

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. Parrino:

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.

Q And that was Sam's custom, also, is that correct?

A That's true.

Q And what was Sam's custom as to the garage doors, as to being open or closed?

A They could have been either open or closed, depending on the weather.

Q But what was his custom as to the garage doors?

A They were usually open on one side. They were sliding doors. When one was open, usually the other was closed because they would slide behind each other.

Q Then you say that as to one of the doors in the garage, it was Sam's custom to leave that door open, is that correct?

A I would say for the most part, yes.

Q Is that right?

A For the most part.

Q And what was the appearance of those garage doors as to being open or closed at the time that you arrived at that home on the morning of July 4, 1954?

A There was a space sufficient for me to squeeze through. You certainly couldn't drive a car through it.

Q Now, Dr. Sheppard, is it your contention, sir, that all persons who suffer from a concussion of the brain suffer from a loss of memory for recent events?

A Concussion involves --

Q Now --

A Let's define our term.

Q I am talking about the same term that you were talking about with Mr. Corrigan.

A All right. The answer is yes.

Q In every single case where you have a concussion, you say that a person has a loss of memory for recent events, is that correct?

A I say in every case of concussion there is a loss of memory for a period of time.

Q My question is this, sir: Is it your contention that in every case of loss of memory -- of a concussion, that a person has loss of memory for recent events?

A Yes.

Q And how recent?

A It depends on the severity of the concussion. If it is a mild concussion, the duration of recent event memory loss is shorter than if it is a severe concussion, although even that isn't predictable. It isn't a rule of thumb that can be depended upon.

Q Well, when you say that he has a loss of memory for recent events, do you mean the events that have occurred within two or three minutes of being knocked out?

A No, no.

Q Or two or three hours of being knocked out?

A Again, it depends on the severity of the concussion and how long he is unconscious, anyone.

Q Now, you have a concussion of the brain in any case where a -- these television fights that we see on Friday nights and Wednesday nights where a boxer is knocked out, that is what you term, medically, as a concussion of the brain, isn't that correct?

A Precisely.

Q Or on the football field, where a player is knocked out, you there have a concussion, is that correct?

A That's right.

Q And you have seen, in your own experience, these fights on television, have you, sir?

A Yes, I have.

Q And then when the knocked out fighter gets up -- withdraw that.

You have observed that after being knocked out, that in many, many instances they get up and immediately converse with other persons in the ring?

A Oh, there's no question about that.

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mg

Q

And they walk around?

A

Surely.

Q

And they act in a normal way?

A

Act, yes.

Q

And you have never talked to any of those -- a prize fighter immediately after being knocked out, have you, sir?

A

No.

Q

And you say that in every case of a prize fighter being knocked out, he suffers loss of memory for recent events, is that correct?

A

I say anybody that experiences concussion loses a memory for recent events, prize fighters, or anybody else.

Q

Where did you go to high school here in the city, Doctor?

A

Cleveland Heights High.

Q

And when did you graduate from Cleveland Heights High?

A

June of 1938.

Q

And upon graduation from Cleveland Heights High where did you go?

A

Washington and Jefferson College in Washington, P-a.

Q

And how long did you attend that school?

A

One year.

Q

And what subjects did you study at that time?

A

College algebra; German; English; chemistry. I think that was -- oh, I took religion. Religion was a requirement.

Q And where did you go from there?

A I went to Western Reserve University.

Q And how long did you attend Western Reserve University?

A I went to Western Reserve University the summer session.

Q For one summer?

A No, several. I was trying to get my pre-medical prerequisites as soon as possible, because there was a lot of war noises being made, and I wanted to get into medical school.

Q You wanted to get into medical school before the war?

A I wanted to get into medical school as soon as possible.

Q Did you want to get into medical school before the war?

A I wanted to get in that same day, if I could.

Q My question, sir, is this: Did you want to get into medical school before the war?

A I certainly did.

Q Now, how many summers did you attend the summer session at Western Reserve?

A I think it was two.

Q And what did you do after that?

A After the summer sessions?

Q Yes.

A Well, in between the summer sessions I went to another school.

Q Will you tell us what that was, please?

A Hanover College in Hanover, Indiana.

Q Was that during the winter months?

A Yes, it was. Regular school sessions.

Q And for what period of time did you go to Hanover College?

A Two years, sophomore-junior year.

Q Then where did you go to school?

A Los Angeles College of Osteopathic Physicians and Surgeons in Los Angeles, California.

Q When did you begin your schooling there?

A In the fall of 1941.

Q And how long did your schooling continue?

A Three years.

Q You graduated when, please?

A I'd like to say three years, four didactic years. I graduated in October of '44.

Q How old were you at that time?

A '44. 10 years ago. 24.

Q What did you do then?

A I initiated an internship.

Q Where was that?

A Los Angeles County General Hospital.

Q How did you -- how long did you remain there?

A Almost three years, yes, about two and a half years.

Q Well, was that an internship, or did you begin your practice of osteopathy at that time?

A Well, that was an internship, and after the internship, I was appointed to a residency.

Q Then what did you do?

A In July of 1946, I returned to the city of Cleveland and began a fellowship in surgery.

Q Where was that?

A Cleveland Osteopathic Hospital.

Q And how long did you remain there?

A At the hospital, you mean?

Q Yes. Your doing that work.

A Well, I remained in that fellowship until 1951, but I didn't remain at the hospital, because we opened Bay View and, of course, Cleveland Osteopathic Hospital moved out into Bay View Hospital, and I continued my work out there.

Q Would you consider that an additional period of training, sir?

A You mean the fellowship?

Q Yes.

A Oh, of course.

Q And where is that Cleveland Osteopathic Hospital located?

A 3146 Euclid Avenue.

Q And you say you completed your work there in '51?

A No. I say I continued my fellowship until '51. Bay View Hospital opened in 1948. Cleveland Osteopathic Hospital



continued to function for possibly, oh, nine months or a year after Bay View Hospital opened, and ultimately the entire operation was switched out to Bay View Hospital, but my fellowship continued during the entire period, my training program in surgery.

Q Then your work at the Bay View Hospital began?

A Well, it actually began before that. In other words, the fellowship is a training program which allows the practice of medicine, or whatever specialty is involved, in addition to the training program, in contrast to, say, an internship where there is no practice on the side.

Q Now, would you, in just a general way, Doctor, tell us what the science of osteopathy is, just in a general way, please?

A Osteopathy is the practice of medicine. It is a complete school of medicine.

Q In any particular branches of medicine, sir?

A Osteopathy is a complete school of medicine, which includes, in addition to the subjects studied in ordinary medical schools, the study and particular emphasis on body mechanics and manipulation.

Q Now, what is the present position that you hold at Bay View Hospital?

A I am Director of hospital practice; I am head of the Department of Urology; I am a member of the Department of Surgery. I think that's all I presently hold at the

hospital.

Q And how long have you been the head of the Department of Urology?

A Since 1951.

Q And what is urology?

A Urology is the study and treatment of disease of the urogenital tract, the kidney, bladder and prostate, primarily.

Q Are you a specialist in that field?

A My specialty is general surgery. My interest lies -- my particular interest is focused in urology.

Q My question is: Are you a specialist in the field of urology?

A Yes.

Q Did you receive special training for that, sir?

A Yes, I did.

Q Are you a specialist in the field of neurosurgery?

A No, I am not.

Q Have you ever done any neurosurgery?

A I have done no operative neurosurgery, except as an assistant in the Los Angeles County General Hospital, and as an assistant to Dr. Sam in many operations in Bay View Hospital. But as far as myself operating as the surgeon in charge, no.

Q When did Sam graduate from the osteopathic school, please?

A I think it was in '46.

Q Is there an osteopathic college in Ohio, sir?

A No, there is not.

Q How many are there in the United States?

A Six.

Q Now, here yesterday, Dr. Sheppard, and today, you have been referring to a notebook that you have in your pocket, isn't that correct?

A Yes, sir.

Q And you have been using that notebook, of course, from time to time to refresh your recollection on certain dates and matters involved in this case?

A That is true.

Q And are all of the entries in that notebook yours, sir?

A Yes, they are.

Q What is the first entry you have in that book, what date?

A In regard to this matter, June 5, 1954.

The first entry is August of 1946.

Q You have been using this book from time to time since August of 1946, is that correct?

A That is true.

Q And in 1946, when some event occurred that you thought to be of some importance, you placed it in that notebook, is that correct?

A That's right, because it was a memorandum book which I used initially to keep track of the interns when they started their service and when they finished their service. These

names are the names of the interns in '46, and I go through '47, '48 --

Q Well, how many pages do you have devoted to 1946?

A Well, 1946, --

Q Do you find something funny in what I am saying, Dr. Sheppard?

A I think I detect what you are getting at, sir.

Q Well, will you just mind answering my question, sir?

A Surely. About half of the first page 1946 appears.

Q And how many pages are devoted to 1947?

A 1947 appears on the remainder -- remaining half of the first page -- I'm sorry -- 1946 appears on the second page, too, in several places. 1947 appears on the second page in several places, and '48 appears here, too. The name of a doctor and the date he started his internship or finished it.

Q And what entries appear on the next page, generally?

A The same thing in regard to 1948. We get into a little 1949, there, too.

Q Those are matters pertaining to the hospital, are they?

A Interns, yes. This is labeled "House Staff" on the outside, you see.

Q And the next page, please?

A The same thing. It lists names of interns and when they

started and when they finished. It is beginning in 1950 here.

Q All right. The next page.

A We get on the next page more of the same.

Q And the next page, please?

A More of the same.

Q And the next page, please.

A More of the same. We get into 1952 -- '51 now.

Q Those are all doctors' names, generally?

A Yes. There are interns, for example, 1952, here, and all the interns that interned there during 1952, when they started.

Q And the next page, please.

A This page involves 1953, the interns that were there in 1953, and also lists the serial numbers of some pistols that I have.

Q And how many pages do you have to turn before you get to June the 5th?

A June the 5th, two blank pages, three, four, five, six, seven, eight, nine, ten. Ten pages. Actually June 5th starts on the back of the tenth page.

Q And when you say ten pages, you mean from the very beginning of the notebook, is that correct?

A That is counting the face piece or frontis-piece, whatever you want to call that.

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Q Now, on June 5th, then, you have your first entry as it relates to this particular case, is that correct?

A Yes, sir. It has no particular reference to this case. It tells about an event that --

Q Well, without going into it --

A I'm not going into it. I thought I should make a note of it because it was one of the last times that Dr. Sam and his wife and the family were together.

Q All right. So then you have entries on June 6th --

A No, no.

Q You have entries of June 6th?

A Yes, sir -- no, the 5th.

Q I'm sorry. Do you have any of June 6th?

A Yes, sir.

Q Of June 7th?

A Yes. Then I skip to the 11th.

Q Read to me the dates of entries that you made in that book?

A June 5th, June 6th, June 11th, June 12th, June 13th, June 19th, June 20th, June 25th, June 27th, June 28th, June 30th, July 1st, 2nd, 3rd, 4th.

Q That's all for the time being. Thank you.

Well, continue. June 4th, and what other days do we have?

A The 4th then is continued.

MR. DANACEAU:

July 4th, Tom.

MR. PARRINO:

I'm sorry. From

July 4th.

A Yes. Did I say June?

Q I did. I'm sorry.

A Oh. July 4th, 5th, 6th, 7th, 8th, 9th.

Q Continue, please.

A 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th and 31st.

Q And then it goes into August?

A Yes, sir.

Q All right. Now, when did you make those entries beginning on June 5th up to and until July 31st?

MR. GARMONE:

June 5th or July 5th?

MR. DANACEAU:

June 5th.

THE COURT:

June 5th, he said.

Q June 5th up to and until July 31st?

A I transferred the notes that I had previously made over into this book about, ~~in~~, possibly three weeks after.

Q Well, what date would that be?

A I'd say about the end of June. I think it was probably when Dr. Sam was arrested, somewhere around there.

MR. PETERSILGE:

July.

A July 30th, somewhere around there.

Q On July 30th, then, at -- withdraw that.

On or about July 30th you wrote all of the memoranda in this book from June 5th until July 31st, is that correct?

A I transferred them from those that I had kept.

Q Well, when did you start making notes relative to this case?

A July 4th.

Q What time in the day did you start making notes on July 4th?

A Seven o'clock in the morning.

Q Where were you when you started making notes on July 4th?

A Bay View Hospital.

Q What notes did you make on July 4th?

A Do you want me to read them to you?

Q No. Pertaining to what?

A Well, Dr. Sam's injuries, my impressions, my recollections of important things, that sort of thing, things that appeared to be of note.

Q You say you started to make those notes at seven o'clock?

A I did.

Q Now, you are not speaking of notes that you made on the hospital chart that is here entered into the evidence?

A Those are part of them.

Q Other than that, you made other notes on other pieces of paper, is that correct?

A Prescription blank.

Q On a prescription blank?



A Pad, I should say. I carry a prescription pad with me.

Q And how long did you continue to make those notes on the prescription pad?

A That day?

Q Yes.

A Well, I made them off and on all day, made them off and on all month.

Q Always on a prescription pad?

A No. I transferred some of these things onto a calendar that we keep in our kitchen. Some of the dates that were in reference, for example, to Dr. Hoversten, when he left, when he came, when I was called down to these certain places. On the calendar I wrote the dates that Dr. Sam and I were interviewed and by whom, and then after somewhere around July 30th I took all of this material, the prescription pad, the calendar, the works, and I transferred this material over to the notebook. And in addition, I checked the calendar for events that my wife had written on it. It is one of these calendars that she keeps track of family affairs, and that is where I got this June 5th and the information leading up to July 4th. But from July 4th on, that's mine.

Q All right. Now, did you preserve the notes that you made on the prescription pad after you transferred them to this notebook you have with you in court?

A No, no.

Q How?

A No, I did not.

Q You destroyed them?

A It was all I could do to read them myself.

Q My question is, sir, you destroyed them?

A I threw them away.

Q These notes, as you they relate to -- withdraw that.

Referring again to your notebook, you made certain notes relating to June 5th, June 7th and other dates in June, is that correct?

A Yes, sir.

Q Now, when did you make those notes?

A When I transferred the material from the calendar to this book, I got that information off the calendar. Those were things that mywife had written on the calendar. For example, she said -- well, you are not interested in that.

From the things that she wrote in the calendar, I was able to recall these specific instances and get the dates right. So I put them in the notebook.

Q I see. And when did you put those notes in the notebook, on the 30th?

A Well, the same time I started the notebook.

Q I see. In any words, any move that you would make on

July 4th, you made a notation of it?

A Oh, no.

Q Any move that you thought to be of importance that you made on July 4th, you made a notation of it?

A Of course not. The salient features, things that would help me to remember. That is my custom; it has been my custom for years.

Q I didn't ask you about your custom, sir.

A I'm sorry.

Q Was any move that Sam made or anything that occurred in relation to Sam on July 4th recorded in your notes?

A May I check the notes?

Q Yes.

(Witness checks notes.)

A Surely, a great deal.

Q And his moves or anything that occurred with reference to Sam on the 5th are also recorded in those notes?

A Nothing about his moves. The fact that he was questioned by Officers Rossbach and Yettra.

Q In other words, each time that your brother would be questioned by a police officer or an attempt to question him was made, you made some note of it on the prescription pads?

A I did.

Q And each time --

A In addition to many other things.

Q Yes. And each time the Coroner made an attempt to question him, you made a note on the prescription pad?

A That's correct.

Q And each time you were questioned by anyone, you made a note on the prescription pad?

A That's right.

Q You made a note as to the time, the place of questioning and who was doing the questioning, isn't that right?

A That's precisely right.

Q Or attempted to do the questioning, isn't that right?

A That's right, too.

Q And you kept compiling this information for July 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and throughout the month of July, isn't that correct?

A To date.

Q How?

A To date.

Q Now, as you were recording all of that information on these prescription pads, did you, as you were making those notations, expect that you would be a witness in a case where your brother would be charged with murder in the first degree?

A No, sir.

Q In other words, you were just compiling general information

for anything that might come up?

A Well, I knew I would be questioned, and I was.

Q How?

A I knew I would be questioned, and I was questioned.

Q And you knew that Sam would also be questioned, didn't you?

A Well, I presumed that he would. He had been questioned a great deal up to that time.

Q Well, while you were making those notes, you knew that Sam was going to be questioned, didn't you?

A I knew he had been.

Q My question, sir, is: You knew while you were making those notes that Sam would be questioned?

A I knew nothing about what would happen to Sam. I knew he had been and I presumed that he would be.

Q Well, the answer to the question, then, again, is that at the time you made these notes you knew that Sam would be questioned?

