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Tuesday Morning Session, December 7, 1954, 9:15 o'clock, a.m.

MR. CORRIGAN:

Dr. Richard Sheppard.

Thereupon further to maintain the issues on his part to be maintained, the Defendant called as a witness RICHARD N. SHEPPARD, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF DR. RICHARD N. SHEPPARD

By Mr. Corrigan:

Q Will you state your name and address?

A Richard Niles Sheppard. I live at 23346 West Lake Road in Bay Village, Ohio.

Q How long did you live at that address?

A It will be about six years this coming January.

Q How long have you lived in this community?

A I have lived in this community since I was eight years old. That would be about 30 years.

Q And what part of the town did you live in?

A When I first moved to Cleveland, we lived in Cleveland Heights, 3062 Euclid Heights Boulevard, Cleveland Heights, Ohio, and after I was married my wife and myself lived on Hyde Park in Cleveland Heights, and in 1949 we moved to Bay Village at our present address.

Q Do you have a family?

A Yes, sir.

Q What does your family consist of?

A I have three children. One daughter, 10; one, 7; and a son who will be 5 this month.

Q How long have you been a physician and surgeon?

A I graduated from medical school in 1941.

Q And after you graduated from school, what was your activity?

A Following graduation, I interned at the Los Angeles County General Hospital, Unit No. 2, for one year, 1941 to '42. From 1942 to '43 I was a surgical resident, Cleveland Osteopathic Hospital here in the City of Cleveland.

From 1943 to 1944, I was the maternity resident for the City of Los Angeles Department of Health and also worked with a clinic group at that time in Los Angeles in obstetrics and gynecology.

Following that I returned to Cleveland and was a surgical resident and fellow in surgery at the Cleveland Osteopathic Hospital with my father for the next three years.

Q Now, then, did you go to Bay View Hospital in the City of Bay Village?

A Yes, sir. The Bay View Hospital was opened, I believe, in October of 1948. Previous to that time our hospital was down on 32nd and Euclid Avenue.

Q How large a hospital is Bay View?

A We consider it a hospital of approximately 120 beds.

Q And do you have any formal connection with that other than that you do your work there?

A Yes, sir. I am on the Board of Trustees and I am also the treasurer of the staff.

the 2 Q Do you belong to any medical associations?

A Yes.

Q What?

A I am a member -- senior member of the American College of Osteopathic Surgeons. I am a member of the American College of Obstetricians. I am a member of the Ohio Society of Osteopathic Surgeons. I am a member of the American Osteopathic Association, the Ohio Osteopathic Association and the Cleveland Academy of Osteopathic Medicine.

Q Do you specialize in any particular branch of work?

A Yes, sir. My work is gastro-intestinal surgery, general abdominal surgery, and I do a great deal of obstetrics.

Q Now, I want to go to a period along about in June of 1954. Will you state to the jury whether you were closely associated with your brother and with your brother's wife, Marilyn?

A Yes, I was.

Q How far did they live from you?

A Well, from Sam -- Dr. Sam and Marilyn lived about three miles, approximately, west of my home on West Lake Road.

Q From the time they came back from California in March, did you have occasion to see them frequently or infrequently?

A March of --

Q This year.

A Yes. I saw them quite frequently.

Q And will you tell the jury what your observation was of these two people when they were together?

A Well, my observation was that they were certainly perfectly happy in every way. They worked together, played together. The family was together at practically all times socially. There were certain professional affairs that took place that they both were involved in. There seemed to be a perfectly normal, happy relationship, as far as I could see.

Q Did you have occasion to see your brother's activities around his home?

A Yes, sir, I did.

Q Will you tell the jury what your observation of those activities was?

A Well, Dr. Sam and Marilyn seemed to be very affectionate. They were -- as I say, they played together a great deal. I have a boat, and many a time this spring, and, of course, years before, also, but this spring, we were talking about -- I would go up to the house by boat, and we would water ski. I didn't do much water skiing myself, but I would do the pulling of the skiers, my wife and myself. We pulled Sam and Marilyn and many other people who were down at the beach. The home there was more or less of an open house, you might say. Many people, friends, and professional

friends, and former high school friends, would come to the house, and Sam and Marilyn were always very wonderful hosts. People would go down to the beach any time, and they would generally find Sam and Marilyn down there if it was a nice day, and there would be a lot of water sports going on most of the time.

Q Now, I am going to call your attention to some dates in June that you have informed me about, and you may refer to any notes you have, if you want to, if you have to refresh your recollection, but the first day I am going to refer to is June the 6th, on a Sunday.

Do you recall that day?

A Yes. June the 6th was my brother, Dr. Steve's birthday, for one thing, and on June the 6th there was a committee meeting at Dr. Sam's home. Dr. Sam was on a program committee for the Ohio Society of Osteopathic Surgeons. They were planning on a program for the fall, some sort of a professional program just for the osteopathic surgeons of the State of Ohio.

Q Did you meet at his house on that day?

A Yes, sir.

Q Who was there?

A My wife, myself, Dr. Sam and his wife, Dr. Steve and his wife, Dr. and Mrs. Gerald Feiner from Youngstown, Dr. and Mrs. Don Udrich from Kent, and Dr. and Mrs. Selnick from

Bay Village.

Q Was that a meeting of doctors that were associated in some way in determining something medically that you met with there that day?

A A part of them were. Dr. Sam, Dr. Ulrich, Dr. Selnick, Dr. Feiner, I believe were on this committee. Dr. Steve and I were there because we felt that we'd like to entertain these out of town doctors, and we planned on having a little picnic and some lake sports before they had their meeting.

