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Thereupon the defendant, to maintain the issues on his part to be maintained, called as a witness STEPHEN ALLEN SHEPPARD, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Corrigan:

MR. CORRIGAN: Does your Honor have the report of Bay View Hospital that was brought in here by the Coroner?

THE COURT: Yes.

MR. CORRIGAN: We may need that during this examination.

Q Will you state your name and address?

A Stephen Allen Sheppard, 19027 Inglewood Drive, Rocky River, Ohio.

Q What is your business or profession?

A Physician and surgeon.

Q And how long have you been a physician and surgeon?

A I graduated in October of 1944. 10 years.

Q And you are admitted to the general practice of medicine and surgery under the laws of the State of Ohio?

A Yes, sir.

Q Are you a married man?

- A I am.
- Q Have you a family?
- A Two children, girls.
- Q How long have you lived in this community or been a resident of this community?
- A All my life, 34 years.
- Q What?
- A All my life, which is 34 years.
- Q Where were you born?
- A Oh, I will have to correct that. 31 years. I was three years old when we moved into the area of Greater Cleveland. I was born in Upper Sandusky, Ohio.
- Q What area did you live in most of your life?
- A Well, as a child, and up until the time I went away to school, the family lived up in Cleveland Heights on Euclid Heights, that is on the East Side, and since 1949, my residence has been on the West Side.
- Q And where is your office located?
- A The office address is 22204 Lorain Road, Fairview Park.
- Q Just sit back in the chair so you will be comfortable.
- A That is West.
- Q Are you connected with any hospitals in the practice of your profession?
- A Yes, sir.
- Q And what?

A I am a member of the staff of the Bay View Hospital, and I am on the consulting staff of the Forest Hills Hospital. I am a member of the staff of the Green Cross Hospital in Akron, Ohio. I am a member of the consulting staff of the Amherst General Hospital. And that's it.

Q Doctor, Bay View Hospital is located where?

A 23200 Lake Road in Bay Village.

2 Q And how long has it been located at that particular place?

A Since 1948.

Q Are there any hospitals close by?

A No, sir.

Q How is Bay View Hospital operated, under what system?

A Bay View Hospital is a non-profit corporation. It is administered by a Board of Trustees, which is made up of, I believe, presently, 14 members. The majority of those members are lay persons in contrast to physicians. There is one member of the staff who is on the Board as a representative to the Board from the staff.

Q Who is that?

A It changes every year. I believe that it is Dr. Charles Purdum.

Q And the administration is, you say, by a lay Board of Trustees?

A For the most part, yes.

Q What?

A Yes, sir. They have monthly meetings, and the Board directs the administrator himself, who is Mr. Richard Lease, and his assistant, who is Mr. James Ladu

Q They receive no salary?

A The Board? No.

Q How large a hospital is it?

A It is in excess of 100 beds.

Q And do you know whether or not the United States Government or the State of Ohio has any money invested in that hospital?

MR. PARRINO: Objection.

THE COURT: Objection will be sustained. I don't think that is important.

MR. CORRIGAN: Except.

Q Do you specialize in any particular branch of medicine or surgery, Doctor?

A Yes, sir.

Q And what particular branch do you specialize in?

A General surgery.

Q Now, Dr. Sam Sheppard is your brother?

A That's true.

Q Older or younger?

A Four years younger.

Q Have you been associated with him in a close way?

A Yes, sir.

Q For how many years?

A Professionally?

Q What?

A You mean professionally?

Q Professionally and as a brother. Sometimes brothers don't associate together.

A We have been associated as brothers and quite close for at least 30 years.

Q And from your observation over that period of time, will you state to the jury what your observation has been of him as to his temperament?

A Dr. Sam's temperament during this entire period, as a result of my observation, is that he has, to my knowledge, been the most level-headed of our entire family. I have never seen him rise in anger. I have never heard him speak in a manner which would cause me to believe that he reacted in a manner which would indicate that he lost his head.

I have seen him many times, even as a child, when youngsters would become involved in a difference of opinion, his tendency was always to refrain from fighting. I remember one specific instance --

MR. MAHON:

Now, I want to object

to going into all that.

THE COURT: Yes. Do not go into specific instances.

Q Well, what, generally, Doctor, -- you are not allowed to tell specific instances.

A Well, generally he is the most level-headed and certainly the most restrained of our family and of my personal acquaintances.

Q Now, then, you knew Marilyn?

A Yes, sir.

Q Was there anything that brought you into close relationship with them, Dr. Sam and his wife, after they were married?

A Yes, both before and after.

Q In what way?

A Well, before they were married, I dated Marilyn. Before they were married, Dr. Sam and Marilyn were present when I married my wife. We double-dated and enjoyed each other's company during that courtship.

During the time that we were in California, of course, before he was married, he spent a great deal of time with us. We were present at his wedding. My wife was a bridesmaid.

After they were married, we spent time together. We were in their home and they were in our home.

Q After they returned to -- withdraw that. To put it shortly:

You were very closely related with these people?

A Yes, sir.

Q After they returned from California and took up their residence in Cleveland, did there come a time when they lived with you?

A There did.

Q When was that, Doctor?

A Well, actually they lived with us for two periods. One period was before they came back and took up residence. That was a period of some, oh, possibly three weeks during the vacation, and then in --

Q What year was that?

A That was in 1950. Then in 1953, after the fire --

Q Now, tell me about the fire. When was the fire and where was the fire?

A Dr. Sam and his wife at that time were living at 28924 Lake Road, and the house burned, and, of course, they had no place to stay during the period that the house was being repaired, so part of that time, which was considerable, they stayed at my house with me and my wife, and part of it they stayed at Dr. Richard's home with him and his wife.

Q Now, can you tell me what months they stayed at your house?

A I'm afraid I can't tell you the specific months. I think it was about March. February, March, somewhere in there, possibly part of April.

Q Did their little boy live with you, too, at the same time?

A Yes, he did.

Q Did you observe during that time your brother's attitude towards his little boy?

A I did.

Q Would you tell the jury what your observations were?

A He spent more time with his son and played with, not only his son, but my children, my two girls, more than I have ever done. His attitude toward them was, not just his own child, but our two girls, was one of, as far as I could tell, love and interest and in every way an uncle. He played with them. He carried them up and down the steps. He carried them all over the place on his back. He did tricks with them. He did things that I have either never had time to do or didn't have the strength to do, one or the other.

Q And what has been your observation -- will you just lift your voice a little bit -- what has been your observation of his attitude toward his child down to the time that he was arrested?

A Down to July the 30th, that attitude that I described, which was demonstrated during the time they were in our home, has persisted. There have been many, many times that I have seen him take the boy with him when he went places. They shared a relationship and a fellowship

which I thought was ideal. They played together. They worked together in the yard. They went places together and did things together in a father-son relationship that I think would be difficult to approximate.

Q Now, then, will you give what you noticed about his conduct towards his wife, Marilyn, during the period that you knew him -- or that you were associated with him since he come back from California?

A During the entire period that I knew these two people, he was kind, he was considerate, he brought her gifts at irregular intervals, not just at Christmas or anniversary. If he saw something that he thought she would like, he would bring it to her. I have seen those things, and I know that he cared for her and he cared for her very deeply.

Q Now, then, were you ever away on trips with him at any time?

A Yes, sir.

Q And what trips did you make with him that you remember?

A Well, we went together alone to the city of Columbus at a meeting of the Ohio Public Health Association back here last Spring, in 1954. We were together in California in October of 1953. He stayed in a suite that Mrs. Sheppard and I had in the Statler Hotel. There was a convention of the College of Surgeons. There have been any number of times that we have attended conventions together.

Q And during those times, what was the attitude of Sam towards Marilyn?

A Sam -- well, in 1951 we were in Washington D.C. together, all four of us. Marilyn was present. The other times that

I mentioned she was not. I thought when you first asked the question, whether Sam and I go places on trips alone.

Q No. I mean with Marilyn.

A When we were in Washington D.C. I criticized him, and I also criticized her because they spent all of their time together.

MR. MAHON: Wait a minute.

I want to object to this, if your Honor please, as to what he criticized.

THE WITNESS: They spent all their time together.

MR. MAHON: Wait a minute, wait a minute, please.

MR. PARRINO: Please, when there is an objection made, will you wait a moment please?

THE WITNESS: Surely.

THE COURT: All right, go ahead from there, Mr. Corrigan.

Q Well, did anything happen that attracted your attention on that particular occasion?

A Yes, sir. They spent all the time of the convention together and attended very few of the professional meetings, played tennis and went on trips throughout Washington D.C., and spent a great deal of time together; in fact, almost

the entire time that they were there.

Q During the time up to Marilyn's death, will you state whether or not at any time you noticed any clash between Sam and his wife?

A Nothing of any major importance.

Q Now, then, coming down to the week prior to her murder, did you see her during that week?

A Yes, sir.

Q Did you see your brother during that week?

A I did.

Q And how frequently did you see your brother during the week prior to the murder?

A I saw him every day.

Q And how much of the day, how much time was spent with him?

A Well, I would see him in the hospital. We would talk about cases, problems, possibly anywhere from 20 minutes to a half an hour.

Q Did you notice any change in his personality during that week?

A Nothing whatsoever.

Q Did you see Marilyn during the week prior to the day of her murder?

A Yes, I did.

Q Do you recall what day you saw her prior to her murder?

A I saw her Friday night, July 2nd. I spoke to her Saturday

night on the telephone. I saw Dr. Sam and Marilyn together in their home at about 1:30 a.m. on June 19th, the night of June 19th, which would be the 20th. That's about two weeks before.

I saw them in their home on June 25, 1954, when Mr. and Mrs. Arthur B. Hayes, my wife and I sailed up from the Yacht Club and beached at their place.

Q Well, let's go to June 19th. Where did you see them at that time?

A In their home.

Q And how did you happen to be at their home? What time was it?

A It was 1:00 or 1:30 in the morning.

Q Who was with you?

A My wife, Betty, Mr. and Mrs. Ralph Miller of Eaton, Illinois; Mr. and Mrs. Arthur B. Hayes; Mr. and Mrs. Donald Hogg, and we had returned from a social gathering that my wife and I had had in honor of the return of Mr. and Mrs. Ralph Miller, who formerly lived on our street and were visiting in the City of Cleveland.

MR. PARRINO: Will you excuse me, please, Mr. Corrigan? I observe that the doctor is looking at some memorandum there as he testifies. Would you mind if I look at that, please, for a moment?

MR. CORRIGAN: You can look at anything.

(Witness hands book to Mr. Parrino.)

MR. PARRINO: Thank you.

Q On the 19th you had seen them at 1:30. Had you come from someplace else and wound up at the Sheppard home?

A Yes. We just burst in upon them. We hadn't planned on going there and, of course, they had no idea that we were going to arrive.

Q And then what time did you leave their home that night?

A Well, I would say about possibly 2:00.

Q Was there anything out of the ordinary occur other than the fact that you joined together in a pleasant evening?

A Well, I didn't think it was too unusual. My wife thought it was out of the ordinary.

MR. PARRINO: I object to what his wife thought.

THE WITNESS: I went swimming.

MR. PARRINO: Just a moment, please.

Q What?

A I went swimming.

MR. PARRINO: Doctor, will you please, when an objection is made, wait for just a moment until the Court rules on the objection?

THE WITNESS: Yes.

THE COURT: The objection
will be sustained.

MR. CORRIGAN: Make your objections
and let the Court rule. I don't want you standing
up and instructing my witness.

MR. PARRINO: Will you please
instruct him not to answer the questions when
I make an objection to the Court?

THE COURT: Let's go ahead,
gentlemen.

Q Doctor, on that particular night you went swimming?

A Yes, sir.

Q Did the other members of the party go swimming?

A No, they did not.

Q Did they go down to the beach?

A Did they?

Q Yes.

A Some did. Dr. Sam came down with me and I think Art Hayes
came down.

Q Then when was the next time that you were in contact with
Marilyn?

A That was June 25th.

Q I am taking this period now just prior to the date of her
murder.

A Yes, sir. June 25th.

Q What day of the week was that, do you know?

A Friday.

Q And what time did you go to their home on that occasion?

A 10:30, 11:00 at night.

Q Did you go by automobile or how?

A Sail boat.

Q And who was with you?

A Mr. and Mrs. Arthur B. Hayes.

Q Some friends of yours?

A Yes, sir.

Q When you went in the sail boat, where did you sail to?

A My sail boat has no motor, and I can't always predict the exact point where we are going to come in. On this particular night, I had considerable difficulty and I ran aground, actually, just in front of the point where the stairway comes down into the beach area. When we came up, there was an off shore breeze --

MR. PARRINO: Excuse me, please.

THE WITNESS: Surely.

Q I didn't hear you. He was in my way.

A I say, we landed at the beach at the foot of Dr. Sam's stairway that comes down the hill there and, of course, again popped in, went up the steps and surprised Dr. Sam and his wife, Marilyn; stayed there for, oh, possibly half

an hour or so, and then we sailed back to the dock down
at the Yacht Club.

4 Q Now, then, when was the next time that you saw Marilyn?

18 A The next time was on June 28th, 1954.

Q And what day of the week was that?

A Monday.

Q Where did you see them on that occasion?

A I saw them both at a farewell-recognition party, which was given at the Bay View Hospital for the interns who had completed their service and were leaving within the next few weeks to establish private practice. It is an annual thing.

Q Was that a sort of a dinner or a dance, or something like that?

A It was a buffet supper at the hospital.

Q What time did you depart on that occasion or separate on that night?

A Oh, I think it must have been somewhere around 8, 8:30. There were a lot of speeches, and that sort of thing.

Q And did you notice on that occasion the relationship of Marilyn and Sam, how they conducted themselves toward one another?

A I did.

Q And tell what you noticed.

A Well, Marilyn had on a new dress, which was a sort of, I'd call it a tan, and she looked very lovely --

MR. PARRINO:

I object to this, if the

Court please. It is not responsive to the question.

THE COURT: Yes. The question is: What about the relationship between Sam and Marilyn?

THE WITNESS: Well, in order to describe --

MR. CORRIGAN: Wait a minute.

THE COURT: What you observed.

Q Doctor, just keep my questions in mind. Don't mind the interruptions by Mr. Parrino.

MR. PARRINO: Now, if the Court please, just a moment, please. I make my objections to the Court. Mr. Corrigan may think they are interruptions. I feel that they are advisable on behalf of the interest of the State to make these objections, when I do make them.

THE COURT: He started without realizing that he wasn't answering the question. The jury will disregard that. It is quite all right now.

Now, Doctor, the question was what you observed about the relationship between Sam and Marilyn that night.

A Dr. Sam came in a little late, having been operating out

of the city, and when he came in, he evinced surprise and complimented her on how well she looked and how nicely this dress, which apparently he had never seen before, and, of course, I had never seen --

MR. PARRINO: If the Court please,
I object.

THE COURT: The jury will disregard the last statement.

A Their relationship that night showed me that they were very happily married and interested in one another.

Q Now, did you notice how Marilyn was dressed?

A Yes, I did.

Q Did you notice her appearance?

A I did.

Q Will you state how she was dressed and her appearance on that evening?

A She was happy. She was dressed in a very attractive, and what she stated to be a new dress, and she was the recipient of any number of compliments throughout the entire evening from everyone present --

MR. MAHON: Now, I object to
this, if your Honor please.

THE COURT: Yes.

MR. MAHON: We drift off into a lot

of other things besides answering the question.

THE COURT:

Yes.

Q Now, when was the next time you saw her, Doctor, her and Sam together -- or saw her?

A July 1st, Thursday.

Q Thursday?

A Yes.

Q July the 3rd? July the what?

MR. PARRINO:

The 1st.

Q Before I come to July the 1st and ask you about that:

You mentioned that your guests on one of these occasions between the 19th and the 4th of July, the day of the murder, was a Mr. and Mrs. Arthur Hayes?

A Yes.

Q Do you recall?

A Yes, sir.

Q Do you know Susan Hayes?

A Yes, sir.

Q How long have you known her?

A Since she first started working at the hospital.

Q Do you know if there is any relation between Susan Hayes and your guests, Arthur Hayes?

A I know there is not.

Q There is not. They are a different family?

A Yes, sir.

Q Now, then, coming to Thursday --

A May I comment on June 25th, the night that the Hayes and my wife and I sailed down there?

Q Yes. Do you have something further to say about what occurred on that night?

A Yes. That was the night that Marilyn told my wife that she was expecting another child.

MR. MAHON: Well, now, I object, unless he was there when it was told. He said she told his wife.

MR. PARRINO: May I suggest to the Court --

THE COURT: Did she tell you that?

THE WITNESS: My wife told me.

THE COURT: Well, the jury will disregard that entirely.

MR. PARRINO: And if the Court please, may I suggest to the Court that the witness does not comment in between questions.

MR. CORRIGAN: That he what?

MR. PARRINO: Does not comment in between questions and answers.

THE COURT: All right.

MR. CORRIGAN: "Comment"?

THE COURT: Let's have a question, please. This is a question and answer proceeding.

MR. CORRIGAN: I don't know what you mean by that. (To Mr. Parrino): Well, all right, don't comment in between questions, Doctor.

A Does that mean I shouldn't recall something that --

Q No. I will develop it. Don't worry.

Was there an incident that occurred on the night as you sailed there with the sail boat that you have not related?

A Yes, sir.

Q What was it?

A Marilyn told my wife that she was expecting a baby.

MR. MAHON: Well, now, if your Honor please, I think this witness knows that he should not relate hearsay, what someone else told him.

THE COURT: You are not to relate conversation.

MR. MAHON: The objection was just sustained to that same thing.

THE COURT: You are not to relate conversation, excepting with Sam.

The jury will disregard that answer entirely.

A That was the incident. As far as what I personally heard, my wife told me that night -- does that --

THE COURT: Never mind, please.

Q Let's forget it, Doctor. Don't tell anything that anybody else told you.

A All right, sir.

Q Because that is classified as hearsay and not admissible. So keep that in mind, will you, please?

A Yes, sir.

Q Do you recall an incident that you have not related that occurred prior to the day of Marilyn's murder that had to do with your boat and Sam coming out into the lake?

A Not my boat.

Q I see. Now, then, on the 1st of July -- that would be Thursday?

A Yes, sir.

Q -- did you see either Marilyn or Sam -- did you see Marilyn on that day?

A Yes, I did.

Q What time?

A 5, 5:30 p.m.

Q And where did you see her?

A At her home.

Q Was there anybody with you at the time?

A My wife, Betty.

Q Was your brother there?

A Dr. Sam was not there.

Q What time did you arrive at her home on Thursday?

A July 1st, Thursday, July the 1st, 5 o'clock in the evening my wife and I were on our way out to dinner, and we stopped off at Dr. Sam's home and saw Marilyn and Chip.

Q And how long did you stay there on that occasion?

A About half an hour.

Q And did you notice anything -- did you notice Marilyn on that occasion?

A Yes.

Q Did you notice her demeanor?

A She was elated, and I was chiding her because she hadn't told me personally about this anticipated event and, of course, the reason that I now finally could talk to her about it is that the occasion of our visit was to take some maternity clothes over to her. That was on July 1st that my wife and I took the maternity clothes over.

Q And these were maternity clothes that your wife had at home?

A Yes, sir.

Q Clothes that she had used during her maternity?

A That's right.

Q And was the coming event of the birth of the child discussed?

- A Well, the birth itself wasn't discussed, but the anticipation of a new member of the family was.
- Q Now, then, when was the next time that you saw Marilyn?
- A July 2nd, the next night, Friday.
- Q And where was that?
- A That was in my home.
- Q Was there anybody else there besides Marilyn?
- A Dr. Sam was there, my wife Betty was there, Dr. Richard was there, his wife Dorothy, and later in the evening Dr. and Mrs. Joseph Carpenter stopped in to visit us. They were visiting from Texas, and he had been an intern, and they stopped in to say hello.
- Q What time did Dr. Sam Sheppard and Marilyn arrive at the house?
- A Arrive?
- Q Yes.
- A Oh, somewhere around eight, eight-thirty.
- Q And your other brother, Dr. Richard?
- A About the same time. It was a dinner party.
- Q It was a dinner?
- A Yes.
- Q Prepared by your wife?
- A Yes.
- Q And how long did you spend around the table that evening?
- A Well, it was a very casual time-consuming affair. We sat

around the table and talked and had coffee for some time. We didn't actually finish eating until around 11, 10:30 or 11.

Q Was there any discussion that night about the fact that Marilyn was going to have a baby?

A Yes, there was.

Q And how did that come about?

A I was again chiding her about the fact that she hadn't --

Q Don't tell me the conversation, but just tell me how it came about. Did she announce it, or what?

A Well, I don't remember exactly about who said what with that in mind. I know that I was in the kitchen, and Dr. Richard apparently hadn't known -- this was prior to dinner -- and he was looking at her, and all of a sudden she turned around and said, "You know, don't you?"

And he said -- I'm sorry -- well, I heard this myself. I can say that?

Q Yes, I guess you can.

A All right. She said, "You know, don't you?"

And he said, "Know what?"

And she said, "That I am going to have a baby."

And he said, "No," that he didn't really know about it, but he kind of was beginning to wonder, and he commented on, after all, his specialty was obstetrics, and he felt somewhat dumb that he hadn't recognized earlier.

and from there on it was a matter of light banter, and as families often do, we made a great to-do over it and held her chair and did all the things that a family does when they first find out a woman is going to have a baby, a member of the family.

Q Your brother Richard, he specializes in childbirth, does he?

A He does obstetrics. He also does general surgery. His particular specialty is gastro-intestinal surgery.

Q Was there anything mentioned about a name for the child?

A Yes, there was.

Q And what was stated about what the child was going to be named?

A During the dinner there was some discussion about the sex of the child, and my wife and I have had three girls --

MR. PARRINO: Now, if the Court please, I object to it.

THE COURT: Yes. Let's not go into all this detail. It is perfectly all right to have the general picture, but that is as far as we ought to go.

Q Just what was the discussion about the name, Doctor? Was there a discussion about the name?

A Yes.

Q Was the name settled?

A Yes, it was.

Q If it was a boy?

A Yes, it was.

Q And what was the name that Sam and Marilyn told you that they had settled on?

A Stephen Allen Sheppard.

Q And that was your name?

A Yes, sir.

Q The child was going to be named after you?

A That's right.

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Q Now, after the party broke up -- about what time did the party break up?

A Shortly after 11:00.

Q And who departed first?

A We all left simultaneously.

Q And where did you go?

A Dr. Sam and his wife went to their home; Dr. Richard and his wife, my wife, Dr. and Mrs. Joe Carpenter went down to the Yacht Club.

Q And where is the Yacht Club located?

A It is in the mouth of the Rocky River.

Q That would be at a point east of where Dr. Sheppard lives?

A It is east of Dr. Sam's house. It is about due north of my home.

Q Now, then, Dr. Sam Sheppard and his wife went on their way and you went on to Rocky River?

A We went to the Yacht Club, yes. We were in Rocky River. The Yacht Club is in the mouth of the river.

Q Did you go from Rocky River anyplace that night?

A You mean from the Yacht Club?

Q Yes.

A Yes, we did.

Q And where did you go to?

A We went up to Dr. Sam's house.

Q And by what means did you go to Dr. Sam's house?

A In Dr. Richard's cruiser.

Q A boat?

A Yes, sir.

Q And what time did you arrive at Dr. Sam's house on Friday night?

A It must have been around midnight.

Q Had you informed them that you were coming?

A No. We wanted them to come out with us. They said they couldn't because they had to go home and relieve the baby sitter, and we said, "Well, we may stop by."

Q And when you got there, did you attract their attention in any way that you were off shore?

A Yes. We tried. We honked the horn, and I whistled a distinctive whistle that I use for members of the family. There was no response, and we went in closer to try to attract their attention. It was quite rough, the wind was blowing, and we had to get in fairly close in order to attract their attention.

Q Yes. Did you succeed in attracting their attention?

A Yes.

Q And who appeared?

A Dr. Sam.

Q And where did he come?

A Well, he turned on the beach light and came down the steps.

Q Do you know where the beach lights are turned on?

A I believe in the study.

Q And did Marilyn accompany him down the steps?

A No, she did not.

Q What occurred when he came down the steps?

A Well, as a result of the waves and the fact that we had come in so close to shout and honk the horn to attract their attention, we started to run aground, and Dr. Sam saw what was happening and, of course, I shouted at him. And he peeled off his trousers -- and he had on an old sweat shirt and loafers -- and he kicked off his trousers and sweat shirt and his loafers and jumped in the water and came out and fended us off, pushed the boat away as we tried to back out.

Q Now, then you departed, you didn't go into the house that night?

A Oh, no. No, we couldn't land.

Q And when Sam went back to the house, that was the end of Friday night?

A Well, we tried to encourage him to get into the boat. While he was holding the boat out, he was being splashed and getting quite wet, and I said, "Well, you might as well come out," I shouted at him and said, "You might as well come on out and go on back to the Yacht Club with us and then I'll drive you home."

And I also shouted at him that he was getting his

watch wet at that time.

Q Did he have his watch on?

A Yes, he did. And he said, "Oh, the heck with that."

Then he said, no, that he didn't feel that he should come with us because that would leave Marilyn alone in the house and it was late and he had work to do, and so forth, the next day, so that he said he would go on back up.

Q So you departed and he went back into his house?