THE COURT: I don't think that is quite fair, Mr. Parrino. He has already said that he knew Sam had been questioned, and he presumed he would be still further questioned. Now, how could he know that he was going to be questioned?

MR. PARRINO: I am just asking for the workings of his mind, your Honor, and

he is the only one that can tell me that,  
your Honor.

THE COURT:                      The workings of  
his mind wouldn't let him know.

MR. PARRINO:                      All right. Thank  
you very much, your Honor.

THE WITNESS:                      It was my opinion  
that he had been questioned excessively up to  
that time by the time I had transferred these  
notes over.

Q        When did you first come to the opinion that he was  
questioned excessively?

A        Well, about the time I transferred the notes, I thought  
they had picked him pretty dry.

Q        On the 30th?

A        Yes, sir. He had been over the thing on many occasions  
that I knew of.

Q        Was that the first time that you thought he was being  
questioned excessively, on July 30th?

A        That's the first time I felt that he had told certainly  
everything he knew, and I was convinced of that fact. I  
thought that he shouldn't have been questioned at all on  
July 4th, and I said so.

Q        Was July 30th the first time that you felt he had been  
questioned excessively?

A I think that's the first time I came to any definite conclusion on it.

Q On July 4th, you didn't feel that he had been questioned excessively, did you?

A I thought he shouldn't have been questioned at all on July 4th. I told the officers that.

Q On July 5th, you didn't feel that he had been questioned excessively, did you?

A No. I felt that he should tell the story as soon as he was able to tell it and tell it completely, as he did.

Q On July 6th, you didn't feel that he had been questioned excessively, did you?

A No. He was beginning to be in shape that he could be questioned by then.

Q On the 7th, the 8th, the 9th you didn't feel that he had been questioned excessively, did you?

A Of course not. I thought he should have been questioned.

Q You thought he should have been questioned, you say?

A At that time.

Q And you also thought that he should be questioned only by certain particular people, didn't you?

A No.

Q Well, sir --

A I thought he should not be questioned by certain particular people.

Q Well, did you feel that he should be questioned by certain particular people?

A I'm sorry, would you say that again?

Q Didn't you feel --

THE COURT: The question is:

Did you feel that he should be questioned by particular people?

THE WITNESS: Yes, sir, I did.

Q And the particular people that you felt he should be questioned by would be Mr. Rossbach?

A Any people with open minds, any people who hadn't made an accusation and decided that he was guilty, anybody else.

Q Now, will you answer my question?

A I thought I did.

MR. GARMONE: I think he has answered it, your Honor.

MR. DANACEAU: The question was about Rossbach only.

THE COURT: That's right.

Q Did you understand my question about Rossbach?

THE COURT: Repeat it,

Mr. Parrino because he has lost it now.

Q Did you understand my question about Rossbach?

A Well, I understood your question about whether or not certain people should question him.



Q Then I take it you misunderstood my question about Rossbach, is that correct?

A Well, I think you were asking me if I had any objection to Officer Rossbach questioning him, is that it?

Q Now, can you answer that question yes or no?

A I can answer it yes or no.

Q Will you answer it yes or no?

A Certainly.

Q What is the answer?

A I had no objection to Officer Rossbach questioning Dr. Sam then or at any other time, as long as he was in physical condition to be questioned.

Q Did you have any preferences as to who else should question Sam?

A I had no preference as to who should question him, but I certainly had an opinion as to who shouldn't.

Q Well, did you want Drenkhan to question him?

A I didn't care if Drenkhan questioned him or not.

Q Did Sam want Drenkhan to question him?

A Sam wanted somebody that he knew.

Q Well, you knew that Drenkhan was Sam's friend, didn't you?

A I knew that Drenkhan knew Sam. I knew that Sam knew Drenkhan.

Q Well, when did you first know that?

A Well, I've known it for years.

Q Well, you knew they were friends?

A

Well, they were friends like I'm friends. I know Drenkhan, I have seen him in the hospital. I wouldn't say they were bosom buddies or social acquaintances in the sense that I think you refer to. I'd say they were casual friends. Let's put it that way.

Q Now, what time did you first receive the call on the morning of July the 4th?

A Just before 6 o'clock a.m.

Q And did you personally receive that call?

A Yes, I did.

Q From whom did you receive the call?

A Mrs. Dorothy Sheppard.

Q And what was stated to you at that time?

A She said, "Something awful had happened up at Dr. Sam and Marilyn's house, and Spen Houk just called and said, 'Marilyn's been killed.'"

Q And what did you do then?

A Jumped out of bed and started to dress.

Q You dressed and your wife dressed, I think you stated, of course, and you left the home, right?

A Yes, sir.

Q And how long after the call was it that you left the home?

A Left?

Q Yes.

A Well, it didn't take us long to get dressed, possibly five minutes, six minutes.

Q How were you dressed?

A I had on the blue denim -- faded blue denim trousers. I don't recall my socks. In fact, I don't think I put socks on. I had on some rubber-soled combination slipper and

sneakers that I wear on the sail boat, because they don't slide. They are easy to get on and off.

I had on a T-shirt, and I had on a blue denim jacket which matched the trousers -- a white T-shirt and the blue denim jacket. I also had on a straw hat with a visor.

Now, where is your home located with relation to the hospital and Richard's home and your father's home and Sam's home? Will you describe that, please?

My home is south and east of the hospital, possibly three miles, two or three miles from the hospital. Dr. Sheppard, Senior's home is just east of the hospital on the same side of the road, which is north of Lake Road. Dr. Richard, my brother's home is on the west side of the hospital, the same side of the road as the hospital, which is north of the road. Dr. Sam's house is some three miles west of the hospital on West Lake Road, on the same side of the road, which again is north of the road.

Now, which of these persons lives the closest to Sam?

Dr. Richard.

And how far does he live from Sam's home, generally?

About three miles.

How?

I would judge about three miles from the hospital to Dr. Sam's, and Dr. Richard is right next to the hospital.

And what kind of a car were you driving that evening, or

that morning?

A He or I?

Q You. You, sir.

A The station wagon.

Q A station wagon?

A Yes, sir.

Q I take it you were traveling at a rapid rate of speed to get to Sam's home?

A Certainly.

Q Did you observe Richard's home when you drove past it?

A I don't recall looking at it. I know it was there.

Q Were there any lights on in the house?

A In Dr. Richard's?

Q Yes.

A At that time of the day, I wouldn't have noticed.

Q It was daylight?

A Oh, yes. It was foggy and overcast, but it wasn't dark.

Q When you got to Sam's home where did you drive to? Where did you park?

A In the driveway, the end of the driveway.

Q Were there any other cars in the driveway at that time?

A Oh, yes.

Q How many cars were there?

A I would guess a half a dozen. Do you want me to say the cars?

Q No, not necessarily.

A A half a dozen.

Q Richard's car was there, I take it?

A Yes.

Q Did you notice if the garage doors were open or shut?

A At that time I didn't. I noticed the back door was open, because I went in through there, but I didn't pay too much attention to the garage at that time.

MR. PARRINO: I am going to go into the home now, and I think this will take some time, and I would prefer not to be interrupted.

THE COURT: Ladies and gentlemen of the jury, we will now adjourn until 1:15 this afternoon.

In the meantime, please do not discuss this case.

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(Thereupon at 11:55 o'clock a.m. an adjournment was taken to 1:15 o'clock p.m., Friday, December 3, 1954, at which time the following proceedings were had):

Friday Afternoon Session, December 3, 1954, 1:15 o'clock

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

CROSS-EXAMINATION OF STEPHEN ALLEN SHEPPARD (CONT'D)

By Mr. Parrino:

Q Now, Dr. Sheppard, if I may, please, I would like to go  
back again to this matter of concussion of the brain.

A Yes, sir.

Q You have stated that when a boxer, a prizefighter, is  
knocked out in a prize ring, he receives a concussion  
of the brain, is that correct?

A I think I said anyone that is knocked out.

Q Yes. But we are speaking specifically of the boxer, for  
the moment.

A Does a boxer receive concussion when he is knocked out?

Q Yes.

A Yes, sir.

Q And you have viewed bouts on television from time to time,  
you have stated?

A Oh, yes.

Q Now, do you recall any incident where you have seen one  
prizefighter strike another prizefighter a right to the  
jaw and knock him out?

A I've seen blows --

Q A right or a left, either one?

A Yes. I have seen fighters knocked out, not only on television but in life.

Q Yes. Well, let's confine ourselves to television for a minute.

A All right, sir.

Q You say that you have never spoken to any prizefighter immediately after being knocked out, is that a fact?

A That's a fact.

Q Yes. Now, on television, have you ever seen this take place: That after the person is knocked out, he is counted, then he arises, and within two or three minutes he is brought over to the microphone where he speaks to the people by way of the television or the radio; have you ever heard such persons speak?

MR. CORRIGAN: Object to that.

A boxer knocked out is never able to speak.

THE COURT: He can say

whether he has ever seen it.

A Well, I have read about it in the paper the next day. Somebody says, "It was a tough fight, I did the best I could."

I also heard they were counted out and didn't say anything for 24 hours. Some of them never even



woke up, they were dead.

Q My question, sir, is this: After a person is knocked out, have you ever seen one or heard one brought to the microphone where he speaks to the audience, have you ever heard that?

A I don't recall ever hearing one that was knocked out, a k.o. I have heard them speak on a technical knockout, where they were declared beaten and they come and make a comment.

Q Have you ever heard the announcer ask somebody that was knocked out a question such as this: "Joe or Charlie, what blow was that that knocked you out"?

MR. CORRIGAN: Object to that.

No thing like that ever occurred.

MR. PARRINO: Just a moment, will you please, Mr. Corrigan?

MR. CORRIGAN: Well, I object. We are getting into situations that don't exist.

MR. PARRINO: Well, maybe you haven't seen that, sir, but maybe the witness has and maybe I have and maybe the jury has.

THE COURT: The doctor may say whether he has seen it. It is along the line of testimony the doctor gave this morning.

All right.

A Frankly, Mr. Parrino, I am not that much of a fight fan. When somebody is knocked out, I turn it off. The fight is over, as far as I am concerned.

Q All right. I will ask you this question, nevertheless: Have you ever seen or heard a prizefighter immediately after the fight, heard him asked by the announcer, "Joe, Charlie, Harry, what blow was that that knocked you out"? And heard this fellow respond, "It was a right to the jaw. I saw it coming. I should have avoided it"? Have you ever heard that?

A I don't recall hearing it, sir.

Q Never in any time that you have been watching TV?

A In all the times that I have watched TV, I have probably seen three fights, possibly a half a dozen.

Q Well, in your professional opinion, would it be possible for a man that was knocked out in a prize ring, a few minutes later, two, three, four minutes later after he was knocked out to come before a microphone or a television camera and say, "I was knocked out by a right to the jaw"?

A Oh, entirely possible, certainly.

Q So that fellow certainly doesn't have an absence of memory for recent events, does he?

A Well, the fact that he says he was knocked out by a right to the jaw, doesn't mean he was. It could have been a

left, and maybe he fell and hit himself against a post, for all he knows.

Q I see. So you say, then, that the fellow that says, "I was knocked out by a right to the jaw" is completely in error when he says that, is that right?

A Mr. Parrino, I think what I said was that if he were actually knocked out, he may be wrong as to the exact blow that produced the concussion.

Q Well, is it medically possible that he may know that it was a right to the jaw that knocked him out?

A If he were out for a very brief period, that is entirely possible.

Q 10 seconds, the count?

A Entirely possible, but certainly not definitely dependable.

Q Well, that fellow has a concussion, doesn't he?

A He has had.

Q And he remembers events that took place just a few moments ago, doesn't he?

A He may.

Q All right. So that in some cases, then, a person who has a concussion of the brain may have a memory for recent events, isn't that correct?

A He may have a memory of certain recent events, certainly, but not a memory of everything that happened recently.

Q So that such a person may have a memory for some recent

events, is that right?

A I think that's true, yes.

Q So that your statement of this morning, that a person that is rendered unconscious and suffers a concussion has no memory for recent events, that is not correct, is it, Doctor?

MR. GARMONE: Object. That wasn't his statement this morning.

MR. DANACEAU: It certainly was.

MR. GARMONE: I have made my objection.

MR. DANACEAU: Well, I have stated to the Court --

MR. PARRINO: Would you read that question to him, please?

(Question read by the reporter.)

THE COURT: Objection overruled. All right. You may answer.

A I don't recall saying that. If I did, I should have said it was impaired.

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Q Well, if you said it, you were wrong?

A If I said in every case -- is that what you mean -- that the memory for recent events is completely gone, I certainly was wrong. I don't believe I said that.

Q You don't believe you said that?

A I don't believe I said it. I don't believe that I intended any more than to say that his memory for recent events is impaired, and I still believe that. Anyone who is knocked out, his memory for recent events is impaired.

Q Now, there is a difference between memory being impaired and memory being gone, isn't that right?

A Oh, yes. If you mean by gone, completely gone.

Q Yes.

A I have seen both instances.

Q Now, Doctor, when you left your home that morning after receiving this ominous telephone call, you got a gun, you say?

A Yes. Not after I left home. After I dressed, I went to the closet.

Q And was this gun loaded?

A Yes, sir.

Q And where did you put this gun?

A In my right hip pocket.

Q Was it already loaded, or did you load it at that time?

A I loaded it at that time.

Q Didn't you know that there would be police at the scene?

A I had no idea who would be at the scene.

Q You and your wife got into your station wagon and you left your home then, is that correct?

A Yes, sir.

Q What, if anything else, did you have with you as you left your home?

A Just the things that I ordinarily carry in my pocket.

Q Did you have anything else with you in the station wagon?

A I think I had my -- yes, I did. I had in the back of the station wagon, I think I had some sail bags and battens and gear for the sail boat.

Q Did you have anything else besides that in the station wagon?

A Not that I recall. I may have had my medical bag.

Q Well, did you have your medical bag?

A I wish I could tell you definitely. I keep it in one car and then the other. My impression is that I didn't.

Q You did or did not?

A I think it was in my wife's car.

THE COURT:

His impression is

that he did have.

Q Did have?

A Didn't. My impression is that I didn't.

Q Well, before you left the home, you knew that something serious had happened at Sam's home, didn't you?

A Yes, sir.

Q You were told that Marilyn was dead, isn't that right?

A Yes, sir.

Q And certainly you suspected or you knew that there was great violence that took place at that home?

A Yes, sir.

Q You remembered to pick up a gun and load it, didn't you?

A Yes, sir.

Q But did you remember to get your medical bag?

A Did I --

Q And put it into the station wagon?

A No.

Q So then you went to the home of your brother Sam?

A Yes, sir.

Q You got out of the car as you arrived and proceeded toward the house, you and your wife?

A That's right.

Q You were excited at that time, weren't you?

A Surely.

Q Who went into the house first?

A My wife.

Q Are you sure of that?

A Perfectly.

Q You followed her?

A That's right.

Q As you entered the house what is the first thing that you saw?

A The medical bag.

Q Where was the medical bag?

A In the back hall.

Q When did you first see the medical bag?

A When I went in the back door.

Q What was your exact position when you first saw it? Were you inside the door or were you just coming into the house? Can you tell me that, please?

A I think I just stepped across the threshold.

Q And there you saw a medical bag, right?

A Yes, sir.

Q And where was this medical bag as you first saw it?

A In the back hall. In relation to the doors, that sort of thing?

Q Yes.

A The medical bag was up on its end. It was open. The open portion of the medical bag was facing south and a little east. The bag was on its end. It was the em-dee bag, which I have described, with a smooth leather surface. One of the flaps which contains medication was open, and that was on the righthand side. The bag was just south of the door which leads into the study and on the righthand side of the hallway itself. That's the best I can do.



Q Now, I want to leave that for just a moment, please, Doctor. Something has come to my mind.

A Yes, sir.

Q As a person is knocked out, you say that his memory is impaired, isn't that correct -- withdraw that.

A After he --

Q After he regains consciousness, he has an impairment of the memory for recent events, is that correct?

A Yes, it is.

Q And this can continue for some period of time, isn't that right?

A Yes, sir.

Q Now, Doctor, will you tell the jury what is sodium pentathol? Do you know?

A Yes, I do.

Q What is it?

A It is a barbituate drug which is used as an anesthetic. It is administered intravenously, made by Abbott.

Q For what purpose?

A I say it is used as anesthetic.

Q Is that the only purpose that it has?

3 A No. It is used for a procedure of interrogation.

Q And what is the purpose of that interrogation?

A To obtain information.

Q How?

A I presume to obtain information.

Q Will you describe how it is performed?

MR. CORRIGAN: Object, unless he  
knows about it.

MR. PARRINO: Well, that is what  
I am asking him.