Q Did you have a picnic that day?

A Yes, we did.

Q And then I call attention to the 10th of June. Do you recall that day?

A Yes, I do.

Q And what particular event took place on that day, and did you see Marilyn and Sam on that day?

A Yes, we did. On the 10th of June, my parents moved from Cleveland Heights to Bay Village. They had lived in their home, as I say, in Cleveland Heights for 30 years. In fact, Sam had been born in that house in Cleveland Heights, and the moving vans brought the material over from Cleveland Heights, and Dr. Sam and Marilyn, and myself and my wife, and a little later, Dr. Steve and his wife, went to my father's home, which is immediately east of the hospital, and we all pitched in and helped set the various

furniture, and so forth, around.

Among some of the things that were brought over from the East Side were some things that belonged to each one of us individually. I know in Dr. Sam's case there was a desk and a chair and some other items that belonged to Dr. Sam. I know there were some bookcases that my parents wanted me to have. We put those things in our various cars and took them home after we had helped the family place the furniture around the house.

Q Do you recall that Sam on that particular day received a desk from his mother?

A Yes, sir.

Q And took it home?

A Yes, sir.



Q And did you notice Marilyn on that day and Sam on that day and what their attitude was towards one another and how they appeared?

A Yes. They were very happy. We were all very happy that the folks were moving over to the west side. It would mean that my father wouldn't have to travel back and forth so far. Sam and Marilyn were very happy, very cooperative, very helpful. They were perfectly normal in every way. I helped Dr. Sam unload the desk on the jeep, in fact.

Q I call your attention to the 12th of June, did you see them on the 12th of June?

A Yes, I did.

Q Where did you see them on that particular day?

A Well, on the 12th of June, which was a Saturday, I took my boat, which was a small cruiser, and with a friend of mine, Mr. David Phillips, went to Put-in-Bay. I had never been that far with my boat before, and I knew that Dr. Sam and Marilyn were at Put-in-Bay --

Q Well, now, did you see them there?

A Yes, I did.

Q I don't want details that don't help us any on this particular case. So leave them out, Doctor, any details that we don't want to be spending time on.

A All right.

Q But did you see Sam and Marilyn at Put-in-Bay?

A Yes, I did.

Q How long did you stay there?

A We were there three to four hours, I believe. We had planned on staying longer, but shortly after I arrived and saw Dr. Sam and Marilyn, I heard that Dr. Sam had received a telephone call from Cleveland that there was a serious accident to a child and Dr. Sam was trying to make arrangements to get back.

Q Well, did he get back?

A Yes, he did. He flew back.

Q He flew back?

A Yes, sir.

Q That was to some emergency at the hospital, is that correct?

A Yes, that's right.

Q And you remained up there?

A I remained for a short time and then returned by boat.

Q All right. Now, then, did you see them on the 23rd of June?

A Yes, sir.

Q What was the occasion that you saw them on that particular day?

A On that particular day my wife and myself had guests from the east side, Dr. and Mrs. Ronald Dysinger, and we were out boating and went by Dr. Sam's house and, as oftentimes we did, Dr. Sam water skied behind the boat and Marilyn

was down at the beach. Everybody seemed perfectly happy and pleasant.

Q Was Marilyn skiing that day?

A I don't recall for sure at that time.

Q All right. Now, on the 28th of June, that would be Monday, the 28th of June, did you see them on that day?

A Yes, sir.

Q Where did you see them?

A That evening we had at the hospital an interns' dinner. The interns were, most of them, finishing up their year's work and we had a little ceremonial dinner. Marilyn came to my home that evening just before dinner and went over to the hospital with my wife, as I recall. Dr. Sam was out of town, I believe, in Youngstown, operating that afternoon and returned and met us at the hospital. That evening was very, very pleasant.

As I say, that was the interns' ceremonial dinner.

Q On June 30th, did you see Marilyn?

A Yes. On June 30th I did. On the morning of June 30th was a Cleveland Yachting Club Orphan's Day. Reverend Kreke was my co-pilot. That morning we took orphans out and came back and then Reverend Kreke's family and my family took a picnic and went up to Dr. Sam's home, and there was water skiing and water sports, and the children all went swimming on Dr. Sam's beach at that time.

Q And what children were they?

A Reverend Kreke's children and my children and Chip, Dr. Sam's little boy.

Q I see. Now, then, who is Reverend Kreke?

A Reverend Kreke is the pastor of the Bay Village Methodist Church.

Q Now, on Thursday, July 1st, did you see them?

A Yes, I did. On July 1st, Dr. Sam and I both got through with our work a little earlier, which was rather unusual, and on the spur of the moment we decided it would be nice -- I had been swimming so often at Sam's beach -- that we would go down to the Cleveland Yachting Club swimming pool. We went home and picked up Marilyn and little Sam, Chip, and I took them with me down to the Cleveland Yachting Club where we had a very pleasant afternoon, a couple of hours.

Dr. Sam spent a great deal of time in the water with Chip teaching him to swim under water, above water, to dive, and so forth. Marilyn was in the water, briefly, but she spent most of the time sunning herself out on the deck.

Q And Sam was teaching the little boy how to swim?

A Yes, sir.

Q Now, then, on Friday, July 1st -- or July 2nd, that was the day in which the three brothers and their wives met at Steve's?

A That's correct.

Q For a dinner?

A That's right, that evening.

Q And was that the first time that you discovered that Marilyn was going to have a baby?

A Yes, sir, that's right.

Q And how did you discover that, Doctor?

A The wives were in the kitchen preparing the meal. I stepped into the kitchen and put my arm around her waist or around her shoulder, and she turned to me and said, "Well, you know, don't you?"