A He went back up the hill into his house and we went back up to the Yacht Club, and we had quite a difficult time getting back because it was so stormy, it started to rain and --

Q Don't tell me that. I am not interested in your trip back.

That would bring us to Saturday, July 3rd?

A Yes, sir.

Q Did you see Marilyn on Saturday, July 3rd?

A I did not see her. However, I talked to her.

Q What time did you talk to Marilyn?

A 9:30 p.m.

Q That would be Saturday night?

A Yes, sir.

Q And your conversation covered what subject?

A The condition of the lake.

Q From where you live -- you live in a place where you can't see the lake, is that correct?

A That's right.

Q And you asked her what the -- were you intending to go sailing or something that night?

A Yes, sir.

Q And you asked her what the condition of the lake was?

A That's true. I had some people who had never been sailing before, and I didn't want to take them out if the weather was too bad.

Q Did she inform you?

A She said that the lake was --

Q I don't want to know what she said. I just want to know --

A Oh, she informed me, yes.

Q Was there anything about that conversation that indicated to you in any manner that she was nervous or apprehensive?

A Nothing whatsoever.

Q Now, then, coming to the morning of July 4th, and I think you can do this, Doctor, without looking at the book --

MR. PARRINO: I object to that.

Let him decide that.

THE COURT: I didn't catch
the question.

THE WITNESS: I wanted to make
sure --

MR. PARRINO: Mr. Corrigan
suggested that the Doctor answer the question

without looking at the book.

THE COURT: Let me get the question.

MR. CORRIGAN: There isn't any question.

(Question read by the reporter.)

THE COURT: All right. Put your question.

Q Were you awakened on the morning of July 4th?

A Yes, sir.

Q At what time?

A Just before 6:00 a.m.

Q And who awakened you?

A A combination of my wife and the telephone.

Q And did you learn that something had happened at your brother's house?

A I did.

Q And who did you learn that from first?

A Mrs. Richard Sheppard.

Q Where does Mrs. Richard Sheppard live in relation to where Dr. Sam Sheppard lives?

A On the same side of Lake Road, about three miles east.

Q And where do you live, how many miles are you from Dr. Sam Sheppard's home?

A Possibly another two miles, a total of five.

Q When you talked to Mrs. Dorothy Sheppard or Mrs. Richard Sheppard -- her name is Dorothy, isn't it?

A Yes, it is.

Q -- what did you do?

A Leaped out of bed and started to dress.

Q I don't want any conversation with your wife, now. I want to know just what you did.

I suppose you did have conversation with your wife?

A Yes, sir.

Q When you got dressed, what did you do?

A Went to the closet and got my pistol.

Q And then what?

A Went downstairs and got in the automobile.

Q Did anybody accompany you?

A Yes.

Q Who?

A My wife.

Q And where did you go?

A To Dr. Sam's house.

Q And at what time did you arrive at Dr. Sam's house?

A 6:15, as nearly as I can estimate it.

Q When you arrived there, did you notice any people around the house?

A Yes, sir.

Q Where were they?

- A There were people going in and out of the house; there were people on the lawn at the periphery of the property, there were people across the street on the south side of Lake Road.
- Q Did you know who the people were that were going in and out of the house?
- A No, sir. Some of them I did, and others I didn't.
- Q Some of them you did and some you didn't?
- A That's right.
- Q Can you recall who you saw going in and out of the house when you arrived there?
- A I saw police officers and firemen.
- Q Men that you recognized as being connected with the Bay Village Police and Fire Department?
- A That's right.
- Q And other people that you did not recognize?
- A That's right.
- Q Strangers?
- A Yes, sir.
- Q Did you notice any cars parked in the vicinity of the home?
- A I did.
- Q And where were they parked?
- A Most of them were parked in the driveway itself and in the back-around or turn-around area. There were two cars

that had pulled up and stopped in front of the house on Lake Road; a total of probably six or eight.

Q What kind of a car were you driving?

A 1954 Mercury station wagon.

Q And where did you park that car?

A I parked out at the very end of the driveway. There was just room enough for my car.

Q When you got there, just tell me what door you went in?

A The south door.

Q The door towards the street, the door we have been calling the back door?

A That's correct.

Q Did anybody accompany you into the house?

A Yes.

Q Who was it?

A My wife, Betty.

Q And when you went in, what was the first thing that you saw or noticed?

A That doctor's kit over on the window sill.

Q And where was that?

A In the back hall.

Q And just where in the back hall?

A Between the back door and the door to the study.

Q And what situation was it in that you noticed? Just tell the jury.

A It was up on its end. The bag was open. There was a large amount of its contents strewn about the floor: Vials, medication bottles, containers, the steel containers that syringes are carried in by doctors, and that sort of thing. One of the flap pockets was open, and it was up on its end. I don't recall if I said that, but it was.

Q Had you seen that doctor's case before?

A Yes.

Q Did you know who it belonged to?

A Well, I knew that Dr. Sam had one just like it.

Q The case that you saw tipped up in the hallway, will you describe the leather surface of that case to the jury?

A The surface of the bag which I saw upturned in the back hall was a smooth surface, very similar to, oh, shoes.

Q It is not pebbly?

A Not at all.

Q I will show you a bag, Doctor, which for the purpose of this record I will mark Exhibit ZZZZ.

(Defendant's Exhibit ZZZZ, being a black bag, was marked for identification.)

Q I will ask you if you recognize this case or bag, or whatever it is called?

A Yes, I do.

Q And will you tell the jury what you know about it?

A This bag is an emdee bag. It is a standard case carried

by many doctors. It --

Q That's enough. Did you see this bag on the morning of July 4th?

A Yes, I did.

Q And where did you see it?

A In the back hall of Dr. Sam's house.

Q Is that the bag that you have described as being the bag that was tipped over in the hallway?

A It is.

MR. CORRIGAN: Eventually, I will introduce it, but I don't want to introduce it at this particular moment because it has some stuff in it that I want to take out.

Q Now, then, when you made that observation, what was the next thing that you did as you entered that house?

A Went into the study.

Q And was there anything that occurred that attracted you to the study?

A Yes.

Q What was it?

A My wife had preceded me into the house and had gone down the hall, and she had looked into the study. And she was standing at the end of the hall pointing into the study, and I rushed on in.

Q There was no conversation between you and your wife?

A No, sir.

Q She was just pointing in the study?

A That's right.

Q And when you saw her pointing in the study, where did you go?

A Into the study.

Q And what did you see as you entered the study?

A I saw Dr. Sam lying on the floor.

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Q Did you notice anything about him besides the fact that he was lying on the floor?

A Yes.

Q Tell the jury.

A At that time I noticed that he was lying with his head pointing toward the road and his feet toward the north, which would be toward the lake. I thought he was dead. I noticed that he was bare from the waist up. That's all I recall.

Q After you arrived at the thought that he was dead, did you do anything?

A Yes, I did.

Q What did you do?

A I touched him.

Q And when you touched him, where did you touch him?

A On the shoulder.

Q Did you receive any reaction from your touch?

A Yes.

Q What was it?

A He moved.

Q And then did you have any conversation with him?

A No, sir.

Q What did you do then, the next thing that you did?

A I went out into the hall, and I told my wife to stay in the living room, that I was going upstairs, and I didn't want

her to go up.

Q Now, you went up, and your wife, did she remain in the living room?

A As far as I know.

Q Where did she stand, do you recall?

A She was -- I left her in the dining portion of the living room, which would be the east end of the living room.

Q At the time that you arrived at the house, did you have knowledge that Marilyn had been murdered?

A We knew only what Mrs. Dorothy Sheppard said.

Q That something terrible had happened to Marilyn?

A Well, she -- more than that.

Q But you knew what you were going upstairs for, didn't you?

A Oh, yes.

Q Now, then, just tell the jury the direction you took in going upstairs.

A I headed west through the main portion of the living room, and around through the L portion where the little fireplace was, up the stairs.

MR. CORRIGAN: Where is the jacket?

MR. GARMONE: I will get it.

Q As you passed the edge of the couch, the south end of the couch, in the L of the living room, did you notice a jacket?

A Yes.

Q Where was the jacket?

A On the floor.

Q And how did that jacket come to your attention?

A Well, it was about the middle of the couch with the upper portion of the jacket, the collar up against the couch, and the rest of the jacket on the floor, and then I had to walk right by the couch. As I went by it, I stepped over this garment.

Q Do you recognize it, Exhibit No. 7?

A I recognize the exhibit, yes, sir.

Q And do you recognize that as Sam's jacket?

A I do.

Q And is that the jacket was laying on the floor, that you stepped over?

A It is.

Q Now, was there anybody in the living room as you proceed -- or do you remember anybody being in the living room as you proceeded through this living room and onto the stairway?

A Just my wife, Betty.

Q Did you notice any people in the kitchen?

A Oh, I didn't go into the kitchen at that time.

Q When you were in the den, the first time you were in the den, did you notice anybody in the den?

A Yes, I did.

Q Who was in the den besides Sam?

A Officer Drenkhan.

Q And did you have any conversation with him at that time?

A No.

Q Did you hear any conversation that he was having at that time with anybody?

A Yes.

Q Who was Officer Drenkhan talking to?

A I don't know. I presume it was the Cleveland Police Department, judging from what he said.

Q He was talking on the phone?

A Yes.

Q And what did you hear him say?

A He said, "It looks like a burglary and homicide. We need help."

Q Now, then, you proceeded upstairs, did you meet anybody on the way upstairs?

A No, I did not.

Q When you got upstairs was there anybody up there?

A I didn't see anyone.

Q Did you see your brother Richard at that time?

A No, I did not.

Q When you got upstairs where did you go?

A Into the northwest bedroom.

Q And that was where Marilyn lay murdered?

A Yes, sir.

Q Will you tell the jury what you did when you went into that

- room; what you saw, first? Will you tell them what you saw?
- A I saw Marilyn lying on her bed, which was the most easterly of the two twin beds. Her head was down possibly between a third and half way from the top of the bed. Her arms were extended out on either side, palms up. Her legs extended down underneath the cross-bar at the foot of the bed, were bent at an angle of about 60 degrees. She was bare from the waist up. She was mercilessly and terribly beaten about the head, unrecognizable except in profile. Tremendous amounts of blood on her from the area of the shoulders up, large spreading pool of blood behind her head, and blood all over the room.
- Q Now, did you notice or make an observation of the walls of that room at that time?
- A Not at that time.
- Q Did you later?
- A Yes, I did.

THE COURT: Could you stop there,
Mr. Corrigan?

MR. CORRIGAN: I could, your Honor.

THE COURT: And we will pick up
right there.

Ladies and gentlemen of the jury, we will
have a few minutes' recess at this point.

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Please do not discuss this case.

(Thereupon at 10:45 o'clock a.m. a recess
was taken.)

(After recess, 11:05 o'clock, a.m.)

Q Doctor, I wish you would look at State's Exhibit No. 8.

Do you recognize the scene depicted in that picture?

A Yes.

Q Do you recognize that there is a couch there with a coat lying on the couch?

A Correct.

Q Was that the situation that you viewed that morning at 10 minutes after 6, or whatever time you arrived at the place?

A It was shortly after 6:15.

Q Yes.

A No.

Q What is the difference between the situation in the living room at the couch and what is shown in that picture?

A Well, this picture shows the jacket on the couch at the southerly end of the couch, and as I passed through this area twice, the jacket was more nearly toward me, which would be toward the north, about halfway down, at about mid-point of the couch. And on the floor where the upper portion of the jacket not rests against the pillow, when I saw it, that portion of the jacket rested against the lower portion of the couch where it meets the floor.

Q It was on the floor?

A Yes, sir.

MR. CORRIGAN: (To the jury.) I
am referring to Exhibit No. 8.

MR. GARMONE: State's Exhibit 8.

Q Now, handing you Exhibit No. D, Defendant's Exhibit No. D,
I will ask you to look at that picture and state whether
or not you recognize the scene that is shown in that
photograph?

A I do.

Q And that is a photograph of the doctor's bag?

A Yes.

Q Does that show the situation as you viewed it on that
morning?

A My recollection is that the material was more spread out
than there.

Q It was more spread out?

A Yes, sir.

Q Well --

A Aside from that, this is the scene I saw.

Q Well, were the flaps of the bag open as shown there?

A The one flap was.

Q Now, when you described your view of the body of Marilyn
Sheppard -- will you again tell me the position of the
hands, the arms, as you observed them?

A The arms were extended down on either side of the body
with the palms up.

Q Did you observe the mouth of Marilyn Sheppard?

A Yes, I did.

Q And what did you notice about her mouth?

A It was bloody, partially open.

Q Now, I show you State's Exhibit No. 9. Will you look at that picture, State's Exhibit No. 9, and state whether it portrays the position of Marilyn's body when you went in that morning?

A The body itself was in this position (indicating).

Q Is there anything different shown in that picture than what you saw when you went in there that morning?

A Yes, sir.

Q What is the difference?

A Well, the left arm is across the abdomen palm down. The right hand is covered. The pajamas -- the pajama top covers the major portion of the left breast and possibly half of the right. When I saw her, there was no pajama top in evidence. The breast -- the entire chest was completely bare right up to the throat.

Q Yes. And then you find in that picture a difference in the location of the pajamas, the top pajamas?

A Yes.

Q They were rolled up over her breasts?

A Well, the breasts were completely bare, the chest was completely bare, as I say, right up to the root of the

neck.

Q And the right arm was completely exposed palm upward?

A The right arm, when I saw her, was down hanging across the edge of the bed at about this blot that you see on the mattress.

Q Well, I think you will have to come down so the jury can see what we are doing.

(Witness leaves witness stand, and stands in front of jury.)

Q You point out to the jury any differences here -- turn around so they all can see you -- any differences that there were in the scene when you viewed it on that morning than is shown in this picture?

A Well, the first thing is that the left hand was over on the other side of the body with the palm up. The right arm was extending over the side of the bed at this point.

MR. PARRINO: Please don't mark it.

THE WITNESS: I am not. The point is in.

MR. PARRINO: Would you want to use this?

THE WITNESS: Would you prefer that I do?

MR. PARRINO: Yes.

THE WITNESS:

All right.

Q The right arm was extending over the bed at --

A About like that (indicating).

Q Right angles to her --

A No, not right angles.

Q What kind of an angle?

A Well, maybe --

Q 90 degrees?

A No. I would say that would be about 30 degrees with the body extending down somewhere in there.

Q Yes.

A The chest and both breasts were completely exposed, and I saw the entire chest right up to the root of the neck. Aside from that, it is as represented here.

Q Do you notice that in that picture, that Marilyn's mouth is open?

A Yes, sir.

(Thereupon the witness resumed the witness stand.)

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Now, handing you State's Exhibit No. 1, will you look at that picture and state whether you notice any difference in the mouth on that picture --

A I do.

Q -- than there was in the mouth of Marilyn Sheppard when you viewed her on the morning of July the 4th?

A Yes.

Q What is the difference?

A No blood. The mouth is closed.

Q The mouth is closed. On that first occasion that you went up, you were in the room alone, as I understand it?

A Yes.

Q Did you make an examination of your sister-in-law?

A I touched her at the right wrist.

Q And did you determine anything at that time as to whether she was alive or dead?

A She was dead.

Q How long did you remain in the room on the first occasion?

A No more than 30 seconds.

Q Do you know whether at that time Chip was still in the house?

A Not of my own knowledge.

Q After you had determined that Marilyn was dead, what was the next thing that you did?

A Went directly back downstairs.

Q Which way did you go downstairs?

A Well, I went down the stairs toward the south, then the landing, went back through the living room, spoke to my wife.

Q Well, you came down on the side of the stairs that leads into the L, what we have been calling the L?

A Yes.

Q Did you again pass this couch?

A Yes, I did.

Q Did you notice then at that time the presence of the jacket?

A I stepped over it.

Q You stepped over it again?

A That's right.

Q You didn't pick it up?

A No, sir.

Q Do you recall if there was anybody in the living room when you came downstairs?

2 A Mrs. Houk was there, I believe. I'm sure my wife Betty was there. I spoke to her.

Q I suppose that your movements were hurried?

A Yes, sir.

Q There was nothing of the calmness that exists today in this courtroom about your movements?

A Well, I was hurrying back down to see about Dr. Sam.

Q Did you go into the den at that time?

A Yes, I did. I stopped and spoke to my wife first, and then

I went on in.

Q Did you notice at that time whether any other doctors had arrived at the house?

A After I got into the den, yes.

Q And who did you see when you got into the den?

A Officer Drenkhan, Chief Eaton, Dr. Sam and while I was there Dr. Robert Carver came in.

Q And Dr. Robert Carver, was he connected with your hospital?

A Yes.

Q And did you see a Dr. Dozier there?

A No, I didn't see him.

Q Now, then, when you went into the den, did you make your second observation of your brother?

A Yes, I did.

Q Will you tell the jury what you did and what you saw?

A Well, after I came back downstairs, I spoke to Dr. Sam --

Q Just a little louder.

A I spoke to Dr. Sam, and I made a cursory examination, which means a very quick and brief evaluation of his injuries.

I asked him if he felt able to walk. He responded in a -- what I call a punchy, incoherent manner that he felt that he could walk, that he had been walking. I felt his head and the back of his neck, and touched him on the chest, and that sort of thing, and that's about it.

Q Did you notice where his hands were?

A Yes, I did.

Q Where were his hands?

A They were clasped around the back of his neck.

Q And in order to touch the back of his neck, what did you do?

A Well, I had to unclasp his hands.

Q Was he at that time evidencing or giving any evidence of being in pain?

A Yes, he was, and this was accentuated with any motion. When I unclasped his hands --

Q What?

A I say it was accentuated when I unclasped his hands, and with the slightest motion he evidenced pain, increased pain.

Q In what way?

A In his facial expression, and he groaned and gave evidence of pain.

Q Did you notice anything when you touched the back of his neck?

A Well, I noticed that he had an injury there. I also noticed that the hair at the back of his neck was wet, moist.

Q How did you notice that he had an injury in the back of his neck?

A Well, the tissue there in the back of the neck was -- we would call it edematous. It is a stiff feeling.

Q I can't hear you.

A I say it was edematous, which means a stiffening or a thickening of the area. The muscles were all tense and spastic. As I touched him, I could feel the muscles tighten up, grab, that sort of thing.

Q Now, there are two ways, as a doctor, you find out about pain, isn't there?

A That's right.

Q One is I will tell you I have got a pain, I have got a pain in my stomach like Freddy had the other day, and the other is that you can determine that without -- you determine whether I have pain without getting information from the patient, is that so?

A That is entirely correct. We use that on unconscious people.

Q What?

A We use it -- I presume you refer to the objective pain. We use that on unconscious people to find out if they have pain.

Q And how is the fact that pain is made known to you without receiving any information from the patient?

A Well, if they resist the stimulus, or try to escape the stimulus, that indicates pain. If there is muscle spasm, an involuntary muscle spasm over the area examined, that indicates pain. The physician watches the facial expression

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of the patient, which occasionally can be simulated to some extent, but it is difficult for the patient to give a spontaneous expression of pain. It is possible to differentiate between that which is simulated and that which is real.

Q Resistance to stimulus. What do you mean by that?

A Well, if we pinch an unconscious person in a sensitive spot, for example, under the arm here in the inside, if they move away from that, that is evidence that they have experienced pain.

Q Now, when you touched Sam in the back of the neck, or you felt the back of his neck, what happened? What was demonstrated to you?

A Therewas muscle spasm. By his facial expression he indicated that he had pain, and he moved in an attempt to escape the stimulus.

Q I see.

A It is an involuntary thing.

Q It is something a person has no control over?

A That is true.

Q It is a reflex action, is it not?

A Yes.

Q It is like something that we get in our nose and we sneeze it out, is that so?

A Spontaneous.

Q Or when a woman touches the hot stove, she pulls it away without thinking about it?

A There is no brain involvement whatsoever in that type of motion.

MR. PARRINO: No what? What
is that?

MR. GARMONE: Brain.

A Brain involvement. In other words, we don't think about it.

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Q Now, then, when you had made this brief examination of Sam, he was still on the floor?

A Yes, sir.

Q At that time, did you notice the condition of his clothes, of his pants and shoes and socks?

A Yes, I did.

Q What?

A I did.

Q And what did you notice?

A That they were wet.

Q After you had this brief conversation with him, what occurred, what was the next thing that was done?

A Well, I asked Dr. Carver to give me a hand, and I turned and spoke to my wife, who was standing in the doorway, and asked her to get a wrap, a coat to throw over Dr. Sam's shoulders. He was cold and shivering.

Q Your wife was just standing around?

A She was in the doorway.

Q And did Brother Sam get to his feet?

A We got him to his feet.

Q How did you get him to his feet? And when you say "we," who do you mean?

A Dr. Carver and I lifted him to his feet.

Q And after you lifted him to his feet, what did you do?

A Well, we started to take him out into the hall, but he

seemed to be blacking out and sagged, and we stopped for a moment and he apparently recovered, and we started on out through the back hall. We were anxious to go. We wanted to move right on, and he couldn't go as fast as we wanted him to, so we just dragged him out.

Q Now, then, you got him to his feet in the den, and was there any police officers present?

A Yes.

Q Who were they?

A Chief Eaton and Officer Drenkhan of the Bay Village Police Department.

Q Did they say anything to you or make any objection to you helping your brother to his feet and taking him out of that house?

A None whatsoever.

Q How far back from the back door was your automobile parked?

A 30 feet.

Q And from the den to your automobile, will you tell me how you progressed with your brother?

A After we got the wrap on him, I threw his right arm over my shoulder, Dr. Carver threw Dr. Sam's left arm over his shoulder, and we transported him out. His feet touched the ground occasionally and for the most part we dragged him along.

Q I see. Now, then, when you got to the automobile -- by

the way, where was your wife at that time?

A She was trailing along behind.

Q Now, then, who got into the automobile first?

A We tried to put Dr. Sam in, but he wasn't able to get in. So my wife got in, went around to the left-hand side and slid under the wheel and got in the middle of the seat to help us get him in, but she actually got in first.

Q You say that you tried to get him in but you couldn't get him in. Would you kindly give a description of that to the jury so that they will have a picture of it as to what you did in getting him into the automobile?

A Well, we took him out to the car and opened the right front door of the station wagon, and we backed him against the seat, and he tried to lift his feet one at a time, and he would lift and the foot would drop. So we backed him on to the seat. My wife went around and, as I say, got in on the other side, slid under the wheel, and supported the upper part of his body while Dr. Carver and I lifted and bent his legs one at a time, and then we just swiveled him around on that front seat so he ended up sitting next to the door. My wife then was in the middle.

Q Now, then, you drove the car where?

A To the hospital.

Q And did Dr. Carver accompany you?

A Yes, he did.

Q And what seat was he in?

A He was in the back seat, right behind Dr. Sam.

Q Now, on the way to the hospital -- how far is it from Dr. Sam's house to Bay View Hospital?

A I'd guess three miles.

Q How did you drive to the hospital, at what rate of speed?

A Probably 60, 70 miles an hour.

Q Did you have a -- does your automobile have a siren or something on it that gives you the right of way?

A Yes, sir.

Q What is it?

A A siren and a red light.

Q Is that automobile used in emergencies from Bay View Hospital?

A Yes.

Q Are you connected with the Police Department in any way?

A Of Bay Village?

Q Any Police Department.

A Yes, I am.

Q And what Police Department are you connected with?

A The City of Fairview Park.

Q And what position do you occupy in the City of Fairview Park in regard to the Police Department?

A Police surgeon.

Q What?

A I am the police surgeon.

Q You are the police surgeon?

A Yes.

Q And how long have you been the police surgeon?

A Five years.

Q This automobile, then, is used in police work as well as in other work, is that correct, when the necessity arises?

A Well, it is used by me on emergency calls for the Police Department, yes.

Q Now, then, on the way to the hospital did you have any conversation with your brother?

A No.

Q Did you make any observation or were you able to make any observation as you drove along as to the condition of your brother on the way to the hospital?

A I heard him mumbling incoherently to himself, and that sort of thing. I wasn't looking at him, of course.

Q Did you hear what he said?

A Yes, I did.

Q And what did he say on the way to the hospital?

A Well, he sat in the position that I have described, where he supported his neck like this (indicating).

Q That is, he clasped his hands -- he had his hands clasped behind his neck?

A That's right. I could see the elbows.

And he said, "How could this happen? My God, Marilyn's dead. Why couldn't it have been me?" That sort of thing.

Q That was what you were hearing?

A Yes, sir.

Q As you went along, and he was talking apparently to himself?

A He wasn't talking with anyone in the car.

Q Now, then, at the time that you took him from the house, at the time you observed him in the house and at the time you observed him when carrying him back to put him in the automobile, did you notice anything else about him other than the fact that he was clasping the back of his head and some expressions of pain?

A Yes, sir.

Q What?

A I noticed that the right side of his face and head were swollen, and that there was blood on the right side of his mouth, and that he was bleeding from the right side of his mouth.

Q And where was the right side of the face swollen? Did you say the right or left?

A Right.

Q Where was the swelling that you noticed?

A Covering about the size that would be represented by my hand. The entire right side of the face and head.

Q That would be up here in the frontal -- above the eye in the frontal region?

A The forehead, temple, right eye and cheek.

Q And the cheek. And how much blood did you see coming from his mouth?

A A moderate amount. He wasn't hemorrhaging, or anything like that.

Q Did you wipe any of the blood away?

A No, sir.

Q Now, did you notice anything else about his body?