A I have never used this particular drug for that purpose.  
I have seen many, many hundreds of people administered  
pentathol sodium for anesthetic purposes. Is that what  
you have in mind?

Q No, no. I have in mind the use of it for purposes of  
interrogation that you just told me about.

A I know nothing about that.

Q Well, you have heard about it in your medical practice,  
haven't you?

A Oh, yes.

Q And you have read about it, haven't you?

A Surely.

Q Now, please tell the jury what the result of your study  
has been.

MR. CORRIGAN: Object.

THE COURT: Well, he can state  
just generally what it is and what it does. I  
don't know the purpose of it but, in any event, if

you can tell us --

A Sodium pentathol is a barbituate. As I said, it is administered intravenously. It comes as a very fine, yellow powder in an ampule. The ampule is broken, sterile, distilled water is added, and for either anesthetic or interrogation purposes -- so-called truth serum -- it is administered intravenously. It must be administered by a skilled psychiatrist for that particular purpose, referring to interrogation, and in the presence of a trained anesthetist, one who administers anesthetics.

Q In other words, as I understand it correctly, Doctor, this drug is administered to persons who may be suspected of having a loss of memory or an impairment of memory for certain recent events, isn't that correct, when it is administered by a competent psychiatrist, isn't that right?

A It is less for a person who has loss of memory than it is for a person who, by virtue of some tremendous shock or horrifying experience, is unable to remember certain things. In other words, if I were to see something that was entirely foreign to my nature, or something that I couldn't believe under any circumstances, psychologically it would be possible for my conscious mind to reject that, you see, in which case it would be lodged in my subconscious mind, and try as I might, it might be impossible for me to bring that into

my conscious mind even though I try, and the true purpose --

Q In other words --

MR. GARMONE: Let the man finish.

MR. PARRINO: I am sorry.

A (Continuing) -- under interrogation under sodium pentathol or truth serum is to remove the inhibition of the conscious mind and allow the subconscious thought to rise to the surface.

That is the true use of truth serum, as I understand it, or pentathol sodium, which we are talking about.

MR. CORRIGAN: What was the name of it? I didn't get it.

THE WITNESS: Pentathol sodium.

MR. CORRIGAN: How do you spell it?

THE WITNESS: S-o-d-i-u-m. Sodium.

P-e-n-t-a-t-h-o-l, made by Abbott -- A-b-b-o-t-t, Abbott Laboratories.

Q Now, have you finished, Doctor?

A I beg your pardon?

Q Have you finished?

A Yes, sir.

Q In other words, in the mind you have what a person consciously remembers of the past?

A Yes.

Q And you may also have certain subconscious memories that

a person cannot relate?

A Well, we all have myriads of those.

Q And some of these subconscious memories or thoughts, or whatever you may call them, a person cannot readily relate them, isn't that correct?

A Not only not readily, they can't under any circumstances.

Q Yes. And the purpose of this sodium pentathol would be to -- when it is administered by a competent psychiatrist, would be to put the patient under the effect of these drugs, and then skilfully interrogate that person to see what memory, if any, he may have for a particular, specific event, isn't that correct?

MR. CORRIGAN: Object, unless he knows.

MR. PARRINO: Well, that is what I am asking him.

THE COURT: He may answer, if he knows.

A In the subconscious mind, yes, sir.

Q And that when handled by a competent person in medicine, is extremely useful as an aid to persons who have some unusual loss of memory, isn't that right?

MR. CORRIGAN: We object to that.

THE COURT: Yes. I suppose that is.

objectionable, Mr. Parrino.

MR. PARRINO: All right.

Q Now, let's get back again to the house. As you walked in, you saw this medical bag on the floor, right?

A Yes, sir.

Q Now, as you got out of the car and went into the house, did you walk or did you run?

A Oh, it was a cross between a walk and a run. I didn't dash -- but I didn't walk, either.

Q What?

A I hurried into the house.

Q Well, you walked fast?

A That's it.

Q After seeing the medical bag, what did you next do?

A Stepped into the study, having seen my wife point into the study.

Q Now, as your wife pointed into the study -- you mean the den?

A Yes, sir.

Q Did you look into the den?

A I just walked in.

Q You walked into the den?

A Yes, sir.

Q What did you do then?

A Leaned over Dr. Sam, I touched him on the shoulder. He moved, and I left the den.

Q Did you tell us about that yesterday?

A Yes, sir.

Q Did you speak with him?

A No, sir, not at that time, that I recall.

Q Well, did you have any words with him at all?

A I don't specifically recall any words with him.

Q Did he say anything?

A He may have, I don't recall.

Q He may have?

A I honestly don't think he did at that time. He did later, but I don't recall him saying anything the first time I went in the study.

Q

Well, referring to your testimony at the inquest --

MR. PETERSILGE:

What page have

you got?

MR. PARRINO:

Page 362, at the

bottom of the page.

Q

Was this question asked of you:

"What did he say?

"A I said, 'What happened? How are you?' Things of that sort. I certainly can't tell you exactly what I said, but it's my impression that I spoke to him and said, 'What happened?' and he responded. So I immediately left.

"Q What did he say when he responded?

"A He said, 'I think they killed Marilyn.'

"Q Did he say anything else?

"A No, sir.

"Q At that time?

"A No, sir.

"Q Did he say anything?

"A No, sir."

MR. GARMONE:

Did you say

anything?

Q

"Did you say anything?

"A No, sir.

"Q In answer to his statement?

"A No, sir. I left the room immediately and ran



upstairs."

Now, what is the fact as to whether or not Sam said anything to you there before you ran upstairs?

A The inquest was in July. If I said that in July, I think my memory at that time was more dependable than it is now on that particular subject.

Q I see. Well, did you make a note of that in your little book?

A No, I didn't.

Q Well, then, it is possible that he might have said to you -- withdraw that.

You say that your memory in July was better than -- would be better than it is now?

A With regard to the events of July 4th, surely.

Q Yes. And if at the inquest you stated that Sam said to you, "They killed Marilyn" you say you probably said that, isn't that correct?

A I'm sure I said it. It's in the book, is it not? You read from the inquest testimony?

Q I didn't hear you.

A You were reading from the inquest testimony?

Q Yes.

A Well, I'm certain I said it, then.

Q Now, have you ever read over your inquest testimony?

A Yes, sir.

Q When is the last time you read over your inquest testimony?

A Months ago.

Q How?

A Months ago. It was in all the newspapers.

Q How?

A I say, I read it over months ago. I believe it was in August.

Q I see. Now, Mr. Corrigan and Mr. Garmone have a copy of the inquest testimony, don't they?

A Yes.

Q Have you ever asked to look at the testimony you gave at the inquest, before this trial?

A No, sir.

Q Not at any time?

A Not at any time.

Q Weren't you curious?

MR. GARMONE: Object to the  
form of examination, of him being curious.  
He has answered the question.

THE COURT: He has testified  
he read it sometime in the month of August.

MR. GARMONE: And I will verify  
that he never made a request to read it.

MR. DANACEAU: Wait a minute.

Do you want to take the stand and be sworn?

MR. GARMONE: No, but if you are going to conduct that kind of examination, I will inject a statement here and there, too.

THE COURT: Just a moment, gentlemen. He has testified that he did not request it.

Q You have testified in court before, haven't you, Dr. Sheppard?

A Yes, sir.

Q Many times?

A No, sir.

Q You have testified in Civil Court, haven't you over in the Civil Branch of the Common Pleas Court?

A Yes, just about, oh, I think it was last week, possibly 10 days ago. That's the first time I ever testified in a civil case.

Q Oh, I see. You testified at the bail hearing in this trial, in this very case, didn't you?

A Briefly, sir.

Q Briefly. Well, you testified briefly or longly?

A I testified at great length at the inquest, sir.

Q After you spoke to Sam there in the den -- withdraw that.

So then Sam did say to you in the den, "They killed Marilyn," isn't that a fact?

A It is a fact that he may have and it is a fact that I said so at the inquest.

Q But it is a fact that you don't remember today?

A Well, I didn't until you read the inquest testimony, and I say now that my testimony at that time is, on that subject, more dependable than what I remember today.

Q Well, then, it is a fact that you do not remember today?

A Of and by my own knowledge, I don't, except that you have reminded me.

Q Well, does my reading it to you refresh your recollection?

A Yes, it refreshes my recollection on the fact that I said it.

Q All right. Well, after you went to Sam and you touched him, what did you do then?

A I left the study.

Q Where did you go?

A Into the living room.

Q Where did you go from there?

A Upstairs.

Q Did you speak to anyone else before you went upstairs?

A Yes.

Q Who was that?

A My wife, Betty Sheppard.

Q What did she say to you?

A I don't recall that she said anything. I recall my instructing her to stay downstairs in the living room, that I was going up. I think she said, "All right," if she said anything.

Q Did you speak to anyone else before you went upstairs?

A No. I went right upstairs, as far as I recall.

Q How?

A As far as I recall, I went right upstairs.

Q All right. Now, was there anyone else in the house at that time?

A Oh, yes.

Q Who was that?

A Well, of my own knowledge, Doctor -- I'm sorry -- of my own knowledge, I was in the house, my wife was in the house, Officer Drenkhan was in the house, Dr. Sam was in the house and I honestly didn't see anybody else, but I know that others were.

Q Well, didn't you see Houk?

A I didn't see Mr. Houk at any time that first visit.

Q Mrs. Houk?

A I didn't see Mrs. Houk in the house that first visit at all.

Q So then the only word that you had before you went upstairs, the only conversation you had was perhaps a very brief conversation with Sam and a very brief instruction to your wife and you went upstairs, is that correct?

A Yes, sir.

Q Now, Dr. Sheppard, will you please <sup>tell</sup> this jury, how did you know exactly where Marilyn was?

A Well, I didn't know just exactly where she was.

Q I didn't hear you.

A I didn't know just exactly where she was.

Q Well, for all you knew, she might have been down in the basement, isn't that a fact?

A Well, that never occurred to me.

Q It never occurred to you. For all you knew, she might have been on the back porch, on the front porch, on the north side of the house, isn't that a fact?

A Well, I assumed she was upstairs.

Q For all you knew, she might have been down in the lake, isn't that a fact?

A Well, I got the impression someplace she was upstairs.

Q Well, will you please tell this jury where you got the impression?

A I must have heard people going up and down the stairs. I honestly don't know, Mr. Parrino.

Q Well, you say you didn't talk with anybody?

A I don't recall talking with anybody. Somebody could have shouted, "She's upstairs in the bedroom," or most anything. I have no idea. I honestly don't know how I knew.

Q Did somebody shout, "She's upstairs"?

A I don't know.

Q You can't give us any idea, then, why you went upstairs?

A Well, I went upstairs because I thought Marilyn was up there.

Q All right.

A Why I thought so I really can't tell you at this time.

Q Did you walk or did you run?

A I walked rapidly.

Q You are sure of that?

A Yes, sir.

Q Referring again to your testimony at the inquest, Page 363, were you asked these questions and did you make these answers:

"Q What did he say when he responded?

"A I think he said, 'I think they have killed Marilyn.'

"Q Did he say anything else?

"A No, sir.

"Q At that time?

"A No, sir.

"Q Did he say anything else?"

MR. PETERSILGE: "Did you say anything else."

Q I'm sorry. "Did you say anything else?"

"A No, sir.

"Q In answer to this statement" --

MR. PETERSILGE: "To his statement."

Q "In answer to his statement?

"A No, sir. I left the room immediately and ran upstairs."

Now, did you walk or did you run?

A I walked rapidly.

Q Wasn't your memory as to what you did at the time testifying at the inquest better on that point than it is here today?

A In all probability.

Q How?

A In all probability.

Q You didn't make a note as to that in your little book, did you?

A No, I didn't, Mr. Parrino.

Q So that in all probability, then, you did run upstairs, isn't that a fact?

A Well, the question is did I run slowly or walk rapidly. I can't tell you. I got up there in a hurry.

Q You want to say, then, you ran slowly?

A I want to say what actually happened, and I am trying to do that.

Q Yes.

A But I honestly can't tell you some of these details, and particularly exactly every motion. I have tried. I tried at the inquest and I am trying now.



Q All right. So when you left your brother's side, you knew something terrible had happened to Marilyn, isn't that a fact?

A Yes, sir.

Q You wanted to get to her as quickly as you could with the hope that perhaps you might be able to help her?

A Surely.

Q How?

A Yes, sir.

Q It is fair to assume, then, that you ran, isn't that correct?

A Well, there isn't enough room in the house to really get up a good run, sir. I hurried up the stairs, I hurried through the living room, but I certainly didn't run as rapidly as I can.

Q All right. Now, you were rather excited, weren't you?

A Certainly.

Q Now, as you went through the living room, what, if anything, did you notice at that point that was unusual about the living room?

A At that particular point, I recall the desk was disarrayed, and there was some material on the floor. I think it was at that point.

Q Well, that is what I am asking you.

A All right.

Q All right.

A Is that what you had in mind?

Q Yes.

A Well, that's it.

Q Where did you see this disarrayment, if that is the right word?

A Well, I saw it in the area of the desk.

Q Whereabouts?

A In front of the desk.

Q In front of the desk. Anywhere else?

A I don't think I took any particular note of it at that time. I just saw it was disarrayed and that was it. I later saw some other things in regard --

Q No. We are talking about that particular point.

A At that particular time, as I recall, all I saw was that the desk was in disarray.

Q Was the north door open or closed?

A The house door or the screen door?

Q The house door.

A I believe it was open.

Q Was the screen door on the north open or closed?

A I believe the screen door was open.

Q They were both open?

A Yes, sir.

Q All right. And you noticed that?

A My wife later told me --

Q No. Listen, please. As you were in this fast walk or semi-run, you noticed those things as you were going upstairs, didn't you?

A I didn't notice the screen door. I noticed the door to the house was open.

Q Well, Doctor, those are my questions, sir. Did you notice --

A You asked me were they open, sir, and I said, "Yes, I know they were open because of things I learned later."

Q No. At the time that you were walking fast or running slow upstairs, was the screen door open?

A I'm sorry. I didn't understand.

Q Yes.

A I don't really know about the screen door at that time.

THE COURT: You mean the  
screen door from the living room to the porch,  
front porch?

THE WITNESS: I think he means  
the screen door on the north end of the porch.

MR. GARMONE: From the porch  
to the living room, don't you?

Q The screen door on the north on the porch.

A On the north end of the porch?

Q Yes.

A As I say, I have no conscious recollection of the screen

door being open or closed, of my own knowledge, at that time. I do recall the front door was open.

Q And you noticed this disarray -- withdraw that.

The door itself was open, the north door, correct?

A The house door, yes, sir.

Q Yes. You noticed that?

A Yes, I did.

Q And you noticed the stuff on the floor there in the living room?

A I think I did, yes.

Q Well, did you or didn't you?

A Yes, and the fact that the desk was in disarray.

Q You noticed that, too?

A Yes.

Q All right. Did you notice anything else there in the living room?

A Nothing of any importance.

Q Then you started to go upstairs to the second floor from the living room, isn't that correct?

A Well, I turned and went through the little L-shaped portion of the living room next.

Q Now, you did say that you saw Samscorduroy jacket on the floor, correct?

A Yes, sir.

Q And where was that corduroy jacket on the floor?

A It was at about the middle of the day bed, the couch, whatever it was. I think it is a day bed. The collar of the jacket was up against the day bed itself. The body of the jacket, or the portion from here about, down, was on the floor.

Q And how far was that jacket from the day bed?

A The collar of it was right against the day bed.

Q Would you step down here, please, Doctor?

(Witness does as requested.)

Q Could you assume that this box here is the base of the day bed?

A Yes, sir.

Q Would you show the jury how the jacket was lying there on the floor?

A About like that. I don't recall whether the opening was this way or the other way. In other words, it could have been this way, but it was about in that position (demonstrating).

Q Now, --

A Shall I go back?

Q No. Just a moment, please. Would you say six or eight inches of the jacket -- of the top of the jacket was lying up against the couch? Is that correct?

A Yes. I said from the collar -- the collar of it was up against --

Q And the jacket was neatly folded as you have it here on the floor, wasn't it?

A It's just as I have it.

Q It was --

A Either like this, as I say -- either like that or like that -- I'm sorry, it wasn't like that. It fell. There. The collar was up against the bed.

Q But it was not like this?

A No, sir, it was not like that.

Q Indicating that it was not thrown down in a pile, as I have indicated it there, was it?

A It certainly wasn't like that, sir.

Q Just a moment, please. And it wasn't anything like that, was it (indicating)?

A No, it wasn't.

Q All right. Take the stand, please.

(Witness resumes the witness stand.)

Q Now, you went to the second floor?

A Yes, sir.

Q You went into Marilyn's room?