I said, "No. What do you mean?"

She told me then that she was going to have a baby, and I was somewhat surprised, and I know that the rest of the family kidded me a great deal about it because I am the one of the group that does most of the obstetrics. And they thought it was pretty funny that I was the last one, practically, to know about it, of the family.

Q And it was stated that then you had sort of a celebration about the baby?

A Yes, that's right. Everyone was very, very happy about it. Dr. Sam certainly was very much pleased about it and Marilyn certainly was. There was quite a bit of discussion. It was a very, very pleasant evening.

Q Now, did you see them on the 4th of July -- or the 3rd of

July? That would be Saturday.

A Well, yes, I did, but I saw Dr. Sam later, later on on the evening of July 2nd after this --

Q Well, tell the jury about that?

A On the evening of July 2nd about 11 o'clock, a little earlier than that, Dr. and Mrs. Carpenter, who had been a previous intern at the Bay View Hospital and who had returned from his practice in Texas, dropped in, but about 11 o'clock Dr. Sam and Marilyn went home to relieve their baby sitter. We had talked about taking a ride in the boat in the lake, and after they went home we told them -- or, at the time they left to go home we said that the rest of the party were going to go down and take a boat ride and we would come up by their house and say hi, which we did. And on the way up to Dr. Sam's house the lake started to act up quite a bit, we started getting quite a big wind from the northeast. And after we got off Sam's beach, Dr. Steve whistled and hollered, and Sam then came and -- turned on the light and then came down to the beach.

And while we were waiting, the wind was coming up quite a bit and the boat got in a little too close to the shore. I was quite concerned about it. Dr. Sam peeled off his trousers and came running out into the water with his shorts on and held the boat off while we

talked briefly. We tried to talk Dr. Sam into climbing into the boat and coming on back to the Yacht Club with us and then we would take him back home again in one of our cars, but he said that Marilyn was alone and he didn't think that he should come along with us.

Q Now, coming to Saturday, did you see Sam on Saturday at the hospital?

A Yes, briefly. Dr. Sam was busy in surgery that morning. I just saw him more or less in passing. I have office hours downtown at 11 o'clock on Saturday. I was in the hospital making my rounds and I saw him briefly in the operating room.

Q How did you get the information about the fact that this terrible tragedy happened at your brother's home?

A Well, at approximately 6 o'clock in the morning of July 4th, I received a telephone call. I was sound asleep.

I was awakened from a sound sleep, and it was Mayor Spencer Houk. He seemed to be quite excited as he called, and he said, "Rich, get up here as fast as you can. Sam's badly hurt, or hurt and Marilyn -- and I think Marilyn is dead."

I may have asked him to repeat it. I'm not sure.

Q Did he tell you any of the details in that telephone call?

A No, sir.

Q Except the fact that Marilyn was dead, did he tell you

how she was dead or anything of that kind?

A Not that I recall.

Q I see. And you immediately then went to the house?

A Yes, sir. I woke my wife, or I believe she heard the phone call, and then I told her -- I immediately got up and started to dress as rapidly as I could, and while I was doing that I was telling her the gist of the conversation, and I told her that I wanted her to call Dr. Steve immediately and ask him to join me at the house, that I was going on ahead, and that also to call my father and ask him to go to the hospital so that he would be present in case there was an emergency that I brought in, that he could have the interns and house staff ready for any emergency I might bring in.



4 Q Now, when you arrived at the house you went alone, did you?

me A Yes, sir, I did.

Q When you arrived there can you tell about what time it was?

A Well, it couldn't have taken me more than 10 to 12 minutes to get dressed and get up there. Probably around 6:10. I didn't look at my watch, but it must have been around 10 minutes after 6 or 12 minutes after 6 when I got there.

Q And when you arrived at the house, what did you see as you approached there?

A As I approached the house I saw several cars in the driveway, automobiles, at least one of which was a police cruiser. I believe there was an ambulance there, and then another car or two. There may have been two police cars, I'm not positive. There were three or more cars.

Q What door did you go in?

A I went in the Lake Road door, the door on the Lake Road, which is their back door.

Q Was there anyone inside the house?

A Yes, sir. There were several people.

Q Can you recall who they were?

A Yes, sir. I saw the Mayor and Mrs. Houk. They were the first people I saw. They were standing in the hallway between the -- in the dining room entryway, and beyond them there were two or three other people, I think an

officer or two, and there may have been one or two others that I don't know who they were. They must have been the firemen.

Q Did you notice, as you entered the hallway, the medical bag that has been described in this case as being upset?

A Yes, sir, I did.

Q And did you notice whose medical bag it was?

A Yes, sir. It was Dr. Sam's.

Q Did you examine it afterwards, or at any time?

A Well, later on I skirted it. I didn't touch the bag at all or anything that was spilled out on the floor, but I did kneel down and just look at it superficially to see what was spilled out.

Q We have a bag here that has been introduced as Defendant's Exhibit ZZZZ. Will you look at it?

A Yes.

Q Do you recognize it?

A Yes, sir, I do.

Q What is it?

A That is Dr. Sam's medical kit.

Q Is that the one that was dumped in the hall?

A Yes, sir, that is the bag.

Q What was the first thing that you did when you went into the room -- as you entered the hallway?

A Well, as I entered the hallway I took in at a glance --

I saw the medical bag spilled out on the floor, Mayor and Mrs. Houk standing behind it toward the lake side. I glanced into the library door and I saw Dr. Sam.

Q What position was Dr. Sam in at that time?

