIVELY.

14 Q DID YOU EVER TELL MR. KRAFT OR DID MR.
15 WOODWARD EVER TELL MR. KRAFT IN YOUR PRESENCE DURING THE
16 TIME YOUR TAPE RECORDER WAS NOT ON THAT HE WAS CONSIDERED
17 A SUSPECT IN THE DISAPPEARANCE OF CROTWELL?

18 A NO.

19 Q DID YOU EVER TELL HIM THAT AT ALL?

20 A THAT HE WAS A SUSPECT?

21 Q YES.

22 A NO, I DID NOT.

23 Q DID WOODWARD EVER TELL HIM THAT IN YOUR
24 PRESENCE?

25 A NO.

26 Q YOU SAID YOU WERE FAMILIAR WITH THE PROCEDURE

1 ACCORDING TO WHICH SOMEONE WAS ARRESTED AND BOOKED IN THE
2 LONG BEACH POLICE DEPARTMENT IN 1975; IS THAT RIGHT?

3 A THAT'S CORRECT.

4 Q WOULD YOU DESCRIBE THAT PROCEDURE FOR ME?

5 A YES. A PERSON IS ADVISED THAT HE IS UNDER
6 ARREST. HE'S EITHER TAKEN TO THE BOOKING DESK, WHERE A
7 PRELIMINARY BOOKING FORM IS FILLED OUT. HE IS THEN
8 TRANSPORTED AFTER RECEIVING HIS BOOKING NUMBER FROM THE
9 BOOKING DESK PERSONNEL, EXCUSE ME, HE IS TRANSPORTED TO
10 THE, AT THAT TIME EITHER THE 5TH OR 6TH FLOOR JAIL.

11 EXCUSE ME JUST ONE MOMENT, EXCUSE ME. THE
12 5TH FLOOR JAIL AT THAT TIME WAS A FELONY JAIL, AND THE 6TH
13 FLOOR WAS MISDEMEANOR. DEPENDING ON THE CHARGES FOR WHICH
14 HE WAS ARRESTED, THEY WOULD BE TRANSPORTED TO THAT
15 PARTICULAR FLOOR AND RELEASED TO THE JAILERS.

16 AFTER BEING RELEASED TO THE JAILERS, THEY
17 ARE, IF A FELONY -- IF IT IS A FELONY SUSPECT, HE IS
18 STRIPPED SEARCHED BY THE JAIL PERSONNEL. IF IT'S A
19 MISDEMEANOR SUSPECT, THEY ARE JUST SEARCHED WITH THEIR
20 CLOTHES ON. THEY ARE THEN PROCESSED BY FINGERPRINTS,
21 BEING FINGERPRINTED AND THEIR MUG SHOT BEING TAKEN, AND
22 SOME FELONY SUSPECTS ARE REQUIRED TO FILL OUT HANDWRITING
23 EXEMPLARS. THEY ARE THEN PLACED IN EITHER A HOLDING TANK
24 OR GENERAL POPULATION.

25 Q IS THAT IT?

26 A YES, SIR.

1 Q WHERE ARE THEY PROCESSED?

2 A ON THE 5TH OR 6TH FLOOR, DEPENDING ON THE
3 CHARGE.

4 Q SO A FELONY SUSPECT WOULD BE PROCESSED ON THE
5 5TH FLOOR. THIS IS WHAT OCCURRED IN '75, RIGHT?

6 A THAT'S THE WAY -- YES, THAT'S THE WAY IT WAS
7 IN '75, YES.

8 Q A FELONY SUSPECT WOULD BE PROCESSED ON THE
9 5TH FLOOR WOULD BE -- WOULD THE PRINTS AND MUGS BE
10 OBTAINED BY THE SAME PERSON FROM THE SUSPECT OR FROM THE
11 PERSON THAT HAS BEEN ARRESTED?

12 A WELL, I CAN'T ANSWER THAT FOR '75. WHEN I
13 WAS A JAIL SERGEANT IN '79, ONE PERSON COULD POSSIBLY ROLL
14 THE FINGERPRINT AND THE OTHER PERSON TAKE THE PHOTOGRAPH.
15 SO THERE WAS NOT NECESSARILY, NOT NECESSARILY THE SAME
16 PERSON DID BOTH.

17 Q IN '75 WERE THE PHYSICAL LOCATIONS OF THE
18 POLICE WHERE THE PHOTOGRAPH WAS TAKEN AT THE PLACE WHERE
19 THE PRINTS WERE ROLLED, WERE THEY ON THE SAME FLOOR?

20 A YES.

21 Q WERE THEY NEAR EACH OTHER?

22 A YES, SIR. I BELIEVE IT WAS THE SAME ROOM.

23 Q NOW, YOU TESTIFIED HERE ON DIRECT EXAMINATION
24 THAT YOU RECOGNIZE THE PHOTOGRAPH, ONE OF THE PHOTOGRAPHS
25 IN DEFENDANT'S B THERE?

26 A YES, SIR.

1 Q DO YOU RECOGNIZE THE OTHERS?

2 A NO.

3 Q WELL, CAN YOU TELL IF ANY OF THE OTHERS ARE,
4 IN FACT, BOOKING PHOTOGRAPHS?

5 A I WOULD HAVE TO REMOVE THEM AND REMOVE THE
6 TAPE TO SEE IF THEY HAD A PHOTO NUMBER.

7 Q ALL RIGHT. WITHOUT DOING THAT, CAN YOU TELL
8 IF ANY OF THOSE OTHER PHOTOGRAPHS WERE TAKEN BY A LONG
9 BEACH POLICE DEPARTMENT EMPLOYEE?

10 A I CAN'T TELL WITHOUT REMOVING THE TAPE.

11 Q OKAY. WOULD YOU GO AHEAD AND REMOVE THE TAPE
12 ON THE OTHERS?

13 THE WITNESS: DO YOU HAVE A STAPLE REMOVER?

14 THE COURT: YES.

15 MR. CLONINGER: YOUR HONOR, BEFORE WE TAKE THE TAPE
16 OFF THIS, I WOULD LIKE TO INTERPOSE A RELEVANCE OBJECTION.

17 THE COURT: JUST A MINUTE, SIR.

18 MR. KOPENY, THERE'S AN OBJECTION BEING
19 LODGED, SO IT OUGHT TO BE HEARD.

20 MR. CLONINGER: I WOULD ASK THE COURT TO ASK FOR
21 SOME KIND OF OFFER AS TO THE DEFENSE AS TO WHY IT'S
22 RELEVANT ABOUT THE OTHER PICTURES.

23 MR. KOPENY: IT'S CLEARLY WITHIN THE SCOPE OF
24 CROSS-EXAMINATION, YOUR HONOR.

25 THE COURT: I AM SORRY?

26 MR. KOPENY: IT'S CLEARLY WITHIN THE SCOPE OF

1 CROSS-EXAMINATION.

2 THE COURT: WELL, BUT IS IT RELEVANT IS THE
3 OBJECTION.

4 MR. KOPENY: IF IT'S WITHIN THE SCOPE OF
5 CROSS-EXAMINATION, IT MIGHT NOT BE RELEVANT? I DON'T
6 UNDERSTAND THAT QUESTION, BUT I THINK IT IS RELEVANT, YOUR
7 HONOR, BECAUSE IT WILL TEND TO SHOW THAT -- WELL, I WOULD
8 RATHER NOT ARGUE IN FRONT OF THE WITNESS.

9 MR. CLONINGER: I WILL JUST WITHDRAW THE OBJECTION.

10 THE COURT: ALL RIGHT, OBJECTION IS WITHDRAWN.

11 THE WITNESS: I AM REMOVING STAPLES FROM THE MUG
12 SHOW-UP FOLDER. IN DOING SO, I WILL HAVE TO REMOVE THE
13 EVIDENCE TAG HERE OR THE EXHIBIT TAG.

14 MR. CLONINGER: YOUR HONOR, BEFORE THE WITNESS
15 REMOVES THE PICTURES THEMSELVES FROM THE FOLDER, CAN I
16 HAVE A MOMENT TO TALK TO DEFENSE?

17 THE COURT: YES.

18 (OFF THE RECORD DISCUSSION.)

19 MR. KOPENY: YOUR HONOR, COUNSEL HAS INDICATED TO
20 ME THAT THIS MIGHT CAUSE SOME PROBLEM WITH THE INTEGRITY
21 OF THE ORIGINAL PRELIMINARY HEARING TRANSCRIPTS. I DON'T
22 WANT TO DO THAT. WHAT I WOULD LIKE TO DO IS, WELL --

23 MR. CLONINGER: CAN I TALK WITH COUNSEL OFF THE
24 RECORD?

25 THE COURT: YES.

26 (OFF THE RECORD DISCUSSION.)

1 MR. KOPENY: YES. I THINK COUNSEL'S SUGGESTION IS
2 BETTER THAN ANYTHING I CAN THINK OF.

3 THE COURT: BACK ON THE RECORD NOW.

4 MR. KOPENY: YOUR HONOR, I THINK WHAT I WOULD ASK
5 BEFORE THE WITNESS REMOVES ANY OF THE PHOTOGRAPHS, I WOULD
6 ASK HIM TO TELL WHAT NUMBER IT IS ON THE FRONT OF THE
7 EXHIBIT, WHICH IS ENTITLED MUG SHOW-UP FOLDER, AND THEN TO
8 READ THE BACK OF THE PHOTOGRAPH SO IT WILL BE IDENTIFIED
9 FOR THE RECORD, SO THAT WE CAN PUT THESE PHOTOGRAPHS BACK
10 TOGETHER IN THIS ORDER AFTER HE IS DONE.

11 THE COURT: IS THAT AGREEABLE, MR. CLONINGER?

12 MR. CLONINGER: YES.

13 THE COURT: ALL RIGHT. SERGEANT, IF YOU WOULD DO
14 THAT THEN, THAT WOULD BE FINE.

15 THE WITNESS: YES, SIR. I HAVE TWO MORE STAPLES TO
16 REMOVE HERE TO GET TO IT. OPENING UP THE FOLDER, AND THEY
17 ARE STUCK WITH TAPE, PHOTOGRAPH NUMBER 1 IS OF A LAST NAME
18 PICCO, P-I-C-C-O, DAVID CHARLES, WITH A PHOTO NUMBER OF
19 250335. THAT IS TYPED ON THE BACK ON A STICK-ON TAPE.

20 PHOTOGRAPH NUMBER 2 IS LAST NAME M-C
21 M-A-H-A-N, RONALD EUGENE, WITH A PHOTO NUMBER OF 249822.

22 PHOTOGRAPH NUMBER 3 WAS THAT OF MR. RANDY
23 KRAFT, WITH A C.R. NUMBER WRITTEN ON THE BACK, 7518752.

24 PHOTOGRAPH NUMBER 4, THERE IS NOTHING ON THE
25 BACK OTHER THAN THE NUMBER 4.

26 PHOTOGRAPH NUMBER 5, ALSO IT'S INDICATED HERE

1 THERE IS A 3 WITH A CIRCLE AROUND IT, THERE IS A 5 WITH A
2 CIRCLE AROUND IT, AND THE DATE OF 5-30-83 ON PHOTOGRAPH
3 NUMBER 5. AND THAT LAST NAME IS S-O-R-T-O-R-S, MICHAEL
4 ANTHONY, PHOTO NUMBER 176253.

5 AND PHOTOGRAPH NUMBER 6, LAST NAME M-A-N-Z,
6 FIRST NAME OF MICHAEL JOHN, PHOTO NUMBER 227371. WOULD
7 YOU LIKE ME TO REMOVE THOSE NOW, COUNSEL?

8 MR. KOPENY: YES, PLEASE.

9 THE WITNESS: I HAVE PHOTOGRAPH NUMBER 1. I WILL
10 REMOVE THE WHITE TAPE COVERING THE PLACARD. IT HAS A
11 NUMBER OF 250335, LONG BEACH, CALIFORNIA, POLICE
12 DEPARTMENT, DATED 3-28-74.

13 PHOTOGRAPH NUMBER 2, REMOVING THE WHITE TAPE,
14 LONG BEACH POLICE DEPARTMENT -- CORRECTION, THIS IS POLICE
15 DEPARTMENT, LONG BEACH, CALIFORNIA, PHOTO NUMBER 249822,
16 DATED 3-4-74.

17 AND NUMBER 3 IS THAT OF RANDY KRAFT.

18 NUMBER 4, REMOVING THE WHITE TAPE, IF I CAN
19 GET MY FINGERNAIL UNDER IT, PHOTO NUMBER 233059, LONG
20 BEACH, CALIFORNIA, POLICE DEPARTMENT, DATED 4-6-72.

21 PHOTOGRAPH NUMBER 5, REMOVING THE TAPE, WHITE
22 TAPE, PHOTO NUMBER 176253, LONG BEACH, CALIFORNIA, POLICE
23 DEPARTMENT, DATED 9-16-74.

24 AND THE LAST ONE, PHOTO 6, I AM REMOVING THE
25 WHITE TAPE, LONG BEACH -- CORRECTION, POLICE DEPARTMENT,
26 LONG BEACH, CALIFORNIA, PHOTO 227371, DATED 4-5-74.

1 THE COURT: EXCUSE ME, I THINK WE WILL TAKE OUR
2 MORNING RECESS AT THIS TIME FOR 15 MINUTES.

3 (RECESS TAKEN.)

4 THE COURT: PEOPLE VERSUS KRAFT, EVERYBODY IS
5 PRESENT. MR. KOPENY, BEFORE YOU RESUME YOUR
6 CROSS-EXAMINATION, THE COURT REPORTER VERY PROPERLY
7 BROUGHT SOMETHING TO THE COURT'S ATTENTION DURING THE
8 RECESS. AND THAT IS JUST BEFORE THE RECESS, SHE WAS
9 WATCHING SERGEANT BELL AS HE WAS TESTIFYING ON A NUMBER OF
10 THE PICTURES AND SO FORTH, AND NOTICED THAT HE GOT NUMBERS
11 FOUR AND SIX, AS I REMEMBER WHAT SHE TOLD ME, CONFUSED AND
12 SHE POINTED THAT OUT TO HIM.

13 NOW, IF COUNSEL WANTS TO ASK THE COURT
14 REPORTER ANY QUESTIONS, OR THE SERGEANT ANY QUESTIONS IN
15 THAT REGARD, I WILL CERTAINLY ALLOW THEM TO DO SO. AND IF
16 YOU DO WANT TO ASK MISS HALE ANY QUESTIONS, DO YOU WANT IT
17 ON RECORD, IN WHICH CASE WE HAVE TO GET ANOTHER REPORTER.

18 MR. KOPENY: YOUR HONOR, NO, I DON'T THINK THAT IS
19 NECESSARY. MAY I HAVE JUST A MOMENT?

20 THE COURT: YES.

21 (OFF THE RECORD DISCUSSION.)

22 MR. KOPENY: YOUR HONOR, PERHAPS IT WOULD BE
23 APPROPRIATE FOR THE WITNESS TO JUST STATE WHAT THE CORRECT
24 IDENTIFICATION OF THE CORRECT PHOTOGRAPHS IS.