A Yes, sir.

Q Was there anyone in that room when you got there?

A No, sir.

Q Describe what you saw.

A As I came up the stairway and approached the room, I could see a hand and a portion of an arm through the doorway itself. I went on into the room, and I saw Marilyn lying on the bed. I touched her at the wrist, felt no pulse.

Do you want me to describe her again?

Q Yes, please.

A Marilyn was lying on her back on her bed, which was the one closest to the door. She was terribly beaten. She was covered with blood from the collarbone area up. The right arm was out at about this angle at the side of the bed with the palm up. The left arm was in the same relative position on the opposite side. Her head was about a third of the way down from the top of the bed. There was a great deal of blood about her head, matted in her hair.

There were many deep lacerations across the forehead. She was covered up as high as the waist with a sheet. I could see her legs from about the knees down. They extended underneath a cross-bar at the foot of the bed, and the legs were bent at an angle of about 60 degrees.

In other words, the body would be here and the mattress and the legs were down like that. I think that's all I remember.

Q Would you describe the area above the waist and above the breasts, please, what you saw?

A It was bare.

Q And did you see her pajama tops?

A I didn't see them. I have no recollection of seeing them, but I did see two little strips of fabric down this way. I couldn't tell if they were pajama tops or what they were. They were covered with blood, and I didn't disturb them.

Q Did you turn the light on?

A No, sir.

Q You saw two pieces of fabric around the shoulder?

A Rolled up, just this way. This way. And going into this tremendous mass of blood and matted hair, and that sort of thing, but I honestly didn't know what it was. I didn't identify as pajama tops, and I can't say that they were her pajama tops. I assume now that they were, but at the time I couldn't.

Q It is true to say, we can all understand that you are in a state of shock and horror at that time, weren't you?

A Well, I was upset. I have seen a lot of violence, but I had never seen anything like that.

Q So that in a condition, or at a time such as that, it is



possible, is it not, Doctor, that you could be looking right at a scene such as that, as you were, for the first time, looking directly at something, and in your state of shock and horror, not be able to adequately describe exactly what you saw; isn't that a fact?

A No, sir.

Q Well, that happens to people, doesn't it, sir?

A It doesn't happen to people who do the type of work that I do.

Q Well, then, if it didn't happen to you, why can you not adequately describe what was around her shoulders?

A Well, there were a lot of things that I didn't disturb. I didn't think I should. I didn't --

Q I didn't ask you to disturb it.

A Well, in order to know --

Q Did you see it?

A Did I see what?

Q This material, or whatever it was, around her shoulders?

A Yes, I saw it.

Q Well, was it pajamas or was it fabric?

A Was it pajamas or was it fabric?

Q Yes, as you describe --

A As near as I could tell, it was fabric, which may well be pajamas.

Q Was it buttoned in any way?

A Buttoned? No, sir. It was open all the way up.

Q You are sure of that?

A Absolutely.

Q You paid particular note of that?

A I paid particular note to now one thing, but I did see that.

Q What else did you see in that room besides Marilyn on the bed?

A At that time nothing other than blood spattered around.

Q Where was the blood spattered, as you saw it at that time?

A Well, at that time it was spattered mostly up over the head of the bed, and on the door, the door that opened into the room, the portion of the door that was exposed, which opens into the closet --

Q To the east?

A Yes, sir, to the east.

Q Did you see the blood on that door at that time?

A Yes, sir, I believe I did.

Q How many doors are there?

A Three doors -- I'm sorry -- two doors. One door that opens into the room, and then the closet door.

Q Now, what is the fact? Are there two doors or three doors?

A Two doors and one aperture which I came through.

Q Was there blood on all those doors?

A Both of them.

Q You noticed that at that first visit?

A Well, I think I did. I saw a lot of blood. I didn't make any attempt to determine which door the blood was on at that visit. I did later.

Q Well, that is what I am asking you, Doctor. Let's confine yourself to the first visit, if we may, please.

A All right, sir.

Q Did you notice the blood on both doors there on the first visit?

A I feel certain that I did.

Q Did you notice the blood on the south wall at the head of the bed on the first visit?

A Definitely.

Q Did you notice the blood on the north wall on the first visit?

A I don't believe so.

Q Did you notice the appearance of the bed next to Marilyn on the first visit?

A I think I noticed that on the second visit.

Q Did you notice any clothes in the northwest -- or the northeast corner of the room on the first visit?

A On the chair?

Q Yes.

A I saw some clothes, but I didn't make any particular note of them.

Q Now, do you recall your testimony on that subject here in

this very courtroom yesterday, Doctor?

A It was a long day, Mr. Parrino, and I don't remember it now.

Q Dr. Sheppard, I didn't ask you if it was a long day or a short day. It was a long day for all of us.

A Yes, sir.

Q But my question is this: Do you remember your testimony yesterday? You do or you don't on that subject.

A We have talked about a half a dozen things. You mean about the clothes?

Q About the blood on the walls on the first visit.

A I don't think I do.

Q Well, --

A Do I remember specifically what I said about the blood on the walls on the first visit?

Q Yes.

A I think I said that I didn't make any particular study of the blood on the walls, or words to that effect.

Q Well, were you asked whether or not you noticed or made any observation of the walls of the room at that time?

A I think Mr. Corrigan asked me that yesterday, yes, sir.

Q And what did you say?

A I should remember what I said?

Q Well, --

A I mean, is that what you want? You are holding this so I can't read it. I didn't know if you wanted me to read it

or not.

Q Well, what did you say yesterday?

A I believe I said that -- well, I know what it says there.  
It says "Not at that time."

Q So yesterday you said --

MR. PARRINO: Do you want to see it?

MR. GARMONE: Go ahead. Conduct  
your examination.

Q Yesterday you said you do not remember whether you made an  
observation of the walls the first time you were in the room.

A I don't think I said that, sir.

Q Read that for yourself.

A The question is, "Now, did you notice or make an observation  
of the walls" -- that means all four walls"of that room  
at that time?"

My answer was, "Not at that time."

"Q. Did you later?

"A. Yes, I did."

Q And you interpret that question to mean all four walls?

A Well, that's what I thought he had in mind.

Q I see. There is no number -- it doesn't say anything about  
four walls in that question, does it, sir?

A The question says, "Now, did you notice or make an observation  
of the walls of that room at that time?"

Q All right. In other words, Doctor Sheppard, there are some

things about that room and Marilyn's appearance that you remember having seen on that first occasion, and there are a number of things that you do not remember as to the appearance of that room on the first visit, isn't that correct?

A Are you referring to the room and Marilyn? Which do you mean?

Q Yes. The entire room.

A With regard to the room?

Q Yes.

A There are things that I don't remember. With regard to Marilyn, which I looked at particularly, there are not -- there is nothing that I know of that I don't remember. There may be.

Q Now, Doctor, how many medical bags does Sam keep there in his home?

A Two.

Q And where did he keep them?

A One he kept in the jeep and the other he carried with him. He kept it in a Jaguar sometimes, and he kept it in the home sometimes.

Q Now, you knew where the medical bag was kept in the jeep, didn't you?

A Surely.

Q After you saw Sam, and you went upstairs to Marilyn's room,

you didn't take a medical bag up there with you to see if it might be of some use while you were up there?

A No, I did not.

Q How long were you in that room?

A The bedroom upstairs?

Q Yes.

A I think a minute, possibly.

Q How long were you in the house before you went upstairs?

A Very briefly.

Q Maybe a half-minute?

A Oh, I would say long enough to walk i n the back hall, step in, and then into the den, and step out and run up? Possibly another minute or two. Certainly no more than that.

Q And after a minute you left Marilyn's room, is that correct?

A Roughly.

Q And where did you go then?

A Back downstairs.

Q And in one minute's time you observed everything that you here described to the jury, is that right?

A That is precisely correct, sir.

Q Now, when you came downstairs, what route did you take?

A I came downstairs to the little landing, turned right, went through the L back to where my wife was in the living room,

spoke to her.

Q Was the jacket still on the floor?

A Yes, sir.

Q Did you step over the jacket?

A Yes, sir.

Q Or did you walk around it?

A My recollection is that I stepped over it.

Q Did you step over the jacket or walk around it on the first occasion?

A My recollection is that I stepped over it.

Q You remember that?

A Yes, sir, I remember it. I remember seeing it there.

Q But you do remember that on two occasions you stepped over the jacket and could not have walked around it, is that correct?

A Well, the real reason I remember is that I stepped over it.

Q You didn't step on it, did you?

A No, sir.

Q When you came downstairs where did you go then?

A Back into the living room, the dining portion where my wife was.

Q Did you stop in the living room?

A I don't believe I did. I think I went right into the den.

Q You didn't examine anything in the living room at that time, did you?



A Oh, no. I think I said to my wife as I went by something about "Marilyn's gone," or words to that effect, and went right on into the den.

Q As a matter of fact, Doctor, seeing Marilyn dead, and knowing as you were coming down the steps that Sam was hurt badly, you weren't paying any attention to anything in the living room, were you?

A Just where I was going.

Q Well, that is to say, you were not looking here and there to look for the position of the desk, and the things on the floor, and if the door was open or closed, when you knew Marilyn was dead and your brother might be dying, were you?

A Oh, no, sir, but I did see certain things.

Q And the thing that you saw was the jacket?

A I saw the door was open, I saw the desk was disarrayed.

Q You went directly into the den at that time, is that correct?

A That's right, sir.

Q Where was Sam now?

A He was in about the same position he had been when I saw him before, his head facing the road, lying on the floor -- I should say head towards the road, I'm sorry.

Q Was he conscious?

A Well, he was -- I would say semi-conscious, yes, sir.

Q Well, then, he was conscious?

A Well, he could talk.

Q Was he conscious the first time you saw him before you went upstairs?

A I would say he was semi-conscious, sir.

Q So he was conscious then, too?

A Then, too, when I came down?

Q The first time or the second time, he was conscious both occasions?

A As I say, the first time, of my own knowledge, all I noticed was that when I touched him he moved, which he may well have done even though he were unconscious.

Q Well, you remember from your testimony at the inquest that he also talked?

A He may -- yes, yes, I would say he was conscious both times. Is that what you want?

Q Yes.

A Yes, sir.

Q Did you talk to him on the second occasion?

A Yes, sir, I did.

Q And what did he say to you and what did you say to him?

A I asked him if he thought he could walk. He said to me that he thought he could because he had been wandering or had been walking prior to this time.

At that time Dr. Carver walked into the room, and I asked Dr. Carver to give me a hand. I asked my wife to get a wrap out of the closet, which she started to do.

Q What else did he say?

A Dr. Sam?

Q Yes.

A I think -- I don't think there was any real conversation after that. He complained of pain and he supported his head and neck in this manner, as I indicated yesterday.

S Q Did you look at his neck?

A I didn't do anymore than unclasp his hands and feel it, and I felt his hair at that time, and I looked at the side of his neck as I was doing that, sir.

Q Did you look at the back of his neck?

A I think I must have.

Q Well, did you?

A Well, yes.

Q How?

A Yes, sir.

Q Is the answer you must have or you did?

A Well, I know I felt it, and my impression is that I looked at it at that time.

Q What did you see?

A Well, he had long shaggy hair. He needed a haircut, for one thing.

Q Beside needing the haircut, what did you see?

A He had blood on his face.

Q On the neck?

A I don't recall seeing anything there. The light was bad, and he was lying with his head up toward the desk, as I say. I couldn't make an adequate examination. I looked at it as I felt it. That's about as far as I can go on that.

Q Well, did you turn the lights on in the den?

A No, sir.

Q Was he lying face down at that point?

A At that time, and when I first saw him he was more or less on his side with his back toward the door, the entry door, as I recall.

Q Would you show the jury how he had his hands on his neck, please?

A Clapsed behind the neck, in this manner, and supporting it as he lay on his side (indicating).

Q Well, did you say to him, "Remove your hands from your neck there so I can see, so I can examine that area"? Did you say that to him?

A No, I didn't.

Q You didn't. Well, did you remove his hands so you could examine that area?

A I unclapsed his fingers, sir.

Q And did you examine the area in the back of the neck?

A Yes, I did.

Q And you didn't see anything, did you?

A Well, I examined him chiefly with my fingers, sir.

Q Well, did you see anything with your eyes?

A I saw that he -- well, I saw that his neck was there, that his hair was somewhat shaggy. I felt that it was moist. I felt muscle spasm and, frankly, that is all I saw at that time.

Q Did you see some edema in the region of the neck?

A No. I felt that, sir.

Q You did. Did you see any discoloration there in the vicinity of the back of the neck?

A I honestly don't recall seeing it at that time.

Q Well, that would be important, wouldn't it, for a physician, as he goes to the scene to examine somebody who is ill, to be able to visually see exactly what the nature of the injury -- of an injury might be, isn't that important?

A It would be perfect, if it were possible.

Q Here it was impossible, is that right?

A I say that I didn't see it, and I explained it, because the light was bad and because I felt the things that I found.

Q Well, you could turn the light on, couldn't you?

A Surely, but frankly, I didn't want to leave his neck and head unsupported for any length of time.

Q Well, what other injuries did you observe at that time?

A At that time I noticed that the right side of his face was reddened and he had blood coming from the corner, the right corner of his mouth. This was a cursory examination at that time.

Q Well, didn't you feel that there might be something seriously wrong with your brother?

A I was afraid that there might be, yes, sir.

- Q And you say all that you gave him was a cursory examination?
- A Yes, sir, that's right.
- Q Well, did you form in your mind some diagnosis as to what you thought was wrong with him?
- A I felt that he had concussion, sir.
- Q Anything else?
- A Not at that time. Oh, I knew he had something cut or lacerated in his mouth because he was bleeding.
- Q So you knew that he had some bleeding at the mouth, and you felt that he had some concussion?
- A Yes, sir.
- Q He never told you that he was knocked out, did he, at that point?
- A Not at that time, no.
- Q But notwithstanding that, you felt that he had suffered a concussion, is that right?
- A Also shock.
- Q Shock. Now, would you describe what you saw as to -- withdraw that.
- There are many types of shock, are there not, Doctor?
- A Yes, there are, Mr. Parrino.
- Q You can have surgical shock, can you not?
- A Yes, indeed.
- Q There is insulin shock, is there not?
- A Yes.

Q There is traumatic shock, is there not?

A Yes.

Q What is trauma, Doctor?

A Injury of any type.

Q Was this shock that you saw in Sam traumatic shock?

A I felt that it was a combination of traumatic shock and shock due to exposure.

Q And you say that you observed that there was perspiration on his face, did you?

A At no time have I said that, Mr. Parrino.

Q Well, describe his appearance as to his face?

A He had blood on his face, his skin was moist and clammy, he was cold to the touch, he was shivering severely, shaking. With regard to appearance, that's it.

Q Did you take his pulse?

A Yes, sir.

Q And what was the rate of his pulse?

A Rapid.

Q What was the rate of his pulse?

A How many beats?

Q Yes.

A I could approximate it, but I can't give it to you exactly. I'm sorry.

Q Well, did you take it exactly?

A I felt his pulse.



Q Well, did you take his exact pulse?

A Did I time it?

Q Yes.

A No, I didn't.

Q Did you check his respiration?

A Not at that time, sir.

Q Well, that would be important, wouldn't it, Doctor, in determining whether or not a person is in a state of shock?

A Respiration, you mean, sir?

Q Yes.

A Well, it would be of some interest, yes.

Q Some interest. But what happens to respiration in a person who is in shock?

A Usually it becomes shallow, sighing, that type.

Q Well, that was important then, wasn't it?

A If a man was in shock, Mr. Parrino, whether his respiration was shallow or sighing or rapid, I frankly don't know.

Q Did you check his blood pressure?

A Not at that time, sir.

Q Well, that would be important, also, wouldn't it, Doctor, to check his blood pressure at that time?

A It is one of the factors that is of interest in diagnosis of shock, yes, sir.

Q And where you have true traumatic shock, there is a marked

decrease in blood pressure, isn't there?

A Not always.

Q Not always. In traumatic shock, you say there is not a decrease in blood pressure, sir?

A I say not always.

Q All right. Did you try to help him in any way in that state of shock?

A You mean did I administer medication?

Q Yes.

A No, sir. I had nothing with me.

Q Well, Sam had medication in the house there, didn't he?

A All over the floor in the back hall, sir.

Q He had medication in the jeep in the garage, didn't he?

A Surely.

Q You didn't use any of that, did you?

A No, I didn't.

Q Did you do anything else to help his shock at that time?

A I did what I thought was the most important of all, sir.

Q You took him out?

A I took him to the nearest hospital, sir.

Q Now, when there is no hospital around, how do you treat a person for shock?

A How do I treat a person for shock when there is no hospital around?