A Dr. Sam was sitting in a red leather chair, which was north of his desk. He was clasping his hands behind his neck like this, and leaning to one side or the other, I don't remember which side, and moaning and crying.

Q Did you notice his face?

A Not closely at that time. I didn't step into the room at that time.

Q You just knew that he was there?

A I knew that he was there, and I could see that he was alive.

Q What was the next thing you did, Doctor?

A I asked someone, I believe it was Mrs. Houk, I said, "Where is Marilyn?"

And she indicated or pointed and said, "Upstairs, upstairs."

I turned and went through the kitchen as rapidly as I could. I went up the small landing, the first two or three steps on the --

Q Was there anybody in the kitchen?

A There was an officer following me. There may have been someone else, but no one else that I recall at the moment, at that particular time, but I know there was a police officer

following me.

Q And you went upstairs?

A I stopped on the landing. I turned to the police officer who was behind me and asked him if there was a kitchen knife handy right close, and there was a magnetic rack off the sink. He grabbed two of them and handed them to me, and I proceeded up the steps as rapidly as I could.

Q Somebody handed you a knife?

A Two knives.

Q Did you have a purpose in that?

A Yes, sir, I did.

Q What was it?

A The message that I had gotten from Mayor Houk said he thought Marilyn was dead, and on my way up the steps the thought went through my mind that there might be a possibility of cardiac massage or cardiac resuscitation.

Q What does that mean?

A Well, that is a method, if death has just occurred anywhere from three to five minutes, you are sometimes able to, by cardiac massage, open an incision over the heart, massaging the heart to restore life again.

Q Has that ever occurred in your experience?

A Yes, sir, it has. I have done this procedure on two or three occasions quite successfully.

Q Successfully?

A That's right.

Q When you got up into the room tell the jury what you saw.

A Well, at the top -- I went up the steps. As I got to the top of the steps I could see the room directly ahead of me, I could see a part of Marilyn's arm hanging off the side of the bed. I stepped in and, of course, I was quite stunned at what I saw. Marilyn was lying in bed. Her face was not recognizable to me. I knew who she was, of course, but I would not have recognized her otherwise.

Q Now, you saw this terrific picture of Marilyn dead?

A Yes, sir, I did.

Q Did you notice the position of her hands?

A Yes, sir, I did.

Q Will you state what you noticed about her hands?

A Her right arm was hanging off the side of the bed out into the room, palm up. I took her pulse on that arm. I opened my medical kit and --

Q Did you determine she was dead?

A Yes. I listened to her heart with a stethoscope.

Q Now, then, after you had determined she was dead did you make any other observations around the room at that time?

A Yes. I lifted the sheet and looked at the lower part of her body, mainly attempting to see if there were any other injuries. I noticed that her left arm was lying at her side. I could see the doors on the -- that would be the

east wall, the door to the bedroom was open, and the door to the closet, which was right next to it, were splattered with a considerable amount of blood. There were flecks and specks on the north wall and shade. There were a number of flecks over on the far wall.

Q Well, after you had observed those things, what was the next thing you did?

A I returned downstairs -- or, no. First I believe I stepped down the hall briefly and took a brief look into Chip's room to see if he was all right.

Q Was the door open or closed?

A I don't recall.

Q Did you go into Chip's room?

A As I recall, I stepped into the room just momentarily and saw that he was apparently sound asleep, lying on his right side.

Q At that time did you see the stretcher up in the hallway, do you recall?

A I don't remember seeing the stretcher up there.

Q Well, after making that determination you went downstairs?

A Yes, sir.

Q Where did you go when you went downstairs?

A I went into the library or den, and Dr. Sam was in essentially the same position as I had seen him a few moments before.

Q Had Steve arrived at that time?

A No, sir.

Q Now, when you went into the den, was Sam still in the same position that you had noticed him on the first occasion?

A Yes, sir. He was still --

Q Was there anybody in the den beside Sam?

A No one in the den, no, sir.

Q You had some conversation with Sam at that time?

A Yes, sir. I don't remember my exact words. I asked him where he was hurt the most, or where -- what was the problem, mainly. He indicated that his neck was the main point of pain. I said to him that, "Marilyn was gone, there's nothing I can do," and with that he slid onto the floor on his face and said, "Oh, God, no."

Q And then when he slid on his face on the floor, what was the next thing you did?

A I stepped out of the room. I believe I went into the kitchen. It was either at that time -- I believe it was at that time that I saw the two knives. I had given them back to Officer Drenkhan who had followed me upstairs on my first visit, and for some reason, I don't know, I picked up those two knives, replaced them back in the magnetic rack in the kitchen, and either Mrs. Houk or one of the officers, someone, was in the kitchen. I believe I talked with them to see, well, what had happened. I could see the house was all messed up, and I at that time I believe got

the story that someone had entered the house, and that Sam had followed someone to the beach and had been hit --

Q What was that?

A At that time I say I think I got the story from one of the others that someone had entered the house and Sam had been hit and followed someone to the beach and been hit.

Q You learned that there in the kitchen there that morning?

A I believe that is correct.

Q Do you recall what you did after you had this conversation in the kitchen?

A Yes, sir. About that time I saw Dr. Steve and his wife enter the hallway. Dr. Steve went on into the -- beyond the doorway and on up through the living room, apparently. I intended to follow him or go with him up the steps, but at about that time I received -- someone called me to the telephone. I believe it was Mrs. Houk.

Q Do you know who it was that called you to the telephone?

A I don't recall for sure. It was one of the officers or Mrs. Houk, it seems to me.

Q No. But I mean do you know who it was that was on the telephone?