25 THE COURT: ALL RIGHT. SERGEANT, WHATEVER WAS
26 INCORRECT OR A MISTAKE ON THAT REGARD, WOULD YOU CLEAR IT

1 UP FOR US?

2 THE WITNESS: YES, SIR. I BELIEVE IT WAS I HAD
3 TRANSPOSED FOUR AND SIX. NUMBER FOUR SHOULD BE PHOTO
4 NUMBER 233059, LONG BEACH, CALIFORNIA, POLICE DEPARTMENT,
5 DATED 4-6-72. AND NUMBER SIX SHOULD BE PHOTO NUMBER
6 227371, POLICE DEPARTMENT, LONG BEACH, CALIFORNIA 4-5-74.
7 AND I APOLOGIZE IF I MADE THAT ERROR.

8 MR. KOPENY: YOU'RE CONFIDENT THAT THAT NOW
9 ACCURATELY STATES WHICH PHOTOGRAPH WAS IN WHICH POSITION?

10 THE WITNESS: YES.

11 MR. KOPENY: OKAY, GREAT.

12 CROSS EXAMINATION (RESUMED) +

13 Q BY MR. KOPENY: NOW LOOKING AT THE
14 PHOTOGRAPHS OTHER THAN NUMBER THREE, CAN YOU TELL IF THEY
15 ARE, IF ANY OF THEM ARE PHOTOGRAPHS TAKEN BY AN EMPLOYEE
16 OF THE LONG BEACH POLICE DEPARTMENT?

17 A YES, SIR, THEY ALL APPEAR TO BE MUG PHOTOS.

18 Q AND IS THERE SOMETHING ABOUT THE PHOTOGRAPH
19 THAT CAUSES YOU TO CONCLUDE THAT?

20 A YES, SIR. THEY ALL HAVE PHOTO NUMBERS.

21 Q PHOTO NUMBERS?

22 A YES, SIR.

23 Q WELL, WHAT ARE -- WHERE DO THOSE NUMBERS
24 APPEAR?

25 A ON THE PLACARD IN FRONT OR JUST BELOW THE
26 CHIN, THE CHEST AREA. THE NUMBERS THAT I READ OFF TO THE

1 COURT ARE THE PHOTO NUMBERS THAT ARE ON THE PLACARD IN
2 FRONT OF THE INDIVIDUAL'S PICTURE.

3 Q SO THEN ALL SIX PHOTOGRAPHS, INCLUDING THE
4 ONE OF MR. KRAFT, WHICH IS NUMBER THREE, HAVE A PLACARD;
5 IS THAT CORRECT?

6 A THEY HAVE A PLACARD, YES, SIR.

7 Q AND ARE THE PLACARDS ON EACH OF THE
8 PHOTOGRAPHS PLACARDS FROM THE AREA OF THE LONG BEACH
9 POLICE DEPARTMENT THAT YOU DESCRIBED AS BEING ON THE 5TH
10 OR 6TH FLOOR?

11 A YES, SIR.

12 Q AND OTHER THAN MR. KRAFT ARE THE OTHER FIVE
13 PHOTOGRAPHS OF PEOPLE WHO WERE BOOKED AND ARRESTED?

14 A YES, SIR.

15 Q AND OTHER THAN THE NUMBER BEING BLANK ON MR.
16 KRAFT'S PLACARD, IS THERE ANY OTHER DIFFERENCE BETWEEN HIS
17 PHOTOGRAPH AND THE PHOTOGRAPHS OF THE OTHER PEOPLE?

18 MR. CLONINGER: I OBJECT TO THE QUESTION AS
19 MISSTATING THE RECORD AND ASSUMING FACTS NOT IN EVIDENCE.

20 THE COURT: SUSTAINED.

21 Q BY MR. KOPENY: OKAY. DID YOU SAY THAT ALL
22 OF THE PHOTOGRAPHS BESIDES MR. KRAFT HAD A PHOTO NUMBER ON
23 THEM?

24 A YES, SIR, I DID.

25 Q ON THE PLACARD?

26 A ON THE PLACARD.

1 Q ALL RIGHT. MR. KRAFT'S DID NOT HAVE A PHOTO
2 NUMBER ON THE PLACARD, CORRECT?

3 A CORRECT.

4 Q IS THERE ANYTHING ELSE THAT IS DIFFERENT
5 ABOUT HIS PHOTOGRAPH AND THE OTHER FIVE?

6 A WELL, THE ONLY DIFFERENCE WOULD BE THAT THERE
7 IS A, A PHOTOGRAPH FOUR, I GUESS IT IS, THERE IS A LITTLE
8 WHITE BOX UP IN THE UPPER RIGHT-HAND CORNER. ALL OF THE
9 OTHERS HAVE A WHITE BOX IN THE LOWER RIGHT-HAND CORNER.

10 Q DOES THE WHITE BOX MEAN ANYTHING TO YOU?

11 A NOT TO ME, NO. IT'S -- IT JUST SHOWS ON THIS
12 PLACARD.

13 Q ALL RIGHT. WHEN A PERSON -- IN 1975 WHEN YOU
14 CAUSED, IF I CORRECTLY UNDERSTAND THIS, THERE WERE TIMES
15 IN 1975 AND THROUGHOUT YOUR CAREER AND IN PARTICULAR IN
16 '75, WHEN YOU WOULD CAUSE A PHOTOGRAPH TO BE TAKEN OF A
17 PERSON WHO WAS NOT BEING BOOKED AND ARRESTED, CORRECT?

18 A THAT'S CORRECT, SIR.

19 Q ALL RIGHT. WHEN YOU DID THAT, HOW DID YOU
20 KEEP TRACK OF THE PHOTOGRAPH ONCE IT WAS PRODUCED?

21 A WE WOULD -- THESE ARE IN A CAMERA THAT ARE
22 NUMBERED AND THEY WOULD PUT DOWN ON A SHEET OF PAPER --
23 NOW THIS IS TO THE BEST OF MY RECOLLECTION. THEY PUT DOWN
24 ON A PIECE OF PAPER PHOTOGRAPH NUMBER, SAY, FIVE IN THIS
25 PARTICULAR ROLL, AND THEY WOULD PUT THE NAME AND THEY
26 WOULD DELETE A PHOTO NUMBER SO THAT --

1 Q I AM SORRY.

2 A SO THAT WHEN THIS PHOTOGRAPH WOULD COME OUT,
3 THEN THEY WOULD KNOW WHICH ONE IS WHICH.

4 Q ALL RIGHT. NOW, WHO DID YOU MEAN THEY?

5 A THE JAIL PERSONNEL WHO TOOK THE PHOTOGRAPHS.

6 Q IS THERE A WAY YOU CAN TELL FROM LOOKING AT
7 THE PHOTOGRAPHS, THESE SIX PHOTOGRAPHS, WHO THAT WAS?

8 A NO, I COULD NOT.

9 Q NOW YOU SAID THEY WOULD PUT IT DOWN, THE JAIL
10 PERSONNEL THAT TOOK THE PHOTOGRAPH WOULD PUT IT DOWN.
11 WHAT WOULD THEY PUT IT DOWN ON?

12 A I SAID THERE WAS A PIECE OF PAPER -- THIS IS
13 THE BEST OF MY RECOLLECTION. I CAN'T BE POSITIVE BUT THE
14 JAIL -- WELL, HOW SHOULD I PUT THIS? JAIL PERSONNEL ARE
15 ISSUED A LIST OF PHOTO NUMBERS JUST, FOR EXAMPLE, 1
16 THROUGH 10. AND AS THEY TAKE THE PHOTOGRAPHS OF THE
17 PERSON IT WILL GO, IT WILL CORRESPOND WITH THIS 1 THROUGH
18 10.

19 NOW, IF THERE IS ONE THAT IS TAKEN WITHOUT A
20 PHOTO NUMBER FOR IDENTIFICATION PURPOSES, THEY DON'T PUT
21 IT, THIS 1 THROUGH 10. THEY PUT DOWN A BLANK NUMBER AND
22 USE A BLANK NUMBER AND WRITE IN THE INDIVIDUAL NAME.

23 Q ALL RIGHT. IS THE PHOTO NUMBER, DOES IT
24 CORRESPOND TO ANY OTHER NUMBER WHEN A PERSON IS BOOKED AND
25 ARRESTED, OR IS THE PHOTO NUMBER ONLY CORRESPOND TO THE
26 NUMBER OF THE PHOTOGRAPHS IN THAT ROLL OF FILM?

1 A WELL, THAT'S -- THAT NUMBER STAYS WITH HIM
2 THROUGHOUT HIS TENURE WITH THE LONG BEACH POLICE
3 DEPARTMENT.

4 Q ALL RIGHT. SO IF I UNDERSTAND, THE PERSON
5 THAT TAKES THE PICTURE HAS A LIST OF PHOTO NUMBERS?

6 A YES, SIR.

7 Q AND NEXT TO, SAY, TO NUMBER ONE THEY WOULD
8 WRITE IN THE PERSON'S SIX DIGIT NUMBER THAT GOES WITH?

9 A THAT'S CORRECT.

10 Q SO WOULD THEY -- SO THERE'S THE FIRST PICTURE
11 ON THE ROLL AND THEY WRITE DOWN THAT SIX DIGIT NUMBER?

12 A YES.

13 Q THAT'S HOW YOU KEEP TRACK OF WHO THAT IS A
14 PICTURE OF?

15 A YES.

16 Q IS THAT RIGHT?

17 A YES, SIR.

18 Q ALL RIGHT.

19 Q OKAY. NOW WOULD A PIECE OF PAPER THAT THEY
20 HAVE THOSE PHOTOS NUMBER ON, THAT THEY ADD THE SIX DIGITS
21 TO OR IN THE CASE OF A PERSON WITHOUT A SIX DIGIT NUMBER
22 THAT THEY WRITE THE NAME OF NEXT TO, IS THAT A FORM THAT
23 THEY ARE ISSUED? IS THAT A PREPRINTED FORM THAT THE
24 PERSON TAKING A PICTURE USES?

25 MR. CLONINGER: I OBJECT TO THE QUESTION AS
26 ASSUMING FACTS NOT IN EVIDENCE AND MISSTATING THE

1 WITNESS'S TESTIMONY.

2 MR. KOPENY: WELL, IF I HAVE, IT'S BEEN
3 UNINTENTIONALLY AND I WILL BE GLAD TO WITHDRAW IT AND ASK
4 SOME MORE QUESTIONS.

5 THE COURT: ALL RIGHT.

6 Q BY MR. KOPENY: IS THERE A PIECE OF PAPER
7 THAT THE PERSON THAT TAKES A PHOTOGRAPH RECORDS THE SIX
8 DIGIT NUMBER ON THAT WOULD CORRESPOND TO THE NUMBERS ON
9 THE PLACARD?

10 A YES. NOW MAY I EXPLAIN?

11 Q WELL, WHAT I WANT TO KNOW IS IF IN 1975 THAT
12 WAS A PREPRINTED FORM THAT THEY WOULD RECORD THAT ON OR IF
13 IT WAS SOMETHING ELSE.

14 A WELL, I DON'T KNOW IF THAT, IT WAS A
15 PREPRINTED FORM, NO. CAN I EXPLAIN TO YOU?

16 Q WELL, LET ME ASK YOU SOME MORE QUESTIONS. I
17 WILL GIVE YOU A CHANCE TO EXPLAIN WHEN I AM DONE. DO THEY
18 USE -- DO THEY HAVE A REGULAR ROUTINE THAT THEY FOLLOW IN
19 REGARD TO THE SIX DIGIT NUMBERS FROM THE PLACARD?

20 A YES.

21 Q ALL RIGHT. AND WHEN THERE WAS NO SIX DIGIT
22 NUMBER, DID THEY RECORD THE NAME OF THE PERSON IN THE SAME
23 PLACE THAT THEY WOULD HAVE PUT THE NUMBER IF THERE HAD
24 BEEN A NUMBER ON THE PLACARD?

25 A I BELIEVE THAT'S CORRECT, YES.

26 Q ALL RIGHT. SO IS THERE A PIECE OF PAPER OR

1 AT LEAST WAS THERE A PIECE OF PAPER IN 1975 WITH MR.
2 KRAFT'S NAME ON IT THAT WOULD CORRESPOND TO THE FACT THAT
3 THERE IS NO NUMBER ON THE PLACARD IN FRONT OF THE NUMBER
4 THREE FROM THIS PHOTO ARRANGEMENT?

5 MR. CLONINGER: I OBJECT TO THE QUESTION AS ASKING
6 FOR SPECULATION ON THE PART OF THE WITNESS.

7 THE COURT: MR. KOPENY, IT DOES SEEM TO ME YOU ARE
8 ASKING HIM TO SPECULATE ON MR. KRAFT'S, WHAT MAY HAVE
9 HAPPENED IN THIS PARTICULAR MATTER. I CERTAINLY THINK YOU
10 CAN ASK WHAT THE PROCEDURE WAS BUT AS TO -- YOU KNOW, I AM
11 GOING TO SUSTAIN THAT OBJECTION.

12 MR. KOPENY: ALL RIGHT.

13 Q BY MR. KOPENY: IF THE PROCEDURE THAT YOU ARE
14 FAMILIAR WITH THAT WAS FOLLOWED IN '75 WAS FOLLOWED WITH
15 THE PHOTOGRAPH OF MR. KRAFT, THAT'S NUMBER THREE THERE IN
16 FRONT OF YOU, WOULD HIS NAME APPEAR ON A PIECE OF PAPER
17 THAT WAS FILLED OUT BY THE PHOTOGRAPHER?

18 A I WOULD PRESUME SO, YES.

19 Q IT SHOULD, IF THE PROCEDURE THAT YOU ARE
20 TELLING US ABOUT WAS FOLLOWED CORRECTLY, RIGHT?

21 A IF THAT IS THE CORRECT PROCEDURE. NOW I HAVE
22 TOLD YOU I WASN'T POSITIVE THAT THAT WAS THE CORRECT
23 PROCEDURE.

24 Q YOU WORKED THERE IN '75, DIDN'T YOU?

25 A NOT IN THE JAIL.

26 Q NO. YOU WORKED IN THE LONG BEACH POLICE

1 DEPARTMENT?

2 A THAT'S CORRECT, YES.

3 Q AND YOU WERE FAMILIAR THEN WITH THE BOOKING
4 PROCEDURE, WEREN'T YOU?

5 A THAT'S CORRECT, BUT BOOKING AND PROCESSING
6 ARE DIFFERENT, COUNSEL.

7 Q HAD YOU EVER PARTICIPATED IN THE PROCESSING
8 OF ANY PRISONER?

9 A NOT IN '75.

10 Q HAD YOU EVER WITNESSED IT?

11 A YES.

12 Q NOW, YOU SAID THE LAST TIME YOU SAW KRAFT ON
13 THAT DAY, THAT IS, THE DAY OF THE TAPED INTERVIEW, HE WAS
14 WALKING, I THINK YOU SAID, DOWN THE HALL WITH WOODWARD,
15 CORRECT?