A His skin was cold and clammy. His pulse was thin and thready. That's it.

Q Did you make any note, not by thermometer, but by feeling him, of the temperature of his body?

A Yes. I say, it was cold and clammy.

Q Yes. Did you notice any effect that that coldness and clamminess was having upon him?

A Yes, sir.

Q What?

A He was shivering and quaking.

Q What?

A He was shivering and quaking.

Q I don't understand "quaking." I understand shivering.

A Well, quaking is a severe shiver, more than just a localized quiver. The entire body was quaking and shivering.

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Q I see. You could feel that and see it?

A Yes.

Q Now, when you had got to Bay View Hospital, where did you drive?

A Down Lake Road and into the Emergency areaway, and up to the ambulance door.

Q Were you met by anybody there?

A Dr. Sheppard, Sr., was there, Dr. Jack Brill, and a Dr. Gordon Lerch.

Q I didn't get the last name.

A Lerch. L-e-r-c-h.

Q Dr. Richard Sheppard, Sr., who is he?

A My father.

Q And Sam's father?

A Yes, sir.

Q Is he connected with Bay View Hospital?

A Yes, he is.

Q And how long has he been connected with that hospital?

A Since its inception.

Q Does he occupy any particular position there?

A He is chief of staff and senior surgeon.

Q When you got to the Emergency entrance, I suppose it was --

A Yes, sir.

Q What was done in regard to removing Sam from your automobile?

How was it done and who did it?

- A I got out of the car on the driver's side, went around; Drs. Lerch and Brill had brought a Gurney cart out from the hospital, that is a stretcher with wheels. It is, oh, probably four feet off the ground. It is the same level as an ordinary hospital bed. Dr. Carver and I opened the door, and we again lifted Dr. Sam's feet out one by one and swiveled him around. He continued to support the back of his neck and head, and then Dr. Lerch, Brill, Carver and I lifted him onto the cart.
- Q Did you notice anything then about this shivering that you had noticed up at the house?
- A It was still present.
- Q After he was placed on the cart, where did you take him?
- A To Room 115 in the new wing.
- Q And did you remain in the room, then, after he was placed in the room?
- A No. I turned him over to the nurse, made some orders, and turned him over.
- Q Do you remember what nurse you turned him over to?
- A Mrs. Anna Franz is the night nurse. She was just, I think, ready to go off duty, and she was there.
- Q Mrs. Anna Franz?
- A Yes, sir.
- Q Now, then, what did you do after you placed him in the room?

A Well, I went to the chart and wrote some orders, and I asked the nurse -- I gave some verbal orders to the nurse immediately, and then I went to the chart to cover those orders.

Q That is, you began to prepare, then, such medication as you thought that he needed?

A Well, I didn't prepare it. I ordered it.

Q Now, in Bay View Hospital, are records kept of the activities of the doctors and the nurses, and what they do, and what is done in relation to a patient that is brought into the hospital?

A Yes.

Q And what kind of a record is that?

A A complete and meticulous record, which is kept from day to day of every medication that is administered, every doctor that visits the patient writes on that chart. It includes the laboratory studies that are made, and it is a complete story of what happens to the patient during his stay in the hospital.

Q And is that required by the medical rules and regulations of whatever regulates a hospital?

A Yes, it is.

Q What regulates a hospital that sets up those rules, and so forth?

- A Well, of course, the Board of Trustees regulates the hospital, but these rules and regulations which actually control the procedures in a hospital are made by what is known as the Bureau of Hospitals. The Bureau of Hospitals is a national organization, comes around every year and inspects the hospital. They go over records. They pull records out at random. If the records aren't right, then they make a fuss.
- Q So the thing is policed? I say, it is policed?
- A It certainly is. -
- Q And are the records of Bay View Hospital kept in accordance with the rules and regulations set down by authority?
- A Yes, sir.
- Q Is that what is called a chart?
- A It is.
- Q And is the chart of the patient kept at any particular place in the hospital?
- A Yes.
- Q And where is it kept?
- A During the patient's stay in the hospital, it is kept at the nurses' desk. After the patient's discharge, it is kept in the record room.
- Q Now, this room that you sent Sam to on that morning, placed him in, where was that? In what part of the hospital was that?
- A In the west wing.

Will you describe the west wing to the jury so that they will know what it is?

A It is a brick, reinforced concrete --

Q No. I want to demonstrate this: That it isn't any isolated part in the hospital?

A Oh, no. It is attached to the hospital. It is a long corridor that runs down with rooms off either side.

Q There is a long corridor and rooms on either side?

A That is true.

Q For the use of patients?

A At about the middle is the nurse's station so she can service these rooms and keep track of the patients.

Q And where the charts are kept is in the middle of this long corridor?

A Roughly in the middle, yes. It is more toward the west, even, than it is in the middle.

Q And Room 115 was directly off that corridor?

A Yes, sir.

Q What?

A That is true.

Q That is, the door along the corridor, that is what I mean.

A That's right.

Q Now, was there a chart prepared in the case of Sam Sheppard by Bay View Hospital?

A Yes.

Q And where was that chart kept?

A At the nurse's desk.

Q With the other charts of the other patients on the floor?

A Yes.

Q Who is that chart available to?

A Staff doctors, consultants, visiting physicians, nurses, technicians, and that's all.

Q Somebody that has particular business to look at it?

A Yes, sir.

Q Now, when a doctor comes to visit a hospital to look at a patient, what is the usual and accepted practice before an examination is made?

A Well, the usual practice is for the doctor to call the hospital and attempt to contact the physician in charge of the patient, explain --

Q Well, after he has done that, and he comes to the hospital --

A He is now at the hospital?

Q Yes.

A He goes to the telephone switchboard and asks the telephone operator to locate the doctor in charge, so that the doctor in charge can come meet him. Thereupon, they proceed together to the ward in which the patient is kept, and they go to the nurse's station. The doctor in charge introduces the visiting doctor to the nurse in charge of the ward. They review the chart together. They then go in to see the

patient.

Q All right. They review the chart before they do anything?

A Yes.

Q Now, then, I don't know whether I asked you this question or not: Was there a chart kept of the treatment of Dr. Sam Sheppard during his stay at Bay View Hospital?

A Yes, sir.

Q Did you participate in keeping that chart?

A I did.

Q Who was the doctor in charge of Dr. Sam Sheppard who had the principal responsibility during his stay in that hospital?

A I was.

Q I will now hand you, Doctor, --

MR. CORRIGAN: I am going to introduce it in evidence. You can examine it if you want to.

MR. PARRINO: I would like to look at it, please.

MR. CORRIGAN: All right.

(Mr. Parrino examines document.)

Q I hand you a group of papers, Doctor, that was brought here by the Coroner and given to the Judge, and in turn, given to us. Will you examine it and see if you recognize that group of papers?

A I do.

Q And what is it?

A It is the Bay View Hospital chart of Dr. Sam Sheppard.

Q Is that the record of the services rendered to him, medical services rendered to him while he was a patient in Bay View Hospital?

A Yes, sir. Attached to it seems to be a copy of some extra reports, which are not part of the original chart.

Q Let me see.

A I have never seen those before.

Q With the exception of those last three pages, which apparently seems to be a typewritten memorandum by a man named G. C. Flick, the chart, or the papers consist of the services rendered Dr. Sheppard medically while he was in Bay View Hospital?

A Yes, sir.

Q And that was kept under your direction?

A Yes, it was.

Q And who is G. C. Flick?

A He is the roentgenologist.

Q The what?

A He is the X-ray man.

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Q Were these three papers attached to the chart when it was in the hospital?

A I have no idea when they were attached. I have never seen them before.

Q Well, they are not part of your record?

A No, sir. They appear to be typewritten copies of some reports that appear in an earlier portion of the chart.

MR. CORRIGAN: Well, I think they ought to be removed, then.

MR. PARRINO: Have him show us what those early reports are. I want to object. At this time I wish to object to removing anything.

MR. CORRIGAN: Well, we won't remove them then, we will leave them on.

MR. PARRINO: Good.

MR. CORRIGAN: I will introduce this in evidence.

THE COURT: What is it marked?

MR. DANACEAU: Has it been given a number, sir?

MR. CORRIGAN: Yes.

MR. GARMONE: What number is it?

MR. DANACEAU: It has already been marked.

MR. PETERSILGE: YYY Y.

THE COURT: I can't make
what that figure is. Is it two or Z?

MR. PETERSILGE: YYY Y.

THE COURT: Well, it is marked
twice. I was looking at this. Somebody started
to mark it up there.

MR. PETERSILGE: I think that was
marked by the reporter for the record in the
Coroner's inquest, your Honor, this top mark.

THE COURT: All right. We
will refer to it as YYY Y. It has been offered.
Is there any objection?

MR. PARRINO: No objection. I
have one suggestion, though, which may or may
not be well taken. May I suggest that we
number each page of that report? I don't think
they are numbered, are they?

THE WITNESS: No, they are not.

MR. PARRINO: It might be easier
to discuss it if the pages are marked.

THE COURT: Will you arrange
in the noon recess to have the reporter make
them YYY Y-1, 2, 3, and so forth?

MR. PARRINO: Yes.

THE COURT:

All right. It

will be received.

(Defendant's Exhibit YYYY
was received in evidence.)

Q Now, then, Doctor, where was this report when you saw it last?

A In the record room of the Bay View Hospital.

Q Do you know how it was removed from the record room of Bay View Hospital and was brought in here by the Coroner of Cuyahoga County two or three days ago?

A It was subpoenaed.

Q It was subpoenaed where?

A During the inquest, I believe.

Q And it has been kept by him ever since?

A Yes, sir.

Q Now, were you ever called to the Coroner's office and consulted about this chart?

A No, sir.

Q Did anybody connected with the prosecution ever consult with you about this chart?

A No, sir.

Q After you had given the orders in regard to the treatment of your brother on the morning of July 4th, were those matters entered into this record?

A They were.

Q And do they appear there?

A They do.

Q After you had completed that part of your work, what was the next thing you did?

A After I initiated the chart, what did I do?

Q Yes.

A Went back into Dr. Sam's room and made a more complete examination.

Q Now, then, when you went back into Sam's room, as I understood, you had turned him over to Mrs. Franz?

A Yes, sir.

Q And was she still in the room?

A She was in the room when I entered, as I recall.

Q And what was she doing?

A She was completing the job of undressing him and getting him into a hospital gown, and she was putting hot water bottles around -- she had sent an aide and one of the aides brought some hot waterbottles, and there was a hypodermic syringe on the bedside table that she had used to give him a hypodermic.

Q And was the hypodermic that was administered to him on that morning directed by you?

A Yes, it was.

Q And what was it?

A 100 milligrams of demarol.

Q And that is a sedative?

A It is a morphine derivative sedative narcotic.

Q What?

A Yes.

Q It is a sedative?

A That's right.

Q Demarol, is that a synthetic drug?

A Yes, sir.

Q Years ago we had nothing but morphine, and then the drug houses concocted something just as good, is that it?

A Well, it is supposed to be more potent than morphine without the habit-forming qualities of morphine.

Q I see. Who was the other lady that was in there? You said there was an aide?

A Yes, sir.

Q Mrs. Franz, is she a registered nurse?

A Yes, she is.

Q An R.N.?

A Yes, sir.

Q And in addition to the regular registered nurse, you also have connected with that hospital as in every hospital, people who are called as aides?

A That's right.

Q That haven't passed the examination yet?

A Well, they are not R.N.'s. They have passed the examination

to be nurses' aides.

Q And do you recall who it was that was in the room with Mrs. Franz?

A It was Marcella Hahn.

Q Marcella?

A Mrs. Hahn. I think her first name is Marcella.

Q How do you spell the last name?

A I am not certain. I think it's H-a-h-n.

Q And those two ladies were doing their job?

A That's right.

Q Now, what did you do when you went in there?

A Made a more thorough examination.

THE COURT: Now, Mr. Corrigan, if you are going into the examination, would this be a good point to stop, just before you start?

MR. CORRIGAN: All right.

THE COURT: Ladies and gentlemen of the jury, we will now be adjourned for the noon hour and we will return at 1:15 this afternoon. In the meantime, please do not discuss this case, even among yourselves.

(Thereupon at 12:00 noon a recess was taken until 1:15 o'clock, p.m.)

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Thursday Afternoon Session, December 2, 1954.

(1:15 o'clock p.m.)

Thereupon STEPHEN ALLEN SHEPPARD resumed
the stand and was examined and testified further,
as follows:

DIRECT EXAMINATION (CONTINUED)

By Mr. Corrigan:

Q Doctor, before we adjourned, or at the time we adjourned
you had stated ~~that~~ you had returned to the room where your
brother was, and that Mrs. Franz and Mrs. Hahn were in the
room tending to their duties?

A That's right.

Q Now, I will drop that for just a moment and come back to it,
because I want to get the bag out of the way at this
particular point.

MR. CORRIGAN: I wish at this time
to introduce this bag into evidence, Defendant's
Exhibit ZZZZ.

THE COURT: It will be received.

(Defendant's Exhibit ZZZZ
was offered and received
in evidence.)

Q I want you to look at this picture which is marked State's
Exhibit No. 12, and call your attention -- you better come

down to the jury so the jury can see what I am doing.

(Witness leaves the witness stand.)

Q I call your attention to the mark that appears on the bag --

MR. CORRIGAN: Can you all see what
I am pointing to? Do you see it? Do you all see
what I refer to?

Q I call your attention to the mark that appears on the
photograph that appears on the bag.

A Do I see the mark?

Q Yes.

A Yes, sir.

Q Now, then, will you take this photograph and go back on the
stand, and will you state to the jury whether or not there
is a similar mark on the bag which has been introduced
as Exhibit ZZZZ?

A Yes, there is.

(Witness resumes the witness stand.)

Q Will you show that mark to the jury?

A This is the mark from there to there where the smooth
surface has been scuffed off, in contrast to this side.

Q Now, the bag, as it is now before you, does it contain
articles?

A Yes, it does.

Q And can you state to the jury whether or not the articles
that are in the bag now are the articles that were in the

bag on the 4th of July?

A I believe that to be the case.

Q Has it been demonstrated to you that a finger mark on this bag can be located?

A Yes, sir.

Q Will you come down to the table for just a moment, Doctor?

(Witness leaves the witness stand.)

Q Will you put a fingerprint on that bag?

(Witness does as requested.)

Q Now, you have placed your fingers and thumb on the bag?

A Yes, sir.

Q Can you see the fingerprints?

A No, I can't.

Q And how was it demonstrated to you that fingerprints can be brought out on this bag?

A A man took a can of --

Q Turn to the jury.

A A man took a can of Scotch Snuff that he happened to have in his pocket and dusted it on there, and then blew it off, and I could see the fingerprint.

MR. CORRIGAN: Do you have the
Scotch Snuff?

MR. GARMONE: Yes, I have it.

Q Will you show how he did it, Doctor?

A Well, he opened up the can and dusted some on, and about like that -- better back away -- in such a manner as that (demonstrating).

Q Now, can you see the fingerprints?

A Not as clearly as I could this noon.

Q Will you put a little of the Scotch Snuff over here?
Can you see a fingerprint there?

A Yes, sir.

Q You can see it?

A Right there.

MR. CORRIGAN: I wish to show that
to the jury.

MR. PARRINO: May I see that?

(Mr. Parrino examines bag.)

(Mr. Corrigan shows bag to the jury.)

MR. CORRIGAN: I wish you would look
at this particular part right here.

MR. MAHON: How about their looking
at both of them?

MR. CORRIGAN: Look at both of them.

MR. MAHON: Yes.

MR. CORRIGAN: Right here. Have you
all seen it? I will bring it back there. It is
kind of heavy.

Now, let me see what is that can that you have.

MR. GARMONE:

Do you want it?

MR. CORRIGAN:

Yes, I want to see it.

MR. DANACEAU:

May I see the bag?

MR. CORRIGAN:

Yes.

Q This substance that we have used here in the court room is what, Doctor?

A It says "Scotch Snuff" on the can.

Q Scotch Snuff. It's not fingerprint powder, is it?

A I have no idea what it is.

Q You don't know anything about fingerprint powder, do you?

A No, I don't.

Q Now, going back to the matter we left off with, when you went into the hospital room, you say that you then made a more thorough examination of your brother?

A That's true.

Q That snuff got in my nose.

A I didn't hear you.

Q I say, the snuff got in my nose. It wasn't a question. You weren't supposed to hear it.

Will you tell the jury how you started your examination and how you proceeded through that examination of your brother and what you discovered, if anything?

A The examination was preceded by questions regarding where his injuries were and how he received them, which is called a history.

Q What questions did you ask him?

A I asked him where he was hurt, where he experienced pain, whether or not he could see clearly, how he encountered or received the injuries, the amount of pain, that sort

of thing.

Q What condition was your brother in at that time, referring to his clearness of thinking?

A He complained of dizziness. He responded incoherently, to some extent. He was able to talk. He indicated where the pain was, and that sort of thing. He certainly wasn't himself.

Q Did you notice any movement that he was making in the bed?

A Well, he was rolling from side to side supporting his neck and complaining of distress.

Q Now, then, after you had secured as much history as you could, what was the next thing that you did?

A The examination itself.

Q When you used the word history, what part does that play, medically, in the examination of the patient?

A The history is the most important part of any medical examination. The diagnosis can be established more accurately on a history, complete and adequate history, than on the basis of the physical examination, many times.

Q And what does history mean, using it as a medical term?

A The story of the patient's disability and how it occurred.

Q Now, then, proceed and tell me what was the first part of the body you examined?

A I examined the face and the eyes, the mouth, the head.

Q What did you find when you examined his face?

A There was more swelling. The eye was beginning to swell closed. There was discoloration on the right side of the head, the entire right side of the face.

Q And then you say you examined his mouth?

A Yes, sir.

Q And tell the jury what you noted about his mouth?

A He was unable to open his mouth completely, I would say less than 50 per cent, and even that with pain. He had blood on his teeth, blood on his tongue. There was no active bleeding at this time.

I used a tongue blade and a light to look into the mouth. I gently drew the cheek on the right side away from his teeth so I could see it, and I saw several lacerations or cuts on the inside of that cheek. I would say there were three or four areas of laceration where the mucuous membrane on the inside of the cheek was broken and which had been recently bleeding.

I checked the teeth, using the tongue blade, tapping and pushing against the teeth, and I found that all of the teeth in the right upper jaw were loose and could be easily moved with a tongue blade. I further noticed two teeth which appeared to have recent chips or breaks.

Q Two of them?

A In the right upper jaw.

Q Do you remember what two they were?

A I'm afraid I don't.

Q Did you make a note of it?

A No, I didn't do that.

Q Now, then, what was the next part of his body you examined?

A His head, scalp, ears, the back of the neck, right on down.

Q Now, did you examine his eyes?

A Yes, sir.

Q And how did you examine his eyes?

A I examined his eyes using an ophthalmoscope, which is a special flashlight employed to shine light into the eyeball itself and also on the surface of the eyeball.

Q And did you discover anything as a result of that examination of his eyes?

A Well, the right eye was swollen --

Q I can't hear you.

A I say, the right eye was swollen almost shut. I was able to open it. I had to prop the lids apart with my fingers. I shined the light in and determined the eyeball itself to be intact. I was able to observe the pupillary reflex, which is the reaction which occurs when a light is shined into an eye, the pupil contracts, which was normal but sluggish.

I was able to see the retina, which is the lining of the eyeball itself, without too much difficulty and I was unable to find anything abnormal with the retina itself.

Q Now, in shining the light into the eye, the purpose of that is to get a reflex, is it not?

A Yes, it is.

Q And that reflex is where, that you get from the light that is shining into the eye, in what part of the eye do you get that reflex?

A The part of the eye which gives the color to the eye, which when a light is shined in that will tighten down and get smaller, leaving the little black spot in the middle portion of the eye considerably smaller.

Q And does a person have any control over that?

A None whatsoever.

Q None whatsoever. That, again, is like the reflex that happens, the one that I have been using here, the sneezing reflex?

A That's true.

Q You don't control it?

A No, sir.

Q When the sensory muscle is touched, the sneeze takes place?

A That's right.

Q Now, you say that that was sluggish?

A Yes, sir.

Q Did it indicate anything to you as a doctor?

A Well, it suggested the probability of at least concussion, brain concussion.

Q Now, then, you say you examined the back of his neck?

A That's true.

Q And where in the back of his neck did you make this examination?

A I examined the entire back of his neck.

Q Did you find anything there?

A I found an area approximately three inches long and about an inch and a half, possibly two inches wide, extending from the base of the skull toward the left side, just down across almost toward the tip of the left ear.

Q And did you feel that?

A Yes, sir, I did.

Q Did you elicit any results from your feeling of that particular area?

A Muscle spasm, evidence of pain, edema, thickening, that sort of thing.

14 Q

Was the spasm that you elicited in the back of his neck in any way controlled, or could it be controlled by Dr. Sheppard?

A It couldn't be controlled by anybody.

Q That again is the reflex?

A True.

Q Did you examine any other part of his body?

A I examined every other part of his body.

Q Did you find anything when you examined any other part of his body?

A Yes, I did.

Q Tell me what you examined, each part, and what you discovered, if anything.

A I examined the front portion of the neck, next, and on the left side of the root of the neck, I found evidence of superficial discoloration, bluish.

I then examined the --

Q Did you elicit any pain in that particular part of the neck?

A Moderate. It was superficial.

Then I examined the chest, the heart and lungs. He complained of pain in the right side of the chest, pressure on the rib cage produced discomfort on the right side. There was no external evidence of injury.

I examined the abdomen. He complained of discomfort when I pressed and moved the liver. There was no external

evidence of injury. However, I examined the reflexes, the deep tendon reflexes, the biceps reflex on both sides.

2 Q Now, wait a minute, now. Did you examine the abdomen?

A Yes.

Q Are there reflexes in the abdomen that you can find out about?

A Yes, there are.

Q Where are they?

A They are in the four areas around the navel, above the navel, on either side, and below the navel on either side.

Q And they are called what?

A The abdominal reflexes.

Q And how do you examine them?

A Taking a pin or a stick. I usually use the back of my fingernail and stroke lightly across the skin surface on each side above and below the navel.

Q And when you do that, what happens if a person is normal?

A The underlying muscle contracts.

Q And will you tell the process by which those underlying muscles contract? Do they contract just merely from the stroking of the finger, or is there another process that takes place that is the result of the stroking of the finger?

A It is not a direct situation where the muscle contraction is caused directly by the stroking of the finger. It is caused through what is known as a reflex arc.

Q It is what?

A It is a result of a reflex. It goes through what is known as a reflex arc.

Q Now, tell me what the reflex arc is.

A All reflexes pass through this situation known as a reflex ^{there} arc in which/~~is~~ stimulation of any receptor nerve, or nerve which is designed to receive stimuli, heat, pain, and so forth. As soon as that stimulation is received by the nerve, the nerve carries the impulse up to the spinal cord, and at the spinal cord there is what is known as a synapse. The synapse is a juncture or a joining together of that nerve, the sensory nerve with another nerve, which is a motor nerve. It means that causes motion. The impulse jumps immediately across this synapse or juncture and passes immediately out from the spinal cord at this particular segment, and goes out to the muscle which controls the area underlying, usually, or connected with this area where the stimulation was applied.

The muscle then contracts, because that is all it knows how to do. Muscles can only do one thing and that is contract.

3 Q Now, I illustrated here, I think, in my examination, by the use of a telephone exchange, that the spinal cord is this central office, and the sensory nerve is the nerve

running to the central office, the telephone line that I call on, and then it is transferred over by the girl at Central to another line. Does that illustrate it, roughly?

A Very roughly. I think if we threw the girl out --

Q What?

A I say, if we threw the operator out and used the dial system, such as we have now -- it is an automatic thing. There is no controller. There is no girl sitting there, or anything of that sort. It just jumps across, and other than that, it certainly it is very close to the true fact.

Q And the development of the automatic system resulted from the study of this reflex system, didn't it?

A I have no idea.

Q You have no idea?

A No, sir.

Q All right. Now, at the base of the brain, or where you found this injury at the base of the brain, what is there, Doctor, that can be injured?

A The spinal cord, the brain stem.

Q And what comes down out of the brain stem there, and what parts of the body does it control?

A All the blood vessels and the nerves that control the functions of the entire body.

Q So if you have a severe injury to the base of the brain,

you may have a disorganization of your entire body?

A If it is severe, it is fatal.

Q If it is severe it will kill you?

A Yes, sir.

Q Now, you found absence of these abdominal reflexes, and before I go to the -- and you found absence of other reflexes, is that correct, Doctor?

A That is true.

Q Do you agree with Dr. Hexter when he stated that "the absence of a reflex doesn't mean anything to us"?

A It may not mean anything to him. I don't agree with him, no, sir.

Q You do not agree with him. The absence of a reflex, what does it mean to you?

A It means a big red light flashing a warning signal.

Q In what way?

A Well, it means that you are dealing with a problem which certainly can represent serious trouble. Absence of a reflex indicates further study is required and careful observation.

Q Now, then, what was the next reflex that you examined?

A The cremasteric reflex.

Q And those are the reflexes that are on the inside of the thigh?

A Well, the area where the reflex is elicited or stimulated

is the inside of the thigh, yes.

Q And what is the effect of giving sensation to the sensory nerves that are located there?

A Retraction of the testicle on the side involved or stimulated.

Q They are what?

A A retraction of the testicle on the side stimulated.