A Oh, yes, sir. Dr. Brill, one of the interns from the hospital. He called me, and he wanted to know if there was --

Q Well, never mind what he said. Did you see Dr. Dozier and



Dr. Carver arrive?

A I don't recall see Dr. Carver. Everything was certainly in a very confused state at that time. I do remember talking with Dr. Dozier, and I understand they arrived together.

Q Did you do something there about that time in relation to the little boy, Chip?

A Yes, sir.

Q Tell what you did.

A Well, after this phone call I went upstairs again, and Dr. Steve was in with Marilyn. I believe he was in the process of trying to take her pulse. He stepped out of the room. I mentioned to him that, as I recall, "I will go ahead and take care of Chip. I think he should be taken out of the house, and you see what you can do for Dr. Sam. Perhaps he should go to the hospital," or words to that effect.

Mrs. Houk was upstairs in the hallway at that time, or had followed me up, and we discussed the advisability of taking Chip out. We both went into Chip's room, and I attempted to awaken him.

Q He was still asleep, was he?

A He was still asleep, yes. I attempted to awaken him. He was very groggy. As I sat him up in bed, I saw this orthopedic or orthodontic brace that he wears at night,

and I had some little difficulty getting it off.

Q Is that some teeth straightening device?

A It had to do with protrusion of the chin, and he had -- his lower jaw was protruded and his bite didn't come properly together, and it was an attempt to adjust that, that that was being worn, as I understand.

Q That was something some dentist had prescribed, I suppose?

A Yes, sir.

Q And during the period that you were taking that off did he wake up?

A No. I can't say that he woke up. I had to hold him from flopping over into bed. His head would loll around, and he was extremely sleepy and very, very groggy. I finally got this brace thing off of his face, and at that time Mrs. Houk was gathering up a few items of clothing, I think just the things that he had taken off the night before and a little bathrobe, or something, to throw around him, and then we half carried, half walked him down the stairway through the kitchen and out.

Q Did he wake up?

A No, sir, not at that time. He was even quite sleepy in the car on the way down to my home.

Q Did you then take him somewhere?

A Yes, sir. I took him to my home.

Q After you took him to your home did you return to your

brother's home?

A Yes, I did. That was a little later, however.

Q Did you come by yourself the second --

A No, sir. The second time, Dr. Steve and I came together.

Q Well, now, let me see. You took Chip to your home.

Did you go someplace after you got to your home?

A Yes, sir. I returned to the hospital, or went over to the hospital. Dr. Steve was there. I stepped in to either the X-ray or out into the hall to the X-ray, and I saw Sam briefly. I believe I mentioned to Sam that I had taken care of Chip and everything was all right, but he didn't respond or answer me at all.

Q Where was Sam at that time?

A Either in X-ray or on the cart just leaving X-ray, or on the way into X-ray. It was in or about the X-ray department.

Q Now, were you there when Dr. Gerber arrived?

A Yes, sir, I was -- you mean at the hospital or at the house?

Q After you knew that Sam was in the Bay View Hospital did you return to the Sheppard home?

A Yes, sir, I did.

Q And that is the time you went with Steve?

A That's correct.

Q And when you arrived the second time that morning, can you tell about what time that was?

A It probably was in the neighborhood of 7:30.

Q And what was the scene there then?

A Well, there were a number of people there. There were neighbors, people standing around the lawn, across the street. There were a lot of onlookers, it seemed to me, and there were a number of police and firemen.

Q When you returned the second time, did you return to Marilyn's bedroom?

A Yes, sir, we did.

Q And made a further observation of the situation there?

A Yes, sir.

Q And then what was your activity after that?

A In the bedroom?

Q No.

A After Dr. Steve and I --

Q There wasn't much you could do in the bedroom, was there?

A Pardon me?

Q There wasn't much you could do in the bedroom, was there?

A No, sir, there wasn't.

Q When you arrived that second time, did you see Dr. Dozier?

A No, sir, I saw Dr. Dozier on the first visit.

Q The first visit?

A That's right.

Q What did you do? What was your activity then after you came back the second time?

A Well, after Dr. Steve and I went up to the bedroom and looked about there, we went into the various rooms in the upstairs.

Q Well, you looked around the house?

A That's right. We even went to the basement.

Q And discovered nothing that would be helpful to us?

A Nothing that I know of.

Q Now, then, were you there when Dr. Gerber arrived?

A Yes, sir, I was.

Q And after he arrived, did you go outside the house?

A Yes, sir. I was sitting on the porch, I believe, with Mrs. Houk, and there may have been a couple of others. We were smoking a cigarette. Dr. Gerber came through the house. He came out on to the porch and seemed to be rather brusque. He ordered us all out of the house and off the porch, and I stepped up to him and introduced myself and told him I was Dr. Richard Sheppard. He didn't seem to acknowledge the introduction.

Q Well, after he ordered you all off and you stepped up and told him you were Dr. Richard Sheppard, did he have any conversation with you?

A None whatsoever that I recall, no, sir, other than to ask us to get out of the house and off the porch and clear on out on the lawn.

Q Now, after you were out on the lawn, did you participate in any activity at that time?

A Yes, sir. Well, previous to that time Dr. Stephen and I, after we left the house, looked around on the outside, previous to Dr. Gerber's arrival. Dr. Steve went down to the beach and looked around the beach house. I saw Police Chief John Eaton. He was also looking around the wood pile and in the summer house, and so on, and I asked John Eaton whether or not anyone had gone upstairs into the apartment above the garage. He said, no, he

didn't think so.

and so Chief Eaton and myself went in the garage and went up the steps that are in the garage and went up to the apartment above the garage, looked about up there, saw nothing of significance at all, and returned down to the lawn.