16 A I BELIEVE THAT'S WHAT I STATED, YES.

17 Q WHAT FLOOR OF THE BUILDING WERE YOU ON AT
18 THAT TIME?

19 A THE THIRD.

20 Q AND DID THE HALL THAT HE WAS WALKING DOWN
21 LEAD TO SOME OTHER PLACE?

22 A TOWARDS THE ELVATOR.

23 Q IS THAT THE SAME ELEVATOR THAT MR. KRAFT
24 WOULD HAVE NEEDED TO TAKE IN ORDER TO GO TO THE PLACE
25 WHERE PROCESSING OCCURRED?

26 A YES.

1 Q DID THAT ELEVATOR ALSO LEAD OUTSIDE?

2 A THERE ARE THREE ELEVATORS: ONE WHICH LED TO
3 WHERE THE PROCESSING OCCURS; THE OTHER TWO ARE PUBLIC
4 ELEVATORS WHICH WOULD LEAD TO THE GROUND FLOOR.

5 Q COULD MR. KRAFT GET INTO THE ELEVATOR THAT
6 LED TO WHERE PROCESSING WAS WITHOUT BEING ACCOMPANIED BY A
7 LONG BEACH PERSONNEL?

8 A YES.

9 Q WOULD THAT HAVE BEEN A VIOLATION OF SOME
10 RULE?

11 A WELL, THERE'S A SIGN THAT SAYS NOT FOR PUBLIC
12 USE BUT THERE'S NO VIOLATION SECTION CODE WRITTEN ON IT.

13 Q WAS IT THE PRACTICE OF THE DEPARTMENT IN 1975
14 TO PERMIT PEOPLE TO GO TO THE PLACE WHERE ARRESTEES WERE
15 BEING PROCESSED WITHOUT BEING ACCOMPANIED BY A POLICE
16 OFFICER?

17 A NO, IT WASN'T.

18 Q DO YOU KNOW -- WELL, DID YOU SEE MR. KRAFT
19 GET INTO ONE OF THESE THREE ELEVATORS?

20 A NO.

21 Q DID YOU TALK TO WOODWARD AFTER THE INTERVIEW
22 THAT DAY?

23 A I DON'T BELIEVE I DID. I THINK I WENT HOME.

24 Q WELL, DO YOU THINK YOU WENT HOME IMMEDIATELY?

25 A SOMETIME SHORTLY AFTER THE INTERVIEW. I
26 DON'T BELIEVE I TALKED TO HIM, NO SIR.

1 Q DID YOU TAKE THE ELEVATOR THE, ONE OF THE
2 PUBLIC ELEVATORS WHEN YOU WENT HOME?

3 A YES.

4 Q WAS THAT BEFORE OR AFTER YOU SAW WOODWARD AND
5 KRAFT HEADING DOWN THE HALL IN THE DIRECTION OF THE
6 ELEVATORS?

7 A THAT WAS SOMETIME AFTER.

8 Q ABOUT HOW LONG?

9 A I HAVE NO IDEA.

10 Q WELL, DO YOU KNOW WHAT TIME IT WAS WHEN YOUR
11 SHIFT ENDED THAT DAY?

12 A FIVE O'CLOCK.

13 Q DO YOU KNOW WHAT TIME IT WAS WHEN THE
14 INTERVIEW WITH MR. KRAFT WAS CONCLUDED?

15 A SOMETIME AFTER FIVE.

16 Q SO CAN YOU ESTIMATE HOW LONG YOU STAYED?

17 A MAYBE 30 MINUTES. I DON'T KNOW. I HAVE NO
18 IDEA.

19 Q DID YOU HAVE THE AUTHORITY TO CAUSE MR. KRAFT
20 TO BE PHOTOGRAPHED?

21 MR. CLONINGER: OBJECTION, THE QUESTION IS VAGUE.

22 MR. KOPENY: WELL, ACTUALLY THERE HAS BEEN A TIME
23 BUT I DON'T THINK THAT'S WHAT COUNSEL MEANS.

24 THE COURT: IS YOUR OBJECTION AUTHORITY?

25 MR. CLONINGER: YES, IT IS, AUTHORITY OF WHOM?

26 THE COURT: I WILL SUSTAIN.

1 Q BY MR. KOPENY: WERE YOU ABLE TO CAUSE A
2 PERSON WHO YOU WANTED A PHOTOGRAPH TAKEN OF TO BE
3 PHOTOGRAPHED IN 1975?

4 MR. CLONINGER: SAME OBJECTION.

5 THE COURT: I THINK I WILL OVERRULE IT.

6 THE WITNESS: YES, I COULD HAVE HAD SOMEBODY'S
7 PICTURE TAKEN.

8 Q BY MR. KOPENY: DID YOU -- DID YOU HAVE MR.
9 KRAFT'S PHOTOGRAPH TAKEN?

10 A NO.

11 Q DID YOU HAVE ANY KNOWLEDGE THAT HIS
12 PHOTOGRAPH HAD BEEN TAKEN?

13 A I DON'T RECALL IF I DID OR NOT. I DON'T
14 BELIEVE I DID AT THAT TIME.

15 Q WHEN YOU SAY YOU DON'T BELIEVE YOU DID AT
16 THAT TIME, DO YOU MEAN YOU JUST CAN'T REMEMBER OR DO YOU
17 REMEMBER THAT IT DIDN'T HAPPEN?

18 A I DID NOT DIRECT HIM TO HAVE HIS PHOTOGRAPH
19 TAKEN AT THAT TIME.

20 Q YOU REMEMBER THAT?

21 A YES, SIR, THAT'S WHAT I SAID.

22 Q YOU ALSO SAID YOU COULDN'T RECALL. THAT'S
23 WHY I WAS ASKING. DID YOU HAVE INFORMATION THAT HE WAS
24 GOING TO HAVE HIS PICTURE TAKEN AFTER THE INTERVIEW WAS
25 OVER?

26 A I DON'T RECALL THAT, THAT'S WHAT I STATED. I

1 DON'T RECALL.

2 Q DO YOU KNOW IF HE HAD ALREADY HAD HIS PICTURE
3 TAKEN BEFORE THE INTERVIEW STARTED?

4 A I DON'T KNOW THAT.

5 Q WAS ANYONE ELSE -- TO YOUR KNOWLEDGE, WAS
6 ANYONE ELSE IN CONTACT WITH MR. KRAFT AT THE POLICE
7 STATION ON THAT DAY OTHER THAN YOU AND WOODWARD?

8 A NOT TO MY KNOWLEDGE, NO.

9 Q BASED ON YOUR UNDERSTANDING OF THE PROCEDURES
10 IN THE LONG BEACH POLICE DEPARTMENT IN '75, WOULD THERE BE
11 ANY PERSON OTHER THAN YOU OR WOODWARD THAT WOULD HAVE
12 CAUSED MR. KRAFT'S PHOTOGRAPH TO BE TAKEN ON THAT DAY?

13 MR. CLONINGER: OBJECTION, THE QUESTION IS VAGUE.

14 THE COURT: OVERRULED.

15 THE WITNESS: WELL, YES, IF -- IF SERGEANT WOODWARD
16 WOULD HAVE ASKED THE JAIL SERGEANT AND THE JAIL SERGEANT
17 WOULD HAVE DIRECTED IT TO BE DONE.

18 Q BUT, BUT THE INITIAL DECISION TO HAVE HIS
19 PHOTOGRAPH TAKEN WOULD HAVE HAD TO BE BY EITHER YOU OR
20 WOODWARD, CORRECT?

21 A THAT'S CORRECT, I BELIEVE.

22 Q DID -- DID YOU EVER DISCUSS MR. KRAFT'S
23 FINGERPRINTS WITH HIM?

24 A NOT THAT I RECALL.

25 Q WELL, DIDN'T YOU ASK HIM, FOR EXAMPLE, IF
26 YOUR DEPARTMENT HAD HIS PHOTOGRAPH AND FINGERPRINTS ON

1 FILE?

2 A YES, SIR. I RECALL THAT, YES. WE ASKED HIM
3 IF, I THINK WE ASKED HIM IF HE HAD EVER BEEN BOOKED THERE
4 OR IF HIS PHOTOGRAPH AND PRINTS WERE ON FILE. I DON'T
5 KNOW IF THAT'S VERBATIM WHAT I ASKED BUT I BELIEVE THAT
6 WAS THE ESSENCE OF THE QUESTION.

7 Q WHEN YOU WOULD OBTAIN A PHOTOGRAPH OF A
8 NONSUSPECT, FOR SOME PURPOSE OTHER THAN BECAUSE IT WAS
9 PART OF THE BOOKING AND ARREST PROCESS, AS YOU DISCUSSED
10 WITH THE DISTRICT ATTORNEY ON DIRECT, WOULD YOU ALSO
11 OBTAIN A COPY OF THAT NONSUSPECT'S FINGERPRINTS?

12 A SOMETIMES WE WOULD AND SOMETIMES WE WOULDN'T.
13 WE DIDN'T DO IT IN EVERY CASE.

14 Q IF MR. KRAFT'S FINGERPRINTS WERE TAKEN ON
15 THAT DAY, WOULD THAT HAVE TO HAVE BEEN DONE AT THE
16 DIRECTION OF EITHER YOU OR SERGEANT WOODWARD?

17 A IF THEY WERE TAKEN, YES.

18 Q WERE THEY?

19 A I DON'T KNOW.

20 Q DID YOU EVER KNOW?

21 A TO THIS DAY, I DON'T KNOW IF THEY WERE.

22 Q THIS IS NOT SOMETHING THAT YOU CAN'T RECALL.
23 YOU JUST DON'T KNOW; IS THAT RIGHT?

24 A THAT'S WHAT I SAID, I DO NOT KNOW.

25 Q WELL, DO YOU KNOW IF MR. KRAFT'S PHOTOGRAPH
26 WAS TAKEN ON THAT DAY?

1 A IT SAYS RIGHT HERE IT WAS. IT HAS A DATE ON
2 THE PHOTOGRAPH.

3 Q BUT YOU DON'T REMEMBER EVER KNOWING ABOUT IT
4 BEFORE, DID YOU?

5 A I DID NOT DIRECT IT TO BE TAKEN.

6 Q BUT DID YOU KNOW ABOUT IT?

7 A COUNSEL, I HAVE ANSWERED THAT QUESTION
8 SEVERAL TIMES. I DON'T -- I DID NOT DIRECT IT TO BE TAKEN
9 AND I DON'T KNOW WHEN I FOUND OUT THAT IT WAS TAKEN.

10 Q OKAY. SO IS IT POSSIBLE THAT YOU KNEW ON
11 THAT DAY AND JUST CAN'T REMEMBER?

12 A NO, IT'S NOT POSSIBLE THAT I KNEW ON THAT
13 DAY.

14 Q IT'S NOT POSSIBLE THAT YOU KNEW THAT DAY?

15 MR. CLONINGER: OBJECTION, ASKED AND ANSWERED.

16 THE COURT: YES, SUSTAINED AT THIS POINT.

17 Q BY MR. KOPENY: DO YOU HAVE A GOOD ENOUGH
18 MEMORY OF THE EVENTS OF THAT DAY TO BE ABLE TO SAY THAT
19 YOU DID NOT KNOW ABOUT THE PHOTOGRAPH BEING TAKEN ON MAY
20 15TH?

21 A TO THE BEST OF MY RECOLLECTION, COUNSEL, I
22 DID NOT KNOW IF THERE WAS A PHOTOGRAPH TAKEN OF MR. KRAFT
23 ON MAY 15TH, 1975.

24 Q DID YOU EVER SEE MR. KRAFT'S CAR ON THAT DAY?

25 A NO.

26 Q DID YOU EVER DISCUSS WITH MR. KRAFT THE

1 POSSIBILITY OF HIS CAR BEING PHOTOGRAPHED AND SEARCHED?

2 A NO.

3 Q WAS THAT EVER DISCUSSED IN YOUR PRESENCE WITH
4 MR. KRAFT?

5 A NOT TO MY RECOLLECTION.

6 Q WELL, WHEN YOU SAY NOT TO YOUR RECOLLECTION,
7 ARE YOU SAYING YOU JUST DON'T REMEMBER IF IT HAPPENED OR
8 NOT?

9 A NOT TO MY RECOLLECTION. THAT'S WHAT I SAID.

10 Q DOES THAT MEAN YOU DON'T REMEMBER IF IT
11 HAPPENED OR NOT?

12 MR. CLONINGER: OBJECTION, ASKED AND ANSWERED.

13 THE COURT: WELL, TO THE COURT IT HAS BUT THERE IS
14 SOME CONFUSION BETWEEN THE WORDS TO THE BEST OF MY
15 RECOLLECTION. FOR THAT PURPOSE, I WILL ALLOW IT.

16 THE WITNESS: I DO NOT REMEMBER.

17 MR. KOPENY: YOUR HONOR, MAY I HAVE A MOMENT?

18 THE COURT: YES, SIR.

19 (OFF THE RECORD DISCUSSION.)

20 MR. KOPENY: I HAVE A FEW MORE QUESTIONS.

21 THE COURT: VERY WELL.

22 MR. KOPENY: THANK YOU.

23 Q BY MR. KOPENY: MR. BELL, BEFORE THE DAY OF
24 THE INTERVIEW WITH MR. KRAFT HAD YOU PARTICIPATED IN OR
25 WERE YOU AWARE OF A PRIOR INVESTIGATION IN WHICH A DEAD
26 BODY WAS FOUND NEAR THE QUEEN MARY?

1 MR. CLONINGER: OBJECTION, IT'S IRRELEVANT.

2 THE COURT: MR. KOPENY, ARE YOU -- CAN YOU MAKE AN
3 OFFER OF PROOF THAT SOMEHOW THIS WILL BE TIED INTO WHAT
4 HIS STATE OF MIND WAS AT THE TIME OR HIS KNOWLEDGE AT THE
5 TIME HE INTERVIEWED MR. KRAFT?

6 MR. KOPENY: YOUR HONOR, I THINK SO. I BELIEVE IT
7 RELATES TO HIS PREVIOUS ANSWERS ON CROSS-EXAMINATION AND I
8 THINK I CAN MAKE AN OFFER OF PROOF THAT THE ANSWER TO THIS
9 QUESTION IS YES OR SHOULD BE.

10 MR. CLONINGER: RESPECTFULLY, YOUR HONOR, THE
11 ANSWER TO THE QUESTION HAS NOTHING TO DO WITH WHETHER IT'S
12 RELEVANT. THE QUESTION IS HOW DOES IT TIE INTO THE
13 INVESTIGATION OF THE DEATH OF MR. CROTWELL.

14 MR. KOPENY: THAT'S THE REASON I ASKED THE
15 QUESTION. I MIGHT BE ABLE TO AMPLIFY IT A LITTLE BIT. I
16 DIDN'T WANT TO ASK THE WITNESS TO LEAVE AGAIN BUT I
17 BELIEVE THAT IT BEARS ON THE WITNESS'S CREDIBILITY AND ON
18 THE COURT'S DETERMINATION OF FACTS WHETHER OR NOT THE
19 POLICE THAT WERE CONDUCTING THIS INTERVIEW ALSO HAD REASON
20 TO BELIEVE THAT THIS DEATH OF CROTWELL MIGHT HAVE BEEN
21 RELATED TO OTHER SERIAL MURDERS THEY WERE INVESTIGATING.