Q Yes.

- A The first thing would be to put the patient to bed.
- Q That is very important, isn't it?
- A Yes, sir. Elevate the foot of the bed, surround him with hot water bottles, administer sedatives or stimulants, whichever seem to be indicated, intravenous medication, whatever you have to work with, sir.
- Q Well, one of the things you do when a person is in shock, as I understand it, is lie him flat and raise his feet above the level of the head, isn't that correct?
- A That's right.
- Q What does that do?
- A It allows the blood which is normally located in the lower extremities to be available in the vital centers.
- Q Well, did you do that for Sam?
- A Did I put him to bed and elevate his feet, sir?
- Q No. There on the floor, did you elevate his feet in that state of shock so that you would be of some assistance to him?
- A I did not elevate his feet.
- Q All right. Who else was in the house at this point?
- A Of my own knowledge, that I saw?
- Q Yes.
- A By this time Drenkhan, Chief Eaton, my wife, Dr. Sam, I. That's all I saw, sir.
- Q Did you see Mayor Houk or Mrs. Houk?

A I saw neither Mayor nor Mrs. Houk in the house on the first visit.

Q And you say Dr. Carver arrived there at or about that time?

A Yes, sir. Thank you. He entered the study.

Q Now, Doctor, a person in a true state of traumatic shock, that is an extremely precarious condition, isn't it?

A Any state of shock is precarious, sir.

Q And it is very serious, is it not?

A Well, it is a warning sign.

Q It is a grave warning sign, isn't it?

A Shock is a serious situation, Mr. Parrino. There's no doubt about that.

Q And when a person is in a true state of shock, traumatic shock, isn't one of the best things you can do for him to just not move him, leave him in place and do what you can for him while he is right where he lays?

A Depending on the type of shock, sir, yes.

Q Well, we are talking about traumatic shock or shock due to injury. Isn't that one of the things that occurs?

A I'm sorry. Isn't it one of the things that occurs, do you mean to raise his legs?

Q Just a moment, please. It's my fault. The question was very badly put.

A Person that is in a true state of traumatic shock, isn't it most important, from your experience, where his

blood pressure may be low, where there is an ashen gray skin, where he is breathing rapidly and shallow -- you can see those things, can't you?

A Oh, yes.

Q Isn't one of the most important things to, perhaps, get some blankets and throw them over this man and raise his feet and not move him?

A Well, that's if you are out in the woods, sir, where you don't have any medical facilities. In this area the most important thing is to get him to a hospital where you can take care of him.

Q And that is what you wanted to do?

A That is what I did.

Q And you say that you had a diagnosis of a concussion of the brain?

A I had an opinion.

Q You had an opinion? Did Sam's holding his neck in the way that he was in any way affect your opinion?

A No. That was based on his incoherence and his responses, his inability to walk as he normally did. That's --

Q Well -- excuse me.

A I'm sorry.

Q I interrupted. Did the fact that Sam was holding his neck in the way that he was in any way have any influence as to what the nature of the ailment was that he might have?

A It wasn't so much the way he held his neck as it was what he did when I unclapsed his hands, when he wasn't supporting his neck.

Q So you saw the spasms in the back of the neck?

A Not see.

Q Or you felt them?

A Not see. These are felt, these deep muscle spasms.

Q And what conclusion did you come to then?

A I felt that he had had an injury in that area.

Q You felt that he had an injury in the cervical area?

A Yes, sir.

Q Of the vertebrae, is that correct?

A Well, to the base of the skull, in this area.

Q Well, that is where the cervical vertebrae are located, isn't that correct?

A Some of them, sure. They run right down in between the shoulders.

Q Then you felt there might be some injury to the cervical vertebrae?

A Upper portion of the vertebrae and spinal cord.

Q And you say, also, that he may have had some injury to the spinal cord, is that correct?

A Yes, sir.

Q You felt that way?

A I feared that he might, yes.

Q All right. Now, at the hospital you have ambulances, don't you, sir?

A No, sir.

Q Do you have any stretchers or litters at the hospital?

A Yes, we do, sir.

Q Was there an ambulance right there at the scene that morning?

A Right next to the garage.

Q What ambulance was that?

A The Bay Village Police ambulance.

Q Now, where you have, as you say, a person that was in a state of traumatic shock, a person who, in your opinion, possibly had a concussion of the brain, a person who had some possible injury to his cervical vertebrae, with a possible injury to the spinal cord, that was an extremely grave and serious condition, isn't that correct?

A Potentially, yes, sir.

Q Yes. Now, if he had these injuries -- withdraw that.

A person having these injuries, would it not be extremely grave and serious to that person if he were -- if he got up or was assisted to his feet and walked around?

A Not if he said he had previously been able to walk.

Q Well --

A If he were lying there unconscious, we wouldn't have thought of dragging him off the floor and lifting him up to his

feet. Is that what you mean?

Q Doctor, a person that has the injuries that you described, if he would get up and walk or if he would be helped up and walked, might that not in some way aggravate an injury to the spinal or to the cervical vertebrae, might it not?

A It might.

Q The logical thing to do, then, would be to take that person and carefully place him on a stretcher with as little movement as possible, so that you would not aggravate the injury, isn't that correct?

A Well, as a matter of fact, Mr. Parrino, my experience in records show that more people are hurt being transferred over to ambulances and stretchers when they have that type of injury than in just about any other way. I felt as long as the neck and the head were adequately supported, that it was perfectly safe to take him out and put him in my station wagon and get him out of there as soon as possible. There were four or five cars between the ambulance and the road. My car was the one closest to the road, and he was able to support his head and neck in this fashion, and there was little or no motion.  
(Indicating).

Q Well, he could do that on a stretcher, couldn't he?

A Surely.

Q You say that in many persons, that injuries are aggravated



by putting them on stretchers, sir?

A Many persons with spinal cord fractures -- I should say spinal cord injuries and vertebral fractures are aggravated unless they are handled absolutely as they should be.

Q Yes.

A The best thing, actually, to do with them is to roll them face down in a blanket and carry them out in a blanket.

Q Well, why didn't you do that?

A I didn't feel that it was necessary, sir.

Q Then he wasn't injured as badly as you thought, was he?

A He was injured worse than I thought, sir.

Q All right. But the fact of the matter is that there in the driveway was an ambulance that in all probability had a stretcher in it, isn't that correct?

A I am sure it is well equipped.

Q And you didn't take the trouble to get that stretcher, take it into the house and you, yourself, a doctor, assist in placing your brother on that stretcher in such a way that his injuries would not be aggravated, isn't that correct?

A That's correct, Mr. Parrino.

Q You preferred the method of having Sam, with his traumatic shock, bruised cervical vertebrae and possible injury to the spinal cord, of assisting him to his feet, taking him over to your station wagon and putting him into the station

wagon and driving him away, isn't that correct?

A That's correct, Mr. Parrino.

Q And you have stated that the station wagon was the farthest car from the house that was in the drive there, is that correct?

A I think I said it was closest to the road.

Q The closest to the road?

A Yes, sir.

THE COURT:

Yes.

Q All right. Now, how did you and Dr. Carver assist Sam from the house?

A How?

Q Yes.

A I threw his right arm over my shoulder, Dr. Carver threw his left arm over his shoulder and I supported Dr. Sam's head with my left hand in behind and we went out to the station wagon. Is that the period you mean?

Q Yes. Now, I don't quite understand that, sir.

A Pardon?

Q I don't quite understand that. Here was Sam in the middle, Dr. Carver on one side and you were on the other side, is that correct?

A Yes, that's right.

Q And how did Dr. Sam have his arms?

A One over the back of my shoulders, one over the back of

Dr. Carver's shoulders.

Q Yes. So he was holding both of you, then?

A Well, he was being supported by us. His shoulders were hunched up like this, helping to support his head, and I supported it this way with the back of my -- rather, at the back of his neck.

Q So that he wasn't supporting his neck with his hands in any way, was he?

A Not at that time, no.

Q Well, then, there was bound to be some movement of his neck and vertebrae as you were walking along the drive, wasn't there?

A Some. I would say very little.

Q And you had to come down a step, didn't you, there?

A I think there are two steps there.

Q Two steps?

A Yes, sir.

Q And I think you said yesterday you and Dr. Carver dragged Sam over to the jeep, isn't that correct?

A We dragged him, he walked a bit.

Q Well, did you drag him or did he walk?

A I think what I said was that he didn't -- he wasn't able to walk quite as fast as we wanted to go, so we just took him, carried him.

Q Well, wouldn't that be rather uncomfortable for a person

with an injured cervical vertebrae and an injured spinal cord, sir?

A I am sure he was extremely uncomfortable.

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Q

And you say that you held one of your hands, your left hand, was it, in the back of the head at the occipital region, was it?

A

Right there, sir. (Indicating.)

Q

What region would that be, the parietal?

A

No, sir. That is high on the occiput.

Q

So you claim, then, that that way of doing it was much better than putting him on a stretcher, is that right?

A

I don't claim it is ideal, sir, but it was certainly getting him to the hospital where we could take care of him as soon as possible.

Q

Do you claim that your way of doing it was much better than putting him on a stretcher and into an ambulance?

A

I do not.

Q

And you were not transporting your brother to the hospital in the way that would be medically best, isn't that correct?

A

All I say is that it was the fastest.

Q

Now, before you left the house there -- withdraw that.

From the time that you first got there that morning, from the moment you first stepped into that house until you took your brother from that home, how much time elapsed?

A

Certainly no more than five or ten minutes, Mr. Parrino.

Q

Did anyone give you permission to take him from the home?

A

No, sir.

MR. PARRINO:

I think, your Honor,

it is about that time.

THE COURT: We will have a few minutes' recess at this point.

Please do not discuss this case.

(Thereupon at 2:45 o'clock a recess was taken.)

(After recesss, 3;00 o'clock p.m.)

Q Now, Dr. Sheppard, you got your brother into the station wagon, right?

A Yes, sir.

Q Where were you seated in that station wagon?

A Behind the wheel.

Q And where was your brother seated?

A Next to the door.

Q Where was your wife seated?

A The middle of the front seat.

Q Where was Dr. Dozier seated, or was he in the car?

A He was not.

Q Just the three of you were in the car?

A Dr. Carver was in the back.

Q Where was Dr. Carver seated?

A On the jump seat in back behind Dr. Sam, the right side of the next seat back.

Q In what position was your car facing as it was parked there?

A Heading north, south, east, west?

Q Yes.

A The car was in the little turnaround at the end of the driveway facing east. The back end of the car was west.

Q The car was facing -- the front of the car was facing east?

A That is my recollection, sir.

Q And the back of it was facing west. I see. And were there other cars to the south of your car?

A No. As I recall, mine was closest to the road.

Q Well, how many feet did you have to carry and drag your brother before you got to your car?

A Oh, I would guess 25 or 30 feet, sir.

Q What was your brother doing when he sat in the car? What was his position? What was he doing with his arms?

A He was sitting there with his arms in this position, the hands clasped behind the neck, and he was slumped down, as I recall, in about this position (demonstrating).

Q And did he do that immediately upon being placed into the car?

A I believe so, yes, sir.

Q Did you tell him to do that?

A Did I tell him?

Q Yes.

A No, sir. I don't recall telling him to do anything.

Q Didn't you give him some instructions as to how he could best aid himself in the position of peril that he was?

A No, sir. As soon as we let go of his hands, he immediately

grasped his neck again even before we got him into the car.

Q So as you were all seated in the car, then, did you first go forward or backward to get out of the position that you were in?

A Did I back the car up, sir?

Q Yes.

A Yes, I backed the car up.

Q And what happened then? Where did you go after that?

A I then went forward. We went out into the road and down to the hospital.

Q How long did it take you to get to the hospital?

A Possibly three minutes, four minutes, something of that sort.

Q You were driving the station wagon?

A I was driving, yes.

Q How fast were you going?

A 60, 70 miles an hour.

Q Wouldn't that be a rather dangerous thing to do where you had a person in the car who was suffering, or who you thought to be suffering from an injury to the cervical vertebra and an injury to the spinal cord?

A I'm afraid it was dangerous for all of us in the car, sir.

Q Well, wasn't that especially dangerous for somebody who had an injured spinal cord?

A Speed of and by itself, I don't believe it was particularly dangerous. If we hit anything or had an accident, it would have been most unfortunate.



Q Well, is that good practice -- withdraw that.

Being a doctor, would you say that driving along a highway at that rate of speed with a person who had the injuries that your brother had, is that a good medical practice?

A If you have a siren and a light, I think the danger is diminished.

Q Well, my question is this: Is that a good medical practice?

MR. CORRIGAN: What?

MR. PARRINO: To drive as he did at 60 or 70 miles per hour with somebody in the car who had injury to the spinal cord in a sitting position.

MR. CORRIGAN: Ambulances always go as fast as they can.

MR. PARRINO: How is that?

MR. CORRIGAN: They always go as fast as they can.

MR. MAHON: This is not an ambulance.

MR. DANACEAU: Not with ~~this~~ kind of an injury, it doesn't, sitting up.

Q Is that a good practice, sir, for a doctor to have?

A It is a good practice for a doctor to get a patient with this problem to the hospital as rapidly as he safely can, and if he has the proper facilities or equipment to get him

there at 60 or 70 miles an hour, he certainly should, in preference to 10, 15 or 20 miles an hour.

Q Did you feel that two minutes or three minutes or four minutes might make some difference in your brother's case?

A I didn't think about it, sir. I wanted to get him to the hospital.

Q You didn't think about it. And did it enter your mind at all -- withdraw that.

Did this enter your mind: That going at 60 or 70 miles per hour, something unforeseen might happen on the highway that might cause me to jar this automobile, thereby causing further injury to my brother's already injured spinal cord?

A Frankly, Mr. Parrino, I handled this as I handle hundreds of emergency calls every year. I always drive fast when I am bringing in an emergency case.

Q And does that mean that you drive at that rate of speed whenever you have an emergency case where there is injury to the spinal cord or to the spine or to the vertebra where a jar might make a difference?

A I have been instrumental in getting patients to the hospital where they were pulled out of cave-ins, automobile accidents, all sorts of things, and the idea in every instance is to get them to the hospital as rapidly as possible, and, frankly, I go pretty fast.

Q All right. Then you did get to the hospital, and he was

removed from the station wagon, was he not?

A Yes, he was, sir.

Q And how was that done?

A I got out of the car, went around, opened the door, the front door on the right side, lifted his feet out one at a time. My wife stayed in the car and helped support him. We swirled him around in the front seat, he still supporting his neck in this fashion. Dr. Carver got out of the car, we helped him to his feet. Dr. Brill and Dr. Lerch by then had appeared on the scene with the Gurney --

Q What is a Gurney?

A A Gurney is a stretcher which has wheels on it and is the same level as a hospital bed, the top of it is, in contrast to the stretcher that ambulances carry, which are quite low.

Q And what was done with the Gurney?

A It was drawn right over next to the station wagon, and we lifted Dr. Sam, the four of us, and placed him carefully face down on the stretcher.

Q His whole body then was lying on the length of that Gurney, is that correct, face down?

A Yes, that's right.

Q You didn't drag him into the hospital, did you?

A No, I didn't drag him into the hospital.

Q You put him on the Gurney because that was the right thing to do for a person that had injuries that your brother had,

isn't that correct?

A I put him on the Gurney, sir, because it was available, and it was the ideal method of transportation at that time.

Q And it was not the ideal method of transportation at the house, is that a fact?

A You mean the method I used at the house was not ideal? When you say "it," I presume you refer back to the Gurney. At the house when we dragged him or carried him out, you mean that was not the ideal method?

Q I will withdraw the question. At the house, the ideal method of getting him from the house to the car was by dragging him and helping him to the station wagon, is that right?

A Absolutely not. It wasn't ideal, sir. It was all that was available at the time.

Q Well, there was an ambulance right there, wasn't there?

A Yes, sir.

Q There was a stretcher right there, wasn't there?

A Yes, sir.

Q As a matter of fact, I think the stretcher was in the house, wasn't it?

A I don't know.

Q Well, didn't you see the stretcher in the house?

A I didn't see the stretcher in the house.

Q By use of the Gurney, they took Sam into the hospital, then,

is that correct?

A Yes, sir.

Q And where did they take him?

A Down to Room 115 in the new wing, west wing of the hospital.

Q And were you present when they took him to that room?

A I followed the cart down, sir.

Q And when they got him to the room what was done with him?

A We put him in bed.

Q Who put him in bed?

A The four doctors and the nurse's aide, Mrs. Franz, and I.

Q Did they undress him then and there?

A Mrs. Franz started to undress him, and I, as I mentioned  
yesterday, I believe/<sup>I</sup>went out, wrote on the chart. She  
sent the aide out to get some medication, which I ordered,  
and some hot water bottles.