About that time Dr. Stephen came up from the beach and mentioned to Chief Eaton that he had been looking around under the deck and had seen two pair of work gloves, and one of them had a lot of little red splotches on it that later Dr. Steve told me he thought looked like paint.

And then he, Dr. Steve, and Chief Eaton returned down the steps apparently to retrieve these gloves. I also went down a few moments later, down to the beach, and looked around and walked around, looked underneath the beach house and saw nothing of significance.

Q Did you walk down on the beach?

A Yes, sir, I did.

Q How far did you walk on the beach?

A Not far. I walked west as far as Sam's property and east about halfway, probably, to the Huntington Beach pier.

Q Now, you say you went upstairs and looked up over the garage?

A Yes, sir.

Q Were you familiar with the fact that Sam had a lot of boys

that used those rooms up there as sort of a club house?

A Yes, sir, I was.

Q And they were neighborhood boys?

A Yes, sir. Pardon me?

Q Neighborhood boys?

A Yes, sir, that's correct.

Q Now, after searching around the property, as you described, did you leave the property and go to Bay View Hospital?

A Yes, sir. Dr. Steve and I, of course, had heard and knew that Dr. Gerber had been called, on our first visit, and that was really the main reason we returned, was to try to help --

Q I can't hear you.

A I say, we knew at our first visit to the house that Dr. Gerber, the Coroner, had been called, and we returned to the house the second time mainly with the idea that we would like to be present when he arrived to be helpful in any way we could. And after Dr. Gerber was at the house for a brief time he and Chief Eaton, I believe, left for the hospital. So Dr. Steve and I followed him.

Q Well, Dr. Gerber didn't seek your help, did he?

A No, sir, he did not.

Q Now, you went to Bay View Hospital after Dr. Gerber?

A That's right, yes, sir.

Q What did you observe when you got to Bay View Hospital?



A When I got to Bay View Hospital --

Q That would be the second time that you went there that morning?

A That's right. Dr. Gerber had preceded Dr. Stephen and myself to the hospital. Dr. Steve, I believe, went on down the hallway and Dr. Gerber, I believe, went on in to see Dr. Sam. I was not in the room at that time. Dr. Gerber was in the room with Dr. Sam for a brief period of time and then returned back up the hallway. I was up near the switchboard. And he asked for Dr. Sam's clothing, and my father brought the clothing to him, gave it to him, the trousers and shoes, socks, and --

Q Now, you were there when the trousers were handed to Dr. Gerber?

A Yes, sir, I was.

Q Now, this is State's Exhibit 25. Do you recognize them?

A Yes, sir.

Q Sam's trousers?

A That's right.

Q Now, when you stood by the bed, where did the knee of your trousers come in reference to the top of the bed, top of the mattress?

A My knee was above the edge of the bed. It would be about -- the bed was a little lower than this, actually (indicating).

Q And you observed the blood spots all around the room?

A Yes, sir, I did.

Q And on the walls, and so forth?

A I certainly did.

Q Would it be possible for a man wearing these pants to stand alongside that bed and murder Marilyn and have no spots showing on the pants?

A I would say absolutely not, sir.

Q Now, after you observed Dr. Gerber get a hold of these articles, what was the next thing you did?

A Well, Dr. Gerber wanted to have the contents of the pockets, and my father had removed the contents of the pockets and he gave these items to Dr. Gerber. He handed the wallet to Dr. Gerber. He took it out of one of his pockets, my father did, and handed it to Dr. Gerber, told him this is his wallet.

Dr. Gerber took the wallet and opened it. There was nothing in the money compartment of the wallet whatsoever except the check that has been spoken of, I guess, before here, and it was all water soaked and the entire wallet was just soppy. Dr. Gerber very gently and with my father's help, as I recall, gently removed this check from the wallet, and at that time my father also took three one dollar bills out of another pocket and gave them to Dr. Gerber and said that he had found those in the bottom of one of these trouser's pockets, but not in

the billfold.

I believe there were one or two other items. I think a handkerchief and a prescription pad, something of that kind. I'm not sure about the others.

Q Now, the three of you, the three doctors were standing there with Dr. Gerber. Was there any attempt made by him to find out what you knew about the matter?

A None whatsoever, sir, that I know of.

Q And after you went away, or after he went away, where did you go?

A Well, that certainly was a very confusing day. I would have great difficulty in pinpointing my activities for the rest of that day, but I was in the corridor of the hospital. I dropped in to see how Sam was getting along. I saw later some detectives arrive, and they were in with Sam for a while.

Q Now, where you there when Mr. Schottke and Mr. Gareau arrived?

A I was there either when they arrived or shortly thereafter. I knew they were there.

Q Did you have any conversation with them?

A I had a brief conversation with one of them.

Q Do you know which one?

A It seems to me it was Mr. Gareau.

Q And did they inquire as to going into Sam's room or what?

A No, sir. In fact, Mr. Gareau, I believe it was, mentioned that he had had a child who had been taken care of as an emergency in Bay View Hospital some time previously.

Q Well, did you see them go into Sam's room?

A Yes, sir.

Q And that was in the morning?

A Yes, sir.

Q How long were they in the room?

A I couldn't estimate that, Mr. Corrigan. I don't really know.

Q Well, was there any attempt of any kind to prevent them from going into the room?

A No, sir, none whatsoever.

Q And they were in there for some time?

A They were in there for some period of time, yes.

Q You didn't go in?

A No, sir, I didn't.

Q Then did you see them later in that day?

A Yes, sir. They returned later in the afternoon. Dr. Sam, as I recall, at that time was in Room 115, which is at the end of the corridor. It's a private room. And they went into the room.