22 THE COURT: ALL RIGHT. WITH THAT OFFER, I WILL
23 OVERRULE THE OBJECTION.

24 THE WITNESS: A DEAD BODY NEAR THE QUEEN MARY?

25 MR. KOPENY: YES.

26 THE WITNESS: I DON'T -- NOT THAT I RECALL. I

1 DON'T BELIEVE THAT I WAS INVOLVED IN ANY INVESTIGATION
2 AROUND THE QUEEN MARY, SIR.

3 Q BY MR. KOPENY: WOULD YOUR ANSWER BE THE SAME
4 IF I ASKED YOU ABOUT OTHER DEAD BODIES BESIDES CROTWELL IN
5 THE VICINITY WHERE CROTWELL'S REMAINS WERE LOCATED?

6 MR. CLONINGER: OBJECTION, THE QUESTION IS VAGUE AS
7 TO WHICH REMAINS COUNSEL IS REFERRING TO.

8 MR. KOPENY: WELL, EVIDENCE IN THE CASE TELLS US
9 THEY WERE LOCATED IN LONG BEACH.

10 THE COURT: WELL, I DON'T KNOW THAT MAKES IT A VERY
11 CLEAR RECORD, MR. KOPENY. I THINK YOU CAN REPHRASE THE
12 QUESTION.

13 MR. KOPENY: I AM SORRY. I THOUGHT I COULD FINISH
14 THIS WITH A NO.

15 Q BY MR. KOPENY: BUT YOU WERE AWARE THAT PART
16 OF MR. CROTWELL'S BODY WAS FOUND IN THE WATER IN LONG
17 BEACH, CORRECT?

18 A YES, SIR.

19 Q ALL RIGHT. WERE YOU INVOLVED IN THE
20 INVESTIGATION OF OR OTHERWISE AWARE OF THE BODIES OF OTHER
21 SUSPECTED SERIAL MURDER VICTIMS THAT WERE FOUND IN THAT
22 REGION IN THAT VICINITY IN THE WATER?

23 A NO.

24 Q WERE YOU AWARE OF OTHER BODIES THAT WERE
25 SUSPECTED HOMICIDE VICTIMS THAT WERE FOUND IN THAT REGION
26 IN THE WATER?

1 MR. CLONINGER: OBJECTION, YOUR HONOR, THE QUESTION
2 IS IRRELEVANT. THIS WHOLE LINE OF QUESTIONING IS
3 PREDICATED ON THE THEORY THAT IT GOES TO THE WITNESS'S
4 CREDIBILITY.

5 MR. KOPENY: NO, NOT REALLY.

6 THE COURT: WELL, THERE WAS ANOTHER OFFER MADE BUT
7 MR. KOPENY I JUST -- REALLY NOW WE ARE GETTING INTO OTHER
8 BODIES FOUND IN THE WATER. I AM GOING TO SUSTAIN THE
9 OBJECTION AS IRRELEVANT AT THIS TIME.

10 Q BY MR. KOPENY: IN FEBRUARY OF 1975 DIDN'T
11 YOU PRONOUNCE A BODY TO BE DEAD THAT WAS LOCATED OFF THE
12 SOUTHEAST PART OF THE LONG BEACH ^{PIER} ~~APPEAR~~?

13 A I -- YOU GOT ME, I DON'T KNOW.

14 MR. KOPENY: MAY I APPROACH THE WITNESS?

15 THE COURT: YES, SIR.

16 Q BY MR. KOPENY: I AM GOING TO SHOW YOU A ONE
17 PAGE DOCUMENT WHICH HAS THE WORD "CASE REPORT" IN THE
18 MIDDLE AND ASK YOU JUST TO LOOK IT OVER AND SE IF IT
19 REFRESHES YOUR RECOLLECTION.

20 A NO IT DOESN'T. I CAN'T --

21 Q IT DOES NOT?

22 A IT DOES NOT, SIR.

23 Q ALL RIGHT. IN 1975 WAS THERE ANOTHER
24 SERGEANT BELL WORKING FOR LONG BEACH POLICE DEPARTMENT.

25 A NO, THERE WASN'T.

26 Q IN FEBRUARY OF '75 WOULD YOUR DUTIES HAVE

1 INCLUDED GOING TO THE SITE OF THE PLACE WHERE A DEAD BODY
2 WAS LOCATED?

3 A ON OCCASION, YES.

4 Q DO YOU RECALL THAT YOU WERE PHOTOGRAPHED AND
5 THAT YOUR PICTURE APPEARED ON THE FRONT PAGE OF THE LONG
6 BEACH NEWSPAPER, OF A LONG BEACH NEWSPAPER IN FEBRUARY
7 EVER '75 AROUND THE TIME THAT THE BODY OF SOMEONE OTHER
8 THAN CROTWELL WAS RETRIEVED BY THE LONG BEACH POLICE
9 DEPARTMENT?

10 MR. CLONINGER: OBJECTION, YOUR HONOR. IT'S
11 IRRELEVANT.

12 MR. KOPENY: I AM ASKING IF IT REFRESHES HIS
13 RECOLLECTION. HE SAID HE COULDN'T RECALL. I WOULD LIKE
14 TO BE HEARD, IF I MAY.

15 THE COURT: AND IF WE'RE GOING TO PURSUE THIS LINE
16 OF QUESTIONING, I AM GOING TO HAVE TO ASK FOR AN OFFER OF
17 PROOF FROM THE DEFENSE ALSO. AND IF YOU WANT SERGEANT
18 BELL TO BE EXCUSED WHILE YOU ARE MAKING THAT OFFER, MR.
19 KOPENY, I WILL ASK HIM TO STEP IN THE JURY ROOM FOR A
20 MINUTE. I AM REALLY KIND OF LOST WHERE WE ARE GOING NOW.

21 MR. KOPENY: LET ME HAVE A MOMENT, PLEASE.

22 (OFF THE RECORD DISCUSSION.)

23 MR. KOPENY: YOUR HONOR, WITH THE COURT'S
24 PERMISSION, I WOULD LIKE TO WITHDRAW THAT QUESTION AND ASK
25 FOR PERMISSION TO KEEP THIS WITNESS ON CALL AS A POSSIBLE
26 DEFENSE WITNESS.

1 THE COURT: ALL RIGHT.

2 MR. KOPENY: I HAVE A FEW MORE QUESTIONS, WITH THE
3 COURT'S PERMISSION.

4 THE COURT: VERY WELL.

5 Q BY MR. KOPENY: MR. BELL, DID YOU EVER ASK
6 MR. KRAFT TO SUBMIT TO A POLYGRAPH TEST DURING THAT
7 INTERVIEW?

8 A YES. HE WAS ASKED -- I THINK IT WAS I THAT
9 ASKED.

10 Q WHY DID YOU DO THAT?

11 A TO SEE IF HE WOULD TAKE THE TEST.

12 Q WHAT DID HE SAY?

13 A I DON'T RECALL HIS EXACT QUOTE BUT I BELIEVE
14 HE SAID HE WAS HE OPPOSED TO TAKING A POLYGRAPH FOR
15 WHATEVER REASON. I DON'T RECALL WHAT THE REASON WAS AT
16 THIS TIME.

17 Q DID YOU ASK HIM THAT QUESTION WHEN THE TAPE
18 WAS TURNED OFF?

19 A NO, THE TAPE WAS ON. IT'S IN THE TRANSCRIPT.

20 Q DID YOU ASK HIM THAT QUESTION WHEN THE TAPE
21 WAS TURNED OFF?

22 A NO.

23 Q WHAT OTHER QUESTIONS DID YOU ASK HIM WHILE
24 THE TAPE WAS TURNED OFF THAT YOU HAD NOT ASKED HIM BEFORE
25 TURNING ON THE TAPE?

26 A I COULDN'T ANSWER THAT. I DON'T HAVE ANY

1 IDEA.

2 Q WHEN YOU SPOKE WITH WOODWARD BEFORE MR. KRAFT
3 CAME IN FOR THE INTERVIEW, HAD THE TWO OF YOU AGREED ON A
4 PARTICULAR APPROACH TO THE INTERVIEW?

5 A NO.

6 Q YOU DIDN'T DISCUSS -- DID YOU DISCUSS AN
7 APPROACH TO THE INTERVIEW WITH WOODWARD?

8 A NOT THAT I RECALL.

9 Q DID YOU HAVE IN YOUR MIND WHAT YOU HOPED TO
10 AN ACHIEVE BY CONDUCTING THE INTERVIEW AT THE TIME YOU
11 SPOKE WITH WOODWARD?

12 A AT THE TIME I SPOKE WITH WOODWARD?

13 Q YES.

14 A NO. I DIDN'T EVEN KNOW HE WAS COMING IN
15 UNTIL JUST A FEW MINUTES BEFORE HE CAME IN.

16 Q WELL, THAT WAS WHEN YOU SPOKE TO WOODWARD
17 RIGHT, AND HE TOLD YOU HE WAS COMING IN?

18 A YES, SIR.

19 Q AND DID WOODWARD ASK YOU TO PARTICIPATE IN
20 THE INTERVIEW OR WAS THAT YOUR DECISION?

21 A I BELIEVE HE ASKED ME.

22 Q DID YOU VIEW YOUR ROLE THEN AS REALLY BEING A
23 WITNESS TO THE WOODWARD INTERVIEW?

24 MR. CLONINGER: OBJECTION, IT'S IRRELEVANT.

25 THE COURT: WELL, BOTH SIDES HAVE BEEN EXPLORING
26 STATE OF MIND. OVERRULED.

1 THE WITNESS: NO, NOT NECESSARILY.

2 Q BY MR. KOPENY: WHAT WERE YOU TRYING TO DO IN
3 THE INTERVIEW?

4 A WE WERE TRYING TO --

5 Q NO. WHAT WERE YOU -- WHAT WERE YOU
6 SPECIFICALLY TRYING TO DO?

7 A I WAS TRYING TO FIND OUT IF MR. KRAFT KNEW
8 ANYTHING ABOUT HOW MR. CROTWELL DIED.

9 Q WAS THERE ANY PARTICULAR TECHNIQUE THAT
10 YOU'LL UTILIZE IN ORDER TO TRY TO FIND THAT OUT?

11 A ASK QUESTIONS THAT WOULD ELICIT ANSWERS.

12 Q DID YOU ONLY ASK STRAIGHTFORWARD QUESTIONS OR
13 WAS THERE SOME PROCEDURE THAT YOU USED IN CONDUCTING YOUR
14 INTERVIEW?

15 MR. CLONINGER: OBJECTION, THE QUESTION IS
16 INCOMPREHENSIBLE.

17 THE COURT: DIDN'T QUITE UNDERSTAND THE QUESTION,
18 MR. KOPENY. WOULD YOU REPHRASE IT?

19 MR. KOPENY: I WILL WITHDRAW IT.

20 THE COURT: ALL RIGHT.

21 Q BY MR. KOPENY: YOU QUESTIONED OTHER SUSPECTS
22 BEFORE, HADN'T YOU?

23 A I HAVE QUESTIONED MANY.

24 Q AND DID YOU HAVE A PARTICULAR MANNER OF
25 APPROACHING THE INTERVIEW OF A SUSPECT?

26 A IT WOULD VARY FROM INDIVIDUAL TO INDIVIDUAL.

1 Q WHAT, WHAT WAS THE MANNER IN WHICH YOU
2 APPROACHED THE INTERVIEW WITH MR. KRAFT?

3 A WELL, FIRST OF ALL, MR. KRAFT WASN'T A
4 SUSPECT. HE WAS A SOMEONE WE WERE TRYING TO ELICIT SOME
5 INFORMATION FROM TO TRY TO FIGURE OUT WHAT HAPPENED TO MR.
6 CROTWELL. AND WE TALKED TO HIM AS WE DID A WITNESS.

7 Q DID YOU USUALLY TELL WITNESSES THAT YOU CAN
8 CHECK THEIR STORES OUT?

9 A WELL, CERTAINLY.

10 Q AND ISN'T THAT DONE FOR THE PURPOSE OF
11 CONFRONTING THEM WITH THE POSSIBILITY THAT YOU WILL
12 DISCOVER THAT WHAT THEY ARE TELLING YOU IS NOT TRUE?

13 A NOT NECESSARILY SO. YOU ARE PRESUMING THAT
14 THEY ARE NOT TELLING US THE TRUTH. I -- IF I WOULD MAKE
15 THAT STATEMENT, IT WOULD BE SO THAT THEY WOULD BE SURE TO
16 TELL US THE TRUTH.

17 Q SO THAT THEY WOULD BE SURE TO TELL YOU THE
18 TRUTH? DID YOU THINK MR. KRAFT WAS TELLING YOU THE TRUTH?

19 MR. CLONINGER: OBJECTION, YOUR HONOR, THAT IS
20 IRRELEVANT.

21 THE COURT: I AM GOING TO SUSTAIN THAT, MR. KOPENY,
22 WHETHER HE THOUGHT HE WAS TELLING THE TRUTH OR NOT.

23 Q BY MR. KOPENY: YOU A APPROACH THE
24 INTERVIEWING OF A PERSON DIFFERENTLY DEPENDING ON WHETHER
25 THEY ARE A SUSPECT OR NOT A SUSPECT; ISN'T THAT TRUE?

26 A WELL, THAT AND THERE IS A LOT OF OTHER

1 FACTORS THAT ENTER INTO IT.

2 Q WOULD ONE OF THE OTHER FACTORS BE WHETHER OR
3 NOT YOU THINK THEY ARE BEING HONEST WITH YOU?

4 A YES.

5 Q IF YOU THINK A PERSON IS BEING DISHONEST WITH
6 YOU, YOU MIGHT APPROACH THAT INTERVIEW IN A DIFFERENT WAY
7 THAN IF YOU THINK THEY ARE BEING HONEST; IS THAT CORRECT?

8 A WELL, YEAH, BUT YOU WOULD HAVE TO TALK TO
9 THEM FIRST BEFORE YOU DECIDE WHETHER HE IS TELLING YOU THE
10 TRUTH OR NOT.

11 Q YOU DID THAT WITH MR. KRAFT, YOU TALKED TO
12 HIM BEFORE YOU MADE A DECISION ABOUT THAT, DIDN'T YOU?

13 A WE INTERVIEWED HIM PRIOR TO PUTTING IT ON
14 TAPE, YES, SIR.

15 Q WHEN YOU TURNED ON THE TAPE DID YOU BELIEVE
16 MR. KRAFT WAS BEING TRUTHFUL WITH YOU OR NOT?

17 A I HAD NO REASON TO DISBELIEVE HE WAS TELLING
18 US THE TRUTH. WE HAD NOTHING TO INDICATE HE WASN'T
19 TELLING US THE TRUTH.