Q Mrs. Franz started to undress your brother, and the first  
thing that you did was to go out and prepare the chart?

A Certainly.

Q Well, did you do anything else for your brother before  
you started preparing the chart?

A I ordered the things that I have mentioned, sir.

Q Did you personally do anything to help your brother before  
you started preparing the chart?

A Helped him to get into bed.

Q Did you offer any medication to your brother before you

started preparing the chart?

A I ordered it.

Q Well, did you personally do that?

A Of course not, sir.

Q To whom did you give that order?

A To the nurse.

Q Who was that?

A Mrs. Franz.

Q Well, how long were you in that room before you left it?

A Five minutes.

Q How much of him had she undressed during that time?

A Shoes and socks. I believe she was starting to remove his trousers when I left.

Q And you left?

A Yes. I went to the chart desk, sir.

Q And the next most important thing in your mind was "Let's get the chart prepared"?

A That is routine, sir.

Q Well, you were taking care of the routines that morning of getting the chart prepared?

A I was doing what I always do.

Q Did you start to prepare the chart?

A The chart was started prior to my going to the chart desk. As soon as a patient walks into that hospital, the wheels start to roll. The same thing is true in any hospital.

I went to the desk, and I said, "Where is Dr. Sam's chart?"

The woman on duty handed it to me, and I wrote on it.

Q And how long did it take for you to make entries on the chart?

A I would judge 10 minutes.

Q Then what did you do?

A Went back in the room.

Q What entries did you make on the chart?

A Should I remember all this?

Q Well, if you remember.

MR. PETERSILGE:            You can refer to the  
chart.

A Well, I made general comments with regard to his condition,  
and my opinion with regard to the treatment that I thought  
he should have.

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Q Well, before you look at that, sir, don't you remember what entries you made on that chart as to your brother's condition and what treatment your own brother was to receive?

A I think I remember some of them, sir.

Q Well, this was not an ordinary patient, was it?

A Hardly.

Q All right. But what entries did you make on the chart?

A May I look at them?

Q Yes. If you wish.

A Thank you. "7-4-54, 7 a.m."

Q Read it, please. Go right ahead and read it.

A Some of this is abbreviated. If you have no objection, I will read it as to what it means. For example, cc --

Q Yes, I think we would all understand it better if you read it in its actual context. The abbreviations we don't understand.

A All right, sir. "Chief complaint: Pains in back of neck. Multiple contusions, abrasions and lacerations. History of severe beating with loss of consciousness and exposure during the past 6 to 8 hours."

Q Now, would you stop right there for a moment, please, and I will let you read the rest of it shortly?

A Surely.

Q Now, you say there "multiple contusions, abrasions and



lacerations"?

A Yes, Mr. Parrino.

Q Now, what is a contusion?

A A contusion is a bruise.

Q And what is an abrasion?

A An abrasion is an area where the skin surface is rubbed off or, I like to compare it with a mat burn.

Q And what is a laceration?

A A laceration is a cut.

Q Now, where on Sam's body did you see any contusions?

A The contusions I saw at the base of the neck, sir.

Q When did you see that, by the way?

A At the time we were making this -- rather, undressing him, after he was in the hospital sometime.

Q Oh, I see. And where did you see the abrasions?

A I saw an abrasion along the back of the fourth finger on the left hand and across the right side at about this point, right by the eye.

Q And where did you see the lacerations?

A I honestly didn't see them, but I presumed they were in the mouth because he was bleeding.

Q Well, now, as he was being undressed, you didn't examine your brother at that time, did you?

A I think you misunderstand. CC, as I said before, means chief complaint, and these are the things that he told me

while we were undressing him. He said that he had these bruises and he had cuts and that sort of thing that bothered him.

Q All right. Now, tell us everything that your brother told you?

A That's it.

Q What's it?

A Well, I attempted to elicit a brief history, and he said he had pains in the back of the neck and he said that he had -- he felt bruised and that he had, he thought, these other things, and I recorded them.

Q In other words, Sam, while you were there at the hospital, upon arrival he told you about contusions, abrasions and lacerations?

A Yes, sir.

Q Now, will you please tell this jury how could Sam tell you about a contusion, -- or an abrasion to the back of his own neck?

A Well, he couldn't, sir. He indicated that he had been beaten and that he was battered and bruised. I could see that for myself. Then I --

Q But he told you -- excuse me. Go ahead, I'm sorry.

A But chief complaint refers to the main problem, why was he brought to the hospital? You may have an erroneous opinion with regard to the specific terms, and if that is

so, I am sorry.

Q I see. Well, did Sam say he had a contusion and abrasion to the back of his neck, sir?

A He said he had received a severe beating with loss of consciousness.

Q Well, then, he didn't say that?

A Well, he indicated to me that he had contusions, abrasions and lacerations. He didn't use those exact words, no, sir. If I gave you that impression, I'm sorry.

Q All right. Did he say what part of his body had been beaten?

A No. I could see that myself.

Q Well, did you examine him there before you went out?

A Before I went out?

Q Did you examine him in that room before you went out to the chart?

A Yes, sir. I looked him over. My main object of getting to the chart was to initiate the orders and establish the routine. I hadn't done this complete or more thorough examination involving reflexes and all that sort of thing at the time I wrote this, sir.

Q All right. What else did you say?

A "Diagnosis: 1. Concussion with mild shock. 2." --

Q Just a moment, please. You say concussion with mild shock?

A Yes, sir.

Q When did you come to the conclusion that the shock was mild?

A Well, apparently at 7 a.m. or shortly before, because I wrote this at 7 a.m.

Q Well, when you were at the house and you saw Sam in the den, was he in a state of mild shock or severe shock at that time?

A Well, you see, Mr. Parrino, shock is such a nebulous thing and there are so many forms of shock. Now, severe shock or the fatal type of shock, such as we experience or see in hemorrhaging where a patient is rapidly bleeding to death, is completely foreign to the type of shock which occurs with, for example, exposure or with most types of injury.

Q Well, what type of shock are you talking about here?

A As I think I mentioned earlier today, this shock was a combination of trauma, a word that you used, meaning injury, and exposure. But it wasn't the exsanguination or the hemorrhage, bleeding type of shock, where the patient is ready to expire; profound shock, that is what we call real dangerous, terrible, fatal type of shock.

Q Now, getting back to the house again and referring to exposure shock and traumatic shock that Sam had at the house, was that mild or severe?

A Well, it was pronounced. I don't believe it was the profound shock that I referred to in connection with other problems.

Q Well, then, it was mild?

A Well, he was in shock; mild, severe, profound, those are a matter of degree. They change from time to time. Shock is progressive, you see.

Q Yes, I understand that. But you, sir, in your own handwriting have indicated the word "mild shock"?

A I have.

Q Yes.

A To me that means that at that particular moment shock was not the major problem.

Q Well, in other words, in using the word mild shock, in your own mind, as a doctor, you differentiate mild shock from severe shock, don't you?

A Certainly.

Q All right. Now, let's get back to the house again, please.

A All right, sir.

Q Was he in mild shock or severe shock at the house?

A I think the best I can say on that is that he was in shock, sir.

Q You don't have any opinion, then?

A My opinion is that he was in shock.

Q I say, you do not have any opinion as to whether he was

in mild shock or severe shock at the house?

A I would say, if I must have an opinion, that it was less than severe. Shock wasn't the major problem here, sir.

Q All right. But at the hospital he had mild shock?

A Yes, sir.

Q Continue, please.

A We are on diagnosis. I have read number 1, concussion with mild shock.

"2. Multiple contusions, lacerations and abrasions." These I described.

Q "3. R.O.," that means rule out, "basal skull fracture." Now, how were you able to rule that out?

A Well, rule out means that that is something we are to do, we are projecting into the future now, and in this initial diagnosis rule out means that this is something that we consider but it must be ruled out. It is ruled out on the basis of X-ray, so rule out basal skull fracture.

"4. Rule out fractured jaw and/or neck.

"Recommendation: 1. Demerol by hypo every four to six hours as required for restlessness.

"2. Skull series and cervical spine soon."

Those are X-rays.

"3. Acetylsalicylic acid and codeine, one-half grain, one tablet every four hours as required for headache.

"4. House diet as follows.

"5. Watch for lucid interval. Notify me if any change takes place.

"6. Blood pressure every hour for six hours and record blood pressure and pulse rate on progress notes.

"7. No visitors other than family.

"Prognosis: Fair."

This was --

Q Just a moment, please?

A Yes, sir.

Q There is only one person whose handwriting I understand less than yours, and that's my own.

Now, did you say something there about coherence?

A No. I did say, "Watch for lucid intervals."

Q Yes. That's right. That's what I had in mind. You say, "Watch for lucid intervals" in your report.

A Yes, sir, that's right.

Q Now, then, when Sam was telling you about these injuries that he had to his body, abrasions and lacerations and contusions, wasn't he lucid at that time?

A Oh, yes.

Q He was?

A Oh, yes.

Q All right. Now, --

A May I proceed on that?

Q Well, sure, if you wish.

A Well, I don't think that you quite grasp what a lucid interval is.

Q Does a lucid interval, medically, mean anything different than it does to the layman?

A Yes, indeed..

Q All right.

A What I referred to here is the lucid interval of



subdural hematoma. In every head injury we look for what is known as a lucid interval, and it is characterized by a person who is struck on the head, they lose consciousness and they are relatively lucid, in other words, they are able to talk and they are possibly able to be up and about, walk, even go about their business; and then after some interval they again lose consciousness. That is the signal symptom of subdural hematoma and indicates pressure on the brain.

That is why we have parents. After a youngster has been knocked out or anyone has been knocked out, we keep them a minimum of 24 hours in the hospital for observation. Some of them refuse to stay, so we warn the relatives during the night to go in and wake the child or the relative up every hour on the hour so that they will know whether or not they are conscious. If they lose consciousness, that is a very serious symptom, and that is what I referred to as the lucid interval.

In other words, had he lost consciousness, he would have displayed what is known as the lucid interval.

Q Now, did you record anything else on your notes or on that chart at that time?

A No. This is the material I wrote at 7 o'clock in the morning.

Q Now, Doctor, how tall is Sam?

A Six-two, I think, a little over six feet.

Q And how old is he?

A He will be 31 December 29, 1954.

Q And how much does he weigh?

A Before he came in here he weighed about 170, I believe.

Q Now, would you describe to the jury, please, exactly what is pulse? When you take a person's pulse, just exactly what controls the beat of the pulse?

A The pulse is the impulses felt along the course of any artery near the surface which represents each beat of the heart. As the blood courses through the artery, the impulse is transmitted through the blood vessels, primarily through the arteries, and that is what you feel. You feel it here by the ear, and in the arm, and typically it is taken at the wrist.

Q And there are various places, as you have stated, on the human body where by feeling the arteries you may determine what the pulse is, is that correct?

A Yes, that's right.

Q And that is determined by the heart beat, is that correct?

A The pulse is dependent upon the heart beat, yes, sir. There are times when the heart beats independently of the pulse. That's in disease, though.

Q Now, what would be the normal pulse rate for a person of Sam's years and age, height and weight?

A There is more to it than that, sir. There is the athletic background which he has, and his pulse rate, therefore, would be more likely to be slow. I happen to know that his pulse rate was slower than the average. The average would be 80, his was somewhere around 70.

Q Well, would you say that the average rate of pulse would be between 70 and 90 per minute?

A I don't think --

Q Would you say that is a fair statement?

A I think probably 80 would be generally accepted as the average.

Q Yes.

A Now, the average is achieved by taking a large number of pulses, averaging them out -- and, of course, there are extremes -- in order to achieve an average. So within that range would be generally acceptable.

Q Then would you say within the range of 70 and 90 would be acceptable?

A I wouldn't like 90. I would say 70 to 80, possibly 85. You are referring to a 31, 30 year --

Q You would not go as high as 90, is that right?

A Under basal conditions, no, sir.

Q 75 to 85, in your opinion, from your experience, would be the average pulse rate, is that correct?

A In this age group, yes, sir.

19 Q Now, would you tell us what is respiration?  
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A Respiration refers to breathing, the mechanism of breathing. It may involve a chemical change and all that sort of thing, but primarily taking in of air and expelling it.

Q And what is the average rate of respiration for someone of Sam's age and weight?

A Age and weight-- respiration rate per minute?

Q Yes. Average.

A Somewhere around 20.

Q Just 20 flat, or between, say, 15 and 25?

A I think 25 would be a little rapid. I'd say 15 or 20.

Q 15 and 20?

A For a person athletically inclined with an athletic background, naturally, the heart and lungs are more developed, possibly 15 would be more acceptable.

Q And had you examined, prior to this event, Sam's rate of respiration at any time, had the occasion to do that?

A Yes, sir.

Q And what was his normal respiration, would you say?

A It varied around 16.

Q About 16?

A Yes, sir.

Q And, of course, you say Sam had an athletic background?

A Yes, sir.

Q Well, how many years had it been since he participated in

any athletics?

A It hadn't been years, sir. He participated in athletics right up until the time he was incarcerated.

Q You mean by water skiing, by basketball?

A Water skiing, basket ball, football. He did everything.

Q Did he participate in football games right up until the time of his incarceration?

A You mean did he play in the games? No. He would play with the football, he would kick it, he would pass it, he would run with it, do that sort of thing. There was no formal game.

Q Well, that's like any of us do, if we see a bunch of kids, we like to show off a little bit and see how far we can kick it?

A Not I, sir.

Q Not you. Well, I have tried it and I can't kick it very far.

A Well, he did more than that. He entered in. I mean he really played, that's what I'm trying to say. He was athletic and had been right up to the time he was brought here.

Q Now, what is blood pressure?

A Blood pressure is the term that we and physiologists apply to the measurement of the pressure of the blood within the arteries. It is divided into two portions: One is known

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as the systolic, which is the measure of the pressure during the contraction phase of the heart, and the other is the diastolic, which is the measure of the pressure during the relaxation phase of the heart, and these pressures are measured by means of the level to which they are able to raise a column of mercury. That is why we have two numbers.

You say what is a person's blood pressure? 190 over 70. 190 refers to the contraction phase of the heart. The 70 refers to the relaxation phase.

Q In other words, you have a line, above the line is systolic, below the line is diastolic, is that correct?

A That is the way it is written, yes.

Q What would be the average blood pressure for someone of Sam's age, weight, size?

A We are including an athletic background?

Q No. Just the average person, first.

A 120 over 80.

Q 120 over 80?

A Yes, sir.

Q And to what point?

A To what point?

Q Yes.

A Well, you asked what would be considered a good average.

Q 120 over 80, you say is the center of the average. Now, what would be both sides on that average? How low would it

be and how high could it get and still be average?

A Well, it couldn't go any place but that and be average, because that is the average, sir. You mean the extremes?

Q Yes. Well, there is a group -- what should I say --

A Spread.

Q A spread, yes, that is the word -- a spread of blood pressure that may be called average, is that right?

THE COURT: What would be high and what would be low pressure.

A Possibly five points either way and still be within normal range. Is that what you --

Q Yes.

A Yes. I'd say five points either way. 185 over -- I'm sorry --

Q I didn't hear you.

A I'm glad you didn't. 125 over 85, possibly.

Q 120 over 80 to 125 over 85?

A Somewhere around that. The diastolic shouldn't rise as much as the systolic. In other words, the one beneath the line shouldn't vary.

Q That is for the <sup>average</sup> person that you are telling me about, or is that for a person who participates in athletics?

A The person who participates in athletics, the pressure would be lower.

Q Well, what was Sam's normal blood pressure?

A 170 over 64, I believe. No -- 74 -- I'm sorry. What did I say? Repeat that.

THE COURT: You said 170 over --

THE WITNESS: 170. Good heavens, that's wrong.

Q It didn't sound right.

A No, that is completely wrong. 115 over 74, is what I am trying to say. It was less than normal and within that range. 170 would be terrible.

Q 115 over 74 was his normal blood pressure?

A Yes, sir. It was less than normal.

Q And when is the last time you took his blood pressure before the 4th?

A I think I got it over there in my house one time during the spring. He had an upper respiratory infection, a severe cold, and I checked him over and checked it then.

I don't want you to think that these are the exact figures. My best recollection is that it was less than normal, and I say, 115 over 74, in that area.

Q Do you have those figures somewhere, sir?

A No, I don't.

Q How?

A I don't have them written down, if that is what you mean.

Q You don't have them written down?

A Oh, no.



Q You are depending on your memory now?

A Yes. I know it was below normal. I know it wasn't tremendously below. My impression is it was somewhere around 115 over 74. It may be recorded someplace in the hospital, for all I know.