I was there, Dr. Steve was not at that time, as I recall. They mentioned to me something about going into the room, and I believe that I ushered them down into the

room, showed them to the room. They said they wanted to talk to Dr. Sam alone, so I stepped out of the room and was in the hallway outside and on the fire escape when Dr. Stephen arrived.

And I told him that they were in the room talking to Dr. Sam.

Q And how much time did they spend in the room on that occasion?

A Well, it was well over an hour.

Q Now, did you observe, make an observation as to the condition of your brother on that day?

A That morning I looked at him and, of course, later on in that day. Do you want me to describe what I saw?

Q Yes.

A The first thing in the morning when I first saw him he had a large bruise over his right forehead and right cheekbone. The lip was -- his lip was bruised and there was considerable amount of blood coming out of the corner, the right corner of his mouth.

Later on in the day when I saw him, the bruises had swollen quite considerably. His right eye swelled completely shut, or practically so, and he was complaining continually of pain in the back of his neck.

Q Now, you didn't prescribe for him?

A No, sir, I did not.

Q You don't classify yourself as his physician?

A No, sir. One man, to our way of thinking, has to be in charge of a case. He may ask consultants, but one man and one man alone is in charge of a case, and it would just confuse the issue to have anyone else come in and have anything to do with it unless asked by the physician in charge.

Q Did you see the police there on Monday?

A Yes, I believe I did.

Q Now, then, on the 5th of July, did you go to the house?

A On the 5th?

Q Look at your notes.

A I don't believe that I went up there on July 5th. Let's see. (Witness refers to notes.)

Oh, yes. Yes, I did. I drove my wife up there.

Q Before I come to that, I will hand you a picture which is marked Defendant's Exhibit S, and ask you to look at it and ask you if that shows Sam as he appeared sometime during that day?

A Yes, sir, it does. In fact, the police photographer took this picture while I was present.

Q And what time of the day was that picture taken, do you know?

A I can't tell you exactly, but it was in the morning.

Q In the morning. Now, on the 5th of July, did you go to

the house?

A Yes, sir. I drove my wife up to the house. She was going to get some clothing for Marilyn to be used at the funeral home.

Q And when you went in the house, did you see any people in the house?

A Yes, sir, I did.

Q And who was in there?

A Mrs. Nancy Ahern was in the living room, and there were several police officers talking to her, and Police Chief John Eaton was with us, with myself and my wife.

Q Did you see reporters and photographers around there?

A There were a number of them on the outside of the house. I don't know whether there were any in the house or not. I didn't recognize any of them.

Q I see. Well, as a matter of fact, every time you moved you were surrounded with reporters and photographers?

A That certainly is correct.

Q What?

A That is absolutely correct.

Q Was there anything that occurred in front of your home during this time?

A Yes, sir. For the entire period, in fact, through July and August it was the most terrifying and the most frightening type of a situation that I have ever.

experienced.

Q In what way?

MR. PARRINO: I object to this,  
your Honor.

THE COURT: The objection will  
be sustained.

Q What occurred?

MR. PARRINO: I object, your  
Honor.

MR. MAHON: Objection.

MR. CORRIGAN: Why, it's all  
part of the picture.

MR. PARRINO: But I am objecting,  
nevertheless.

THE COURT: The objection  
will be sustained.

Q When you went into the house, were you accompanied by  
police officers on the 5th?

A Yes, sir. Police Chief Eaton.

Q Now, then, on the 6th of July, did you go to the Village  
or to the City Hall?

A Yes, sir. In fact, I was unable to be present at the  
funeral home that evening because I was at Bay Village  
City Hall giving a statement of what I knew about it  
and what occurred that day.



Q So that you had to go to the Village Hall instead of to the funeral home?

A That's right, that evening.

Q When did you arrive at the Village Hall or the City Hall and when did you leave there on Tuesday, the 6th?

A Well, I believe -- I can't tell you the time exactly. We were there fairly -- it was in the afternoon, rather late. There was, as I recall, a meeting. There was some discussion between Dr. Gerber, Mr. Petersilge, and my father was there and I was there, regarding interrogation of Sam. There was a lot of legal business that I was not too familiar with. It was in Mayor Houk's office. It was after that discussion that we proceeded down to the basement of the City Hall and gave our statements, Dr. Sheppard, Sr., my father, and myself. We were there the whole evening, from the afternoon right straight through.

Q The whole evening and afternoon?

A It was late afternoon and evening, yes.

Q And was Dr. Gerber there, too?

A Earlier. He was not down when we were taking statements, but he was in this meeting upstairs, yes, sir.

Q Now, then, that would bring you to Wednesday. Were the reporters around there, then, when you were being interviewed?

A At the Bay City Hall?

Q Yes.

A Yes, sir. Yes, they were. In fact, when we were having our meeting, they were climbing up the windows, and so forth.

Q What were they doing climbing up the windows?

A Apparently trying to hear what the meeting was about.

Q And that was the type of questioning that was being carried on, under those conditions?

A That's correct.

Q And apparently with the approval of the authorities?

MR. MAHON: Oh, I object to  
that, if your Honor please.

THE COURT: Objection sustained.

MR. CORRIGAN: Exception.

Q You went to the funeral on Wednesday?

A Yes, sir. I was at Marilyn's funeral on Wednesday.

Q And were you in the vehicle with Sam when he went to the funeral?

A No, I wasn't with Dr. Sam. I was in another car.

Q Did you see that he was accompanied by a police officer when he went to the funeral?

A Yes, sir, that's correct. Sergeant Hubach was with him.