20 Q YOU BELIEVE HIM?

21 A YES, I BELIEVED HIM.

22 Q WHEN YOU ASKED MR. KRAFT IF YOU HAD HIS
23 FINGERPRINTS AND MUG SHOT ON FILE IN LONG BEACH, WHAT DID
24 HE SAY?

25 A I WOULD HAVE TO REFER -- I THINK HE SAID THAT
26 HE HAD BEEN BOOKED THERE ONE TIME BEFORE, SOMETIME AGO,

1 BUT I AM NOT POSITIVE.

2 Q YOU JUST DON'T REMEMBER WITHOUT LOOKING AT
3 THE TAPE?

4 A I DON'T REMEMBER, NO.

5 Q TRANSCRIPT, I AM SORRY. DID YOU KNOW THAT
6 MR. KRAFT WAS HOMOSEXUAL BEFORE YOU STARTED THE INTERVIEW?

7 A NOT FOR A FACT, NO.

8 Q DID YOU SUSPECT THAT THAT WAS TRUE?

9 A FROM SOME INDICATION FROM MR. WOODWARD, YES.

10 Q WHAT WAS THE SIGNIFICANCE HAVE THAT, IF
11 ANYTHING?

12 MR. CLONINGER: OBJECTION, YOUR HONOR, IT ASSUMES
13 FACTS NOT IN EVIDENCE.

14 THE COURT: THAT THERE WAS SIGNIFICANCE?

15 MR. CLONINGER: YES, SIR.

16 THE COURT: SUSTAINED.

17 Q BY MR. KOPENY: WAS THAT SIGNIFICANT?

18 A NO.

19 Q DIDN'T MEAN ANYTHING TO YOU?

20 A A PERSON'S LIFE STYLE IS THEIR OWN. IT
21 DOESN'T MATTER TO ME.

22 Q AT THE TIME THAT WOODWARD TOLD YOU THAT,
23 DIDN'T YOU ALREADY SUSPECT THAT THE VICTIMS OF THREE OTHER
24 MURDERS WHOSE BODY HAD BEEN FOUND NUDE IN THE WATER IN
25 LONG BEACH WERE THE VICTIMS OF A HOMOSEXUAL ATTACK?

26 MR. CLONINGER: OBJECTION, ASSUMES FACTS NOT IN

1 EVIDENCE AND IS IRRELEVANT.

2 THE COURT: I AM GOING TO SUSTAIN ON ASSUMING FACTS
3 NOT IN EVIDENCE; HOWEVER, I THINK IF THE OFFICER HAD SOME
4 FACTS THAT WOULD MAKE HIM SUSPICIOUS IT MIGHT HAVE SOME
5 BEARING ON WHAT WENT ON DURING THAT INTERVIEW. SO I AM
6 NOT PREVENTING MR. KOPENY FROM EXPLORING THAT BUT AS
7 PHRASED, SUSTAINED.

8 Q BY MR. KOPENY: BEFORE YOU INTERVIEWED KRAFT
9 WERE YOU AWARE THAT THERE WERE THREE DIFFERENT NUDE BODIES
10 OF SUSPECTED MURDER VICTIMS FOUND IN THE WATER IN LONG
11 BEACH?

12 A I DIDN'T RECALL THAT, NO. I DON'T BELIEVE
13 THAT I DID, NO.

14 Q YOU DON'T BELIEVE YOU KNEW THAT?

15 A I DON'T -- I DON'T REMEMBER IT, NO.

16 Q DID YOU SAY THAT YOU ALWAYS, OR THAT IT IS
17 YOUR PRACTICE TO REQUEST THAT AN INTERVIEWEE TAKE A
18 POLYGRAPH?

19 A YES, UH-HUH, I THINK THAT'S WHAT I ANSWERED.

20 Q IS THAT SOMETHING THAT YOU DID ROUTINELY ON
21 THE INTERVIEW OF BOTH WITNESSES AND SUSPECTS?

22 A DEPENDING, YES, BUT MOST OF THE TIME, YES
23 JUST AN INVESTIGATIVE TOOL.

24 Q DO YOU KNOW A PERSON NAMED JEFF GRAVES?

25 THE COURT: JEFF WHO?

26 MR. KOPENY: GRAVES.

1 THE WITNESS: DID I KNOW HIM?

2 Q BY MR. KOPENY: DO YOU KNOW WHO THAT IS?

3 A YES, I KNOW WHO IT IS BUT I DON'T KNOW HIM.

4 Q WHEN DID YOU FIRST MEET HIM?

5 MR. CLONINGER: OBJECTION, YOUR HONOR, IT'S
6 IRRELEVANT.

7 THE COURT: I WOULD HAVE TO AVE AN OFFER OF PROOF
8 ON THIS ONE.

9 MR. KOPENY: YES, YOUR HONOR. WOODWARD TESTIFIED
10 ABOUT A CONTACT OF GRAVES THAT BELL WAS PRESENT AT.

11 MR. CLONINGER: THAT'S TRUE, YOUR HONOR I BELIEVE
12 THAT WAS OVER THE RELEVANCE OBJECTION OF THE PEOPLE AND I
13 DON'T THINK THE RELEVANCY WAS ESTABLISHED AT THAT TIME ANY
14 BETTER THAN IT HAS BEEN NOW.

15 MR. KOPENY: HE WAS ALLOWED TO TESTIFY AND THIS
16 WITNESS'S TESTIMONY WOULD BEAR ON IT.

17 THE COURT: IF I ALLOWED IT WITH WOODWARD, I WILL
18 ALLOW IT NOW. OVERRULED.

19 THE WITNESS: I DON'T RECALL THAT MEETING. I WOULD
20 HAVE TO HAVE SOMETHING TO REFRESH MY MEMORY, SIR.

21 Q DID YOU EVER SEE JEFF GRAVES AT A RESIDENCE?

22 A AS I STATED, I DON'T RECALL THE INTERVIEW.

23 Q YOU DID INTERVIEW HIM THOUGH?

24 A I TOLD YOU I DON'T RECALL THE INTERVIEW, SIR.

25 Q WELL --

26 A I DON'T KNOW THAT I INTERVIEWED HIM.

1 Q DO YOU KNOW IF YOU EVER ASKED HIM TO TAKE A
2 POLYGRAPH TEST?

3 A I CAN'T ANSWER THAT. I DON'T RECALL
4 INTERVIEWING HIM.

5 Q DO YOU ADMINISTER POLYGRAPH TESTS YOURSELF?

6 A NO.

7 Q ALL RIGHT. DO YOU KNOW IF YOU EVER ARRANGED
8 A POLYGRAPH TEST TO BE GIVEN TO MR. GRAVES?

9 A NO.

10 Q YOU DON'T KNOW?

11 A NO, I DID NOT.

12 Q YOU DID NOT?

13 A NO.

14 Q OKAY. I THINK I AM DONE. JUST A MOMENT.

15 DID YOU GIVE ANY INSTRUCTIONS TO MR. KRAFT
16 ABOUT HIS MOVEMENTS OR TRAVELS AFTER THE END OF THE
17 INTERVIEW?

18 A I DON'T RECALL.

19 Q DID YOU EVER TELL HIM SOMETHING LIKE WE WANT
20 TO KNOW WHERE WE CAN FIND YOU OR DON'T LEAVE THE AREA
21 WITHOUT LETTING US KNOW OR ANYTHING LIKE THAT?

22 A THAT'S POSSIBLE BUT I DON'T KNOW THAT I DID
23 OR NOT.

24 Q DID MR. KRAFT EVER TELL YOU THAT THE EVENTS
25 THAT HE DESCRIBED WHICH ARE RECORDED ON THE TAPE, OF THE
26 INTERVIEW, THAT THOSE OCCURRED ON THE DATE THAT YOU

1 BELIEVED CROTWELL DISAPPEARED?

2 A DID HE SAY THAT?

3 Q YES.

4 A I -- I DIDN'T REALLY KNOW HOW TO ANSWER THAT.
5 COULD YOU RESTATE THAT?

6 Q YEAH. DID, DID KRAFT EVER TELL YOU THAT THE
7 EVENTS THAT HE WAS DESCRIBING TO YOU OCCURRED ON THE DAY
8 BEFORE EASTER ON 1975 ON SATURDAY EVENING?

9 A YES.

10 Q WHEN DID HE DO THAT? WHEN THE TAPE WAS
11 TURNED ON OR WHEN IT WAS TURNED OFF?

12 A BOTH.

13 Q CAN YOU SHOW ME WHERE IN THE TRANSCRIPT
14 PEOPLE'S A-A, MR. KRAFT SAID THAT?

15 MR. CLONINGER: OBJECTION, YOUR HONOR, THE QUESTION
16 IS IRRELEVANT AND CUMULATIVE.

17 THE COURT: WELL, IF MR. KOPENY IS SEEKING TO
18 IMPEACH HIS TESTIMONY THAT IT WAS ON THE TAPE, I SUPPOSE
19 HE HAS THAT RIGHT TO DO THAT, MR. CLONINGER. SO I WILL
20 OVERRULE THE OBJECTION.

21 NOW, IF THAT IS GOING TO MEAN READING THE
22 ENTIRE PAPERS WE WILL TAKE OUR NOON RECESS, IF THAT'S WHAT
23 IT'S GOING TO ENTAIL.

24 MR. KOPENY: I DON'T KNOW, MAYBE IF HE CAN FLIP
25 THROUGH AND FIND IT. IT'S MY LAST QUESTION.

26 THE COURT: WELL, LET'S SEE HOW LONG IT TAKES HIM.

1 THE WITNESS: I BELIEVE SOMEWHERE IN HERE IT STATES
2 IT WAS THE NIGHT BEFORE EASTER BECAUSE WE ASKED HIM IF HE
3 WENT TO WORK THE FOLLOWING DAY AND HE -- AND HE SAID
4 EASTER SUNDAY.

5 THE COURT: MR. CLONINGER, BUT ARE YOU GOING TO
6 HAVE SOME REDIRECT?

7 MR. CLONINGER: YES I AM.

8 THE COURT: WELL, SERGEANT BELL IS GOING TO HAVE TO
9 COME BACK AFTER LUNCH ANY WAY, SO SERGEANT, PERHAPS IF YOU
10 COULD SPEND A COUPLE MINUTES DURING THE NOON HOUR.

11 MR. KOPENY: I AM JUST WARNING, I MAY THINK OF
12 ANOTHER QUESTION OVER THE LUNCH HOUR.

13 THE COURT: THANK YOU, MR. KOPENY. COURT IS IN
14 RECESS UNTIL 1:30.

15 MR. CLONINGER: YOUR HONOR, WELL --

16 THE COURT: IF YOU HAVE SOMETHING TO BRING UP, GO
17 AHEAD.

18 MR. CLONINGER: WELL, IT'S JUST THAT I HAVE DEPUTY
19 BENSINGER OUTSIDE AND I HAVE HAD SINCE ABOUT 10:30. IF I
20 CAN GET SOME IDEA FROM MR. KOPENY HOW LONG HIS OTHER
21 QUESTIONS MIGHT RUN THEN IT WOULD GIVE ME SOME GUIDANCE ON
22 TELLING BENSINGER WHEN TO REPORT BACK.

23 MR. KOPENY: I DON'T WANT TO INCONVENIENCE ANY
24 WITNESS. I AM NEARLY DONE. I HAD THIS ONE AREA THAT JUST
25 WAS BROUGHT TO MY ATTENTION OR IT WOULD HAVE BEEN DONE
26 BEFORE I ASKED THIS QUESTION. I DON'T KNOW WHAT HE IS

1 GOING TO SAY IN ANSWER TO THIS. I CAN'T TELL YOU.

2 THE COURT: I GATHER YOU, NOT RIGHT NOW ANYWAY, YOU
3 DON'T THINK THERE WILL BEEN A LOT MORE QUESTIONS.

4 MR. KOPENY: NO, I DON'T.

5 THE WITNESS: HERE IT IS.

6 THE COURT: THE SERGEANT HAS IT NOW, SO LET'S GO
7 AHEAD.

8 THE WITNESS: ON PAGE 15, ABOUT -- WELL, A QUARTER
9 WAY DOWN THE PAGE, "WHO'D YOU WORK WITH AT AZTEC AIRCRAFT
10 THAT SUNDAY, EASTER SUNDAY?" "WELL, LET'S SEE WHO'S ON.
11 BOB WAGNER'S PROBABLY THERE, JIM WALLACE. EITHER OF THOSE
12 TWO PEOPLE AREN'T WITH THE COMPANY NOW, " INDICATES
13 EASTER SUNDAY.

14 Q BY MR. KOPENY: SO YOU ASKED HIM THE QUESTION
15 WHETHER OR NOT KRAFT WORKED ON EASTER SUNDAY AND BECAUSE
16 HE SAID YES HE DID, YOU CONCLUDED THAT HE WAS TELLING YOU
17 THAT THE EVENTS HE WAS TALKING ABOUT OCCURRED ON THE NIGHT
18 BEFORE EASTER?

19 A YES, SIR.

20 Q BUT MR. KRAFT HAD TOLD YOU ON THE TAPED
21 PORTION OF THE INTERVIEW THAT HE WAS, THAT HE WASN'T SURE
22 OR DIDN'T BELIEVE THAT YOU AND HE WERE TALKING ABOUT THE
23 SAME DATE; ISN'T THAT TRUE?

24 A WELL, THAT I WOULD HAVE TO -- YOU WOULD HAVE
25 TO SHOW ME THAT.

26 Q DIDN'T HE SAY THAT ON THE FIRST, THE BOTTOM

1 OF THE FIRST AND TOP OF THE SECOND PAGE?

2 THE COURT: RECESS UNTIL 1:30, GENTLEMEN.

3 (NOON ADJOURNMENT.)

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1 SANTA ANA, CALIFORNIA - WEDNESDAY, SEPTEMBER 16, 1987

2 AFTERNOON SESSION

3
4 THE COURT: ALL RIGHT. MR. MC DONALD IS NOT WITH
5 US THIS AFTERNOON. OTHERWISE, EVERYBODY ELSE IS PRESENT.

6 COUNSEL, BEFORE WE PROCEED WITH
7 CROSS-EXAMINATION, WE'VE HAD A CALL FROM SOMEBODY IN THE
8 COURT ADMINISTRATOR'S OFFICE, AND JUDGE RYAN IS MOVING UP
9 TO DEPARTMENT 42 AS SOON AS HE CONCLUDES THE JURY TRIAL, I
10 MEAN, THE COURT TRIAL HE'S PRESENTLY INVOLVED IN.

11 DOES ANYBODY HAVE ANY IDEA IF WE'RE GOING TO
12 NEED THAT JURY ROOM FOR THE FUTURE STORAGE OF EVIDENCE OR
13 WHETHER THE LITTLE OFFICE OUT IN THE HALLWAY WILL BE
14 ADEQUATE FOR THE EVIDENCE THAT IS GOING TO BE NEEDED FOR
15 THE REST OF THE HEARING?

16 LET ME TELL YOU WHY THEY'RE ASKING THE
17 QUESTION. THEY WOULD LIKE TO RE-KEY THAT JURY ROOM BACK
18 TO THE ORIGINAL TYPE OF LOCK SO THAT IT'S AVAILABLE FOR
19 CLEANING AND ACCESS AND THAT TYPE OF THING. I STILL HAVE
20 THE KEYS, THE PRESENT KEYS HERE.