Q Well, Sam was a patient in the hospital on some other occasion not too long ago, wasn't he?

A A couple of years ago he was in, had X-rays. I don't recall whether he was admitted at that time.

Q He was involved in some kind of an accident, wasn't he?

A An automobile door flew open and he went down to the center of Lake Road.

Q And he was supposed to have had some injury to his spine at that time, wasn't he?

A Well, he had a fractured sacrum, sir.

Q And were X-rays taken, of course, on that occasion?

A Yes, it was.

Q And his blood pressure was registered on that occasion?

A Not by me.

Q Well, have you examined his hospital chart on that subject?

A No, sir, I haven't.

Q Is that hospital chart available, sir?

A I presume it is. As I say, I don't know that he was even admitted. I know that X-rays were taken. If he was admitted,

a complete history and physical was taken, and, of course, that information will be available. If he just went in as an out-patient into the X-ray and had pictures taken, there would be no complete history and physical, but there should be a record.

Q Would you check the records at the hospital, please, sir, and see if that is available?

A Yes, sir.

Q And if it is available, will you bring it?

A I think all we have to do is ask Dr. Sam whether he was admitted. If he were not admitted, then there is no point.

Q Well, we will see. We will check that.

A You'd prefer that I check it personally?

Q Well, you can ask him during the recess, and if you determine that there is none available, then there is none available.

MR. CORRIGAN:                      You can ask him  
right now.

A Dr. Sam says no.

Q I beg your pardon?

A I just asked him, and he says no.

Q I see. Now, after you made this entry into the chart, what did you do next?

A May I see the chart? You refer to what I did medically, is that it?

Q Well, no, what did you do or where did you go?

A I think I said I went back into the room, sir.

Q And who was in the room at this time?

A Mrs. Franz, Mrs. Hahn, Dr. Sam and I.

I think you can see here, the chart was started to be made up at 6:30 a.m., as soon as he came.

Q That is not your handwriting, is it?

A No, but I say you can see that. I say I went back into the room, sir.

Q All right, now. Did you talk to Sam then?

A Yes, sir.

Q Did you talk to him about what happened at his home on the morning of the 4th?

A Not at that time, sir.

Q When is the first time that you talked to Dr. Sam about what happened at his home on the morning of the 4th?

A After I examined him -- you see, I went back in, that's when I did this examination I described, I believe yesterday. When I completed that, I asked him what in the world happened, and that sort of thing.

Q Now, in your examination, you discovered that there was an absence of certain reflexes, is that correct?

A That's right.

Q And you examined the cremasteric reflex? Is that right?

A That's right.

Q And was that absent?

A On the left, sir.

Q You examined the abdominal reflex?

A That's right.

Q And was that absent?

A Yes, sir.

Q Both sides?

A No. The left.

Q Just the left?

A Above and below the umbilicus.

Q And you examined the -- what other reflexes did you examine?

A The triceps, biceps, Babinski, pupillary, knee kick, Achilles, Gordon's, Rossolimo's.

Q The Babinski reflex, in that examination was the patient lying flat on the bed?

A Yes.

Q And as I understand it, you take some instrument of one kind and you stroke the instrument against the bottom of his foot, isn't that correct?

A Not that particular part of his body.

Q What part of the body do you stroke?

A The dorsum of the foot.

Q Will you discover what you saw?

A Discover what I saw?

Q Yes. What happened when you did that?

A Describe what I saw?

Q Yes.

A The Babinski in the left was suggestive. The Babinski in the right was absent. The Babinski response was absent.

Q Now, where in your report here do you say that the Babinski on the left was suggestive?

A Unfortunately, I didn't write that down, sir.

Q Unfortunately, you say, you didn't write it down?

A Yes, sir.

Q Wouldn't that be important in a hospital report?

A It would be of the utmost importance, sir.

Q Now, did you forget to write it down?

A I didn't trust my judgment on this neurological phase, and that is why I called in a consultant, sir.

Q Now, what happens to the toe on the foot as you use this blade, or whatever it is that you use on the bottom of the foot, when you perform this test?

A Which toe, sir?

Q Well, what reaction do you have?

A In a positive Babinski?

Q Yes.

A The great toe on the side involved rises or comes toward the individual, which is known as dorsi-flexion, and the smaller toes fan out and flex. That is plantaflexion.

Q Now, what entries do you have as to his Babinski reflex?

A None, sir.

Q You didn't record that?

A No, I didn't. I recorded it in my head, and when I found these things, I called the neurologist.

Q Now, the absence of a Babinski reflex would indicate injury to the brain, wouldn't it?

A Not at all.

Q Well, what would it indicate?

A It would indicate a normal situation.

Q The absence of a Babinski reflex would indicate a normal situation?

A Precisely, sir.

Q Well, what is the purpose of the Babinski reflex, of that test?

A To determine whether or not it is present.

Q All right.

A If it is present --

Q If it is not present, what is wrong with the person?

A Nothing.

Q Nothing?

A This reflex, to be significant, must be present, sir. This is an abnormal reflex when it is present. When it is absent, that is normal. The normal response when you stroke the sole

of the foot is for all the toes to flex.

Q Assuming, then, that the Babinski reflex is present, is there something wrong with the person?

A Let's say abnormal. Let's say we get an abnormal response.

Q What is wrong with me if my Babinski reflex is abnormal?

A You have an upper motor neuron lesion, sir.

Q What does that mean in talk that the jury and the rest of us can understand?

A That means an interruption of the nerve pathway above the reflex arc involving someplace in the pyramidal tract, and up into -- I'm sorry -- in the spinal cord and up into the brain.

Q Now, then, an abnormal Babinski would, in common language, indicate some injury to the brain, isn't that a fact?

A It certainly would.

Q It would. And you say that in making this test you observed that the Babinski was suggestive?

A That's right.

Q And by being suggestive, that test indicated to you that there possibly was some injury to the brain, isn't that a fact?

A I had already diagnosed brain injury, sir.

Q Now, listen, please. By means of the Babinski reflex you learned that possibly there was something wrong with the brain

or some injury to the brain?

A Do you want a yes or no, sir?

Q Yes, if you can.

A If I can say --

THE COURT: You haven't got a question, I don't believe.

Q The Babinski test that you performed suggested to you that there was some abnormality, isn't that correct?

A Yes, sir.

Q And the abnormality that the Babinski reflex indicated to that you was/there was some injury to Sam's brain, isn't that correct?

A It confirmed the presence of brain injury, surely, sir.

Q Well, the Babinski reflex test showed you that, didn't it?

A It indicated upper motor neuron lesion, as I said before, which would be above the reflex arc. Now, you may recall I also mentioned Rossolimo's and Oppenheim, which are reflexes involving the same area, which are tests for the very same thing, and they were not suggestive of anything, and that is why, in the presence of a suggestive Babinski, I didn't trust my own judgment. I am not a neurosurgeon. I called in a consultant who is a specialist in the field.

Now, if you want to know did this suggestive Babinski make me think he had brain injury, the answer is yes, I think he did. I thought he did.



Q Now, my question is, sir: The Babinski reflex indicated something to you that was important, didn't it?

A It suggested something. The reflex itself was only suggestive, sir. I didn't say that it was a positive Babinski. I said it was suggestive.

Q Now, you have stated to this jury that a hospital chart is a document that contains all pertinent information as to everything that happens to that patient, all treatment he receives, et cetera, while he is in the hospital, isn't that correct?

A That is correct, Mr. Parrino.

Q And in making this chart each doctor that performs some work, or a nurse that gives some medication toward any patient, records it specifically on the chart, isn't that correct?

A Surely.

Q And in the chart is recorded what was done for the patient, doesn't it?

A Yes, of course.

Q The date that it was done?

A And the time.

Q And the time that it was done, isn't that correct?

A That's right, sir.

Q And all of these things are very important in that chart, are they not?

A They are of the utmost importance, Mr. Parrino.

Q Now, will you tell the jury what this is, please, on page 12 of the hospital report? Just tell us what it is.

A Consultation Report, sir.

Q And whose consultation report is that?

A Charles W. Elkins.

Q Now, when did Charles W. Elkins make this consultation report?

A June -- I'm sorry -- July 4th. That was Sunday.

Q How do you know that?

A I was there. I saw him write it.

Q Do you get that information from his report there, sir?

A No. He didn't put the date on this particular sheet, no date.

Q At any place on this report submitted by this neurosurgeon, Dr. Elkins, do you find the date when he performed the test that you see on that page?

A No, sir.

Q Do you see the time that he performed these tests on that page?

A On July 4th?

Q Yes.

A No, sir.

Q Now, if a consulting doctor would come into the hospital and see this report here of Dr. Elkins on page 12, he would have no idea at all, would he, on the basis of information solely on this sheet here, page 12, as to when he performed these examinations, would he?

A From looking at that sheet, he would have no idea, sir.

Q And is that good hospital practice, sir, for a physician or a doctor not to record on an important chart the date and time when he performs a particular examination?

A No, sir.

Q That is not good practice, is it?

A No, it is not.

Q So that someone that examines this report of Dr. Elkins would not know if this was Sam's condition on the 4th, the 5th, the 6th, the 8th or the 9th of July, would he? He would have no idea?

A Not from looking at that report, sir.

Q And you say that all of your reports there at the Bay View Hospital are accurate, complete and concise reports of all treatment and examinations received by a patient, isn't that correct?

A I did say that, sir.

Q Now, nowhere in this report, sir, that you claim to be so very important, do you find a notation that, as a result of your first examination of your brother, Sam Sheppard, that there was suggested an abnormality of the Babinski reflex, do you?

A No, sir.

Q All right. And this is supposed to be a complete report, isn't it?

A It is a complete report, sir.

Q After you made those tests, what did you do next?

A I left the hospital and I went over to Dr. Richard Sheppard's house.

Q By the way, before you left your brother, Sam Sheppard's home, that morning with Sam, did you see Richard around the place there anywhere at all?

A I have no conscious recollection of seeing him except as he out in the yard. I honestly don't remember seeing him in the house. I'm sure he was there.

Q How long did you remain in the hospital there that morning after you examined Sam for these various reflexes?

A Not long. I got over to Dr. Richard's house shortly after 7:30, sir.

Q Well, how long would that be? How long did you stay at the hospital?

A About an hour.

Q How long did it take you to make this examination of Sam for the presence or absence of the reflexes you have described? How long did that take?

A 10 minutes.

Q And after you made the tests, what did you do? After you made these examinations, what did you do?

A Well, as I say, I had this brief conversation with Dr. Sam while that was in progress, toward the end of it, then I

went over to Dr. Richard Sheppard's house, my brother.

Q Where was the chart at this time?

A The medical chart was at the desk.

Q And where is the desk located with reference to Sam's room?

A Outside the door up about the middle of the corridor.

Q In other words, you did not make your entries on the chart while you were in Sam's room, did you, as to the presence or absence of these reflexes?

A I didn't make them at any time, sir.

Q How?

A I think I said I didn't make them at any time.

Q Well, did you enter those on the chart at all?

A I think you referred to the Babinski, did you not?

Q No. To all the reflexes.

A When I wrote up the chart -- no, I went out to the chart desk and made it then, sir.

Q Well, you don't take a chart into the patient's room and make entries on the chart as you are making your examination of the patient, do you?

A Some do. I don't, sir.

Q Well, as Dr. Hexter, he made his entries after -- withdraw that.

Referring to Dr. Hexter, he made a sheet up or several sheets up in which he set down his findings after he left Dr. Sam's room. You recall that, don't you?

A I have no idea what he did, sir.

Q Well, setting down findings in another room after an examination is made, that is not an unusual practice, is it?

A Yes.

Q You say that it is?

A Surely.

Q You say that it is an unusual practice?

A Yes. As a rule, the doctor goes out to the chart desk and sits down and writes on the chart.

Q Oh, I see. But he doesn't take the chart into the room to make his -- to record his findings, though, does he?

A I say some do. I don't.

Q Now, Dr. Hexter -- withdraw that.

Sam was not a patient of Dr. Hexter, was he?

A No.

Q Hexter, as you know, was there for a specific purpose, isn't that correct?

A Yes, he was.

Q And he wasn't there for the purpose of treating Sam, was he?

A Certainly not.

Q So that there would be no reason, then, for him to make an entry on that chart, would there?

A There would.

Q There would be?

A Yes, sir.

Q In your opinion?

A Well, it is good hospital practice for any physician visiting a patient in any hospital to make a notation on the chart, unless he is there as a visitor. If he comes in and brings him flowers, or a book, there would be no reason to make a notation, but if he comes in as a physician, examines the patient, whether he makes any recommendation or not, it should appear in that chart, the date, time and findings.

Now, the very least that should appear is the fact that he saw the patient. He wouldn't even have to write everything he found, but if he had said the date and the time, "Dr. Sam examined," that would have fulfilled the basic requirements, sir.

Q Well, Dr. Elkins didn't bother to put the date and the time, though, did he?

A He was in my presence, sir.

Q Well, Dr. Elkins made that examination in your presence?

A Yes, I was there.

Q And did he make his entry out in your presence, on page 12, that we refer to?

A Yes. I said I saw him write that. You see, when Dr. Elkins came, he went to the switchboard, had me called, I met him, we went down and he wrote on the chart.

Q

Well, you didn't notice that Dr. Elkins happened to forget to put the date and the time on this report, did you, of his examination?

A

Not at that time, sir, no, sir.



44  
P 20  
Q Now, Doctor, Dr. Hexter, as you said, was at the hospital for a specific purpose, isn't that correct?

A He told me that he was.

Q And he told you that he was sent there by Dr. Gerber?

A That's right.

Q Now, when Dr. Gerber came to the hospital on the morning of the 4th, he wasn't there for the purpose of treating Sam, was he?

A No, sir.

Q Now, after you left the hospital, where did you go?

A Next door to Dr. Richard's house, sir.

Q Before you left the hospital, you left certain specific orders, did you not?

A Yes, sir.

Q And one of the orders that you left was that Sam was to have no visitors, isn't that correct?

A I don't believe so, sir.

Q Well, did you leave an order saying that he should have no visitors other than members of the family?

A I did.

Q And that is recorded on the chart, isn't it?

A Yes, it is.

Q Referring again to the chart, the hospital chart, on Page 17, under the entry of 7a, which would mean a.m.?

A Yes, sir.

Q The sixth entry, apparently, under that time?

A Yes.

Q Are the words in large letters, "No visitors", isn't that correct, "other than the family," and that is DR. S.A.S.

What is that, please?

A That is not my handwriting, sir. It's my initials.

Q Well, then, before you left that hospital, you left orders that you didn't want anyone to see Sam except members of the family, is that right?

A I didn't want any unauthorized people to see him; certainly the nurses and the doctors and the people ordinarily that worked around the hospital weren't excluded. I didn't want a lot of friends and neighbors and newspaper people, and persons of that sort, to --

Q And police?

A Sir?

Q And police?

A I don't believe it says anything about excluding police officers.

Q What time did you return to Sam's home?

A Shortly after I stopped at Dr. Richard's house.

Q What time would that be, please?

A Well, as I say, I got over there about 7:30. Dr. Richard and I went on up to the house somewhere after that, within a few minutes, 5 or 10 minutes.

Q Did you and Richard return to the house together?

A Yes, sir.

Q Who was present at that time at the house?

A Who was in the house?

Q Who did you see?

A This time I saw Mayor Houk and Mrs. Houk, Larry Houk, Chief Eaton, Officer Drenkhan, Cavanaugh, Hubach had appeared on the scene; the firemen were still there; Mr. and Mrs. Carl Schuele were out in the yard; Mr. and Mrs. Don Ahern were out in the yard, and any number of people that I didn't recognize in the yard and at the periphery.

Q In other words, in the house were the Bay Village Police, the Bay Village firemen, the Houks and you and Richard?

A After we went in, yes, sir.

Q Yes. And where did you first go when you re-entered the house?

A This time I went directly through the back door into the living room. I believe I glanced into the study. I don't think I went in at that time.

Q Now, before we come to that, please, I want to take you back to the hospital. You say that you and Sam discussed what had happened to him on the 4th?

A I asked him about it as I made this examination, sir.

Q Well, tell us what he said?

A He said that he was beaten up during the night, that he woke up and found himself in the water's -- at the water's edge in the lake. That was about the extent of it at that time.

Q Is that all he said?

A To the best of my recollection. I didn't go into it. I was interested in his physical condition and what bearing his experiences had medically, sir.

Q Did you ask him if he was beaten up by one person or more than one person?

A No, I didn't go into that, sir. I don't recall asking him about that at that time.

Q Well, did he say that he was beaten up by more than one assailant?

A Well, I think you pointed out that he said, "I think they've killed Marilyn" sometime previously.

Q At the hospital?