Q Did you find, after you had examined that particular part of his body, did you find any absence of reflex there?

A It was absent on the left and normal -- or present on the right.

Q What was the next reflex that you examined?

A The biceps.

Q Where is that?

A It is elicited by tapping the biceps tendon.

Q Now, wait a minute. You are talking about biceps tendons, and we don't know where the biceps tendons are, some of us don't, anyway. Show it on yourself.

A The reflex is a test to determine the presence or absence of injury any place along the course of the reflex arc involving the biceps muscle.

Q Now, where is that?

A The biceps muscle is the big muscle that starts up here in the shoulder, runs down across the top of the shoulder,

and attaches to this portion of the forearm whereby you are able to bend the arm ,lift weights, bring it up.

4 Q I see. And did you find anything wrong with that receptor nerve that controlled that particular part of the arm?

A Well, I didn't find anything wrong that I could demonstrate with the receptor nerve. There was an interruption in the reflex arc, however.

Q There was an interruption?

A Some place along either the receptor nerve, the synapse or the motor nerve. There was interference because the reflex was diminished.

Q How was that demonstrated to you?

A When I attempted to elicit the reflex, the reflex was diminished.

Q It was diminished?

A Less than normal.

Q Now, then, would that have any effect upon the -- that was in the left or the right arm?

A The left.

Q Would that have any effect upon the strength of the arm?

A The absence of the reflex wouldn't, but loss of strength frequently will accompany the loss of the reflex, not because the reflex is lost, but because of injury in the same area which is represented by a loss of reflex.

Q Then what was the next reflex you examined, if any?

A Triceps.

Q Where is the triceps?

A The triceps muscle --

Q Yes, where is that?

A -- is in a similar area to the biceps. It runs down and inserts into the olecranon process, which is this end of the ulna, the bone which is on the outer side of the arm, the muscle which is involved in this motion, turning the forearm and hand back and forth.

Q Did you find any injury there?

A The triceps reflex was absent on the left.

Q Did you find any other absent reflexes?

A No other absent reflexes, no, sir.

Q Now, the absence of these reflexes, did it mean anything to you as a physician?

A It meant brain injury, certainly concussion, and probable spinal cord contusion.

Q Now, when you have a brain injury and a probable spinal cord contusion, do such injuries as you found there have any effect upon the body?

A Do such injuries as I found there have any effect upon the body?

Q Yes.

A Certainly.

Q In what way?

A Well, it would slow the individual's thinking, make them sluggish in their responses, interfere with functions of internal organs.

Q Such as what?

A Bowel, bladder.

Q Yes.

A It would produce dizziness. Many things.

Q How about locomotion?

A Difficulty in walking.

Q Now, when you completed your examination, did you make a record of it?

A I did.

Q And does it appear in the exhibit that we have here of Bay View Hospital?

A Yes, sir.

Q Now, after you had determined all these things that you have related, did you seek further advice on this matter?

A Yes, I did.

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Q Will you take Exhibit YYYY, and each page is numbered from 1 to 25. Will you indicate to the jury what pages of that report contain your statements that you have testified here now before the jury?

A The back of Page 6.

Q Does it show the date that you entered those, made the entries?

A The date and the time.

Q What date did you make the first entry?

A July 4, 1954.

Q At what time?

A 7 a.m.

Q All right. Now, go to the next entry and tell me the page it appears upon?

A The first entry appears on Page 7. The chart is out of sequence here.

Q I see. The first entry is on Page 7.

A That's July 4th at 7 a.m., yes, sir.

Q When is the next entry and what page does it appear upon?

A The next entry is on July 4th at 11 a.m., and on 7-4-54, the same day.

Q The next one? Did you tell the page for the last one?

A Yes, sir, I thought I did. The back of Page 6.

The next one is on the back of Page 6 at 2:40 p.m.

The next one is on the back of Page 6 at 9:30 p.m.

The next one is on the back of Page 6 at 8:45 a.m., on 7-5-54, the next day, Monday. The continuation of that notation is on Page 8, the front of Page 8.

The next notation is at 3:40 p.m. on 7-5-54, the same day, Monday.

The next notation is at 4 p.m. on Monday, 7-5-54.

The next notation is 8:45 p.m., on 7-5-54.

The next notation is at 9 a.m. on 7-6-54.

The next notation is at 7:30 p.m. on 7-7-54.

The final notation in the physician's findings and progress record, which is what I am reading from -- incidentally, these last two were on the back of Page 8 -- the final notation is on the front of Page 9 at 10 a.m., 7-8-54.

In addition to that, on the order sheet --

Q 7-8-, that would be Friday, is that right?

A Yes, sir.

Q All right. In addition to that --

A No. I think that's Thursday.

Q Monday is the 5th --

MR. GARMONE: Thursday.

MR. DANACEAU: Thursday is right.

MR. GARMONE: Thursday, Bill.

THE WITNESS: That's the day he

went home from the hospital.

Q Tuesday is the 6th, Wednesday is the 7th and Thursday would be the 8th. That would be Thursday, that would be the day he left, is that right?

A Yes, sir. Then on the order sheet, in my own handwriting, at 10 p.m., on 7-4-54 I have written an order. At 2:40 p.m., on 7-5-54 I have written an order. These both appear on Page 17. And I have signed the order sheet on his discharge on 7-8-54.

All of the other orders which appear on this sheet are mine, although they were not all written by me. Most of them were written on the yellow sheet or the physician's findings and progress record and transferred to the order sheet by the house doctor.

Q But they were under your direction?

A Yes, sir.

Q You were responsible for them?

A Yes, I was.

Q And the other entries that you have gone through, are they in your handwriting?

A They are.

Q Now, then, you say that after you had made this examination you sought further advice?

A Yes.

Q And did you seek the advice within the confines of the hospital, or did you go outside Bay View Hospital?

- A Both.
- Q And whose advice did you seek within the hospital?
- A Dr. Gervase Flick and Dr. C. C. Foster.
- Q And who is Dr. Gervase Flick?
- A The X-ray man. Also --
- Q And Dr. C. C. Foster, who is he?
- A He is a specialist in eye, ear, nose and throat.
- Q Are both of those men connected with the hospital?
- A Yes, they are.
- Q Now, did you seek someone that was not connected with Bay View Hospital?
- A Yes, I did.
- Q And whose advice did you seek?
- A Dr. Charles Elkins.
- Q Dr. who?
- A Charles Elkins.
- Q Was there any special reason for choosing Dr. Charles Elkins?
- A Yes, sir.
- Q Will you tell the jury?
- A Well, Dr. Sam had a brain injury and a spinal cord injury, and Dr. Elkins is an outstanding neuro-surgeon. He has a reputation that is beyond reproach. He has specialized in neuro-surgery for years. I have referred problem cases to him before. I have the utmost confidence in his

opinion, and I wanted Dr. Sam to have the best care that we could arrange.

Q Did he respond to your call?

A Yes, he did.

Q What hospital was he connected with then, do you know?

A I believe that he did most of his work at Lutheran Hospital and Cleveland City Hospital where he is head of, or was head of the Department of Neuro-Surgery at both of those institutions. He may have operated at other hospitals as well.

Q You were familiar with his background?

A In general, yes.

Q Now, then, did Dr. Elkins come as a result of your call?

A Yes, he did.

Q And what time did he arrive at the hospital?

A I think it must have been about four o'clock in the afternoon, three-thirty, four o'clock, somewhere in there.

Q I shall take that up later.

On what date, what day?

A Sunday, the 4th of July.

Q The 4th of July?

A Yes, sir.

Q Now, then, after you had determined these things that you have described to the jury, and put in your call for Dr. Elkins, what was your next step in regard to

taking care of your brother?

A I ordered X-rays.

Q And was there an X-ray department in connection with the hospital?

A Oh, yes.

Q And that's in charge of, you say, Dr. Flick?

A Yes, sir.

Q Is the X-ray department on the same floor as Dr. Sam's room was?

A Yes.

Q Did you see him taken to X-ray?

A No, I did not.

Q Did you remain in the X-ray department when the X-rays were taken?

A No, I did not.

Q When was the next time you saw him after the X-rays were taken?

A It was after Dr. Richard and I had gone back to the house and returned, when Dr. Gerber and Chief Eaton came to the hospital.

Q Now, during the course of the morning, did you return to your brother's house?

A Yes.

Q And how long were you at the Bay View Hospital doing the things that you have described before you returned to the

house of your brother?

A Oh, possibly 40, 45 minutes.

Q and what time did you get back to the house on the second occasion?

A Well, we stopped at Dr. Richard's house first. Then we went up to Dr. Sam's.

And when you say "your brother's house," you mean Dr. Sam's?

Q Dr. Sam's, yes.

A I would say about 7:30.

Q When you arrived on the second occasion, did you notice anything around the house that attracted your attention?

A Well, there were more cars there, there were more people.

Q Did you see any people going in and out of the house on that occasion?

A Yes, sir.

Q Who were they?

A Most of them were police officers and firemen.

Q Did you see people that you were not acquainted with?

A Yes, sir.

Q Going in and out of the house?

A I did.

Q When you came back, you say, about 7:30, you came back with your brother, Richard?

A Yes.

Q And the both of you entered the house?

A That's right.

Q Which door did you enter on that occasion?

A The same door, the one toward Lake Road, the back door.

Q And when you went in, did you see anybody in the house that you recognized?

A Yes.

Q Who?

A Chief Eaton was there, Mayor Houk was there, Mrs. Houk was there, Larry Houk was there, Callahan and Sommers were there, the firemen; Cavanaugh, the part-time police officer; Drenkhan, Hubach.

Q Did you see a man by the name of Miller there?

A Miller?

Q Yes. Who was the Lieutenant out there?

A Mercer. No, Mercer wasn't there. You mean Lieutenant Cliff Mercer. No, he wasn't there, at least I didn't see him.

Q Were there any other people besides those you have mentioned?

A Those were the only ones I saw in the house.

Q Now, then, when you went in, where did you go?

A I went in through the back hall and into the living room.

Q And what did you do there?

A Mrs. Houk and some of the others were in there, and she pointed out to me what she described as a trail or a

series of puddles of water. She said they led down to the beach. I went out onto the porch, and I saw this trail or these puddles. There was one fairly large one on the porch itself, right near the door.

And then I went to the brow of the hill and looked over, and I could see some more on the concrete steps and the wooden steps that lead down to the beach.

Q Did you go down those steps that time?

A No, not at that time.

Q After making that observation, what did you do?

A Dr. Richard and I and Larry Houk and Officer Cavanaugh went upstairs to the bedroom.

Q And what did you do when you went upstairs to the bedroom?

A Looked around the room.

Q Did you make any observations on that occasion that added to your knowledge of the situation in the bedroom that was different from when you made the first observation?

A Yes, I did.

Q What did you observe on that time?

A Well, at first I went in and I looked at the room. For the first time I noticed that there was blood splattered in very tiny specks on the westerly bed, that would be Dr. Sam's bed. I noticed for the first time that the covers of that bed were turned down, that it appeared to be undisturbed.

I noticed that there was a great deal of blood on the southerly wall in that room, directly above and behind the bed in which Marilyn was lying -- she was still there -- and that this blood in amount tapered off and became less on that wall toward the westerly end of the wall; that it appeared that the easterly wall, which was made up of the door to the room itself which opened into the room and a small section of the closet door which was exposed and the remaining portion of the wall which was painted, that there was a great deal of blood on that up to a point in about the northeast corner, at which area there was no blood for a distance of about two and a half, possibly three feet, that occupied that entire corner. In other words, the absence of blood in that corner was apparent, that is, the northeast corner of the room.

Q That is where the chair was that Marilyn's clothes were on?

A Well, the chair was a little to the west.

Q Yes.

A I then noticed that there was blood on the north wall, not a great deal but some. It had apparently flown onto the glass curtains. They had very light material curtains, and the blood had flown on the curtains. There was blood on the westerly wall, and there was blood on the

top surface of the radiator cover. There is a metal cover that fits over the radiator. The top surface had flecks on it. There was no blood on the ceiling.

Q Now, when you talk of the radiator, that has a flat top on it?

A Yes, sir.

Q And that is in the southwest corner of the room, is it not?

A Yes, sir.

Q And then that's west of the two beds?

A That's right.

Q What?

A That's true.

Q Did you make any observation, either then or at any other time, as to whether or not there was any difference in the blood spots that appeared on the south wall than those which appeared upon the doors that were on the east wall?

A Yes, I did.

Q And what difference did you notice?

A Well, the blood --

THE COURT: Wait a minute,

Mr. Corrigan. He hasn't indicated yet there was any difference.

THE WITNESS: He asked me, did

I notice a difference, and I said yes.

THE COURT: Oh, I beg your
pardon.

MR. CORRIGAN: Yes, he said there
was a difference, your Honor.

THE COURT: I thought you only
asked -- all right, go ahead.

Q And what was the difference that you noticed between the
blood specks on the east door and the -- the east doors
and the east wall from those that appeared on the south
wall beyond the bed where Marilyn Sheppard lie?

A Those on the east wall and door which opens into the room
and the wall itself and those on the painted wall above
her headboard differed from those on the westerly end of
the south wall in that those which were on the east wall
and above the headboard were large round blobs, whereas
those beyond her bed on the south wall were tangential or
streaked out areas. They appeared to occur in a parabola,
rising and gradually falling.

Q I asked that question of Mr. Dombrowski, and I drew on
the blackboard a sort of an elliptical shaped blood spot.
Were you here when I did that?

A Yes, but I couldn't see.

Q What?

A I couldn't see what you drew.

Q Well, it was longer, it was elliptical shaped.

A Well, these were streaks.

Q Streaks?

A That's right.

Q And the other blood spots were rounded?

A Rounded and you could see where some of it had actually run down.

Q When you went back on the second occasion and looked at Marilyn on the bed, was there any change from what you had observed the first time?

A She was as she appears in the photographs.

Q What?

A At that time she was as she appears in the photographs.

Q I am handing you now State's Exhibit 9, which I showed you before, and ask you, looking at it, if that is the way she appeared on the second occasion that you viewed her remains?

A Yes, sir.

Q And what change was there when you came back the second time?

A Well, the right arm had been moved in closer to the body and was now under, partially under the sheet. The left arm had been placed across the abdomen with the palm down and was partially covered by the sheet, and the pajama top had been partially loosened or pulled up over the upper part of her chest.

Q When you made these observations in the bedroom on the second occasion, after you had made those observations, did you do anything else?

A Yes.

Q What did you do?

A Got down on my hands and knees and looked under the bed.

Q And was there any result from your examination that you made upon your hands and knees?

A Well, I was surprised as I got down on my hands and knees, because I put my hand into a patch of wet cold material, and I didn't look too much under the bed because I -- immediately my attention was attracted to this wet cold patch, and I examined this and determined it to be water.

- 16 Q And just where was that wet, cold patch?
- A Just to the east and possibly six inches above where Marilyn's head lay, right next to the bed.
- Q Where was it in reference to Marilyn's head?
- A Just at the top of the head, maybe a little above.
- Q That is, you drew a line from Marilyn's head down to the carpet, you would hit the cold patch?
- A Yes, sir, within an inch either way.
- Q And that you determined was water?
- A Yes, sir.
- Q What did you do next?
- A Dr. Richard, Larry Houk, and I believe it was Officer Cavanaugh, and I went on down the hall. We looked into Chip's room, didn't see anything out of the ordinary, and we went into the dressing room, saw nothing of any interest, went on down into the east room where Hoversten had been staying, noticed the bed was unmade and that his luggage was still there. Stood there and chatted for a moment or two about -- remarked on the fact that the bed was unmade, and the fact that his luggage was still there.
- Then we turned around and we turned in a westerly direction, stopped off in the bathroom --
- Q When you went in the bathroom, did you observe anything?
- A Yes, sir.
- Q What did you observe in the bathroom?

A A cigarette butt in the toilet bowl.

THE COURT: I didn't get that.

THE WITNESS: A cigarette butt in
the toilet bowl.

Q A cigarette butt in the toilet bowl?

A Yes, sir.

Q Was there any conversation with the officers about that
cigarette butt?

2 A Yes, sir.

Q Who was it with?

A Officer Cavanaugh, I believe.

Q What was the conversation?

A I asked if there would be any objection to using the
facilities there, and he said, no, that he wanted to
preserve the cigarette butt because they wanted to examine
it and put it through various tests, and that sort of thing?

Q Do you know who took the cigarette butt?

A I don't know that anyone took it.

Q But it was there and the officer knew it was there?

A It was there, and he said they were preserving it.

Q And how much of a cigarette butt was there left?

A Probably a quarter, quarter of a cigarette.

Q Was there any other cigarette butts around the house that
you noticed that morning?

A At that time there were none.

Q Nothing in the ash trays?

A I didn't notice any.

Q Did you see any cigarette butts upstairs any place in Marilyn's room?

A No.

Q Or any evidence of Marilyn having smoked in her room?

A No, sir.

Q Was there any cigarette tray in her room or ashtray?

A No.

Q Were there any ashtrays anywhere upstairs?

A I didn't see any.

Q Now, then, after you had made that observation, where was the next place that you went?

A Back down the hall and into the west bedroom.

Q Did you find anything there that was of any importance?

A No, sir.

Q And after you had made this survey of the upstairs, where was the next place you went?

A Down.

Q Did you go back into Marilyn's room?

A I think we looked in. We didn't go back in, we just stepped in.

Q You at no time touched that bed or touched Marilyn's body except to determine her death, that she was dead when you took her pulse and looked at her?

A That's right.

Q You could tell she was dead without taking the pulse, couldn't you?

A Yes, sir.

Q Now, then, the time that you returned, and during the time that you made this tour of the upstairs, was Chip still there or was he gone?

A He was gone.

Q Do you have any knowledge of how he left the house?

A Yes, I do.

Q Now, not something you got from somebody else, but I mean your own personal knowledge?

A I didn't see him go.

Q Well, all right. And you were told by someone else how he went out, is that it?

A Yes.

Q Well, we will get that from the person.

When you went downstairs, who accompanied you downstairs?

A Dr. Richard, Larry Houk, the officer, and that's all there was.

Q Well, Mrs. Houk, wasn't she with you?

A She was up in the hall when we were in Marilyn's room initially, and she was in the hall when we went into Hoversten's room. I think she left about the time we stepped into the bathroom to discuss the cigarette butt,

and I presume she went downstairs.

Q Now, then, when you went downstairs, where did you go?

A I saw Chief Eaton in the kitchen. I went into the kitchen and saw Chief Eaton.

Q Yes. Did you have some conversation with him?

A Yes, sir.

Q And after that conversation what did you do?

A We went down the basement.

Q And who went down in the basement?

A Hubach, Eaton, I, and Richard.

Q And did you make an examination of the basement?

A Well, we looked around.

Q Well, after doing that where did you go?

A I went back upstairs and went down to the beach.

Q By yourself?

A Yes, sir.

Q Where did you go when you went down on the beach?

A I went down the steps, trying to follow this trail of water, whatever it was, ~~that~~ Mrs. Houk had pointed out, and by this time it was fading --

Q It was what?

A It was fading. You could see dampness there, nothing more, and I went down onto the deck which surrounds the beach house, looked in the beach house, looked off of the balcony, went down the steps, but I didn't go on the beach

itself.

Q Was there a beach there that morning?

A Yes, sir.

Q Well, now, you say you went down the steps but did not step on the beach?

A That's right.

Q Now, when you were looking around the beach house, what were you looking around for?

A Well, I had the idea that I might be of some help --

MR. PARRINO: I object to this.

A I was looking for anything that might have had any connection with the terrible thing that happened up in Marilyn's bedroom.

Q Did you make any observations when you were down there at the beach house?

A Yes, I did.

Q And tell what they were.

A Well, I got down on my hands and knees, and I went all around the edge of the beach house, and finally I got over onto the easterly edge of the beach house -- it was all weedy and cobwebby over there -- and I pushed the weeds and material back so I could look under, didn't see anything but a bunch of rocks and bars, and that sort of thing.

Q Wait until I get your location. When you go down to the beach house, there is a platform along the west side, isn't

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there?

A Yes, sir.

Q And that turns and goes along the north side?

A That's right.

Q And is there a platform on the east side?

A Yes, sir.

Q So that you can walk all the way around the beach house except on the south?

A That's right.

Q Is that correct?

A Yes, sir.

Q Now, when you got down on your hands and knees, I just want to know just what part of the platform, either the north or the west or the east?

A Well, I started at the foot of the stairs on the west side of the platform and, of course, on that side and toward the north there is an open space, it isn't grown up as heavily as on the east and on the south. I looked under on the west side. Then I went over and looked under on the north side, and I went over and looked under on the east side. Then I came back and looked under on the south side between the house itself and the foot of the steps where the railing comes down.

Q Now, when you get over on the south side of the beach house there is no platform, is there?

A There is no platform to the south of the house itself, but there is a south side to the platform on either side of the house.

THE COURT: You mean the south end?

THE WITNESS: The south end.

MR. CORRIGAN: What?

THE COURT: He means the south end
to the --

MR. CORRIGAN: The south end?

THE WITNESS: Yes.

Q But there is no platform which stretches across --

A No, you couldn't walk across. You couldn't walk across on the southerly side of the platform because it doesn't go clear across, but the house goes right up to it, up to the edge of the platform, and there is a little platform here and a little here.

Q You can walk on three sides of this building?

A Yes, sir.

Q And when you get to the south side of it, then you say you looked to the south side of the building?

A Looked under the south side of the platform.

Q Looked under the south side of the platform?

A South end on both sides of the building.

Q Did you discover anything when you looked under the south end -- which was it, the east or the west platform?

A West.

Q When you looked under the south end of the west platform, did you discover anything?

A Yes.

Q What did you discover?

A A lot of weeds, cobwebs, a pair of gloves, two pairs of gloves.

Q Where were those gloves located? Just where they were.

A Sir?

Q Just where were those gloves located?

A Under the platform itself, and I would say midway between the beach house and the railing where it joined the platform, and possibly three inches underneath the platform itself.

Q And how were they placed there, did you notice?

A The canvas gloves were underneath and the leather gloves were on top.

Q And what were they lying on?

A On?

Q Yes.

A Dirt.

Q On the dirt?

A Yes, sir.

Q On the ground?

A That's right.

Q Was there anything between those gloves and where you were looking?

A Not by the time I saw them.

Q What?

A Not at the time that I saw them.

Q Before you saw them.

A In order to see them, I had to push the weeds back and push the cobwebs away, and then I saw them and recognized that they were gloves.

Q And did you call anybody's attention to those gloves?

A Yes.

Q Who?

A I went up the stairs, and I asked where I could find Chief Eaton.

Q Did you find him?

A Yes, sir.

Q Did he come down?

A Yes.

Q And what was done when he came down?

A I showed him where the portion of the platform was where I had found the gloves. In fact, he asked me what I wanted -- well -- I showed him where the gloves were, and he just reached down and he bent down on one knee and reached under and pulled them up and looked at them, slammed them in his

hands, a couple of times, and shoved them in his pocket.

Q Did you notice what happened when he slapped them in his hands?

A A lot of dust flew out.

Q A lot of dust flew out?

A Yes, sir.

Q Handing you State's Exhibit 23 and State's Exhibit 24, 23 being a pair of canvas gloves, and 24 being a pair of pigskin gloves, I ask you to look at them and see if you can identify them?

A These are the gloves that I found under the platform at the beach house.

Q Are they in the same condition now as when they were picked up by Chief Eaton?

A Well, they were dirtier then.

Q After Chief Eaton had received the gloves, what was the next thing you did, Doctor, did you go back in the house?

A Went back upstairs and smoked a cigarette, as I recall, and went around to the back of the house, which would be the Lake Road side, and I saw Chief Eaton and my brother, Dr. Richard, coming out of the garage, and I went in.

Q Did you make a search of the garage?

A Well, I looked through it.

Q At the time that you went into the garage, did you see a car there, a jeep that was used by your brother?

A Yes.

Q Did you make any examination of that?

A Well, no. I went between the Jaguar and the Lincoln when I went in. When I came out I went through the -- rather, between the Jaguar and the jeep. I looked at the jeep at that time.

Q Did you make any discovery in that trip that would be of any significance or help to the jury touching upon this matter?

A Nothing that I know of.

Q At the time that you came back upstairs, or up from the beach, did you notice any other people that had gathered around the house, or what the situation was around the house?

A There were more people.

Q Did you recognize them?

A Well, I saw the Schueles, I saw the Aherns, I saw any number of neighbors and people that I couldn't identify but whom I have seen before. I saw a lot of people that I don't know and that, to my knowledge, I have never seen before. I saw a car stopping and people getting out and getting back in alongside of the road.

Q Was there a tie-up there that morning that you noticed?

A There was a traffic jam.

Q Traffic jam?

A Everybody saw the police cars and the ambulances and stopped and looked.

Q And people were coming into the yard?

A Yes, sir.

Q And gathering around the house?

A That's right.

Q And some of them going into the house?

A I didn't see any of them go into the house.

Q You didn't keep track of that?

MR. MAHON: Well, now, I object.

MR. DANACEAU: I object.

MR. MAHON: He said he didn't see them going in.

MR. DANACEAU: Are you satisfied, Mr. Corrigan? You have got that grin on your face. You know what the witness said, and you misinterpreted it.

MR. CORRIGAN: Keep your blood pressure.

MR. DANACEAU: My blood pressure is perfectly all right, Mr. Corrigan, but you heard the witness just the same as everybody else did, and you misinterpreted it your way, didn't you?