21 MR. KOPENT: YOUR HONOR, IS THIS COURTROOM'S JURY
22 ROOM GOING TO BE AVAILABLE WHEN MR. SIDELOTHAM RETURNS?

23 THE COURT: IF NEED BE, I THINK WE WOULD MAKE IT
24 AVAILABLE, YES.

25 MR. KOPENT: MY GUESS IS THAT WE WOULDN'T NEED
26 THEIRS. AND I CAN SAY THIS, THAT I'M NOT PLANNING TO GO

1 BACK TO THE CAR EVIDENCE WITH FURTHER CROSS-EXAMINATION OF
2 MR. SIDEBOTHAM. AND I DON'T BELIEVE I'M GOING TO BE
3 NEEDING ANY OF THE ITEMS, OTHER THAN THOSE FEW THAT I
4 SPECIFIED ON THE RECORD, FROM THAT FIRST LARGE GROUP OF
5 ITEMS THAT WE'VE BEEN THROUGH. BUT I WILL ASK THAT THE
6 SHERIFF BRING BACK THE ITEMS FROM THE THREE HOUSE
7 SEARCHES.

8 THE COURT: HOW ABOUT THE LEAR SIEGLER SEARCH?

9 MR. KOPENY: THOSE ARE THE BUNCH OF BOXES, AND I
10 CAN'T REMEMBER WITHOUT LOOKING AT MY PAPERS IF I'VE
11 SUBPOENAED THEM. I AM GOING TO TRY TO DO WITHOUT THEM,
12 BECAUSE I THINK THAT THE CROSS-EXAMINATION WILL BE
13 EXTREMELY PINPOINTED ON THE LEAR SIEGLER SEARCH.

14 THE COURT: IF WE'RE BASICALLY TALKING ABOUT THE
15 ITEMS FROM THE HOUSE -- LET'S FORGET THIS JURY ROOM FOR A
16 SECOND. HOW ABOUT THE OTHER ROOM OUTSIDE THE COURTROOM?

17 DOES ANYBODY KNOW IF THAT WOULD BE LARGE
18 ENOUGH?

19 MR. CLONINGER: I THINK IT WOULD.

20 MR. KOPENY: IT'S FINE IF WE TRY, AND THERE ARE
21 SOME LARGE, LARGE ITEMS FROM THE HOUSE THAT WEREN'T
22 BROUGHT OVER BEFORE AND THAT I'M NOT ASKING NOW BE BROUGHT
23 OVER AT THIS TIME. IT COULD BE THAT ONE OF THEM MIGHT
24 NEED TO BE LOOKED AT BY THE COURT.

25 BUT IN GENERAL, FOR EXAMPLE, THE SOFA, I DID
26 NOT ASK IT BE BROUGHT OVER, AND I DON'T THINK IT WAS, AND

1 I DON'T KNOW IF IT WOULD FIT EVEN INTO THE JURY ROOM. BUT
2 I'M WILLING TO BE AS FLEXIBLE AS I CAN BE IN TERMS OF
3 HAVING THINGS HERE.

4 AND IF COUNSEL THINKS IT WOULD FIT A SMALL
5 ROOM, I DON'T DISAGREE. I DON'T HAVE A GOOD WAY OF
6 SEGREGATING OUT THE STUFF WE HAVE USED FROM THE STUFF WE
7 DIDN'T.

8 THE COURT: WELL, IT SEEMS TO THE COURT -- I'M
9 GOING TO MAKE THIS ORDER THEN. MR. QUINN, INFORM THE
10 COURT ADMINISTRATOR'S OFFICE IF THEY WANT TO CHANGE THE
11 LOCKS BACK ON THE JURY ROOM IN 42, THAT THEY MAY DO SO.

12 THE BAILIFF: YES, SIR.

13 THE COURT: AND WE'LL TRY TO WORK WITH THAT ROOM,
14 IF NEED BE, THE JURY ROOM RIGHT HERE IN 45. AND IF
15 THERE'S SOME ARTICLE, LIKE A SOFA, THAT COUNSEL WANTS THE
16 COURT TO LOOK AT, I DON'T SEE WHY THE COURT CAN'T HOLD
17 SESSION WHERE THE SOFA IS PRESENTLY LOCATED.

18 SO WITH THAT, LET'S PROCEED, MR. KOPENY.
19 HAVE YOU BEEN ABLE TO THINK OF SOME MORE QUESTIONS OVER
20 THE LUNCH HOUR?

21 MR. KOPENY: A FEW HAVE BEEN SUGGESTED TO ME, YES.

22 CROSS-EXAMINATION (CONTINUED) +

23 Q BY MR. KOPENY: MR. BELL, YOU HEARD MR. KRAFT
24 AT THE EARLY STAGE OF THE TAPED INTERVIEW, BACK THERE IN
25 MAY OF '75, THAT THE EVENTS HE WAS TALKING TO YOU ABOUT
26 OCCURRED SOMEWHERE IN THE PAST; ISN'T THAT TRUE?

1 A YES, SIR.

2 Q AND HE ALSO SAID AND IT'S REFLECTED ON PAGE 2
3 OF THE TRANSCRIPT, WHICH IS PEOPLE'S 1-A, THAT THOSE
4 EVENTS OCCURRED WITHIN THE PAST TWO TO THREE MONTHS?

5 A YES, SIR.

6 Q AND YOU RESPONDED WITH THE WORDS, "OKAY,
7 FINE," WHEN MR. KRAFT GAVE YOU THAT GENERAL TIME FRAME; IS
8 THAT TRUE?

9 A THAT'S CORRECT, SIR.

10 Q AND THEN LATER ON, YOU REFER TO THE EVENTS
11 THAT HE WAS DESCRIBING AS THOUGH THEY HAD OCCURRED ON THE
12 SATURDAY BEFORE EASTER; ISN'T THAT RIGHT?

13 A I BELIEVE ON PAGE 6, WHERE MR. -- DETECTIVE
14 WOODWARD REFERRED TO IT AS EASTER SUNDAY.

15 Q YES, BUT IT WAS NEVER A CASE THAT MR. KRAFT
16 SAID THAT THAT WAS THE CORRECT DATE THAT HE WAS REFERRING
17 TO, WAS IT?

18 MR. CLONINGER: I OBJECT TO THE QUESTION AS VAGUE
19 AS TO WHETHER IT REFERS TO THE TAPE OR THE PRE-TAPED
20 CONVERSATION.

21 MR. KOPERT: I DON'T THINK MY QUESTION WAS VAGUE
22 BECAUSE IT WAS IN THE CONTEXT OF THE IMMEDIATELY PRECEDING
23 ANSWER.

24 MR. CLONINGER: IF IT REFERS TO THE TAPE, THEN I
25 OBJECT THAT THE WITNESS IS BEING ASKED TO CHARACTERIZE THE
26 TAPE, WHICH IS IN EVIDENCE WITH THE COURT.

1 MR. KOPENY: I THINK THAT'S RELEVANT BECAUSE HIS
2 STATE OF MIND AS TO WHAT WAS GOING ON WOULD BEAR ON THE
3 COURT DETERMINING WHAT THE CIRCUMSTANTIAL EVIDENCE SHOWS
4 WAS DONE TO MR. KRAFT.

5 MR. CLONINGER: I'M SORRY?

6 MR. KOPENY: WELL, I JUST THINK THAT THE OFFICER'S
7 STATE OF MIND WOULD BE CIRCUMSTANTIAL EVIDENCE THAT HE
8 ACTED IN CONFORMITY WITH IT, AND WE'RE TALKING ABOUT
9 ALLEGED OR COMPLAINED OF INTRUSIONS THAT OCCURRED AFTER
10 THIS TIME ON THAT DAY.

11 SO IT'S TRUE, I'M ASKING HIM TO CHARACTERIZE,
12 BUT I AM ONLY ASKING HIM WHETHER HE UNDERSTOOD KRAFT TO
13 EVER HAVING AGREED TO A PARTICULAR DATE OR WHETHER IT WAS
14 ALWAYS THAT THE DATE WAS SUGGESTED AND ASSUMED IN THE
15 QUESTION BY EITHER HIM OR WOODWARD.

16 MR. CLONINGER: WELL, IN THE FIRST INSTANCE, THAT
17 WASN'T THE QUESTION AS I HEARD IT. AND IN THE SECOND
18 INSTANCE, THE WITNESS HAS ALREADY TESTIFIED THAT IT WAS
19 HIS UNDERSTANDING FROM THE CONVERSATION THAT MR. KRAFT WAS
20 TALKING ABOUT MR. CROTWELL AND TALKING ABOUT THE DATE
21 MR. CROTWELL DISAPPEARED. SO TO THAT EXTENT IT'S BEEN
22 ASKED AND ANSWERED.

23 THE COURT: WELL, THAT'S MY IMPRESSION OF WHAT THE
24 OFFICER'S STATE OF MIND WAS, MR. KOPENY. BUT IF YOU WANT
25 TO ESTABLISH THAT AGAIN FOR THE RECORD, I'LL ALLOW IT.

26 MR. KOPENY: WELL, MAYBE I CAN APPROACH IT THIS

1 WAY.

2 Q BY MR. KOPENY: OFFICER, IS THERE ANY PLACE
3 REFLECTED ON THE TRANSCRIPT WHERE MR. KRAFT SPECIFICALLY
4 AGREED THAT THE EVENTS HE WAS DESCRIBING HAD OCCURRED ON
5 THE SATURDAY BEFORE EASTER THAT YOU WERE ASKING HIM ABOUT?

6 MR. CLONINGER: WELL, I OBJECT TO THE QUESTION,
7 YOUR HONOR, ASKING THE WITNESS TO CHARACTERIZE A PIECE OF
8 EVIDENCE. THE WITNESS'S PRESENT OPINION AS TO WHAT THE
9 TRANSCRIPT SHOWS IS NOT RELEVANT.

10 THE COURT: SUSTAINED.

11 Q BY MR. KOPENY: YOU REMEMBER THE CONVERSATION
12 WAS TAPED; DON'T YOU?

13 A YES.

14 Q YOU TOLD THE JUDGE EARLIER THAT YOU
15 REMEMBERED IT OF YOUR OWN INDEPENDENT RECOLLECTION AFTER
16 IT WAS REFRESHED BY REVIEWING THE TRANSCRIPT, CORRECT?

17 A CORRECT.

18 Q DO YOU REMEMBER ANY TIME DURING THE TAPED
19 INTERVIEW WHEN MR. KRAFT SPECIFICALLY AGREED THAT THE
20 EVENTS HE WAS TELLING YOU ABOUT OCCURRED ON THE SATURDAY
21 BEFORE EASTER OF THAT YEAR?

22 A I CAN'T SAY SPECIFICALLY, NO.

23 Q WOULD IT HELP TO REFRESH YOUR RECOLLECTION TO
24 LOOK AT THE TRANSCRIPT?

25 A WELL, I HAVE LOOKED OVER IT, AND WHERE HE
26 SPECIFICALLY STATED THAT IT WAS THE NIGHT BEFORE OR THE

1 DAY BEFORE EASTER, I DON'T BELIEVE HE SAID THAT, THOSE
2 WORDS.

3 Q AS YOU RECALL, THOUGH, THAT WAS THE
4 ASSUMPTION OF THE QUESTION OF EITHER YOU OR WOODWARD ON
5 SEVERAL OCCASIONS DURING THE INTERVIEW; ISN'T THAT TRUE?

6 MR. CLONINGER: OBJECTION, CALLS FOR SPECULATION ON
7 THE PART OF THE IT WITNESS.

8 MR. KOPENY: I AM ONLY ASKING FOR STATE OF MIND,
9 BECAUSE HE'S ALREADY SAID HE UNDERSTOOD SOME OF WHAT KRAFT
10 TO ANSWER TO MEAN THAT IT WAS THAT DATE. AND I'M ASKING
11 WHETHER IT WAS HIS STATE OF MIND, THAT THAT WAS SIMPLY AN
12 ASSUMPTION IN THE QUESTIONS THAT KRAFT ANSWERED.

13 MR. CLONINGER: THAT WASN'T THE QUESTION.

14 THE COURT: COULD YOU REASK YOUR QUESTION,
15 MR. KOPENY?

16 MR. KOPENY: YES.

17 Q BY MR. KOPENY: DID YOU UNDERSTAND -- IN YOUR
18 MIND, WASN'T IT AN ASSUMPTION OF EITHER YOU OR WOODWARD
19 THAT THE TIME THAT KRAFT WAS TALKING ABOUT WAS, IN FACT,
20 THE SATURDAY BEFORE EASTER SUNDAY THAT YOU WERE INTERESTED
21 IN?

22 A YES.

23 Q DID YOU TELL MR. KRAFT THAT YOU WOULD --
24 WOULD NEED TO OR WOULD ATTEMPT TO CHECK OUT HIS ALIBI?

25 A I DON'T KNOW THAT I SAID THOSE SPECIFIC
26 WORDS. PROBABLY I SAID WE WOULD CHECK THIS OUT OR CHECK

1 IT OUT, BUT I DON'T KNOW THE EXACT VERBIAGE.

2 Q OKAY. DO YOU RECALL THAT IN YOUR MIND IT
3 WOULD BE IMPORTANT TO TALK TO JEFF GRAVES AFTER THE STORY
4 THAT MR. KRAFT TOLD YOU?

5 A I NEVER PERSONALLY TALKED TO MR. GRAVES THAT
6 I RECALL.

7 Q WELL, DIDN'T MR. KRAFT TELL YOU EITHER ON OR
8 OFF THE TAPE THAT MR. GRAVES COULD CORROBORATE IMPORTANT
9 ELEMENTS OF WHAT HE WAS TELLING YOU OCCURRED ON THE DATE
10 HE WAS TALKING ABOUT?

11 A WELL, HE TOLD US THAT HE CALLED MR. GRAVES
12 FROM THE LOCATION IN ORANGE COUNTY, BUT I DON'T RECALL HIM
13 EVER SAYING HE COULD CORROBORATE THAT. HE MAY HAVE, BUT,
14 YOU KNOW, I DIDN'T -- I DON'T RECALL HIM SAYING THAT.

15 Q DIDN'T HE SAY THAT MR. GRAVES HAD ACTUALLY
16 COME AND PICKED HIM UP?

17 A YES, OH-HUH, HE DID.

18 Q IN YOUR MIND, THEN, WAS IT IMPORTANT FOR
19 SOMEONE TO TALK TO GRAVES AND DETERMINE WHETHER OR NOT HE
20 WOULD CORROBORATE WHAT KRAFT HAD TOLD YOU?

21 A IT WOULD HAVE, YES. THAT WOULD HAVE BEEN A
22 LOGICAL ASSUMPTION, YES.

23 Q BUT EVEN AT THAT POINT YOU WEREN'T ASSIGNED
24 TO THE CASE, SO YOU DIDN'T DO IT YOURSELF?

25 A I DID NOT, NO.

26 Q NOW, HAVE YOU HAD A CHANCE TO THINK ABOUT

1 YOUR TESTIMONY OVER THE LUNCH HOUR?

2 A WELL, I DIDN'T -- I HAD LUNCH. I DIDN'T
3 THINK ABOUT IT A WHOLE LOT, NO.

4 Q WELL, HAVING HAD WHATEVER OPPORTUNITY YOU DID
5 HAVE OVER THE LUNCH HOUR, DO YOU AT THIS POINT HAVE ANY
6 RECOLLECTION OF THREE NUDE BODIES BEING FOUND FLOATING IN
7 THE BAY IN LONG BEACH AT SOME TIME SAY IN FEBRUARY OF
8 1975?