A When I examined him, no, sir, we didn't go into that.

Q Now, that was the extent of your conversation with him as to what had happened?

A Yes, sir. About that time he went up to the X-ray room.

Q Now, in your practice as a physician -- withdraw that.

Let us return to the house again. Into what part of the house did you go?

A The living room.

Q And did you examine the living room more thoroughly then?

A Yes, I did.

Q Now, on this occasion you saw things that you did not see the first time, I suppose, is that correct?

A Surely.

Q How?

A Yes, I did.

Q What did you see the second time that you didn't see the first time?

A The second time I saw the door of the house open again, the door onto the porch was open. I saw that because Mrs. Houk pointed out to me -- I didn't mention Mrs. Houk was in the living room, but she was and she pointed out to me that there was an apparent trail of water which seemed to lead, according to her, up the steps and across the porch, and she pointed out one puddle on the porch itself, and when I looked at that I noticed that the screen door was open. I went on out and stood at the top of the hill and looked at this area where the watery trail had been. It was, for the most part, just moisture now. I --

Q What else did you see beside the water?

A Well, we are still in the living room, sir. You wanted me to describe what I saw unusual in the living room.

In other words, I went out and came back into the

living room right away.

Q All right.

A I noticed that the desk was disarrayed, as I had noticed previously, but this time I noticed in particular that the writing level of the desk was propped up at an odd angle and resting on the back of a chair. I noticed that there was a large amount of paper thrown about the room. There was some in the chair itself and there was a ledger, what appeared to be to me, at least, a check book, large ledger type, thrown across the room, and I would guess a dozen or so Ohio State Sales Tax stamps on the floor. I think there were some other papers strewn about.

Q Well, you noticed those papers on the floor the first time, didn't you?

A Yes, sir.

Q How?

A Yes, I noticed that there were papers. I didn't make any particular note of them, though.

Q Now, what time did Schottke and Gareau arrive there at the house there that morning? Do you know?

A No, sir.

Q What time did Coroner Gerber arrive there at the house that morning?

A It was about 8:30, sir.

Q And the first thing that Coroner Gerber did upon his arrival

was to exclude all unauthorized persons from that home, wasn't it?

A He excluded everyone, sir.

Q Everyone?

A "Everybody out." He seemed very upset and angry.

Q All right.

A And everybody left.

Q Well, did you see Schottke and Gareau there that morning?

A I don't recall seeing them at the house that morning, sir. Of course, I didn't know them then, and they may have been there, but I don't think so.

Q Well, what time was it that you again went up into Marilyn's room?

A Time? It must have been somewhere around quarter of eight, sir.

Q And did you go up into that room alone?

A No, I didn't.

Q Who was with you?

A Dr. Richard, Larry Houk, Mrs. Houk and Officer Cavanaugh.

Q And when did you first observe that there were things in that room that were different than when you had observed them the first time?

A When I looked at the photograph.

Q How?

A When I looked at the photograph.

Q Well, on your second visit to that room, was there any change in anything?

A I didn't -- I consciously tried not to look at Marilyn on that second visit. I looked at the walls, I looked at the windows, I looked at things like that. Frankly, I had no idea that there was any change until I saw the photograph, I think it was yesterday, and I had never seen that photograph before.

Q In other words, until yesterday, you didn't know that anything in that room had been changed, is that correct?

A Well, I expected the photograph to be as I saw it that morning, sir.

Q No. My question is this: Until yesterday you didn't know that anything in that room had been changed?

A Not of my own knowledge.

Q And you only knew that after you took the witness stand, is that correct?

A When I saw the photograph.

Q Was yesterday the first time you saw those photographs?

A I had seen them introduced, sir. I hadn't examined them.

Q Was yesterday the first time you saw those photographs?

A Well, I sat in the back of the room and saw the backs of them, sir.

Q Was yesterday the first time you inspected those photographs?



A Yes, sir.

Q This trial has now been in progress for how long?

A Seven or eight weeks.

Q And you have been given the privilege of remaining in this court room as a spectator during the course of the trial, haven't you?

A Yes, sir.

Q And you have consulted with your brother from time to time during the course of this trial, haven't you?

A I have spoken to him, yes.

Q You have consulted with Mr. Corrigan from time to time during the course of this trial, haven't you?

A Surely.

Q During the course of this trial, you have examined some of the exhibits that have been introduced into the evidence in this case, haven't you?

A Only those things that I was asked to look at, sir.

Q Yes. And one of the reasons for which you were permitted to remain in this court room was so that you could from time to time consult with Mr. Corrigan, isn't that correct?

A That's true, sir.

Q Now, at any time until yesterday -- withdraw that.

Have you ever examined any of the exhibits that have been introduced into the evidence before yesterday?

A Yes, sir.

Q What exhibits have you examined?

A I examined the slides that were prepared at the Coroner's office, the colored slides which were projected on the screen.

Q Yes.

A I, of course, saw the X-rays that were taken of Dr. Sam in Bay View Hospital. I think they were introduced.

I examined the chart, of course, prior to coming here, the hospital chart. On one occasion I looked at the shotgun as I went by.

Q Well --

MR. CORRIGAN: Wait a minute.

MR. GARMONE: Let him finish

his answer.

Q Go ahead. Have you finished yet, sir? I thought he had finished. I'm sorry.

A I don't really recall -- I looked at the riding crop today.

Q What is that? I didn't get that.

A I say, I looked at the riding crop today, but that wouldn't have any bearing.

Q Yes. Anything else?

A I don't believe so. Of course, I think -- yes, I looked at the Coroner's inquest, a copy of the Coroner's inquest. That was introduced.

Q Did you look at anything else, any of the other exhibits?

A I'm sorry. You may have misunderstood me. I looked at the Coroner's inquest copy before it was introduced. Many of these things I looked at before they were introduced.

Q Well, have you looked at any other exhibits after they were introduced?

A Nothing comes to my mind, sir.

Q Well, did you look at the pillow with the mark on it?

A Yes, I looked at the pillow, yes, sir. I also saw a photograph of the pillow with the mark on it. I should have told you about that.

Q Did you look at any of the other pictures that have been offered as exhibits in the case?

A I don't recall having any of those submitted to me.

Q All right.

A I'm sorry. I did. I looked at some of the pictures of the blood spattered on the door and wall, yes, sir.

Q Now, the second time you/<sup>first</sup>went into the room tell us what, if anything, was changed from the time you went into the room?

A Well, first of all, the arms weren't in the same position that I recall seeing them. The body was covered more adequately by the pajama tops.

Now, you are referring to what I noticed at that time or what I saw in the picture?

Q No, to what you saw.

A At that time?

THE COURT: Yes, your own  
observation.

A I didn't notice anything until I saw the picture. I  
misunderstood you. I'm sorry.

Q Then you didn't observe Marilyn's body at all on the  
second occasion, is that what you want us to believe?

A I want you to believe that I tried not to look at it,  
and I looked at it as little as possible, sir.

Q Well, did you look at the body at all?

A Well, I couldn't go in without seeing it, sir.

Q How?

A I couldn't go in without seeing it.

Q Well, it was daylight, wasn't it?

A Surely.

Q You looked at the walls, didn't you?

A Yes, I looked at the walls and the furniture, and I  
looked under the bed.

Q You got on your hands and knees, didn't you?

A Yes, I did.

Q You looked at the east wall?

A I looked at every wall, sir.

Q At the north wall?

A That's right.

Q At the south wall?

A All four walls, sir.

Q All right. But you didn't look at the bed very carefully, is that correct?

A I carefully looked away from it, sir.

Q So you don't have the slightest idea now on that second visit as to what was the position of any pajamas that she may have had on the upper part of her body, is that correct?

A Of my own knowledge, sir, no.

Q Then yesterday, as to any changes that occurred in that room as to Marilyn's pajamas, you are relying upon your memory for something that you saw on July 4th of things that you saw in a room that you observed for approximately one minute, is that correct?

A Absolutely.

Q Now, did you observe the blood on Marilyn's bed on that second visit?

A Yes, sir.

Q And what was the condition and appearance of the blood at a quarter to eight?

A Wet and tacky, I believe.

Q Where was this blood that you observed?

A It was around the periphery of her head.

Q Around her head?

A Yes.

Q And did you touch that blood?

A No, I did not.

Q How do you know it was tacky?

A It was glistening.

Q Glistening?

A Yes, sir. It appeared --

Q How much blood was there?

A Oh, I can't give you any definite measurement. It was profuse, however.

Q Was it thin or was it a thick layer of blood?

A Thick, sir.

Q Thick. Did you observe the blood on Marilyn's face as to whether it was wet or dry?

A My impression was that it was drying in the areas where it was thin.

Q Your impression was that the blood on Marilyn's face was dry, right?

A Drying.

Q Drying?

A Yes, sir. Moreso than on the sheet itself.

Q And you got that impression by looking at it, didn't you?

A I looked at it, sir; I tried not to, but I did.

Q All right. So then you did look at the body to some extent to see the condition and appearance of the blood, didn't you?

A No. I just looked at the upper portion. I doubtlessly saw

it, but I didn't make any attempt to evaluate it.

Q Well, you did observe that the blood there right next to her head was tacky and part of the blood on her face was drying?

A That's right. I was interested in looking at the blood, sir, I didn't want to look at anything else, if I could help it.

Q So the position of the pajamas, then, you didn't look at that, did you, on the second occasion?

A No.

Q You did look at her face, and as a result you did see the wounds on her face, didn't you?

A Surely.

Q Then will you please tell this jury why was it that you did not look at the pajamas?

A Well, that's a question that I can't answer. It just didn't register with me at that time, sir.

Q What was that, please?

A I say, the pajamas didn't register with me one way or the other at that time.

Q Then you don't know whether the position of the pajamas had been changed on that second visit, is that correct?

A I think they were.

Q You think they were?

A Yes, sir.

Q Now, when did you come to that conclusion?

A Well, I must have become aware of it, because, as I say, I looked at the body and I looked at her. I tried not to, but I saw, certainly I saw certain things there.

Q Now, then, you knew that the position of the pajamas from the first visit to the second visit had been changed before you come into this court room yesterday and saw the photographs, isn't that correct?

A I guess it must have been in my mind.

Q How?

A I believe it must have been in my mind someplace, because now that you go over it with me, I have the impression that it was different.

Q All right. So then the statement that you made here just a few moments ago, that the first change as the pajamas that you observed was when you came to the court room yesterday and saw it in the photograph, is that correct?

A Is it correct that I made that statement?

Q I withdraw the question.

Then the statement that you made here today, that the first change in the pajamas, the position of the pajamas, the first time you observed that change was when you saw the pictures; do you recall making that statement?

A Yes, I said that.



Q That is not true, is it?

A Well, that is the first time, certainly, that I saw it in a picture, and as far as the first time I ever noticed it, I think I must have noticed it prior to that time. So the answer would be that statement was not entirely true, sir.

Q All right. Now, have you made any other statements here in the court room that are not entirely true?

MR. CORRIGAN: Oh, I object to that.

A Not to my knowledge.

MR. GARMONE: He said not to his knowledge.

THE COURT: He said not to his knowledge.

MR. CORRIGAN: Oh, all right.

Q Now, showing you what is marked for identification as Defense Exhibit I, will you look at that picture, please, and tell the jury, was that the appearance of Marilyn's -- the upper part of her pajamas after you returned to the room the second time?

A I don't think so, sir.

Q You don't think so?

A I'm certain that it isn't exactly the same.

They weren't in that position. They may have been more

apparent than they were when I first saw her, but they certainly weren't covering her that much. At no time when I saw her were they in that position.

Q Now, you recall that on the second occasion the position -- withdraw that.

Now, you recall that on the second occasion that you were in Marilyn's room the position of the pajamas were different than they were on the first occasion, right?

A I recall that I was conscious of the pajamas, something was different.

Q Now, as to her hand, on the second occasion did you observe that her hand, her left hand was not in the same position that it was on the first occasion?

A I don't recall looking at her hand on the second occasion.

Q You don't recall that?

A No, sir.

Q As to her right hand, do you recall what the position of the right hand was the second time that you arrived in the room?

A I don't recall, but I should because the first time, as I described, it was off the side of the bed and the second time I kneeled down right at the side of the bed, but I honestly can't say I did recall it or see it or notice it.

Q All right. Now, you looked at the blood about the head, you looked at the pajamas on the second occasion, but you

do not remember looking at the hands, is that correct?

A Yes.

Q And the first time that you noticed any difference in the position of her hands was when Mr. Corrigan showed you the pictures here in the court room yesterday, is that correct?

A Yes, and it came as a surprise, sir.

Q It came as a surprise?

A Yes, sir.

THE COURT: Can you discontinue there, Mr. Parrino?

MR. DANACEAU: He has a question on the same subject, just one question.

MR. PARRINO: May I have just a moment, please, your Honor?

THE COURT: Surely.

MR. CORRIGAN: Are we going to adjourn, your Honor, at 4:30?

MR. DANACEAU: Just a moment.

MR. GARMONE: He has one more question.

MR. CORRIGAN: All right.

THE COURT: He wants to just take care of some detail matter that he can finish in a moment.

MR. PARRINO: Do you want to  
check this, Fred?

MR. GARMONE: No. You go ahead.

Q Now, do you recall your testimony on that subject here  
in this court room yesterday, sir?

A No.

Q How?

A I think that I testified about it.

Q And what did you say?

MR. CORRIGAN: I object. If  
you have anything to put to him, I insist  
it be put to him in the regular way.

THE COURT: Ask him if he  
recalls what he said here yesterday.

MR. PARRINO: We may not have  
to read it, Mr. Corrigan.

THE WITNESS: I think yesterday  
I described the position of the arm or the hand.

Q All right. Would you read, reading from Page 3521 of  
yesterday's testimony, will you read that question aloud,  
please?

A Yes, sir.

Q And slowly.

A All right.

(Reading) "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 Now, would you read the next question, please, and answer?

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

"Yes.

"What did you do?"

Q All right. Would you read that, please?

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

Q And then --

A "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."

Q All right. Then on the second occasion that you were in

that room, sir, you did observe that the hand -- or that the position of the hands had been changed as of the first time you were in that room, isn't that correct?

A That's what I said yesterday, sir.

Q And that is not what you say today, though, is it?

A It is not what I said a short while ago.

Q Now, which one is the truth, yesterday's testimony or today's?

A Well --

MR. CORRIGAN: Object to that.

A I think they both are.

MR. CORRIGAN: Object to that,

"Which one is the truth." That isn't a proper question.

MR. PARRINO: Why not?

MR. MAHON: Certainly it is proper.

THE COURT: He is supposed to testify to the truth.

MR. MAHON: That's right.

MR. GARMONE: Let him answer the question.

Q Which is the truth, yesterday's or today's?

A I noticed changes yesterday -- I noticed changes on the second visit. The fact that when I looked at the

photographs these things were represented on the photograph was a surprise to me. The photographs were a surprise. That's the thing I tried to say a short while ago.

Q I see. So that, however --

MR. MAHON: What is the  
answer to the question?

THE WITNESS: Which is correct?  
There are elements of truth --

MR. MAHON: Which is true?

THE WITNESS: There are elements  
of truth in each answer, sir.

Q So your testimony today -- withdraw that.

The testimony that you have given in this case, that the first time you observed these changes was when you observed the photographs, that is not true, is it?

MR. GARMONE: Objection.

That is not what he said.

A Frankly --

THE COURT: I'm sorry, I  
didn't --

MR. GARMONE: Well, I'll withdraw the objection. Let him answer the question.

THE COURT: He may say yes or  
no.

A Frankly, sir, my statement is this: When I first saw her, I saw certain things. At a later date I saw that they were different.

MR. MAHON: I object. Let's have the question answered.

MR. GARMONE: He is answering the question.

MR. MAHON: He is not answering the question at all.

MR. GARMONE: We will use the same method that you used.

MR. MAHON: I object, your Honor. Wait a minute. I want to object to this.

MR. GARMONE: Give him a chance to answer the question.

THE COURT: Will you restate your question, if you can, Mr. Parrino?

MR. MAHON: Let him read the question.

(Question read by the reporter.)

Q Yes or no.

A That is not true.

MR. PARRINO: That is all.

That is all for today, your Honor.



THE COURT:

Now, ladies and

gentlemen, we are coming again to a somewhat long weekend, perhaps not long enough. Will you please be careful not to discuss this case with anyone, nor to permit anyone to discuss it with you, and please do not read newspapers or listen to radio comments on this particular subject. Let's hope we are all well by 9:15 Monday morning.

(Thereupon an adjournment was taken at 4:35 o'clock, p.m. until 9:15 o'clock, a.m. Monday, December 6, 1954, at which time the following proceedings were had:)

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