MR. CORRIGAN: Now I have been properly chastised, so I will go ahead.

MR. DANACEAU: All right.

Q Did you see any people going in the house that you didn't know?

A Yes.

Q What?

A Not at that time.

Q Did you at other times?

A Yes.

Q Now, --

MR. PARRINO: May we have the
times, please?

MR. CORRIGAN: I will get to it
if you let me alone.

Q What were the other times that you saw the people going in the house that you didn't know?

A About eight o'clock, eight-thirty, whenever Dr. Gerber arrived. I think it must have been about 8:30.

Q Now, after you had gone into the garage and come out of there, where did you go?

A Well, I went upstairs in the garage in both rooms up there, and I also went in the little laboratory which is on the west side of the garage. Then I came --

Q Did you find anything there of significance which would assist the jury?

A No, sir.

Q When you were in the garage at any time during that day,

did you make an examination of any of the cars?

A I looked at them all.

Q Did you find in any of the cars a doctor's grip?

A No.

Q You did not?

A I know that there was one in the jeep. It's always there, but I couldn't see it this morning because there was a lot of packages piled up in the jeep.

Q What kind of packages were they?

A Things that belonged to Dr. Hoversten that he had stored there.

Q What?

A Things that belonged to Dr. Hoversten that he had stored there. Some of them were wrapped in paper, some luggage, that sort of thing, boxes, cartons.

Q Where was the grip, the doctor's grip usually kept in the jeep, if you know?

A In the back.

Q There is no trunk on a jeep, as I remember?

A That's right.

Q The back seat?

A Well, the seat is out. It is filled with emergency gear, stretcher, pry bars, emergency lights, the bag, things like that.

Q What was the jeep used for?

A Well, it had been furnished -- well it was used for emergencies, any place where a cruiser or an ambulance couldn't get, the jeep went.

Q And was that jeep the property of the hospital or the property of the city?

A It was the property of the Sheppard Clinic.

Q Of the Sheppard Clinic?

A Yes, sir.

Q And it was kept at Sam's house?

A That's right.

Q And you knew that there was a medical bag kept in that jeep?

A Yes, sir.

Q Did you see that medical bag any time afterwards during the investigation of this case?

A I did.

Q And when was the first time that you saw that medical bag?

A After the investigation --

Q You saw it sometime during the investigation?

A Yes. After Marilyn's death, the first time I saw it was the night that Dr. Sam, Dr. Richard and I went up there to get some clothing and other things out of the house.

Q And what date was that?

A July 12th, I believe.

Q July the 12th?

A I'd like to check that. Yes, it was the 12th.

Q By that time had Dr. Hoversten removed his goods that he had stored there?

A Yes, sir.

Q And when you went in on July 12th to examine the jeep, was the bag in full view?

A Well, I didn't go into the garage to examine the jeep. Officer Yettra, Officer Rossbach, Dr. Gerber, Chief Eaton, any number of reporters and photographers, and probably 50 or 75 curious onlookers on the property were there. I was asked to back the jeep out, and Dr. Sam and I stood by as Officer Yettra and Officer Rossbach and Dr. Gerber and these other men went through each of the cars bit by bit. We took the jeep and the Jaguar out that night.

Q This was all under the observation of these various officers?

A Yes.

Q When the jeep was backed out that night, and after it was backed out, did you see whether or not there was a medical bag in that jeep?

A I did.

Q Who turned the jeep over to you?

A Dr. Gerber.

Q Now, the medical bag that was in that jeep, did it have a different kind of a cover than the medical bag that was in

the house that we have just shown in evidence?

A Yes.

Q What was the difference?

A It was alligator, simulated alligator, rough outside.

Q And was there a distinct difference between that bag and the bag that we have in evidence?

A Yes.

Q And in what way?

A Well, it was made different, made by a different company, different inside, different outside, and also the one that we had here introduced in evidence this morning had two handles which were intact, and I believe leather covered. The one in the jeep had one of the handles broken and a piece of fabric, I think canvas, was attached to it, used as a handle.

Q I want you to look at this bag, which I will mark Defendant's Exhibit No.1, and state to the jury whether or not you recognize that bag.

(Defendant's Exhibit 1,
being a black bag, was
marked for identification.)

A Yes.

Q And is that the bag that you have just been describing as being the bag which you took from the jeep on the 12th of July? Or, took with the jeep?

A Yes. That is the one that was in the jeep.

MR. CORRIGAN: I introduce that
in evidence.

THE COURT: Received.

(Defendant's Exhibit 1 was
offered and received in
evidence.)

MR. CORRIGAN: Maybe we better have
a little recess, your Honor.

THE COURT: Are you tired?

MR. CORRIGAN: I am always tired.

THE COURT: Ladies and gentlemen
of the jury, we will have a few minutes' recess
at this point.

Please do not discuss this case.

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(After recess, 3:10 o'clock, p.m.)

Q Doctor, my attention has been called by Mr. Petersilge to the fact that when you talked about the abdominal reflex, the examination of the abdominal reflex, that you did not state whether or not it was present or absent. Now, can you state at this time whether you noticed any absence in the abdominal reflex?

A The abdominal reflex was absent on the left side.

Q On the left side?

A Yes.

Q Now, then, going back to the 4th of July, when you had come out of the garage, what was the next thing that you did after you came out of the garage?

A Went around to the front of the house at the brow of the hill.

Q Were there any people there then?

A Yes. Mayor Houk was there, Mrs. Houk was there, Larry Houk was there, the other officers.

Q Did you see any other people there?

A Not on that side of the house.

Q That would be on the lake side?

A That's right.

Q After making that observation, where was the next place you went?

A In the house, in the living room.

Q And where did you go in the house?

A In the living room.

Q And what did you observe, if anything, in the living room on that occasion?

A Well, I noticed the secretary in the living room, which I had seen before when I went through, but I looked at it more carefully now.

Q Did anybody accompany you into the living room?

A I think -- well, somebody did. I can't say who. One of the officers.

Q How long did you remain in the living room?

A Oh, possibly 5 or 10 minutes. I smoked a cigarette in there.

Q Now, what did you do after you went into the living room? Did anything occur there?

A Dr. Gerber burst into the house.

Q Well, before you went into the living room or before Dr. Gerber came, had you been in the den?

A Yes, sir.

Q And when was that? Was that after you had come up from the lake?

A That was just before I went into the garage.

Q Just before you went into the garage?

A Yes.

Q Was there anybody in the den at that time?

A Chief Eaton, Officer Drenkhan, Dr. Richard and I, and Mayor Houk was there, I believe.

Q And what was going on? What were the officers doing at that time?

A Chief Eaton was making a visual observation of the objects in the study, the drawers, and Officer Drenkhan was taking photographs.

Q Did you notice any disorder in the den?

A Yes, sir.

Q And what was it?

A The drawers were taken out of the desk and there were some things pulled out of the shelves, the book shelves, the built-in shelves.

Q And somebody said that something happened while you were in the den. What was it?

A My attention was attracted to some drawers that were over on the east end of the room, the southeast end, behind the desk. And I started to go over there, and I had on a pair of blue denim trousers that I had rolled the cuffs up on, and as I stepped across, the left cuff on my trousers caught on the edge of one of the drawers -- these drawers were stacked one on top of each other -- and this top one was rather precariously situated and it tipped over.

Q Did you see on the floor of the den at that time Marilyn's

- Q Now, after you were in the living room, you say that Dr. Gerber came into the house?
- A Yes, sir.
- Q And who was in the living room at the time that Dr. Gerber came in?
- A Mrs. Houk, Mayor Houk, Larry Houk, Dr. Richard and I.
- Q Did you know Dr. Gerber?
- A I had seen him.
- Q You didn't know him personally?
- A No, sir.
- Q What was the first thing he did when he came in?
- A "Everybody out."
- Q Yes.
- A Walked in, seemed very upset and ordered us all out.
- Q Well, did he talk to any of you?
- A No, sir.
- Q Did he get a statement from anybody?
- A Not to my knowledge.
- Q Well, then, when he ordered everybody out, where did you go?
- A Out across the front porch and stood on the hill overlooking the lake.
- Q And who stood there with you?
- A Mrs. Houk and Mr. Houk.
- Q Anybody else?
- A Dr. Richard was there, and I believe that Larry at that

time went around and got in the car.

Q How long did you stand there before you did anything?

A Well, I was still smoking this cigarette that I mentioned earlier, in the living room, and I finished that and we had some conversation. Possibly 5, 10 minutes.

Q Do you know how many men accompanied Dr. Gerber when he came in the house?

A At least two.

Q And did you see him again that morning when you were standing out in front of the house?

A Not in front.

Q Where?

A In back.

Q In back. Now, that's towards the lake side?

A No. That's toward the road.

Q Toward the road. And how soon was it that you saw him after you had been ordered out of the house?

A Well, it was after this 10 or 15 minutes that I spent on the brow of the hill talking to Mr. and Mrs. Houk. I went around to the other side of the house and I saw them at that time.

Q Did anything take place at that time that attracted your attention?

A Yes.

Q What?

A I didn't know who it was at the time, but I have since learned that it was Officer Grabowski. He had on a white shirt and a long flashlight in his hand, and when I saw him on the south side of the house, he was rushing about shining the light in under the bushes, and I heard him call to Dr. Gerber. He said -- I heard him call to Dr. Gerber, and Dr. Gerber came out.

Q And when Dr. Gerber came out, what took place?

A Officer Grabowski showed Dr. Gerber a footprint that was under the bush there.

Q Yes. And what was done then?

A We all had to hold our feet up so Dr. Gerber could look at the soles of our shoes, everybody that was standing around there.

Q Did he examine the soles of your shoes?

A He looked at them.

Q All right. Now, then, after that occurrence, what was the next thing he ordered that happened?

A They all went back in the house, and in a short while Chief Eaton and Dr. Gerber came out together. And Chief Eaton still was in his fatigues, overalls, something of that sort.

Q Now, where did they go to?

A Well, I -- they got into Chief Eaton's cruiser.

Q And went where?

A To the hospital.

Q Did you go there?

A Yes, sir.

ng Q When you got there did you have a conversation with Dr. Gerber?

A Yes.

Q Where did you meet him?

A Dr. Richard and I were in my car, and we pulled up right next to the cruiser in the back lot. Chief Eaton and Dr. Gerber got out of the cruiser, and Dr. Richard and I got out of my car, and that is when I met Dr. Gerber for the first time.

Q How did you meet him? Were you introduced to him, or what?

A Well, I wasn't introduced to him in the usual sense. Chief Eaton asked me to take care of Dr. Gerber and indicated that he wanted to see Dr. Sam. I really introduced myself and Dr. Richard to Dr. Gerber.

Q After you introduced yourself, what took place?

A Chief Eaton got back in the cruiser and went home or went away.

Q Now, at that time did you know what had become of Sam's clothes that had been taken off him?

A No, sir.

Q You did not?

A No, sir.

Q After Dr. Gerber said he wanted to see Sam, was he escorted to Sam's room?

A He was.

Q And who escorted him there?

A I did.

Q Did he make any inquiry of you as to what you knew about this case?

A Nothing.

Q Did he request to examine the charts?

A No.

Q Did he examine the charts?

A No.

Q And when you went into the room will you tell what you observed and what was done in the room with Sam?

A We went into the room, which was 115. Dr. Gerber went over to Dr. Sam and looked at him, leaned over the bed --

Q He what?

A Leaned over the bed, looked up in his hairline, asked him to turn from side to side, which Dr. Sam did, looked in his eyebrows, looked his face over very carefully, looked at the upper portion of his chest, pushed the sleeves up on his hospital gown, looked at his arms, his forearms, his palms, the backs of his hands, and I remember he asked him to bend his fingers and hold them this way so he could look particularly closely at the fingernails.

Q And did he make an examination of his fingernails?

A He did.

Q Was there any conversation between Dr. Gerber and your brother?

A Yes.

Q What was the conversation?

A Dr. Gerber asked Dr. Sam what happened. He questioned him, and --

Q Did you hear what Sam said?

A Yes.

Q What did he say?

A He said that sometime during the night, that he was awakened by a sound, he thought it was his wife's voice. He ran up the stairs and was immediately struck, he thought from behind, and rendered unconscious. He awoke shortly thereafter or sometime thereafter and went to his wife to determine what, if anything, had happened. He had the sensation that something terrible had happened, and he had a faint recollection of checking her at that time.

He went to his son Chip's room and thought he looked in.

About this time he indicated that he heard a noise downstairs. ~~That~~ he went downstairs, and as he crossed the living room he saw what he thought was a form going across the brow of the hill, or the area of the porch. He pursued this form down to the lake, and upon reaching the beach was -- he encountered the form. He experienced

a choking sensation, was again rendered unconscious. He told Dr. Gerber that he awoke sometime thereafter, went back up the steps to the house, again returned to his wife's bedroom and had a recollection of checking her -- feeling her throat for pulse.

He then wandered through the downstairs portion of the house trying to think what to do. The first telephone number that popped into his head he called. It turned out to be Mayor Houk's and Mayor Houk responded.

Q Now, this statement as made by your brother on this morning to Dr. Gerber, was it in the calm, matter of fact way that you are reciting it now?

A Not at all.

Q What?

A No, sir.

Q Will you describe to the jury how that statement was made?

A Well, it was made haltingly, Dr. Gerber asking questions, what happened next, then what, what did you notice, and that sort of thing. Dr. Sam was upset. He was crying. He had to pause and think a great deal. He wasn't himself.

Q Was he at that time, from your own knowledge, under sedation?

A He was.

Q That you had prescribed. Did you tell Dr. Gerber that?

A Yes.

Q Now, then, after he had made this examination and received

this halting statement by your brother, did he leave the room?

A Yes.

Q Did he check anything in the hospital in regard to medical data?

A Data?

Q Yes.

A No, sir.

Q Then where did he go?

A Before we left the room, he whirled around and said to me, "Where are his clothes?"

I said, "I don't know, but we can find out."

Q Did you know where the clothes were?

A I had no idea.

Q And then where did you go with Dr. Gerber?

A Went to the nurse's station.

Q And who did you see there?

A The nurse in charge. I don't recall her name.

Q Did you make inquiry about the clothes?

A Yes.

Q And where did you find that the clothes were?

A Dr. Sheppard, Sr., had them.

Q Was he there?

A He was up in the end of the hall up at the ambulance entrance.

Q Did you call him?

A We went up there.

Q And when you got to your father, did you and he and Dr. Gerber have some conversation?

A Yes, sir.

Q Tell the jury what it was and what happened.

A Dr. Gerber asked where the clothes were, and my father said, "I have them here."

He produced them.

Q Where did he produce them from?

A I think he may have had them in his car.

Q Yes.

A And Dr. Gerber inspected the clothing and held the trousers up and looked at the shorts, looked at the socks, looked at the loafers, reached in all the pockets, turned them wrongside out, put them back in, said, "Where are his personal effects? I want his personal effects."

Q Now, wait a minute. You say he turned the pockets inside-out?

A He did.

Q Did that relate to all the pockets in the pants?

A He reached in and pulled out every pocket. He didn't pull it all the way and brush it off, or anything like that. He reached in and he withdrew so that he could see the lining of the pocket, pushed it back in. He remarked on

the lining of one pocket which had a stain on it.

Q What?

A I say he remarked on the lining one of the pockets which had a stain on it.

Q Which pocket was that?

A The left hip pocket, as I recall.

Q Now, after he had examined the pockets, he asked for the personal property?

A That's right.

Q What was done about that?

A My father told him he had his things -- Dr. Sam's things in his pocket, that he had removed them from his trousers.

Q And did your father produce the personal property out of his pockets?

A Yes, he did.

Q And what personal property was it that was turned over to Dr. Gerber?

A There was a prescription blank or a pad, which was partly used, and there was the used-up portion of another one tucked inside. There was a stub of a pencil. There was a handkerchief. There was a wallet, three one-dollar bills, and that's as far as I can remember.

Q What was the condition of the three one-dollar bills?

A They were crumpled-up.

Q ~~crumpled-up?~~

A Yes, sir.

Q Did you notice whether they were wet or dry?

A They were wet. Everything was wet.

Q And that applied to the pants -- I should say trousers -- to the trousers?

A Yes, sir.

Q And the shoes and the socks?

A Everything was wet.

Q Was there also a handkerchief and some underclothes there, or shorts?

A Just shorts, yes.

Q Those were all wet?

A That's right.

Q And when they were turned over to Dr. Gerber, did you notice what he did with them?

A Yes.

Q Tell me, tell the jury.

A He took them down the ramp possibly eight or ten feet where there is a little nurse's aidestation, where there is a railing built up around, somewhat similar to this, and there is a desk or a place for the nurse's aide to sit back there during visiting hours, and he took these things and laid them out on the railing, examined them, each one.

Q Did he examine the purse?

A Yes. The wallet.

Q Handing you Defendant's Exhibit T, will you look at that and state whether you recognize that as your brother's wallet?

A I do.

Q And the three one-dollar bills, were they in that shape when they were handed to Dr. Gerber?

A No.

Q What shape were they in?

A They were wadded-up..

Q Like that?

A Roughly.

Q What did Dr. Gerber do with the bills?

A He spread them out and laid them on the counter. He opened up the wallet, took out a check which was open and in this compartment of the wallet. He took out the check, laid it on the counter. Then he looked at the wallet and ran through the cards quickly in this manner, and then he took the check -- no -- first he took the bills, took the bills and slipped them back into the wallet, and then he took the check and started to put it in and it didn't go, and at that time he laid the check across the inside of the wallet and closed it across like that (indicating).

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Q Now, did you know anything about this wallet other than the fact that it was Sam's wallet?

A Just that it was wet.

Q The testimony is in the evidence here that some days later you called up Chief Eaton and told him how to find money that was in this wallet.

A Yes, sir.

Q Well, did you get that information from Sam, or did you know that?

A I got that information from Sam. I didn't know about it.

Q Do you recognize State's Exhibit No. 25?

A Yes, sir.

Q And the stain that you were talking about, showing you the left rear pocket, the inside of the left rear pocket of this exhibit, is that the stain that was referred to by Dr. Gerber on that morning?

A It wasn't referred to by him. It was referred to by me. He was interested in it, and he turned the pocket inside out, looked at it, and then he turned the rest of them inside out to see if they had anything on them.

Q But there was discussion about that stain?

A No discussion. He pulled them out, I saw them, and he turned that one out first.

Q And are they in substantially the same condition as you noticed them that morning?

A Aside from being wet, a couple of holes.

Q And the holes that have been described by Miss Cowan?

A Yes, sir.

Q Did you notice this rip on the right pocket?

A Yes, sir. Dr. Gerber pointed that out.

Q The right side pocket, the rip was there?

A Yes, sir.

(Defendant's Exhibits 2, 3, 4 and 5, being parts of trophies, were marked for identification.)

Q Handing you Defendant's Exhibit 2 and at the same time handing you Defendant's Exhibit 3, will you look at Exhibit 2 and 3 and state whether or not you recognize what that is?

A I do.

Q And where did you see it before?

A In Dr. Sam's home.

Q Talk up loud so the last juror can hear you.

A In Dr. Sam's home, in the study.

Q And where was it placed in Dr. Sam's home, do you know, the last time you saw it?

A Yes. This was placed in a special shelf that he had built for these and other trophies.

Q And when did you see -- when was the last time you remember seeing it before July 4th?

A I don't have any recollection of seeing it any specific date. It was there each time I was there.

Q You just know it was there?

A That's right.

Q When did you see it after July 4th? When was the next time you saw it after July 4th?

A I think it was on Monday, the 5th. I'm not sure.

Q And where did you see it?

A In the study on the floor.

Q It was on the floor in the study?

A That's right.

Q Handing you Exhibit -- is there any writing on that trophy?

A Yes, sir.

Q What is it?

A It's engraving. Do you want me to read it?

Q Yes.

A It says, "Third year track award, CH." meaning Cleveland Heights, "High, '42" that would be 1942. And down below it says, "Sam Sheppard."

Q Well, that is a trophy he got when he was in high school?

A Yes, sir.

Q Now, taking Defendant's Exhibits 4 and 5, can you tell what 4 and 5 are?

A Yes, sir.

Q What are they?

A 4 and 5 constitute the two portions of a broken bowling trophy with the figure of a woman in the act of throwing a bowling ball. This trophy was won by Marilyn just this last winter.

Q Last winter?

A Yes, sir.

Q And that was kept in the study, also?

A Yes.

Q And you saw it before July the 4th?

A Oh, yes.

Q And when was the next time you saw it after July 4th?

A The same time I saw 2 and 3.

Q That would be on Monday, July 5th?

A Yes, sir.

Q And where were they at that time?

A On the floor, as I recall, in the northwest corner of the den.

Q Handing you Defendant's Exhibit F, will you look at that picture and see if it refreshes your recollection, or shows you anything in regard to these two trophies?

A Does it refresh my recollection?

Q Well, yes.

A These are the same.

Q These are the same. And are those trophies shown in that picture broken?

A Yes, they are.

Q And are they in the position that you saw them on the 5th day of July?

A Well, they are at the foot of the special shelf where the trophies were kept. Whether they have been moved a little or not, I can't say.

Q I see. But they were laying on the floor in about that position?

A Yes, sir.

Q showing you State's Exhibit 41, will you look at that and tell the jury whether you note in that picture anything that relates to these two trophies, broken trophies that we now have in the court room?

A I see them in both exhibits. They are lying in about the same spot, as near as I can tell exactly the same spot and position, and they are broken in both photographs.

MR. CORRIGAN: So the jury
may know what I am talking about, I will
hold it up. Do you all see?

I will introduce those in evidence.

MR. PARRINO: No objection.

THE COURT: Is that 2, 3, 4
and 5?

MR. GARMONE: That's correct.

THE COURT: They will be received.

(Defendant's Exhibits 2, 3, 4 and 5 received into evidence.)

Q After Dr. Gerber completed the examination of the clothes and the billfold and the personal property that was handed to him, what did he do with them, if you know?

A What did he do with them?

Q Yes.

A About that time Chief Eaton returned and now was in his uniform, and Dr. Gerber gave them to Chief Eaton and told him to lock them up in his vault.

Q Did you go back to the house at that time -- after this conversation and meeting with Dr. Gerber at the hospital, did you go back to your brother's house?

A I returned to the house the next day. I didn't go back on the 4th, however.

Q Did you go away from the hospital at that time?

A Yes.

Q Where did you go?

A I went home and got cleaned up.

Q And did you return to the hospital any time that morning?

A Yes, I did.

Q And about what time was it when you returned to the hospital?

A Sometime around 11:00.

Q At that time, when you returned about 11:00, did you meet

any police officers?

A Yes, sir.

Q Who did you meet?

A Robert Schottke and Patrick Gareau.

Q And where did you meet them?

A I was in Dr. Sam's room, and the nurse stepped in and said that there were two police officers that would like to speak to Dr. Sam, and I went out in the hall and met these officers.

Q And after you talked to them and discovered who they were, did they go into Dr. Sam's room?

A Yes, sir.

Q Did anybody go in with them?

A I did.

Q Was there any conversation when you were in the room?

A I told Dr. Sam that these men were officers from the Cleveland Police Department. I told Dr. Sam that they wanted to interview him. I requested the officers to make it as brief as possible. I told them that he was suffering from concussion and that he was under the influence of sedation.

Q Yes. And what did they say?

A And they said they would bear that in mind. I then asked if I could be of any help, and they said no, they didn't think so.

I sat in the chair, assuming that they would proceed, and they indicated that they wanted me to leave.

Q Well, what did they say, not indicated?

A Well, they said that it would be necessary for me to step out, and I told them that I didn't want to step out. They said that I should because it was their method to interview people after a situation of this sort alone.

So I asked Sam if he thought he was all right and if he felt he could talk to these men, and he said yes. So I left.

Q Now, then, what was Sam's physical condition at that particular time?

A Well, he was under the influence of sedation. He had concussion of the brain, he had contusion of the cord, he had these things that we discussed earlier.

Q Did he show any -- did he have any difficulty talking at that time?

A I think not so much difficulty saying words as his responses were sluggish as a result of the injuries and the medication.

Q How were the responses at that time?

A Delayed.

Q Delayed?

A Sluggish.

Q Slow?

A Yes.

MR. PARRINO: Slow or slight?

THE WITNESS: Slow.

MR. PARRINO: Slow. Thank you.

Q Now, then, you stepped out?

A That's right.

Q And how long did -- let me go back a moment. When these police officers said they wanted you to get out of the room, was there anything said by Sam as to whether you should remain or get out?

A Well, he said if they wanted me to leave, I should leave.

Q That is, Sam said that?

A That's right.

Q And you left?

A I did.

20

Q

Do you know how long they remained in the room with him?

A

I went up -- I hadn't made my rounds yet, so I went up and made the rounds. I go through the hospital each day and see every patient, so I did that. It takes me half an hour to 45 minutes to do that. I didn't time it, but I presume it took that long this day. After I done that, I came back down and knocked on the door and found that Officers Schottke and Gareau were still in there, so they were in there at least the length of time that it took me to make my rounds, and I would estimate that conservatively at 35 minutes.

Q

Did you have any conversation when you came back and knocked on the door?

A

I evinced surprise that they were still there. I asked them how much longer they would be. I again pointed out that the man had been injured. They said that they weren't being unpleasant to him, and that they didn't think it would be much longer, so I again checked Dr. Sam. I took his pulse and asked him how he felt. He said he felt all right. I said, "Are they treating you all right?"