9 A I DON'T RECALL THAT, NO.

10 Q AND IF I TOLD YOU THAT YOUR PICTURE WAS ON
11 THE FRONT PAGE OF THE PRESS TELEGRAM VIEWING THREE NUDE
12 BODIES, WOULD THAT REFRESH YOUR RECOLLECTION?

13 A VIEWING THREE NUDE BODIES AT ONCE?

14 Q YES.

15 A IT WOULD SURPRISE ME. I DON'T RECALL EVER
16 DOING THAT. I HAVE HAD MY PICTURE IN THE PAPER NUMEROUS
17 TIMES, BUT I DON'T EVER RECALL VIEWING THREE DEAD BODIES
18 AT ONE TIME.

19 Q DO YOU RECALL YOUR PICTURE BEING ON THE FRONT
20 PAGE OF THE PRESS TELEGRAM VIEWING A NUDE BODY?

21 A THAT'S KIND OF A CATCH 22. LIKE I SAY, I'VE
22 HAD MY PICTURE IN THE PAPER MANY TIMES WITH DEAD BODIES.
23 IT'S BEEN 11 YEARS AS A HOMICIDE INVESTIGATOR; I COULDN'T
24 ANSWER. I DON'T KNOW AT THAT PARTICULAR TIME -- THE
25 SPECIFIC INCIDENT THAT YOU'RE REFERRING TO, I CANNOT
26 RECALL.

1 Q WHEN A PERSON IS BOOKED -- IN 1975 WHEN A
2 PERSON WAS BOOKED AND ARRESTED AT LONG BEACH, WHAT KIND OF
3 INFORMATION IS REQUESTED ON THE PREBOOKING FORM THAT YOU
4 DESCRIBED?

5 A NAME, FIRST, MIDDLE, LAST, ADDRESS, CITY,
6 STATE, DRIVER'S LICENSE NUMBER, DATE OF BIRTH, RACE, WHERE
7 HE'S EMPLOYED, ADDRESS OF EMPLOYER, NEXT OF KIN, WHERE YOU
8 GET A HOLD OR WHERE TO NOTIFY NEXT OF KIN OR CONTACT NEXT
9 OF KIN, IF NEED BE, LOCATION OF ARREST, DATE AND TIME OF
10 ARREST, CHARGE ARRESTED FOR, BAIL, IF ANY, ARRESTING
11 OFFICERS, TRANSPORTING OFFICERS, BOOKING OFFICERS,
12 SEARCHING OFFICERS, NUMBERS OF ANY CORRESPONDING REPORTS,
13 SUCH AS EVIDENCE REPORTS, CRIME REPORTS, ET CETERA.
14 THAT'S THE BASIC INFORMATION.

15 Q DO YOU ALSO ASK FOR THE PERSON'S TELEPHONE
16 NUMBER?

17 A NO.

18 Q IT'S NOT ON THE FORM?

19 A IT'S NOT ON THE FORM.

20 Q WHEN YOU WERE INTERVIEWING MR. KRAFT BEFORE
21 THE TAPE WAS TURNED ON, DID YOU HAVE ANY PAPERS OR REPORTS
22 OR DOCUMENTS WITH YOU?

23 A I DON'T RECALL.

24 Q DID WOODWARD?

25 A I DON'T RECALL.

26 Q WERE ANY PRESENT IN THE ROOM?

1 A I DON'T RECALL.

2 Q YOU DIDN'T HAVE ANY KNOWLEDGE OF THE WAY IN
3 WHICH MR. KRAFT FIT IN, IF AT ALL, TO THE DISAPPEARANCE OF
4 CROTWELL BEFORE WOODWARD TALKED TO YOU JUST BEFORE THE
5 TAPE -- JUST BEFORE THE INTERVIEW; ISN'T THAT RIGHT?

6 A THAT'S CORRECT.

7 Q AND SO ANY INFORMATION YOU GOT ABOUT IT WOULD
8 THAT HAVE BEEN FROM WOODWARD AT THAT TIME?

9 A PRIOR TO THE INTERVIEW, YES.

10 Q ALL RIGHT. HAVE YOU ALREADY TOLD ME
11 EVERYTHING THAT WOODWARD TOLD YOU ABOUT MR. KRAFT'S
12 POSSIBLE CONNECTION TO THE CROTWELL DISAPPEARANCE?

13 A TO THE BEST THAT I CAN RECALL, THERE MAY BE
14 SOMETHING THAT HE TOLD ME THAT I AM NOT RECALLING RIGHT
15 NOW, BUT BASICALLY, I'VE RELATED ALL THAT I KNOW.

16 MR. KOPENY: NOTHING FURTHER.

17 THE COURT: ANY REDIRECT, MR. CLONINGER?

18 MR. CLONINGER: YES, SIR.

19 REDIRECT EXAMINATION

20 Q BY MR. CLONINGER: SERGEANT BELL, LET ME JUST
21 ASK SOMETHING TO CLARIFY, SOMETHING THAT CONFUSED ME A
22 LITTLE BIT. DURING MR. KOPENY'S EXAMINATION HE ASKED YOU
23 A NUMBER OF QUESTIONS ABOUT THE PHOTO NUMBERS THAT APPEAR
24 ON BOOKING PHOTOGRAPHS. DO YOU RECALL THAT?

25 A YES.

26 Q AND YOU WERE TALKING TO HIM BOTH ABOUT PHOTO

1 NUMBERS AND THEN NUMBERS APPEAR ALONG SIDE THE PHOTOGRAPH
2 ON THE FILM STRIP ITSELF AFTER A PICTURE IS TAKEN. DO YOU
3 RECALL THAT?

4 A YES.

5 Q WHEN YOU USED THE TERM "PHOTO NUMBER" IN
6 ANSWERING HIS QUESTIONS, WHAT NUMBER WERE YOU REFERRING
7 TO?

8 A THAT IS A NUMBER -- THAT IS A NUMBER ISSUED
9 BY THE RECORDS DIVISION THAT IS TO BE ATTACHED TO AND
10 REMAIN WITH THE PERSON WHO IS BEING PHOTOGRAPHED. IT'S --

11 Q I'M SORRY, GO AHEAD.

12 A THEY RUN IN SEQUENCE, AND THEY ARE PROVIDED
13 BY THE RECORDS DIVISION ON A LARGE SHEET OF PAPER THAT
14 COMES UP TO THE JAIL DIVISION AND IS ASSIGNED AS THEY TAKE
15 THE PICTURES.

16 Q IS IT CORRECT WHEN YOU WERE USING THE TERM
17 "PHOTO NUMBER," THAT REFERS TO THE SIX-DIGIT NUMBER THAT
18 APPEARS ON THE BOOKING PHOTOGRAPH ON THE PLACARD WHICH IS
19 UNDER THE CHIN OF THE PERSON WHO'S HAVING HIS PICTURE
20 TAKEN?

21 A THAT'S CORRECT, YES, SIR.

22 Q DIRECTING YOUR ATTENTION TO PEOPLE'S EXHIBIT
23 1-A, THE TRANSCRIPTION OF YOUR INTERVIEW WITH MR. KRAFT.
24 I'M ASKING YOU TO LOOK AT PAGE 13, WOULD YOU PLEASE LOOK
25 AT THE BOTTOM OF THE PAGE ON PAGE 13 AND READ THE LAST 10
26 LINES?

1 A OKAY. "BELL" --

2 Q TO YOURSELF, I MEAN.

3 A OH, OKAY. ALL RIGHT, SIR.

4 Q YOU HAVE HAD A CHANCE TO READ THIS AND YOU'VE
5 ALSO LISTENED THE TAPE RECORDING OF THE INTERVIEW, IS THAT
6 CORRECT?

7 A YES.

8 Q AND YOU ASKED MR. KRAFT WHETHER OR NOT HE
9 KILLED MR. CROTWELL, OR AS HE WAS REFERRING TO HIM DURING
10 THE INTERVIEW, THE GENTLEMEN THAT TOOK A RIDE IN HIS CAR
11 WITH HIM THE NIGHT THAT HE WAS DESCRIBING TO YOU.

12 MR. KOPENY: WELL, I OBJECT. IT ASSUMES A FACT NOT
13 IN EVIDENCE.

14 THE COURT: YOU'LL HAVE TO TELL ME SINCE --

15 MR. KOPENY: IT ASSUMES THE PERSON HE'S TALKING
16 ABOUT IS MR. CROTWELL.

17 MR. CLONINGER: I WAS TRYING TO DEFINE THAT PERSON
18 BOTH WAYS SO THAT THE WITNESS WOULD KNOW WHAT I'M TALKING
19 ABOUT.

20 MR. KOPENY: WELL, THE WAY IN WHICH IT IDENTIFIES
21 THE PERSON AS CROTWELL, IT ASSUMES A FACT NOT IN EVIDENCE.

22 THE COURT: WELL, I HAVE NOT HAD THE TRANSCRIPT IN
23 FRONT OF ME THAT --

24 MR. CLONINGER: I CAN REPHRASE IT.

25 THE COURT: ALL RIGHT. REPHRASE IT, MR. CLONINGER.

26 Q BY MR. CLONINGER: DURING THE INTERVIEW YOU

1 WERE TALKING TO MR. KRAFT OVER HERE ABOUT THE
2 DISAPPEARANCE OF THE PERSON THAT IN YOUR MIND WAS
3 CROTWELL; IS THAT RIGHT?

4 A THAT'S CORRECT.

5 Q BUT MR. KRAFT NEVER CALLED HIM CROTWELL
6 DURING THE INTERVIEW, DID HE?

7 A NO.

8 Q I'M GOING TO CALL HIM CROTWELL FOR THE
9 PURPOSE OF THIS QUESTIONING, BUT LET ME JUST ASK YOU THIS:
10 ON PAGE 13, YOU DID ASK MR. KRAFT IF HE
11 KILLED MR. CROTWELL, RIGHT?

12 MR. KOPENY: I'M GOING TO OBJECT. I THINK IT
13 REALLY CONFUSES THE RECORD IF THE PROSECUTOR IS ALLOWED TO
14 ASSUME THAT THE QUESTION REFERS TO CROTWELL, WHETHER
15 MR. KRAFT UNDERSTOOD IT TO REFER TO CROTWELL.

16 THE COURT: WELL, I THINK -- AT LEAST THE COURT
17 UNDERSTANDS THAT THAT'S BEING USED AS A FRAME OF REFERENCE
18 AND NOT WHAT WAS ACTUALLY SAID.

19 MR. KOPENY: WELL, I OBJECT TO THAT KIND OF FRAME
20 OF REFERENCE CONSIDERING IT ASSUMES A PRETTY MAJOR FACT,
21 THAT IS, THAT KRAFT WAS TALKING ABOUT THE VICTIM.

22 THE COURT: ALL RIGHT. SUSTAINED.

23 Q BY MR. CLONINGER: DURING THIS INTERVIEW, YOU
24 WERE TALKING TO MR. KRAFT ABOUT THE MAN WHO TOOK A RIDE IN
25 HIS CAR, THAT MR. KRAFT TOLD YOU WENT DOWN WITH HIM TO THE
26 EL TORO AREA, AND THEN KRAFT SAID HE WANTED OFF, DO YOU

1 RECALL THAT?

2 A YES, SIR.

3 Q AND IN YOUR MIND DID YOU UNDERSTAND MR. KRAFT
4 TO BE TALKING ABOUT CROTWELL DURING THAT INTERVIEW?

5 A YES, SIR.

6 Q ALL RIGHT. BUT YOU ASKED MR. KRAFT ON THE
7 TAPE, AND ON THE TRANSCRIPT IT APPEARS ON PAGE 13, WHETHER
8 HE KILLED THE MAN THAT WENT WITH HIM IN THE CAR; IS THAT
9 RIGHT?

10 A THAT'S CORRECT.

11 Q DID YOU ASK MR. KRAFT WHETHER HE KILLED THE
12 MAN BECAUSE YOU THOUGHT MR. KRAFT WAS AT THAT POINT A
13 SUSPECT IN THE MURDER OF THAT SAME MAN, BE IT MR. CROTWELL
14 OR THE MAN THAT MR. KRAFT WAS DESCRIBING?

15 A NO.

16 Q WHY DID YOU ASK HIM THAT?

17 A I WAS FISHING, TO USE A TERM, SEEING IF I
18 COULD ELICIT SOMETHING FROM HIM THAT HE HADN'T SAID, SEE
19 IF THERE WAS ANYTHING THAT WE COULD PUT TOGETHER.

20 Q AT THE TIME IN WHICH -- AT THE TIME AT WHICH
21 THIS INTERVIEW WAS CONDUCTED, DID YOU HAVE ANY INFORMATION
22 AS TO THE FACT WHETHER MR CROTWELL WAS, IN FACT, A VICTIM
23 OF MURDER AT THAT TIME?

24 A NO, SIR. WE DID NOT KNOW HOW HE HAD MET HIS
25 DEMISE.

26 MR. KUPENY: I MOVE TO STRIKE THE "HE" AS

1 NONRESPONSIVE.

2 THE COURT: ALL RIGHT. THE WORD "WE" WILL GO OUT.

3 MR. CLONINGER: NO FURTHER QUESTIONS.

4 THE COURT: ANYTHING ELSE, MR. KOPENY?

5 RECROSS-EXAMINATION +

6 Q BY MR. KOPENY: DID YOU KNOW WHETHER HOODWARD
7 HAD REASON TO SUSPECT THAT CROTHWELL WAS THE VICTIM OF A
8 HOMICIDE AT THAT TIME?

9 A NO.

10 Q YOU DIDN'T KNOW ONE WAY OR ANOTHER, OR HE
11 DIDN'T?

12 A HE DID NOT KNOW.

13 Q I THINK I UNDERSTAND WHAT YOU SAID, BUT LET
14 HE MAKE SURE.

15 THE NUMBERS, THE PHOTO NUMBERS THAT THE
16 PERSON WHO TAKES THE PICTURES GETS, ARE ASSIGNED TO HIM BY
17 SOMEBODY?

18 A CORRECT.

19 Q AND THEN HE TAKES A PICTURE AND MAKES SOME
20 MARK NEXT TO THE LIST OF THE PHOTO NUMBERS TO INDICATE WHO
21 THAT NUMBER IS A PICTURE OF?