And he said, "Sure, they are not doing anything that they wouldn't be doing.

And I again left.

Q

Then when did you come back?

A Probably ten minutes later.

Q Were they still there?

A Yes, sir.

Q Did you have any conversation with them then?

A Essentially the same thing.

Q Then did you see them depart?

A They asked me to leave. I left again. They said it would be a very short time that they would be there, and within possibly five or six minutes they did come out.

Q When they come out did they make any inquiry of you?

A No, but I --

Q What?

A No.

Q Did they ask you to examine any of the charts or get any information about his physical condition?

A Did you say about the charts?

Q Yes.

A No.

Q Did they attempt to get any information about his physical condition?

A No, sir.

Q Did they sit down with you any place? There are places where you can sit down in that hospital, are there not?

A Yes, sir.

Q Did they sit down with you any place and discuss what

happened and what you knew?

A No. We had a brief conversation in the hall about other things, but --

Q What?

A I say, we had a brief conversation in the hall about other things, but nothing about Dr. Sam's condition.

Q These men made no inquiry about what you knew?

A Nothing.

Q Now, then, did you remain in the hospital the rest of the day?

A No.

Q Did you see Sam again after Officer Schottke and Gareau left?

A Yes, sir.

Q And did you see the officers come back into that hospital that day?

A No, I didn't see them come back. I came back later in the afternoon, and they were there when I arrived.

Q What time did you come back?

A Possibly 2:30, 3 o'clock.

Q And where were they when you came back?

A In Dr. Sam's room.

Q Oh, they were in his room at that time?

A Yes, sir.

Q Do you know how they got into his room?

A No, sir. Just walked in, I imagine.

Q There was nobody stopping anybody from going into Sam's room, was there?

A I had left orders that there shouldn't be any visitors other than the family without my being notified, but I was out of touch. I had been out for dinner, and, well, actually, I went home and had something to eat, and then I had been down to Metropolitan Park, so I had been out of touch.

They couldn't have gotten ahold of me for that particular time.

Q Now, on the occasion of the first meeting with Schottke and Gareau, was there any discussion with you about the fact that somebody may have come in on a boat?

A Well, I brought it up.

Q You brought it up?

A Yes.

Q And did you on that morning go down and check?

A Yes, I did.

Q What time did you go and check?

A Well, it must have been about 2 o'clock in the afternoon by the time I went down.

Q And what did you check?

A I talked to the men in the boat liveries up into Rocky River there, up Metropolitan Park.

Q We are talking about Huntington Park that is close by?

A Oh, no, no. They don't rent boats at Huntington Park. I was up into Rocky River, up beyond the Yacht Club.

Q You were checking there?

A Yes, sir.

Q Did you find anything there that gave you any lead?

A Well, the men who were on duty the night before, of course, had gone off, and those that were working the day shift indicated that if the officers or anyone wanted to talk to them, that they'd be available.

Q Now, you had went back after making that check up there at the boat renting district, you went back to the hospital?

A Yes, sir.

Q And you discovered then that Schottke and Gareau and Eaton were in your brother's room?

A That's right.

Q What did you do?

A Went in. Knocked on the door.

Q Did you have a conversation with them?

A Yes, I did.

Q What was it?

A Well, I pointed out again that the man had been injured, and that I felt, as his attending physician, that we shouldn't push him too far, that they had interviewed him that morning, and I asked Sam how he felt. He said, "Okay."

I asked them to make it as short as possible, and told them that I would appreciate it if they would wait until he was on his feet and able to navigate and then question him all they wanted to.

Q Did Sam raise any objection about them being in the room?

A None whatsoever.

Q What did Sam say when you were talking about his physical condition?

A He said, "Oh, I'm okay." He said, "They are not bothering or being unkind to me." He said, "They will be through in a short while." He also said, "I want to help them."

Q He said that to you and to the officers?

A That's right.

Q So you were the fellow that was objecting?

A Yes, sir.

Q Not Sam?

A That's true.

Q Now, then, did you leave the room?

A Yes, I did.

Q And how long were the officers in there on that occasion?

A Dr. Richard said they had been in the room about a half-hour before I got there. They were there at least 45 minutes after I got there.

Q Did you see them depart?

A Yes.

Q And after they departed did you go into your brother's room?

A Yes, I did.

Q And what condition did you find your brother in when you went in there?

A He was extremely agitated and upset.

Q How did it appear to you?

A He was crying. He was -- well, he just wasn't himself. The change from the time I had seen him from the last time I was in there and this time was tremendous.

Q Did you know what caused his agitation and upsetting, as his physician? Did you learn that?

A Not until I talked to him.

Q What was it?

A He said, "Those policemen think I killed Marilyn."

And I said, "Well, for crying out loud, what makes you think that?" I said, "You must be mistaken, or maybe it is just a routine deal."

He said, "No, there is nothing routine about this." He said, "That tall, skinny one, just before they left, leaned over the end of the bed and he said, 'I don't know what my partner thinks, and I don't know what the Chief thinks, but I think you killed Marilyn,' " just like that.

Q Pointed his finger at him?

A He did.

MR. DANACEAU: We object to that because he wasn't there. He is relating somebody else's conversation.

THE WITNESS: That is what he told me.

MR. DANACEAU: I will withdraw the objection.

MR. GARMONE: The conversation is with the defendant.

THE WITNESS: That is what he told me.

MR. DANACEAU: Yes, but he was portraying what somebody else said.

Q Now, then, after that occurred that you had some conversation with your brother, did you see anybody else appear on the scene? Do you remember the coming --

A Dr. Hexter, Dr. Foster, Dr. Elkins, those people.

Q When did Dr. Foster come, do you recall? Was it before Dr. Hexter or after Dr. Hexter?

A He was in before -- just before Dr. Hexter, as I recall.

Q And were you in the room with Dr. Foster?

A Yes.

Q Did you notice whether or not Dr. Foster made an examination of your brother?

A Yes.

Q And were you there when he made the examination?

A Yes.

Q You have related earlier in your testimony that you had called Dr. Elkins. Were you there when he appeared, or did he appear on that day?

A He did appear.

Q And what time did he appear?

A Oh, sometime after Schottke and Gareau left.

Q What?

A I believe it was sometime after Officers Schottke and Gareau left, and Chief Eaton.

Q Did he appear before Dr. Hexter appeared?

A After.

Q Now, what time did Dr. Hexter come in, as far as you remember?

A I think it was around possibly 2 o'clock, 2:30.

Q And who met him?

A He came down to the nurse's station and said he wanted to see Dr. Sam. The nurse came in and told me. I went out, said hello to him, and he came in the room.

Q Did he tell you on whose authority he had come to the hospital?

A Yes, sir.

Q What was it?

A He seemed rather embarrassed about being there, frankly.

He said that --

Q Well, I don't care about that. I asked you the question:
Do you know on whose authority he came to the
hospital?

A Yes, I do. Dr. Gerber. He said Dr. Gerber had sent him.

Q He said Dr. Gerber sent him?

A That's right.

Q Did you have a conversation with him about what he was
going to do?

A Yes, sir.

Q What was the conversation?

A He said that he had been ordered to come to the hospital by
Dr. Gerber, that he wasn't too happy about it, but that
he'd try to get it over with as soon as possible, and that
he needed some instruments to make an examination.

Q Had he ever been to your hospital before?

A No, sir.

Q Now, when he came, was there a discussion between he and you?
He knew you were the attending physician?

A I told him I was.

Q Did he go over the situation in regard to Sam's condition
with you?

A No, sir.

Q Was there any discussion along that line whatsoever?

A None.

Q At the time that you were talking to him had Sam's chart been prepared, and was it on file on the floor?

A Yes.

Q What was stated about examining Sam's chart by Dr. Hexter?

A I asked him if he'd like to review the chart, and he said no.

Q He said no?

A He said he didn't think it would be necessary.

Q So he did not review the chart?

A That's right.

Q Now, then, did he have anything with him? Did he have a medical bag with him, or anything like that?

A No, sir.

Q Did he make any request of you at that time?

A He asked for a tongue blade.

Q He asked for what?

A A tongue blade, a tape measure, an otoscope.

Q A what?

A Otoscope.

Q What is that?

A A flashlight with attachments for looking into the eye, ear, nose, throat.

Q Yes.

A He asked for a blood pressure machine, stethoscope, and a

reflex hammer. That's all I recall.

Q And who secured those articles for him?

A Dr. Charles Wilcher.

Q Was this before he went into the room that they were supplied and secured, or after he went in?

A After.

Q Now, you stated that when you took this -- when you took Sam's pulse in the house in the morning, it was rather thready?

A Yes, sir.

Q The sedation and the treatment that you had, would it have any effect upon his blood pressure and his pulse?

A Surely.

Q What?

A Bring it to normal. That was the object of the treatment.

Q What?

A It would tend to bring it to normal. That was the object of the treatment.

Q The object of the treatment was to quiet him down, was that it?

A Quiet him down, bring his pressure and heart action within normal range.

Q I see. Now, then, did you accompany Dr. Hexter into the room while he made his examination?

A Yes, sir.

Q And did you notice whether, during his examination, he made any notes?

A I did.

Q Did he?

A He did not.

Q Will you tell the jury what kind of an examination he made of your brother?

A He examined him in the way a good, general practitioner examines a patient, starting with the head, going down across the chest, abdomen. He checked most of the reflexes that I mentioned earlier, not all. He asked if we thought it would be safe for Dr. Sam to sit up, because he had by this time this big felt collar on to support the head and neck, and Dr. Wilcher and I lifted Dr. Sam. He looked at his back, and then we put Dr. Sam back down flat on his back again, and at that time Dr. Hexter said he would like to examine underneath this felt pad, and would it be all right to remove the felt collar. We removed the tape around the felt collar several times, possibly three times, and we rolled Dr. Sam from side to side, loosening the collar, but at no time was it removed from his neck completely. He rolled back and forth inside of the collar.

Q Well, now, when he was lifted up in the bed, who lifted him up?

A Dr. Wilcher and I.

Q And you helped him?

A That's right.

Q While Dr. Hexter made the examination?

A Yes, sir.

Q Was there any conversation between Dr. Hexter and Sam during this examination?

A Yes.

Q What was it?

A "Does it hurt here? Does it hurt there?"

Q What?

A "Does it hurt here? Does it hurt there? Does this bother you?"

That sort of thing. When he first started he said hello, and he said that he was sorry about what he had heard had happened, and that was the extent of it.

Q Did he tell Sam who had sent him on this mission?

A No.

Q He did not?

A He told me that.

Q He told you that?

A Yes.

Q Did Sam raise any objection to that man examining him?

A No. I told Sam who had sent him. When we went in, I said,

"You remember Dr. Hexter?"

He said, "Yes," and I said, "He has been sent by Dr. Gerber and he is here to examine you."

And Sam at that time made no objection, and Dr. Hexter proceeded to examine him.

21 Q What did Sam say when you told him that Dr. Hexter had been sent to examine him, if he said anything?

A He didn't say anything. He said -- he indicated that he had no objection. I don't recall his exact words.

Q I see. Now, then, how long was he in the room making this examination?

A I would guess 30 minutes.

Q Now, then, when he had completed his examination, did you have any conversation with him about his examining the records that had already been made in the hospital of Sam's condition?

A Well, I asked him to come and write on the chart.

Q You asked him what?

A I asked him to come and write on the chart.

Q On this chart that we have here?

A The medical chart.

Q Yes. And is that the usual practice amongst physicians, that when they examine the patient in the hospital, they make their notations on the medical chart?

A It is never done any other way.

Q What did he say when you told him to make his entries on the chart?

A He said, "No, I don't think that will be necessary." And he said, "If you could let me have some paper, though, I would like to write this up."

no ev. of
fracture
on
x-ray
film

Q Was there anything said about the fact that Sam had been X-rayed?

A Yes. I told him that we had taken some X-rays, that we had a preliminary report on the wet film, that the preliminary report, according to the X-ray man, was of no great significance; that there was no evidence of fractures as yet.

He said, "Well, wet films, of course, aren't conclusive."

And, of course, I agreed with him. And I asked him if he would like to see the films. I said, "I think they must be dry by now."

And he said, "No, that won't be necessary." He said, "I'm not an X-ray man and I wouldn't know anything about it anyway."

Q Now, in the practice of medicine and the taking of X-rays, how is that usually done?

A X-rays are taken usually by a trained X-ray technician in a very specific technique.

Q Well, are there people connected with hospitals specially trained in the technique of taking the X-ray?

A Yes. They are the only ones that do take them.

Q Were there people connected with Bay View Hospital that were specially trained so that they could be classified as X-ray technicians?

A Yes, sir.

Q And on the morning of July 4th, was there an X-ray technician in attendance in the hospital?

A There was one called in.

Q And who was that?

A Mrs. Irene Huge.

Q And you know that she is an expert technician?

A Yes, sir.

Q How long had she been with Bay View Hospital?

A I don't really know. A couple of years.

Q Do you know what her past was before she came there?

A She received her training at Cleveland City Hospital, I believe.

Q She was what?

A She received her training in X-ray at Cleveland City Hospital, I believe.

Q I see.

A I think she worked at Mount Sinai for a number of years, too. This is nothing definite.

Q Now, then, was that the technician that had taken those pictures that morning?

A Yes, sir.

Q Do you have, in addition to the technician, a properly trained -- what is that name, now, they use? -- rent --

A Roentgenologist?

Q Yes, Roentgenologist.

A Yes, sir.

Q And who was that?

A Dr. Flick.

Q Is the ordinary physician competent to interpret X-ray pictures, or does it require special training?

A I would say that it requires special training to interpret certain problem X-rays. The ordinary physician or general practitioner should be able to and should look at the X-rays on all of his own cases and familiarize himself with them, and certainly pick out such things as gross fractures, tuberculosis, pneumonia and that sort of thing, but to make certain that nothing is overlooked, all X-rays, in properly run hospitals, are submitted to and read by qualified X-ray specialists. That doesn't prevent the attending doctor from looking at and reading the films, however.

Q Well, in fact, any member of the jury can look at an X-ray, and if there is a gross fracture or something of that kind, they can see it, can't they?

A Surely.

Q You don't have to be an expert?

A That's right.

Q Now, then, when you talked about the X-rays he said he didn't want to see them?

A He said he didn't think it would be necessary. He said --
Q I see. All right. Now, then, you went up the hall, and
when you went up the hall with him, where did you go?
A Well, I saw him out to the doorway, out to the ambulance
entrance. He left, he got in his car and went away -- no,
I am sorry, that's wrong. I saw him up at the end of the
hall. He asked if there were someplace that he could
write this up. And I said I thought probably the best
place would be the record library upstairs. He said,
"Someplace where he could be alone."

And he went up there. I told him how to get there.
He went up, and I didn't see him anymore.

Q Did he leave at the hospital a copy of his report?

A No, sir.

Q Did he talk to you about his findings or anything of that
kind before he left?

A No, sir.

Q Did he discuss anything about the case with you?

A At no time.

Q Now, then, did Dr. Elkins come that afternoon?

A Yes, sir.

Q What time did Dr. Elkins arrive on the scene?

A Shortly after Dr. Hexter.

Q And when Dr. Elkins came, what did he do?

A He went to the switchboard and asked for me.

Q and after you met him, what was the next thing that Dr. Elkins did?

A We went through the chart together.

Q Went to what?

A We went through the medical chart together.

Q And where was the medical chart at that time?

A At the nurse's desk.

Q And did Dr. Elkins discuss the case with you and the entries on the medical chart?

A Yes, he did.

Q Did he at that time examine the X-rays?

A No.

Q After he had discussed this case with you and went over the medical chart, then what was the next thing that was done by Dr. Elkins?

A He went in and took a history and made an examination of Dr. Sam.

Q And will you tell what kind of an examination Dr. Elkins made of Dr. Sam?

A He made a complete thorough painstaking neurological examination.

Q And did he at that time check the reflexes?

A He did.

Q And how long -- about when did he complete his examination?

A Well, again, I can't give you the exact time. I think it

must have -- it took him possibly half an hour to do the work that he had to do.

Q After he had completed his examination, did he have a further discussion of the case with you?

A Yes, he did.

Q Before he left the hospital, did he make entries on the hospital chart?

A Yes, he did.

Q And was that the last thing he did, or was that made before he discussed the case with you, made the final discussion of the case with you?

A He went up and looked at the X-rays. Then he came back down and made his comments on the chart. That's the last thing he did before he left the hospital.

Q He made his examination of the X-rays, made his entries in the hospital record?

A That's correct.

Q And then was there a discussion with you as to Sam's condition?

A Yes, sir.

Q What was it?

MR. PARRINO: Objection.

THE COURT: Oh, let him
answer.

MR. PARRINO: This is conversation

between this witness and Dr. Elkins.

MR. CORRIGAN: All right.

MR. PARRINO: I am objecting
to that conversation.

MR. GARMONE: Leave it go.

MR. PARRINO: All right. Fine.

They are withdrawing the question.

THE COURT: All right.

Q Did you receive any instructions from Dr. Elkins as to
what you should do in regard to your brother?

A Yes.

Q Now, handing you Defense Exhibit YYYY, this Bay View
Hospital report, will you look at that, Dr. Sheppard,
and state whether there appears in that hospital report
the notations made by Dr. Elkins on the afternoon of the
4th of July, his entries in the medical chart?

A Yes, sir.

Q And where do they appear?

A Page 12.

Q Page 12?

A Yes, sir.

Q You said that Dr. Foster also came in and made an examina-
tion. Will you examine the chart and see if Dr. Foster
made any entries in the chart?

A He did.

Q And where do they appear?

A Page 11.

Q Page 11?

A Yes, sir.

Q Will you now read to the jury what appears on this report, this medical chart, that was entered there by Dr. Foster?

A Up at the top it says, "Report of consultation, consulting physician, Dr. C. C. Foster.

"Findings: 1. Marked swelling and ecchymosis of right eye and orbital tissue extending over entire right side of face. A contusion is noted on left side of neck, anteriorally.

"2. Marked edema, sub-occipitally.

"Diagnosis: 1." --

Q Sub-occipitally, will you explain that to the jury?

A Beneath the occiput, at the base of the skull.

Q The backbone here of the skull is the occipital bone, is that right?

A That's right.

Q And this is at the base of that occipital bone that he is talking about?

A Beneath it. Sub means under, and sub-occipital would be beneath that bone known as the occiput, so that it would actually involve the neck.

"Diagnosis: 1. Contusion of eye and orbital

adnexa.

"2. Probable fracture" -- I can't make out -- oh, "Probable fracture of maxillary," and then in parenthesis --

Q What is maxillary?

A Maxillary is the upper jaw.

Q That is the prominent bone under the eye, what they call the cheekbone?

A No. That is the zygoma. Maxillary is the entire area. Then in parenthesis he has, "malar and zygoma," which would be the area up in the cheek.

Q The area where?

A Up in the area of the cheek.

"3." --

Q All right.

A I'm sorry.

Q I didn't say a word.

A "Contusion of left side of the neck.

"4. Contusion of sub-occipital tissues.

"Recommendations: 1. Intermittent hot and cold packs or ice bag to face.

"2. X-ray of facial bones (maxilla and zygoma.)
7-4-54, 2:50 p.m., Foster."

Q What does the 2:50 p.m. indicate, what does that indicate?

A The time that he wrote this.

Q The time that he wrote it. Now, then, will you turn to

the entries Dr. Elkins made on the 12th page, and will you read them?

A "Dr. Sam is alert and answers questions lucidly. There is swelling of right periorbital tissue. Pupils are equal and react. Moves all extremities well. No Babinskis. He has voided. Complains of occipital headache. Cervical collar in place, neck not examined.

"Impression: Cerebral concussion.

"Advise average fluid," which means to give him the average fluid intake or the average amount of fluids by mouth, and the next is, "sedation." That is signed C. W. Elkin.

Q Now, the statement is in there, "Impression." What is the impression that he had?

A Cerebral concussion.

Q Now, will you state to the jury when the word "impression" is entered in a chart, what it indicates to a physician?

A Impression is the working diagnosis or the initial opinion of the doctor. Having examined the patient, he arrives at a tentative opinion, which is an expression and means that he intends to follow through, check to see what changes develop, if any, and arrive ultimately at a final diagnosis.

Q I see. Now, then, there is a further report by Dr. Elkins, is there not, appearing in that record?

A Yes, sir.

Q And that was made when?

A The next day, July -- I am sorry. This is dated July 6, 1954.

Q I will not refer to that at this time.

MR. CORRIGAN: I am going into a new subject now, your Honor. Do you want me to continue?

THE COURT: All right. We will go through your next subject, shall we?

MR. CORRIGAN: What?

THE COURT: Shall we go through your next subject?

MR. CORRIGAN: Well, it will take me more than --

THE COURT: All right. Ladies and gentlemen of the jury, we will now be adjourned until 9:15 tomorrow morning. Please do not discuss this case in the meantime.

(Thereupon at 4:25 o'clock, p.m. an adjournment was taken until 9:15 o'clock, a.m., Friday, December 3, 1954.)

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Friday Morning Proceedings, December 3, 1954.

(9:15 o'clock a.m.)

Thereupon STEPHEN ALLEN SHEPPARD resumed the stand and was examined and testified further, as follows:

DIRECT EXAMINATION (CONTINUED)

By Mr. Corrigan:

Q Now, Doctor, when we completed your examination yesterday afternoon, we had come to the end of July the 4th. I think the last thing we talked about was the report of Dr. Elkins, do you remember?

A Yes, sir.

Q Now, did you remain in the hospital after that?

A I was in and out most of the day. After Dr. Elkins' examination I stayed for, oh, possibly an hour. I then went over to Dr. Richard Sheppard's home for dinner.

Q Now, did you notice that there was a police guard placed in front of your brother's door during that day?

A Yes, sir.

Q Do you remember what time that was?

A Shortly after noon.

Q What time did you return to the hospital in the evening?

A 7 or 7:30, after supper at Dr. Richard's home.

Q How long did you remain?

A All night.

Q All night?

A Yes, sir.

Q And during the entire night, was this police guard present there?

A Yes, sir, he was.

Q And was the police guard present during all the time that your brother was in the hospital?

A There were different police officers that relieved each other, but there was a police guard there at all times 24 hours a day.

Q Now, then, you remained all night with your brother?

A No, sir. I remained in the hospital all night.

Q You were in the hospital all night?

A Yes.

Q As a result of any instructions given to you by Dr. Elkins, did you do anything in regard to giving your brother medication?

A I did.

Q What was it?

A I gave him a half grain of morphine sulphate at 10 p.m.

Q And that was for what purpose?

A Sedation.

Q Do you know why you did that at 10 p.m.?

A That was at the time when he was settled for the night, and Dr. Elkins and I agreed that we should sedate him rather heavily. The standard dose of morphine sulphate is a quarter grain, and we doubled the dose, because he was so upset and restless and experiencing pain, so I ordered the half grain of morphine to control that situation.

Q Now, you say you remained there until what time after --

A I remained in the room until probably 11 o'clock, at which time I had an emergency operation, and I left for probably an hour. Then I returned.

Q About 12?

A Then I had another emergency operation, and I left and returned around one.

Q How long did you remain in the room then?

A I stayed there until 4:30 or 5 o'clock in the morning.

Q And did you notice your brother's condition?

A Yes, I did.

Q Will you tell the jury what you noticed about it?

A Dr. Sam was restless during the night despite this heavy medication. He was rolling from side to side trying to find a comfortable position. His breathing was deep and regular for the most part, but at intervals he would become upset and start to breathe rather rapidly, and apparently was having dreams or reliving parts of --

MR. PARRINO: I object to this,
your Honor. How would he know about the dreams?

THE COURT: He is describing
generally how he acted in that period, I take it.

A (Continuing) He would cry out in his sleep. At times he
would complain of pain. I would touch him and reassure
him, tell him he was in the hospital. He said a lot of
things that didn't mean too much to me at the time.

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- Q Now, then, you left for home about 4:30 in the morning?
- A No, sir. I didn't go home at all that night. I slept in the hospital so I would be nearby.
- Q Did you see him on Monday, July 5th?
- A I did.
- Q And will you describe what you noticed about his condition on Monday?
- A He was worse.
- Q How did he demonstrate that?
- A The swelling around his head and face was worse. The reflexes were more pronounced, the loss of reflexes, I should say, was more pronounced. He, by this time, had developed a demonstrable weakness of the left arm, which the day before had been manifest only by a sensation which he described as numbness. The tendency to lose control of bowel and bladder was pronounced beginning on Monday.
- Q Now, the tendency to lose control of the bowels and the bladder, did that indicate anything to you as a doctor?
- A Yes, sir.
- Q And what did it indicate to you?
- A Spinal cord injury.
- Q And how does it come about that when you have a spinal cord injury, that there is a loss of control of the bladder and bowels? Would you explain that to the jury?

- A In a spinal cord injury, the patient is unaware of the fact that the bowel or bladder is full. We empty our bowel or bladder at regular intervals only because we are conscious of a fullness. If we were not conscious of a fullness, we wouldn't have any reason to empty the contents of the bowel and bladder. The ability to empty these organs remains, but the knowledge of when the organs are full and need to be emptied is lost in this type of injury.
- Q Did you notice anything about his mouth on the next day?
- A It was swollen. He complained --
- Q What?
- A I say, it was swollen. He wasn't able to open it as easily or as much as he had the day previously, Sunday.
- Q What about taking food?
- A He was able to take only liquids.
- Q Did you have conversations with him?
- A Yes, sir.
- Q About the affairs that had occurred?
- A Yes, sir.
- Q Were there any police officers that came to the hospital on that day? That would be Monday.
- A Police officers?
- Q Yes.
- A I believe Officer Rossbach and Officer Yettra came that day.

Q Was there any effort to prevent them from talking to Sam?

A There was no effort to keep them out of the room, no.

Q Did they go in and talk to him?

A Yes, sir.

Q The next day would be Wednesday.

A Tuesday, I think, sir.

Q Tuesday. That would be July the --

MR. GARMONE: 7th.

Q July 6th. At that time, on that day or sometime that day Marilyn was taken to the funeral home?

A No, sir.

Q When was she taken there?

A Monday.

Q Monday. On the 6th of July, which was Tuesday, what was Sam's condition on that day, if you noticed?

A Essentially as it was Monday.

Q On that particular day, did Dr. Elkins return?

A He returned each day. I was in contact with him by telephone several times each day.

Q He was there on the 4th. Was he there on the 5th, do you recall?

A Yes, sir.

Q What did he do on the 5th, if you remember?

A He re-examined Dr. Sam and cautioned me about certain things.

Q And on the 6th, did he come?

- A He did.
- Q And did he make a report and put it into the records of the Bay View Hospital?
- A Yes, sir.
- Q Handing you Exhibit YYYY, the Bay View Hospital report, will you examine it and state whether there is such an entry there by Dr. Elkins?
- A Yes, sir.
- Q And what page does it appear upon?
- A The front and back sides of 13.
- Q Will you read it to the jury?
- A "Report of consultation. Findings:" --
- Q A little louder.
- A "July 6, 1954. Patient complains of urgency on urination, and this morning when attempting to pass gas soiled his sheet with fecal material. He has also complained of numbness over ulnar distribution, left."
- Q Where is that?
- A The ulnar distribution would be the distribution of the ulnar nerve, which runs down across the hand this way, involving the little finger, the ring finger, and the outer half of the middle finger.
- "There is numbness of ulnar sensory distribution left, and moderate weakness of interossei left."
- Q Of what?

A Interossei.

Q Tell the jury what that means?

A Those are the muscles of the hand. Interossei refers to the little muscles in between the bones of the hand.

"Left triceps reflex not obtained. Both biceps"--

Q Now obtained?

A Sir?

Q Now obtained or not obtained?

A Not. Absent, in other words.

"Left triceps not obtained."

Q Point that out, where that is?

A Where it is?

Q Yes.

A Well, the reflex is elicited by tapping over the triceps tendon, as I described it the other day, in this area just above and lateral to the olecranon process, which is one of the heads of the ulna and controls the motion in turning the hand back and forth, forearm.

"Both biceps reflexes present as is right triceps reflex. Right abdominal reflexes active, left abdominal reflexes absent. Neither cremasteric reflex obtained."

Q What is that, now?

A "Knee jerks" -- sir?

Q I couldn't hear you, couldn't understand you.

A "Neither cremasteric reflex obtained."

Q These are absent, is that right?

A Yes, sir. "Babinskis normal. Cervical X-rays show chip fracture spinous process C-2," which means the second cervical vertebra.

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Q Where is that?

A Right at the base of the skull.

Q Now, wait a minute --

A Sir?

Q The top part of your spine is called the cervical vertebra, is that what you call it?

A Yes, sir.

Q And that begins right at the opening of the skull?

A The skull sits on the first cervical vertebra. The second, ofcourse, is just beneath that.

Q Yes. All right. We have got to get where these are, you know, because we are not doctors.

A "LP done this morning."

That means lumbar puncture, which is a spinal fluid examination, spinal fluid is drawn off.

"LP done this morning. Demonstrates clear fluid with normal pressure. (150 millimeters of spinal fluid), and normal dynamics.

"Local examination of neck discloses tenderness over spinous process of C-2." That is the second cervical vertebra again -- "with spasmodic contractions of cervical muscles to pressure.

"Impression: Cervical spinal cord contusion.

"Spinal fluid to laboratory for cells and total

protein."

Those are laboratory tests that are run on spinal fluid, and then his signature appears below that.

Q Now, Doctor, the spinal fluid is a clear fluid, is it not?

A Normally, yes.

Q That is located between the outside and inside covering of the brain?

A Yes, sir. That is one of the locations.

Q What?

A That is one of the locations.

Q And then it runs down and covers the spinal cord?

A The spinal fluid does?

Q Yes.

A Yes.

Q Is there any blood in the spinal fluid?

A Normally, no.

Q And if there is, is it an indication of anything?

A It is an indication of hemorrhage, bleeding, ruptured blood vessel, injury, disease.

Q Did Dr. Elkins take a spinal tap?

A Yes, he did.

Q And the purpose of taking a spinal tap is to obtain some of this fluid?

A That is true.

Q And examine it and see if there is any blood cells in the

spinal fluid?

A That is one of the reasons for taking it, yes.

Q Now, then, that was on Tuesday. Did the police interview you?

A Tuesday?

Q Yes.

A Yes, sir.

Q What time were you interviewed by the police?

A Dr. Sheppard, Sr., Dr. Richard and I were called to the Bay Village Police Station shortly after noon. We were interviewed there by Dr. Gerber, Chief Eaton and Mayor Houk.

Q The three of you?

A Yes, sir.

Q Did you make written statements at that time?

A Not at that time. Later that day.

Q Now, then, was anybody with you except -- was there any lawyer with you? Was Mr. Petersilge with you?

A Yes, sir.

Q That was at noon?

A Shortly after noon, I would say. Somewhere around one o'clock, maybe later.

Q Now, what has been the relation of Mr. Petersilge to that hospital?

A Mr. Petersilge is the counsel of the hospital.

Q For the Board of Trustees?

A Yes, sir.

Q How long has he been the counsel for the Board of Trustees?

A Oh, I would estimate six or eight years, anyway. He was counsel when I returned from California, which was in 1946, so possibly it is eight or ten years.

Q And how long did you remain in conference with those gentlemen?

A Dr. Gerber, Chief Eaton and Mayor Houk?

Q Yes.

A Oh, at least an hour.

Q Did you return again to the Village Hall on that day?

A Yes, sir.

Q And what time did you return?

A 7:30 or 8 o'clock.

Q And who did you meet on that occasion?

A Officer Rossbach, Officer Yettra, Officer Drenkhan and a woman typist.

Q And was a written statement taken from you?

A Yes, sir.

Q And you signed it?

A Yes, I did.

Q What time was that written statement completed that you gave the police on Tuesday evening?

A Somewhere around midnight.

Q Were there any other members of your family there?

A While I made the statement?

Q Yes.

A No, sir.

Q Do you know whether your father had made a statement or your brother had made a statement?

A I do.

Q Was it the same time you were there?

A The same day, not the same time. They preceded me.

Q They were not there at the time you were there?

A No, sir. They were over at the funeral home when I was there.

Q That was the night before the funeral?

A That was the night of the visitation, yes, sir.

Q What?

A The night of the visitation.

Q On Wednesday was the day of the funeral?

A That's right.

Q Now, who took possession of Sam's house, if you know, on the 4th of July?

A I'm not really certain who took possession, but I know that at that time, and for several days thereafter, it was necessary to get Dr. Gerber's permission before we could go into the house or get anything out.

Q Did you go back to the house after the 4th of July?

A I did.

Q And what day was it that you called at the house again?

A The first time was Monday, the 5th.

Q And what time were you there on the 5th?

A Somewhere around 10 o'clock in the morning, I would judge.

Q And did you go into the house?

A Yes, sir.

Q And how did you get into the house?

A Knocked on the door.

Q And who came to the door?

A A police officer.

Q Were you admitted?

A Not immediately.

Q What happened?

A The police officer went into the study and spoke to Dr. Gerber and some others who were in there, asked if I could come in to get some toilet articles of Dr. Sam's.

Q Were there other men in the house at that time?

A Yes, sir.

Q Do you know who they were?

A I have no idea.

Q Were you admitted then to the house?

A Yes, sir.

Q And where did you go?

A Upstairs to the bathroom on the second floor.

Q And secured some toilet articles?

A Electric shaver, tooth brush, and that sort of thing.

Q Were you accompanied by anybody when you went there?

A A police officer.

Q And after you had secured those toilet articles, you were ushered out?

A Yes, sir.

Q Now, did you return to the house any other time prior to the funeral, which was on Wednesday, the afternoon of July the 7th?

A Yes, sir.

Q What day did you return?

A I went back later that afternoon, as I recall.

Q And what occurred on that occasion?

A I had to come back and get some articles of clothing that Dr. Sam needed for the next day.

Q For the funeral?

A Yes, sir.

Q And was the same procedure gone through as you have related on the first occasion?

A With regard to admittance, yes.

Q Did you go and secure some of his clothes?

A I did.

Q Were you accompanied by a police officer when you did that?

A Yes, sir.

Q And after you secured his clothes you brought them where?

Where did you bring them to?

A Back to the house.

Q Now, then, on Wednesday, did you go to the house?

A No, sir.

Q On Wednesday, Marilyn was buried?

A That's right.

Q Did you accompany -- did Sam attend his wife's funeral?

A Yes, he did.

Q Do you remember whether Sam was taken out of the hospital on Tuesday night?

A I remember that he was not.

Q What?

A I remember that he was not.

Q The first time, then, that he went out of the hospital was the day of his wife's funeral?

A Yes, sir.

Q And you accompanied him from the hospital to the funeral home?

A I did.

Q And in what kind of a conveyance did you go from Bay View Hospital to the Saxton Funeral Home?

A 1954 Mercury Station Wagon.

Q Now, where Marilyn was -- where her remains reposed, where was that?

A On Detroit Road in Lakewood.

- Q How far from the hospital?
- A Eight or ten miles.
- Q Now, in going from the hospital to the funeral home, did anyone accompany you?
- A Yes, sir.
- Q Who?
- A Officer Jay Hubach of the Bay Village Police Department.
- Q And was he dressed in uniform, do you know?
- A I know.
- Q What?
- A Yes, I know.
- Q What was it?
- A He was dressed in civilian clothes. He was armed.
- Q He was armed?
- A Yes, sir.
- Q When you went to the funeral and entered the funeral home, where did Sergeant Hubach go?
- A He came with us.
- Q Did he accompany Sam when he walked up to view the remains of his wife?
- A Yes, sir. He didn't walk up with him. He stood back a ways. He was right by his side.
- Q Well, he was in close proximity to him?
- A Dr. Sam was within his vision at all times.
- Q When you had the funeral services, where was Sergeant Hubach?

- A In the chapel.
- Q Was he in close proximity to Sam?
- A He was in the back of the room.
- Q Do you recall who conducted the funeral services?
- A Yes, sir.
- Q What was the name of the man that conducted the funeral services?
- A Reverend Al Kracke.
- Q How do you spell that?
- A I think it is K-r-a-c-k-e.
- Q Of your own knowledge, do you know who that man is?
- A Yes.
- Q Who is he?

MR. PARRINO: I object, your Honor,
as not being material.

THE COURT: Yes, I don't think
we are interested --

MR. CORRIGAN: It will be material.

THE COURT: Objection will be
sustained.

- Q Is he a pastor of the church?
- A He is.
- Q What church?
- A Bay Methodist.

MR. PARRINO: I object to this.
I don't think it is material.

THE COURT: Yes. Let's not go
into this. It won't help us.

MR. CORRIGAN: I am going to bring
Reverend Kracke for a particular purpose, and I
want the jury to know who he is.

MR. MAHON: He can tell us who
he is.

THE COURT: Objection will be
sustained.

MR. CORRIGAN: All right. He is going
to be here anyway.

Q Then when the funeral services were completed, you proceeded
to the cemetery, is that correct?

A No, sir.

Q What? What did you do after the funeral services were
completed?

A We carried Dr. Sam down the steps from the chapel and put
him into the station wagon.

Q Now, in taking Dr. Sam Sheppard from the hospital to the
funeral, taking him out of his room, did he walk out of
his room?

A At no time did he walk.

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- Q How did he get from his room to the station wagon?
- A By means of a wheelchair.
- Q And when he arrived at the funeral home, how did he get from the station wagon into where the services were being conducted?
- A We carried him in the wheelchair up the steps and rolled the wheelchair into the chapel.
- Q And when he was viewing his wife's remains, was he standing by the casket?
- A He was sitting in the wheelchair.
- Q And during the entire service, he was sitting in a wheelchair?
- A That is true.
- Q And when it was over, you carried him from the funeral parlor to the vehicle that was to carry him to the funeral?
- A That is true.
- Q What kind of a car did you go in from the funeral home to the cemetery?
- A The same car, my car, my station wagon.
- Q Now, from the funeral home to the cemetery, were you accompanied by anybody?
- A Yes, sir.
- Q Who?
- A Officer Hubach.
- Q On the way to the burial, was there any conversation between

Sergeant Hubach and your brother?

A

Yes, sir, there was.

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Q What was it?

A Sergeant Hubach asked him if he could remember anything more and went over the salient features of the episodes of the night of July 3rd and the morning of July 4th.

Q In other words, there was a conversation between your brother and Sergeant Hubach relating to the events of July 3rd and July 4th, is that correct?

A That's correct.

Q How far was it from Saxton's Funeral Home to where the burial took place?

A I would judge 15 miles.

Q Where was Marilyn buried, anyway?

A Knollwood Cemetary.

Q Knollwood Cemetary?

A Yes, sir.

Q Where is that?

A On the east side, somewhere -- I think it is SOM Center Road. I'm not really sure of that.

Q I see. Now, then, after the funeral you returned Dr. Sam to Bay View Hospital?

A Yes, sir.

Q Sergeant Hubach accompanied you all the time?

A Every minute.

Q On the way back, was there conversation about the events of July 3rd and the 4th, between Sam and Sergeant Hubach?

- A There was.
- Q When you arrived back at Bay View Hospital, what was the condition of your brother, physically?
- A My brother?
- Q Your brother, yes.
- A He was fatigued, upset and irritated.
- Q Now, then, did you remain with him that night or any part of that night?
- A I stayed with him the rest of the afternoon and some of the evening. I didn't stay late as I had Sunday.
- Q I suppose you were getting pretty tired out yourself by this time?
- A Yes, sir.
- Q Now, then, on Wednesday evening, was there any police over there on Wednesday evening, that you know of?
- A Yes, sir. I believe it was late afternoon.
- Q And who was there late afternoon?
- A Officer Rossbach and Officer Yettra.
- Q And what time did they appear late Wednesday afternoon?
- A Somewhere around 5 p.m.
- Q And what time did you get back from the funeral?
- A I think we got back around 4:00, 4:30.
- Q 4:30. And the police officers appeared at 5:00?
- A Within a matter of an hour after we got back, a short while after we got back.

Q Did they go in and question Sam at that time?

A They tried to.

Q And what was the situation that occurred on Wednesday afternoon after he returned from his wife's funeral?

A I'm afraid I got pretty upset and told them they had no business in there.

Q And did they return the next day?

A Yes, sir.

Q And what time did they return on the next day? That would be on Thursday.

A They returned sometime in the morning. I don't recall exactly when. I believe they -- I know they showed up a half an hour prior to the time that they had agreed to return, and I think it was around 8:30 that they got there and they had agreed to return somewhere around 9:00. It was in the morning.

Q Well, on Wednesday --

A No. I'm sorry. I think it was later than that. I think they agreed to come in at 11:00 and they showed up around 10:00 or 10:30. I don't think it was that early.

Q On Wednesday afternoon, after your brother returned from the funeral, it was you who said, "You ought to come back tomorrow, not today"?

A Yes, sir. I pointed out to them that he was upset, that he had just returned from his wife's funeral and that I

had administered a sedative, and that he was resting, and that sort of thing.

Q Yes. So then the next day the officers came back? That would be Thursday morning.

A And Dr. Gerber.

Q And Dr. Gerber. Were you there when they arrived?

A I was in Dr. Sam's room when they came in.

Q Did you know at that time that Mr. Petersilge had been in contact with them and had arranged for them to come at a certain hour on Thursday?

A I did.

Q Did they come at the hour that Mr. Petersilge had arranged?

A They did not.

Q What was the difference?

A Half an hour, at least.

Q Earlier?

A Yes, sir.

Q Do you know whether Mr. Petersilge had arranged to meet them at a certain time?

A Yes, I do.

Q Now, then, you were in Dr. Sam Sheppard's room that morning, Thursday morning?

A Yes, sir.

Q And what were you doing there?

A Sitting by the side of the bed.

Q What occurred, what happened?

A Officer Rossbach, Officer Yettra and Dr. Gerber came into the room.

Q Anybody else?

A Officers Schottke and Gareau.

Q That was five of them?

A Yes, sir.

Q What did they proceed to do?

A They started to question Dr. Sam.

Q Now, then, did you go out of the room?

A No, sir.

Q You remained there?

A I remained there.

Q And who was doing the questioning?

A All of them, all of them were trying to.

Q What?

A All of them were trying to.

Q Yes. And what was the condition of Dr. Sam when this was going on?

A He still had the swelling around his head and face. By this time he had the orthopedic collar supporting his head. He still was having the difficulty with bowel and bladder. His left arm and hand were weak. His reflexes were still abnormal.

Q When those people came into the room on that morning, did

he raise any objection to their presence?

A He didn't, no.

Q Did you?

A I did.

Q Well, did you notice on that morning that they were accompanied by a great group of photographers and newspaper men?

A Yes, sir.

Q And where were they?

A All over the place.

Q After some conversation, when Mr. Petersilge and I arrived on that morning, were you present in the room?

A I stayed there until you and Mr. Petersilge arrived.

Q And when we arrived, it was arranged that they could do all the questioning they wanted with Sam, wasn't it?

A Yes, sir.

Q What?

A That's correct.

Q Now, that afternoon were you present when Sam was questioned by Rossbach, Yettra and Drenkhan?

A Was I in the room?

Q No. Were you present in the hospital?

A I was in the hospital, yes, sir.

Q And you know that he was in the room alone with those men for a number of hours?

A Yes, sir.

Q When was Sam taken from the hospital?

A That late afternoon.

Q That would be Thursday?

A Yes, sir.

Q And how was he taken from the hospital?

A By wheelchair.

Q And where was he taken to?

A My station wagon.

Q Where to?

A Where did I take him?

Q Where was he taken to?

A Dr. Sheppard, Sr.'s home.

THE COURT: Where?

Q And how long did he remain at Dr. Sheppard --

THE COURT: Just a minute.

I didn't get that.

THE WITNESS: Dr. Sheppard, Sr.'s
home. That's my father.

Q How long did he remain at Dr. Sheppard, Sr.'s home?

A Well, he remained there off and on until he was arrested
on the night of July 30th.

Q When was the first time that he saw his boy, do you know,
Chip?

A Thursday afternoon, late, when he went to --

Q Where was he?

A Dr. Sheppard, Sr.'s home.

Q Now, after this questioning on Thursday afternoon by Mr. Rossbach and Drenkhan and Yettra, did you see them again that evening?

A That late afternoon.

Q And where did you see them?

A My father's home.

Q And what did they do at your father's home?

A They questioned Chip, and they ordered or arranged to have Mr. Roubal of the Bertillon Division of the Cleveland Police Department take all of our fingerprints and palm prints, and that sort of thing.

Q And was that done?

A Yes, it was.

Q And how long did Mr. Rossbach and Mr. Yettra remain -- was Sam there during all this time?

A Yes.

Q What?

A Yes, sir.

Q And how long did they remain in the house on the evening of -- or the late afternoon of Thursday, July 7th?

A I would guess an hour.

Q Did you have occasion to go back to the house, to your brother's house, other than what you have related, after

your first and second visit there?

A Yes, sir.

Q When was the next time you went back?

A July 12th.

Q July 12th. There has been related to the jury here that on Friday afternoon Dr. Sam Sheppard went to his home with Detective Rossbach and Detective Yettra and Dr. Gerber was there, and that he re-enacted what he had told the officers about the affair on the morning of July 4th. You heard that testimony, didn't you?

A Yes, I did.

Q And it was testified that you and Richard were there. Were you?

A No, sir.

Q Where were you on that Friday afternoon?

A In Mr. Parrino and Mr. Mahon's office being interviewed.

Q And what time were you asked to come to Mr. Parrino and Mr. Mahon's office?

A I don't recall when we were asked. We arrived at about one o'clock, as I recall.

Q And did these two gentlemen question you?

A Mr. Mahon and Mr. Parrino and Margaret Bauer was present.

Q And did you make a statement?

A Yes, sir.

Q And how long were you in their office?

A Dr. Richard preceded me. He was in there for, it seemed like days, but I imagine it was about an hour and a half, possibly two. I don't really know. I followed him, and I was in there probably another hour and a half or two.

Q Were you questioned separately by these gentlemen?

A Simultaneously by each.

Q What?

A Simultaneously by each. Mr. Parrino went up on one end of the room and leaned up against a file case, and Mr. Mahon sat at the desk, and they shot questions from either end of the room.

Q But I mean, was Richard in when you were being questioned?

A Oh, no.

Q Or were you in when Richard was being questioned?

A No, I was not. I was sitting outside in the waiting room.

Q Was that statement signed by you?

A No, sir.

Q What?

A No, sir.

Q Was it taken down by a stenographer?

A Margaret Bauer typed it as the question was asked. As I recall, she typed -- possibly she took it in shorthand; I rather think she did.

Q What?

A I say, I rather think she took it in shorthand, but it was

taken down.

Q I see. Was it read back to you?

A No, sir.

Q Were you shown a copy of it, or anything like that?

A Never.

Q After the statement was taken, you went home?

A Yes, sir.

Q Now, Dr. Hoversten, you knew that he had been staying at your brother's house?

A Yes, sir.

Q When did you see him first after the death of Marilyn?

A I think it was when he came into Dr. Sam's room -- or, when I went into Dr. Sam's room and found him there on Monday night.

Q On Monday night?

A That's my recollection, yes, sir.

Q He stated here that there was a conversation took place in which you said to Sam, "Get your story straight." Do you remember that?

A I remember hearing that.

Q What do you say about that?

A I say I didn't say that. What was said was this: Dr. Sam, naturally, was extremely upset, and each time a friend or a relative or one of the staff doctors --

MR. PARRINO:

I object to this,

your Honor. The question is: What was said?

THE COURT: Yes.

MR. CORRIGAN: He is telling
what was said.

MR. PARRINO: Hardly.

MR. MAHON: He is describing
things.

THE COURT: The question is:
What was the conversation?

MR. CORRIGAN: Did you say hardly?

THE WITNESS: I'm sorry. What
did you say?

Q What was said?

A What did I say to Dr. Hoversten?

Q Yes.

A I said to Dr. Hoversten, "Dr. Sam has been over this thing
with everybody that has come in here." I said, "Each
time that he goes over it, it serves only to upset him."

I turned to Sam and I said, "Sam, I don't think
you should keep reliving this thing all the time. You
are going to get it all fouled up. You won't know what
happened, and none of us will know."

Q I see. That is what you said?

A Yes, sir.

Q You objected to Hoversten compelling him to tell the story over again, is that it?

A Well, I don't think he compelled him, but I objected to anyone going in and saying, "What happened, what happened?" Because each time anyone did that, Dr. Sam would break down and relive the horrible sight and the terrible episode and the frightening experience, and it was upsetting to him, and I objected to that.

Q As his physician?

A Precisely.

Q Now, then, where did Hoversten go -- well, when he came back from Kent -- withdraw that.

Do you know when he came back from Kent, what day?

A Sunday.

Q And do you know whether or not he went to Dr. Sam's house on that day?

A No.

Q Of your own knowledge?

A No, I don't know that.

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Q When was the first time that you saw him?

A As I say, Monday, when he was in Dr. Sam's room, is the best I can recall.

Q Did he stay at your house at any time before he left for California?

A Yes.

Q When did he come to your house?

A Mrs. Sheppard and I invited him to stay at our home on Monday evening. In fact, I invited him to stay at our place after this little exchange we had in Dr. Sam's room. I realized that with the house being sealed up, or in the custody of the authorities, that he wouldn't have any place to stay, and felt somewhat obligated to at least arrange a bed, so that night, that evening, I asked him where he had been staying. While we were in Dr. Sam's room we discussed this. He said that Sunday night he slept at the hospital and I said, "Well, for heaven's sakes, come on over to our place. We have got plenty of room, and while you are here we'd like to have you be with us."

And he said he would do that.

Q Did he then come to your house?

A He tried to come that evening later, and we were out. He left a note, said that he couldn't get in, that he rang the bell and nobody answered, and apparently went back to the hospital that night, slept there part of the night, and spent

the remainder of the night someplace else.

Q Did he come to your house on Tuesday?

A He did.

Q And he slept there Tuesday night?

A He moved in and stayed until he left town.

Q And how many days did he stay? Do you remember when he left?

A I have it written down. I can't tell you offhand. I would guess around the 13th.

Q Have you got a note of it?

A Yes.

Q Look at it.

A Tuesday, the 13th.

Q Now, after Sam had been home for sometime, did he return to perform any duties at the hospital?

A Yes, sir.

Q Did you make an examination of him at various times between the Thursday, the day that he was taken to his father's house, and the night of July the 30th, when he was arrested?

A Yes, sir.