22 A THAT'S CORRECT.

23 Q DOES HE WRITE THE NAME DOWN?

24 A I BELIEVE HE DOES, YES.

25 Q ALL RIGHT. WHAT IF HE TAKES A PICTURE OF A
26 PERSON WHO'S NOT GOING TO HAVE A PHOTO NUMBER ASSIGNED,

1 WHAT DOES HE DO WITH THE INFORMATION THAT HE'S TAKEN THAT
2 PICTURE?

3 A HE PUTS THAT PERSON'S NAME INTO WHERE THE
4 PHOTO NUMBER WOULD BE.

5 Q WELL, THAT'S WHAT I'M NOT QUITE
6 UNDERSTANDING.

7 A CAN I EXPLAIN THIS TO YOU, COUNSEL? WILL ARE
8 YOU LET ME?

9 Q LET ME ASK YOU SOME QUESTIONS. WITNESSES ARE
10 NOT ALLOWED TO ASK QUESTIONS, I'M SURE YOU KNOW.

11 A I'M NOT ASKING. I'M TRYING TO TELL YOU WHAT
12 YOU'RE ASKING ME.

13 Q IS THERE A FORM THESE PHOTO NUMBERS APPEAR
14 ON?

15 A THAT'S WHAT I WOULD LIKE TO EXPLAIN TO YOU,
16 COUNSEL. THERE IS A LIST OF NUMBERS THAT IS -- COMES UP
17 FROM THE RECORD BUREAU ON A SHEET OF PAPER, A LINED SHEET
18 OF PAPER. ON THE LEFT-HAND SIDE OR MAYBE THE RIGHT-HAND
19 SIDE, I DON'T KNOW WHICH, IS A SERIES OF NUMBERS,
20 CHRONOLOGICALLY IN ORDER.

21 Q ARE THEY ARE SIX-DIGIT NUMBERS?

22 A THEY ARE SIX-DIGIT NUMBERS. THAT'S A PHOTO
23 NUMBER. THOSE NUMBERS ARE ASSIGNED TO THE INDIVIDUAL
24 WHOSE PICTURE IS TAKEN. IF I AM BOOKED, I GO UP AND I SIT
25 IN THE CHAIR. THEY COME DOWN AND THEY TAKE THE NEXT
26 NUMBER THAT IS AVAILABLE, THE NEXT SIX-DIGIT NUMBER OFF OF

1 THIS SHEET OF PAPER AND THEY WRITE NEXT TO IT, R.M. BELL,
2 AND THEY TAKE THE PHOTOGRAPH. THAT NUMBER IS PUT ON THIS
3 PLACARD, AND IT APPEARS IN THE PHOTOGRAPH.

4 Q ALL RIGHT. AND THEY WRITE THE NAME OF THE
5 PERSON'S PICTURE ON THAT PIECE OF PAPER THAT HAS THOSE
6 PHOTO NUMBERS?

7 A YES, TO THE BEST OF MY KNOWLEDGE THEY DO.

8 Q SOME OF THOSE WHOSE PICTURES ARE TAKEN DON'T
9 GET PHOTO NUMBERS?

10 A THAT IS ABSOLUTELY CORRECT.

11 Q DO THEIR NAMES APPEAR ON THE SAME SHEET OF
12 PAPER AFTER --

13 A BUT THEY DO NOT APPEAR NEXT TO PHOTO NUMBER.

14 Q WHERE DO THEY APPEAR? IN BETWEEN THE PHOTO
15 NUMBERS OR AT THE BOTTOM? WHERE DO THOSE PEOPLE WHO DON'T
16 HAVE A PHOTO NUMBER ASSIGNED TO THEIR NAME, WHERE DO THEIR
17 NAMES APPEAR ON THE PIECE OF PAPER?

18 A I DON'T KNOW. THEY APPEAR -- I AM GOING TO
19 USE HYPOTHETICALLY ONE, TWO, THREE, FOUR, FIVE, SIX, ALL
20 RIGHT, BELONGING TO R.M. BELL. ALL RIGHT? ONE, TWO,
21 THREE, FOUR, FIVE -- SEVEN WOULD BE THE NEXT NUMBER.

22 IF I WANTED TO HAVE A PICTURE TAKEN OF
23 SOMEBODY THAT IS NOT ARRESTED, THAT NUMBER WOULD JUST MOVE
24 DOWN AND THEY WOULD PUT IT IN THAT SLOT SO THAT THEY WOULD
25 KNOW WHERE IT IS IN THE ROLL OF FILM. THEY WOULD JUST --
26 THAT NUMBER WOULD JUST MOVE DOWN.

1 Q ALL RIGHT. WHAT HAPPENS TO THE PICTURE WHEN
2 IT GETS DEVELOPED?

3 A IT'S RIGHT HERE.

4 Q WE KNOW WHERE IT IS.

5 A IT IS SENT TO THE -- IT IS SENT TO THE PERSON
6 WHO HAS REQUESTED IT.

7 Q WELL, SO DID YOU GET THIS PHOTOGRAPH OF
8 MR. KRAFT SOMETIME AFTER THE INTERVIEW?

9 A I DON'T BELIEVE SO.

10 Q HOW DOES THE PERSON WHO TOOK THE PICTURE KNOW
11 WHO REQUESTED IT?

12 A THE PERSON WHO REQUESTS IT, I PRESUME THAT IT
13 WAS DETECTIVE WOODWARD, WOULD UNDOUBTEDLY TELL THE JAILER
14 OR WHOEVER TAKES THE PICTURE, THIS GUY, THIS PARTICULAR
15 INDIVIDUAL, I WANT THE PICTURE, AND THEY WOULD PUT
16 "HOMICIDE, WOODWARD."

17 Q WOULD THAT BE ON THE SAME PIECE OF PAPER THAT
18 THEY HAVE THIS OTHER INFORMATION?

19 A IF, IN FACT, THEY HAVE THE PIECE OF PAPER,
20 YES.

21 Q ALL RIGHT. YOU HAVEN'T BEEN TESTIFYING FROM
22 SPECULATION; YOU'VE ACTUALLY SEEN PIECES OF PAPER WITH
23 THESE SIX-DIGIT PHOTO NUMBERS ON THEM, CORRECT?

24 A CERTAINLY, YES.

25 Q AND YOU KNOW WHAT'S DONE WITH THOSE IN THE
26 ORDINARY COURSE OF BUSINESS, DON'T YOU?

1 A I KNOW THEY GET -- DO I KNOW WHAT'S DONE WITH
2 THEM BEFORE, DURING OR AFTER?

3 Q WELL, AFTER THEY'RE FILLED OUT BY THE PERSON
4 WHO TAKES THE PICTURES?

5 A THEY GO ALONG WITH THE ROLL OF FILM. NO,
6 THEY DON'T EITHER, I'M SORRY, BECAUSE THE NUMBERS ARE
7 ALREADY ON THE FILM. I -- WHEN THEY'RE FINISHED, I
8 PRESUME THEY GO BACK TO THE RECORDS BUREAU. I DON'T KNOW
9 WHAT HAPPENS TO THEM WHEN THIS SHEET OF PAPER IS FILLED
10 UP.

11 Q WHEN THE PICTURE COMES BACK WITHOUT A NUMBER
12 AND IT'S ROUTED TO WHOEVER REQUESTED IT, IS THERE ANY
13 INFORMATION WITH THE PICTURE, LIKE THE NAME? DOES THAT GO
14 BACK WITH THE PHOTOGRAPH?

15 A NO, HE WOULD KNOW WHO THAT WAS. WE DON'T DO
16 IT THAT OFTEN. I MEAN, IF IT WENT TO "HOMICIDE,
17 WOODWARD," HE'D KNOW WHO IT WAS. WE'D GET IT IN A DAY OR
18 TWO.

19 Q SO IT'S A RELATIVELY RARE OCCURRENCE?

20 A I DIDN'T SAY THAT.

21 Q YOU SAID, "WE DON'T DO THAT OFTEN."

22 A I SAID, "WE DON'T DO IT EVERYDAY."

23 MR. KOPENY: MAYBE WE CAN --

24 THE COURT: IT WAS "THAT OFTEN." THAT WAS THE
25 TESTIMONY.

26 Q BY MR. KOPENY: ALL RIGHT. NOW, WOULD THAT

1 MEAN THAT THERE IS NO SPECIAL PROCEDURE FOR PHOTOGRAPHING
2 PEOPLE WITHOUT SIX-DIGIT NUMBERS ASSIGNED TO THEIR
3 PICTURE?

4 A THE PROCEDURE THAT I HAVE TRIED TO EXPLAIN TO
5 YOU, COUNSEL, IS THE PROCEDURE THAT I KNOW FOR
6 PHOTOGRAPHING A PERSON WHO'S NOT ARRESTED.

7 Q ALL RIGHT. DOES THAT PROCEDURE INCLUDE ANY
8 WAY OF GUARANTEEING THAT THE PICTURE GETS BACK TO THE
9 RIGHT REQUESTING OFFICER?

10 MR. CLONINGER: OBJECTION, THAT'S IRRELEVANT.

11 THE COURT: SUSTAINED.

12 Q BY MR. KOPENY: IF SERGEANT WOODWARD ORDERED
13 OR REQUESTED THAT MR. KRAFT'S PHOTOGRAPH BE TAKEN IN MAY
14 OF '75, WOULD HIS NAME HAVE APPEARED ON A PIECE OF PAPER
15 KEPT BY THE PHOTOGRAPHER?

16 A IT PROBABLY -- AND I ONLY SAY PROBABLY, I
17 DON'T KNOW FOR A FACT -- WOULD APPEAR NEXT TO MR. KRAFT'S
18 NAME ON THE SLIP OF PAPER. IT WOULD HAVE SAID, "REQUESTED
19 BY WOODWARD, HOMICIDE."

20 Q AND WOULD MR. WOODWARD HAVE RECEIVED THE
21 PHOTOGRAPH BACK FROM THE PEOPLE THAT TOOK THE PICTURE AT
22 SOME LATER DATE?

23 MR. CLONINGER: OBJECTION, CALLS FOR SPECULATION BY
24 THE WITNESS.

25 MR. KOPENY: I'M ASKING ABOUT THE PROCEDURE AND
26 HE'S ALREADY TOLD ME HE KNOWS WHAT THAT IS.

1 MR. CLONINGER: THE QUESTION CALLING FOR THE
2 PROCEDURE HAS BEEN ALREADY BEEN ASKED AND ANSWERED AT
3 LEAST TWICE, YOUR HONOR.

4 THE COURT: MR. KOPENY, HE'S ALREADY TESTIFIED THAT
5 WHOEVER ASKS FOR THE PICTURE WILL GET IT BACK IN A DAY OR
6 TWO.

7 Q BY MR. KOPENY: A DAY OR TWO. I'LL WITHDRAW
8 THE QUESTION. IT WOULD TAKE A DAY OR TWO?

9 A PROVIDING IT WASN'T DONE ON A FRIDAY, YEAH.

10 Q WOULD THERE BE ANY RECORD OF THE FACT THAT
11 THE PHOTOGRAPH HAD BEEN GIVEN TO THE REQUESTING OFFICER?

12 A PROBABLY NOT.

13 Q ON THOSE SIX PHOTOGRAPHS, SOME OF THE
14 PLACARDS ARE A LITTLE DIFFERENT THAN THE OTHERS. I
15 BELIEVE YOU READ WHERE THE LONG BEACH POLICE DEPARTMENT IS
16 WRITTEN DIFFERENT WAYS ON SOME OF THEM?

17 A YES, ON SOME OF THEM, THE PHOTO NUMBER
18 APPEARS FIRST, AND ON SOME OF THEM, THE PHOTO NUMBER
19 APPEARS JUST BEFORE THE DATE.

20 Q AND I THINK YOU ALSO SAID THAT SOME OF THEM
21 SAY, "POLICE DEPARTMENT, LONG BEACH," AND OTHERS SAY,
22 "LONG BEACH POLICE DEPARTMENT"; IS THAT RIGHT?

23 A NO, THEY ALL -- YES. I'M SORRY. ONE OF THEM
24 SAYS, "POLICE DEPARTMENT, LONG BEACH, CALIFORNIA," AND THE
25 REST OF THEM SAY, "LONG BEACH, CALIFORNIA, POLICE
26 DEPARTMENT" -- TWO OF THEM SAY, "POLICE DEPARTMENT, LONG

1 BEACH, CALIFORNIA."

2 Q DO THOSE DIFFERENCES INDICATE TO YOU ANYTHING
3 DIFFERENT ABOUT THE LOCATION IN WHICH THE PHOTOGRAPHS WERE
4 TAKEN?

5 A NO.

6 Q ARE THEY SIMPLY JUST DIFFERENCES IN WHATEVER
7 NUMBER OF PLACARDS THE PHOTOGRAPHER HAS THERE TO USE?

8 A JUST WHATEVER WAY THE PHOTOGRAPHER SETS IT
9 UP.

10 Q SO THERE'S NOTHING ABOUT THE PLACARDS THAT
11 INDICATE WHETHER IT WAS AT FIFTH OR SIXTH FLOOR?

12 A NO.

13 Q AND IF THE PLACARDS DIDN'T HAVE THE DATE ON
14 THEM, YOU COULDN'T TELL JUST FROM THE PLACARD THIS MUST AN
15 OLD PICTURE BECAUSE THIS IS AN OLD PLACARD?

16 A NO, SIR.

17 Q CAN YOU TELL FROM LOOKING AT THESE
18 PHOTOGRAPHS WHETHER THEY WERE ALL TAKEN IN THE SAME
19 PHOTOGRAPH AREA? AND I'M JUST ASSUMING THAT YOUR FORMER
20 TESTIMONY IS THAT THERE ARE TWO DIFFERENT AREAS WHERE
21 PHOTOGRAPHS WERE TAKEN, ONE ON THE FIFTH AND ONE ON THE
22 SIXTH FLOOR; IS THAT RIGHT?

23 A YES, SIR.

24 Q CAN YOU TELL IF ALL THESE PHOTOGRAPHS WERE
25 TAKEN IN THE SAME AREA?

26 A NO, I CAN'T.

1 Q SO THERE ISN'T ANYTHING UNIQUE FROM ONE
2 PHOTOGRAPH AREA TO THE OTHER THAT WOULD GIVE THAT
3 INFORMATION?

4 A NO, SIR.

5 MR. KOPENY: NOTHING FURTHER.

6 THE COURT: ANYTHING ELSE, MR. CLONINGER?

7 MR. CLONINGER: NO, SIR.

8 THE COURT: THAT YOU, SERGEANT. YOU MAY STEP DOWN.
9 APPARENTLY YOU'VE BEEN ASKED TO REMAIN ON CALL AS A
10 POSSIBLE DEFENSE WITNESS, SO YOU'RE EXCUSED AT THIS TIME
11 SUBJECT TO BEING RECALLED UPON PROPER NOTICE.

12 THE WITNESS: THANK YOU, SIR.

13 MR. CLONINGER: MAY I CALL MY NEXT WITNESS?

14 THE COURT: YES.

15 MR. CLONINGER: PEOPLE WOULD LIKE TO CALL CHARLES
16 BENSINGER TO THE STAND. IF I MAY, YOUR HONOR, I'D LIKE TO
17 TAKE THESE EXHIBITS OFF THE WITNESS STAND.

18 THE COURT: ALL RIGHT, SIR.

19 MR. CLONINGER: JUST SO THE RECORD'S CLEAR, DEFENSE
20 EXHIBIT B, AS IN BOY, IS STILL IN A DISASSEMBLED FORM FROM
21 WHERE THE WITNESS TOOK IT APART DURING HIS EXAMINATION.

22 THE COURT: YOU WANT HIM CALLED BACK TO PUT IT BACK
23 IN ORDER?

24 MR. CLONINGER: NO, I'M NOT SAYING -- I JUST
25 WANTED -- I'D LIKE THE RECORD TO SHOW THE CLERK'S GETTING
26 IT BACK IN A DISASSEMBLED FORM. I ASSUME SHE WILL BE ABLE