Q And will you tell the Court and jury your observations that you made between those two dates as to what his condition was?

A He made gradual, steady improvement. He had weakness in the left arm and hand. This was demonstrated on several occasions, not only by checking in a medical manner, but

when we would pass dishes at the dinner table, he would reach for those and wouldn't be able to hold them.

He regained full control of the bowel and bladder, but was still unable to determine just when the necessity for evacuation occurred.

He began having numbness and tingling along the course of the ulna nerve, which meant the nerve was coming back to life.

2 He had improvement of the reflexes. They remained abnormal, or less active than normal, I should say. The swelling in the face gradually diminished.

He continued to have pain and discomfort in the area of the right upper jaw. He complained bitterly when he drank anything hot or cold, when he tried to chew anything hard on that side.

I checked the teeth a week later and they were still loose, so I suggested that he see his dentist, and Dr. Richard took him over to see the dentist.

But I would say there was steady, gradual improvement up until the time he was arrested on July 30th.

Q Had you prescribed a collar that he should wear?

A Yes, sir.

Q What was that?

A It was a collar made out of steel and leather to support the neck and head and relieve the strain on the neck muscles,

and protect this area of fracture at the second cervical vertebra.

Q That was to hold the head --

A Hold the head up without putting any stress or strain on the neck itself.

Q And how long did he have to wear that collar?

A I told him he should wear it for six or eight weeks, particularly when he was driving in an automobile or moving about.

Now, when sitting in a chair or at rest, he was able to remove it for intervals and, of course, he took it off at night when he was lying flat.

Q Was there any time that he was able to return to perform some of his duties?

A Yes.

Q And did he perform some duties between Friday, July the 9th, and the 30th of July, when he was arrested?

A Yes, he did.

Q And during the period from Friday, July the 9th, until July the 30th, did you go back or go to Sam Sheppard's house?

A Yes, sir.

Q When was the next time that you went to Sam Sheppard's house after the 5th of July?

A The evening of July the 12th.

Q And what time did you go there on July the 12th?

A 8 p.m.

Q Who accompanied you?

A Dr. Richard and Dr. Sam.

Q And when you arrived there, was Sam allowed to go into his house, to his home?

A No, sir.

Q Who prevented him?

A One of the Bay police officers was there and said nobody could go in until Dr. Gerber and the other officers arrived.

Q How long did you wait there outside the house until somebody arrived?

A Half an hour.

Q Where did you stand?

A We stood and sat in the driveway, sat in the police cruiser. I think that was Cy Lipaj that was there that night. I'm not real sure. I think he was the officer.

Q And who were the other officers that arrived with Dr. Gerber?

A Dr. Gerber arrived, Officer Rossbach, Officer Yettra, Chief Eaton, possibly another Bay Village policeman.

Q Did you have some conversation with them?

A Yes, sir.

Q And after the conversation, what occurred?

A They said we could go in the house and get some clothing.

Q And who went in the house?

A Dr. Sam and I.

Q Were you accompanied by police officers wherever you went in that house?

A We were.

Q Where did you go?

A We went into the study, looked about, and we went upstairs, went into Marilyn's room, looked about, went on down the hall to the dressing room, got some clothing from the closet in the dressing room, went into the bedroom which had been occupied by Dr. Hoversten and got some clothing out of the drawers and the closet in there.

Q Accompanied all the time by whom?

A By whom?

Q Yes.

A Bay Village officer. I think either Rossbach or Yettra was with us also in the house.

Q Now, then, after you had taken the clothes what did you do then?

A Went downstairs and loaded them into the car.

Q Which car?

A The station wagon. My car.

Q Your car. Was that the night that you took out the jeep?

A Yes, sir.

Q In which this pebbly doctor's bag was located, that we identified yesterday?

A Yes, sir.

Q Now, after the clothes had been put into your station wagon, what was the next thing that you did?

A We went back into the study. Dr. Sam stayed out and Dr. Richard and I went into the study, and Dr. Richard asked if he could take the over and under .22 caliber 410 shotgun-rifle combination out. Dr. Gerber said that would be all right, but he said, "Don't just take it out under your arm, with all these crazy photographers out there. They will make a big deal out of that," and he said, "You better take it apart."

Q Now, let me ask you: When Dr. Gerber and these other officers arrived at 8 o'clock, were they accompanied by anybody else?

A They didn't arrive at 8 o'clock. We arrived at 8 o'clock.

Q At 8:30, was anybody else with them?

A There were cars full of photographers and newspaper reporters.

Q Cars full of them?

A Yes, sir.

Q And did they get out and surround the house and take your pictures, and so forth?

A They did.

Q Now, then, you say you were in the study with Dr. Gerber and had some conversation about this over-under gun?

A Yes, sir.

Q And what was the conversation about the over-under gun with Dr. Gerber?

A Well, Dr. Gerber was talking about how to take it apart. Dr. Richard didn't know how to take it apart, so Dr. Gerber broke the gun and took it apart for him, and handed it to him, and suggested that he wrap it up in one of Dr. Sam's suit coats, which Dr. Richard did, and that was then removed, taken out and put in the car.

3 Q Now, did anything else occur at that particular time that would be of any help to the jury?

A We backed the Jaguar out, we backed the jeep out. The Jaguar came out first. Officer Rossbach and Officer Yettra, particularly, went over and opened the hood and poked things up into the exhaust pipe and in and under the machinery, the business under the hood, and they got down and shined lights up underneath the chassis. They opened the trunk. They raised the little convertible top, and looked under that, and pulled the seats out, opened the glove compartment. They looked at everything.

Q Made a thorough search of it?

A Yes, sir.

Q And where did you go then?

A I went in and got in the jeep and backed out.

Q Was that examined by the police?

A It was examined very thoroughly.

Q And then what was the next thing you did?

A Well, I stood there while they went through this pebbly grain medical bag. They were going through each and every item in the jeep, and, of course, there were a lot of things in it, but they seemed particularly interested in going through the medical bag, and, at least, Chief Eaton was, to make sure everything was there.

Q Well, then, where were the newspaper photographers and reporters at that time?

A All around the periphery of the property.

Q Taking pictures?

A Yes, sir. They had run up and taken a picture, and I very --

Q Well, all right, --

A In fact, I might say this: Several of them identified themselves as other than what they were, and actually came on the property. One man in particular said, "I am with Chief Eaton. I am with his office," and he came on and went all over the place, and I later found out he was a newspaper man.

Q I see. Now, then, you took the jeep, or your brother took the jeep, that is, Richard?

A Dr. Richard took the jeep, and I took the Jag.

Q You took the Jaguar?

A Yes, sir. I left my car there, and --

Q Where did you drive the Jaguar to?

A To my father's home.

Q And where did Richard drive the jeep?

A To my father's home.

I should have told you that Dr. Richard and Chief Eaton also went up into the top of the garage on the second floor and got the covering for the jeep. The cover was off, and he went up and got the pipes and the canvas portions which make the cover for the back part of the jeep.

Q Now, then, you came back later and got your car?

A Yes. Dr. Richard brought me back, and I picked up my car and came on.

Q Was the Coroner still there, or these other people that you had seen earlier in the evening still there?

A Yes, sir, and there were now four police officers from the Village of Bay directing traffic and opening a passage-way through the crowds of people so we could get through.

Q Your appearance there caused a traffic jam, is that right?

A Yes, sir.

Q You drove away, and you drove your car where?

A Dr. Sheppard, Senior's house.

Q Now, then, did you go back again to the house after July the 12th?

A Yes, sir.

Q What date is it that you returned after July the 12th?

A I have a note of it. I don't know. I was in and out of there several times.

Q Well, look and see what the note is.

A I went in on August 6th.

Q Well, then, between July 12th and the date that your brother was arrested, you were not in the house?

A I don't believe so.

Q After your brother was released from the hospital, do you know, of your own knowledge, of any visits that were made to him by police officers?

A Yes, sir.

Q And when was he visited by police officers after he left the hospital?

A Well, he left the hospital on Friday --

Q When you were present.

A Well, the next day, Saturday, Dr. Sam and Mr. Petersilge and I came down to the County Jail here, and he was questioned that day.

Q What time did you arrive at the County Jail on Saturday?

A Shortly after 8 a.m.

Q And you went on to the fourth floor?

A Yes, sir.

Q Were you present at the questioning of your brother?

A No, at no portion of --

THE COURT: Was that Saturday,
the 10th?

THE WITNESS: Saturday, the 10th.

Q What was the answer?

A That was Saturday the 10th, and I was present at no time during the questioning.

Q Where did you remain while your brother was being questioned?

A In an office outside Sheriff Sweeney's office. I think it is the office of Mr. Harvey Weitzel.

Q And your brother was brought to another part of the building?

A He was taken in through the bars, the jail part.

Q Did you see him at all -- when was the next time you saw him on Saturday after he went behind the jail bars?

A 5:30, quarter to 6 that evening.

Q And where did you see him then?

A Coming out through the same door.

Q And you went home with him?

A Yes, sir.

Q Were you present on any other occasions after that Saturday when the police visited and interviewed your brother?

A Yes, sir.

Q When was the next time?

A The 11th, Sunday.

Q Where did that take place?

watch, or a watch?

A I did not.

Q Did you see on the floor of the den at that time two broken trophies?

A I didn't see those at that time.

Q Did you see them any time during that morning?

A I cannot say that I saw them at that time or any time during that morning. I have seen them in photographs since.

MR. CORRIGAN: Do you gentlemen know where those trophies are? I am talking to Mr. Parrino.

MR. PARRINO: I didn't hear you.

MR. CORRIGAN: Do you know where the trophies are that were in that room?

MR. PARRINO: We may have them downstairs.

MR. CORRIGAN: Will you bring them up?

MR. PARRINO: If not, they are still in the home. I will try to find out for you, sir.

MR. CORRIGAN: Bring them up.

MR. PARRINO: I say, I will try to find out for you, sir.

MR. CORRIGAN: All right.

A Dr. Richard's house.

Q That is his brother's house?

A Yes, sir.

Q And who was there on that occasion? Who came on Sunday?

A Officer Hubach and Drenkhan.

Q And how long did they remain with him?

A I don't know of my own knowledge how long they were with him. They were with him when we arrived. We came over for supper that evening, and we had gotten back from a trip. They were with him when we arrived, and they were with him for an hour while we were there.

Q And where was this conversation taking place between the officers and your brother Sam? What part of the house?

A Dr. Richard's study.

Q Is that separated from the other rooms?

A Yes, it is.

Q Were you in there when these officers were with him?

A No, sir.

Q At any time?

A At no time.

Q Now, they departed?

A Yes, sir.

Q Now, then, did you know of any other time after that Sunday that the officers interviewed him?

A Yes, I did.

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Q When was the next time?

A Monday, the 12th.

Q And where did that take place?

A Bay Village City Hall. I should say that the officers didn't interview him but the Mayor interviewed him or talked to him on that day.

Q On Monday, what date?

A The 12th.

Q Did you go to the City Hall with him on that occasion?

A Yes, sir.

Q What time was it?

A I think it was around one o'clock in the afternoon. I am not terribly sure.

Q And was there a conversation between he and the Mayor?

A There was.

Q Were you present?

A Yes, sir.

Q What was it?

A It involved some of the -- a recap of what occurred on the night of the 3rd and 4th of July, and eventually developed into a discussion of a theory predicated by a psychiatrist who had stopped by to talk to Dr. Sam on the evening of July 11th after Drenkhan and Hubach had left. This doctor and another man stopped by to discuss it with him, and he --

Q That was the conversation Mayor Houk stated that he had with you -- or with Sam about some theory that a psychiatrist had presented to you and you come over and told the Mayor about it?

A That's right.

Q Now, then, did you have any further interviews with the -- were you present at any further interviews that the police had with your brother, Sam?

A Yes, sir.

Q When was the next time?

A Thursday, July 15, 1954.

Q And where did that take place?

A Dr. Richard's house.

Q Who was present on that occasion?

A My wife, Betty, Dr. Richard, his wife, Mr. and Mrs. Charles M. Davis, Dr. and Mrs. Robert G. Miller of California.

Q And what time did the officers arrive?

A I don't know.

Q Where they there when you got there?

A Yes, sir.

Q And were they talking to your brother?

A They were.

Q Where?

A In the study.

Q Were they separated from the rest of the group?

A Yes. We were all out on the porch.

Q And do you know how long they remained in there with your brother?

A No, I don't. Mr. -- rather, Dr. and Mrs. Miller were visiting us from California and we went over to see Dr. Sam. They requested to see him and say hello. And we sat on the porch and talked for possibly an hour, and it was getting late so we left. We never did see him that night.

Q All you know is that the officers were in the study with him?

A All the time we were there and I presume for some time before and some time after.

Q Now, did you know of any other occasions when the officers were in conference with Sam?

A Yes, sir.

Q What?

A I do.

Q And what was the next date?

A Well, a person sent by the authorities saw him next on Monday, 7-19-1954. That was Dr. Moritz. I don't believe he was a police officer, but he was sent by the authorities.

Q And where did Dr. Moritz come to?

A My home.

Q What time did he arrive at your home?

A I would guess around ten o'clock in the morning.

Q Did he tell you who sent him or how he happened to be at your home?

A He said he was sent by Dr. Gerber.

Q And was Sam there at that time?

A Dr. Sam had been staying at my mother and father's home, and the meeting was set to be over at my mother and father's home. It was changed because there were a large number of reporters watching that home, and I got the impression that Dr. Moritz didn't want a lot of pictures of him taken. So Dr. Sam was brought over to my home. I think Mr. Petersilge picked him up and brought him over, and Dr. Moritz was at my home.

Q So the arrangement to meet Dr. Moritz was made directly with Dr. Moritz?

A That was made the night before, yes, sir, on Sunday, the 18th.

Q And Sam at that time was staying with your father over on West Lake Road?

A Yes, he was.

Q And it was discovered that there was lots of reporters around there the next morning and photographers?

A Every morning.

Q All right. So then it was arranged to meet Dr. Moritz over at your house?

A That's right.

Q Which is over in Rocky River?

A That's true.

Q What time did he come there?

A I believe it was around ten.

Q Was Sam there? Had Sam arrived at your house at the time he came?

A Sam arrived shortly thereafter.

Q How long did he remain there?

A Possibly two hours.

Q And during that particular period, did he question Sam?

A He went over the events of the 3rd and 4th of July and commented --

Q I don't want to know what was said. I just want to know --

A Commented on it in general and asked Sam his opinion and whether or not he would do certain things.

Q All right. The entire matter was discussed frankly with Dr. Moritz?

A Yes, it was.

Q Now, then, when was the next time, that you know of, that Sam was subjected to questioning?

A The next day, July 20, 1954, which was Tuesday.

Q That was Tuesday evening?

A Yes.

Q What occurred on Tuesday evening, July 20th?

A Officer Hubach called me at my home, or called my home, and Dr. Sam was there for supper. He asked to talk to Dr. Sam, did so, requested that we meet Hubach and Drenkhan at the Fairview Park Police Station and go over the whole thing.

Q And did you meet in conformity with that arrangement?

A Yes, we did.

Q And where did you meet?

A Fairview Park Police Station, interrogation room.

Q It was stated by Drenkhan that you meet there because they wanted to have some place where they could talk to you free from interference by reporters, and so forth?

A Yes, sir.

Q Do you know that?

A I do.

Q And who met with Drenkhan and Hubach?

A Dr. Sam and I.

Q And how long did you remain with them?

A Four and a half hours.

Q And discussed this matter for four and a half hours?

A That's right.

Q I want to go back just a moment to the Tuesday night that you were at the City Hall.

A Yes, sir.

Q With Dr. Gerber and Yettra and Rossbach and some other

officers. Was there any disturbance around there, around that City Hall that night while you were there?

A I think you refer to the afternoon, the afternoon of Tuesday, when we had the conference with Chief Eaton, Dr. Gerber and the Mayor. Officers Rossbach and Yettra were not there.

Q Was there any disturbance around there at that time?

A Yes, sir.

Q What was it?

A Well, the building was surrounded by newspaper men and photographers. They climbed up on each other's shoulders, took pictures through the transom, they took pictures through the windows, they knocked on the door and came in at every opportunity. Everytime anybody would go in or out, they would try to take a picture in through the cracks, and that sort of thing.

Q Now, then, what time was the conversation over on Tuesday, July 20th, where you met in the Fairview Police Station with these officers from Bay Village?

A Close to midnight.

MR. CORRIGAN: Do you want to take
a recess, your Honor?

MR. PARRINO: That's a good idea.

THE COURT: Ladies and gentlemen
of the jury, we will have a few minutes' recess

at this point. Please do not discuss this case.

(Thereupon, at 10:42 o'clock, a.m.
a recess was taken.)

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(After recess, 11 o'clock a.m.)

Q On the 21st day of July, did a notice come to your home from the Prosecutor's office?

A Yes, sir. I'd like to check that date, if I may.

No, it wasn't from the Prosecutor's office, I don't believe. It was an inquest subpoena. I suppose it was from the Coroner.

Q What?

A I think it was from the Coroner. It may have been from the Prosecutor's office. I don't really know.

Q Well, was it addressed to you?

A There was one served on me, and one served to me for my wife, Betty, who was upstairs retiring for the evening.

Q Notifying you to go where?

A Normandy School the following day.

Q I am talking about earlier on the 21st day of July.

You are talking now about the notice of inquest?

A That's right.

Q But was there an earlier notice which came to your house, or a telephone call on the 21st day of July, to go to the Prosecutor's office?

A That call came on Wednesday, July 21st, and my wife Betty was directed to go to the Prosecutor's office. There was no notice of subpoena, or anything of that sort, that I recall.

Q There was a telephone call?

A Yes, sir.

Q And who was it from, do you know?

A No. Whoever it was spoke to my wife.

Q Well, she can tell about that. On the 21st day of July, later, did you personally get a notice?

A Yes, sir.

Q What time?

A After 11 o'clock.

Q At night?

A Yes, sir.

Q And who served that to you after 11 o'clock at night?

A Officer Deutschlander of the Bay Village Police Department.

Q And notified you -- what kind of a notice was it?

A Subpoena.

Q Was there one served upon your wife at the same time?

A Yes, also Chip, I believe.

Q Was Chip living at your house at that time?

A No, sir.

Q Now, then, that was to appear on the 22nd of July?

A Yes, the next day.

Q And where were you to appear?

A Normandy School, in Bay Village.

Q And pursuant to that, did you go there?

A Yes, sir.

Q And who was the subpoena issued by?

A I presume the Coroner.

Q When you arrived at Normandy School in Bay Village, will you describe the scene that was there as you observed it?

A Well, first of all, it was very difficult to get on the road which leads to Normandy School because of all the traffic.

Q Can't hear you.

A I say, first of all, it was difficult to get onto the road which leads to Normandy School because of all the traffic. Finally, we were able to drive down the road, and we were unable initially to find a place to park. The parking lot was jammed full, and we finally parked the car at an angle -- there are no curbstones on that street, and we just pulled up at the side of the road.

Q Now, do you know what street Normandy School is on?

A I think it is Normandy Road.

Q Is that a main thoroughfare?

A No, it is not. It is not even paved.

Q It is a side street?

A I would consider it a side street, yes.

Q After you got out of the automobile and you finally got parked, what did you notice?

A Milling throngs of people around the school and in the parking lot, the front sidewalk, the sidewalk approaching

the front door, and there was a large front porch there that numerous photographers and newspaper, television services, were on, that sort of thing.

Q Did you finally get into the building?

A Yes, sir.

Q And where did you go?

A We were placed in a classroom.

Q And who was in the classroom?

A Mrs. Houk, Larry Houk, Don Ahern, Nancy Ahern, Dr. Sam, Dr. Richard Sheppard and his wife, Dorothy, my wife, Betty, all of those who were to testify except the police. Well, the firemen were in there with us, Sommers -- Dick Sommer and Ronnie Callahan.

Q Was your father and mother there, also subpoenaed?

A Yes, sir.

Q How old is your mother?

A 64.

Q And then during the course of the day were you called upon to testify?

A I believe I was on that day. May I check that?

Q Yes.

A I am not real sure what day that was. No, sir. My wife and I both testified on Friday, the 23rd.

Q That is, you remained there all day and came back the next day?

A That's right.

Q Now, then, when you came back the next day what was the scene on the next day?

A The same thing. There were more children there the second day.

Q And Photographers, and all this --

A Yes. The children had seen the photographers, and most of them had brought their cameras the second day, and they rushed around taking our picture like the big people did.

Q Now, then, on Friday, then you were ushered into a room, is that correct?

A Yes, sir.

Q And what kind of a room were you ushered into to testify?

A Well, first of all, I was ushered out into the hall, and Officer Yettra frisked me, and the photographer took pictures of that.

Q You being searched?

A I beg your pardon?

Q Of you being searched?

A Yes, sir. Then Officer Yettra took me across the hall -- down the hall into the gymnasium of Normandy School.

Q Were there any people in the hall when this searching of you took place?

A The hall was full.

Q Full of people?

A Yes, sir.

Q Now, then, when you went into this room, how large a room was it?

A Well, it was a regulation size gymnasium. There was a basketball court in there with backboards, and that sort of thing, and there was a little podium on one end of it. Apparently it was used as a combination auditorium and gymnasium.

Q Were there any people in there?

A The room was full.

Q Can you estimate how many people were in the room?

A I'd say 500.

Q And did you notice any photographers and newspaper men in there?

A Myriads.

Q And how was the room set up for photographers and the newspaper men?

A Well, they had a special table somewhat similar to what they have now, only larger.

Q Did they have a table like we have in this room here?

A Only larger. There were photographers in the righthand corner as I faced the audience. They had tripods set up with movie cameras. There were many photographers over in the lefthand side as I faced the audience, and as I took

my chair the photographers, all with handcameras, Speed Graphics, and that sort of thing, rushed up and knelt down and took pictures, and during the testimony, if I would gesture, they would take pictures.

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- Q And did those pictures, did you notice that many of them later appeared in the Cleveland newspapers?
- A They were pointed out to me.
- Q Now, how long did you testify on that day?
- A I would guess about an hour, an hour and a half.
- Q And after you were through testifying, were you allowed to remain in the room?
- A No, sir.
- Q You were escorted out?
- A That's right.
- Q Did your wife, Betty, testify before you or after you?
- A After.
- Q And you were not present when she testified?
- A No, sir. I did step into the room in the back several times when the officer wasn't looking. I wanted to make sure she was all right.
- Q Then your father and mother, they were brought in that room, or you saw them brought into that room?
- A I don't recall actually seeing them brought in. I know they were taken into this waiting room, and then when it was their turn they went in and testified.
- Q I see. Now, then, were you present when your brother was arrested on the 30th of July?
- A No, I was not.
- Q Were you present at the Village Hall when he was -- or the

City Hall when he was brought there under arrest on the 30th of July?

A No, I was not.

Q Do you have much experience, Doctor, with concussion of the brain?

A I have seen many cases of concussion of the brain. Before Dr. Sam returned to the city, I was in charge of the emergency room at the hospital. I saw all the accident cases and, of course, I still see many in my work with the Police Department of Fairview.

Q Can you tell the jury, have you seen many cases as a police surgeon in the City of Fairview Park?

A Yes. Automobile accident victims, and that sort of thing.

Q The location that Bay View Hospital is in, does it result in bringing to that hospital many accident cases?

A Yes. It is the only hospital in the area.

Q And that highway that goes between Rocky River and Lorain is classified as what kind of a highway?

A Terrible.

Q In regard to accidents?

A Yes, sir. It is narrow and winding and hilly and poorly lighted, and it is known as one of the most dangerous stretches of road in this area.

Q And has the condition of that highway resulted in many accident cases, automobile accident cases being brought

to Bay View Hospital?

A It has.

Q Now, will you tell the jury, from your experience, and your personal experience, what the effect of concussion of the brain has upon memory?

A Well, the first and most notable thing about concussion, assuming now that the patient has regained consciousness, the most striking thing about these people is that when they begin to remember anything at all, they remember things that happened a long time ago better than they remember recent events. They may not be able to tell, for example, what they had for breakfast, yet they can tell things that happened in their childhood, things that happened when they were youngsters going to school. And that memory for recent events, if it returns ever, returns very gradually. And for that reason, people who deal with head injuries and those of us who treat these problems make no attempt to question or go into the background of the injury or how it occurred.

For example, in an automobile accident we never say, "What kind of a car was it?" Or, "What happened," for at least 24 hours after these people regain consciousness, because we know that their recollection, if they have any recollection at all, is going to be completely undependable and bizarre.

They may say things and frequently do say things that have no bearing, they may not even be able to tell the color of their own car.

Q And you wait until the memory returns before you go into the details of the accident?

A That's right. We don't even let insurance adjusters and people like that come in and question the patient for at least 24 hours after they regain consciousness, because it has been our experience that it is meaningless.

Q Dr. Sheppard, do you know, of your own knowledge, what and his the custom of Sam's wife was in regard to keeping the doors locked?

A I do.

Q Will you state what you know about it?

A They never locked the doors unless they were going out of the city or were going to be gone for some period of time.

MR. CORRIGAN:

Cross-examine.

CROSS-EXAMINATION OF DR. STEPHEN ALLEN SHEPPARD
(11:15 o'clock, a.m.)

By Mr. Partino:

Q Dr. Sheppard, you say that the custom of Marilyn Sheppard was to leave the back door or the Lake Road door open, sir, as they retired in the evening?

A Yes, sir.