Q And what is the fact as to whether or not there was a police officer in front of that door from Sunday afternoon

until he was released from the hospital?

A There was a police officer in attendance outside the door of Dr. Sam's room at all times that he was in the hospital.

Q Were you present on Thursday when Sam was questioned by police officers for a long period of time?

A I was not in the room. I was in the hospital, in and out.

Q You know that fact occurred?

A Yes, sir, I do.

Q And on the 9th, do you remember that Sam went to his home?

A Yes, sir.

Q With the police officers. Did you see him that evening?

A Yes, I did. I saw him afterwards.

Q And where did you see him after he was questioned at the hospital?

A That's on the 9th or on the 8th?

Q That would be on Friday.

A That was the day he went up to the house. I believe he returned to my father's home that evening.

Q Well, let me go back to Thursday evening, the night before, when he was taken to your father's house. Were you over there that evening?

A Yes, sir. I was in and out of the house on that evening.

6  
Q Did you see any police officers over to his house, over to where he was, over to his father's house, rather?

A After he left the hospital and was taken home, there were no police officers over there that I recall.

Q Well, do you remember fingerprints being taken on that night?

A I believe the fingerprints were taken in the afternoon, or late afternoon of July the 9th, yes, sir. I was at my father's home at that time, and Dr. Steve and his wife, my wife, myself. Dr. Sam and little Chip was there. That was the afternoon that -- I don't believe Dr. Sam was there. I believe he was up in the house, going through the house at that time. I believe he was not present, but Chip was. That was the afternoon that Detective Rossbach interrogated Chip, and he fingerprinted or palm printed all of us.

Q At least, everybody was fingerprinted that afternoon?

A That's correct.

Q And little Chip was there?

A That's right.

Q Now, I call your attention to July the 11th.

A Yes, sir.

Q Do you recall that on July the 11th Sam was at your house?

A He was at my home for dinner, that's right, in the evening.

Q And did anything attract your attention in regard to Sam's physical condition on the 11th of July?

A Yes, sir.

Q Will you tell the jury?

A Yes, sir. We were eating and passing food, of course, from one person to another, and a serving dish was handed to Dr. Sam. He took it in his left hand, as you normally would, and he justabout broke the dish, he dropped it.

Q What?

A He just about broke the dish, he dropped it. His hand was apparently weak, and he couldn't hold it firmly.

Q Did that occur in any other occasion?

A Yes, sir. That happened on two or three occasions.

Q When was the next time that you noticed that he couldn't control his left hand?

A On July the 15th, my wife noticed it, and I was present.

Q Now, during that time, and up to the time of the inquest, which took place on the 22nd day of July, did the police interview Sam, as far as you know, or were you present at any of the interviews that took place between the police and Sam?

A I was not present at any interviews that took place, that I recall, with Dr. Sam.

Q Now, along in that time do you recall an interview that took place over in Fairview Village or Fairview City?

A I heard about it. I was not present and did not know about it, I don't believe, at the time.

Q You were called by Mr. Mahon and Mr. Parrino down to their

office, were you not?

A Yes, sir, I was.

Q And when did you come down to their office?

A Well, let's see, I believe that was during the morning of July the 9th. Both Dr. Steve and myself were called to the prosecutor's office, and Mr. Parrino and Mr. Mahon talked to each one of us separately.

Q And did you make a statement to him?

A Yes, we made a statement.

Q As to what you knew about this matter, to these gentlemen?

A Yes, sir, I did.

Q Did they call you to be a witness before the Grand Jury when they had a hearing in the case, in this case?

A No, sir, they did not.

Q But you made a complete statement to them of all you knew about the matter, that you remember?

A Yes, I believe that's correct.

Q On the 21st day of July -- now, let me see -- before that you had made a statement to --

A Bay Village.

Q -- to Mr. Mahon and Mr. Parrino?

A And also to the Bay Village police.

Q You had made statements to the Bay Village police. On the 21st day of July, do you remember an editorial being in the front page of the Press calling upon Gerber to have an inquest?

A Yes, sir, I certainly do.

Q And did you get a subpoena that night?

A Yes, sir, we did. 6 p.m.

Q And where were you subpoenaed to appear?

A Normandy School in Bay Village, auditorium .

Q Where is Normandy School?

A It is on a little street called Normandy Road. It is just off Dover Center Road right in the center of Bay Village.

Q Is it a main highway?

A Normandy School, no, sir, that is not on a main highway.

Q That is in what part of the Village?

A It is just about the center of the Village.

Q And was your wife also subpoenaed?

A Yes, sir, she was.

Q When you arrived there that morning, what kind of a scene presented itself to you?

A Well, it was very -- rather frightening. There were a great crowd of people, numerous photographers, reporters, and it seemed like a big circus to me.

Q Now, then, did you testify?

A Yes, sir, I did.

Q Before you testified, did anything happen?

A To me?

Q Yes.

A No, sir.

Q Were you searched?

A I wasn't, but I saw Dr. Steve and Dr. Sam.

Q They were searched?

A Yes, sir. I don't recall that they did that to me.

MR. MAHON: Wait a minute.

What was the last?

THE WITNESS: I don't recall

that they did that to me.

Q When you got into this room, what kind of room was it?

A Well, it was the auditorium. I believe it was a combination auditorium and gymnasium.

Q And how many people were in there?

A Oh, I'd have to estimate. There were a couple of hundred, probably.

Q And what was the situation as to being photographed, and --

A Well, as you entered the room you were blinded by the flashlights and TV cameras, and so forth. There was a press table, similar to this, only more of it.

Q A press table like we have in this room here?

A Yes, only there was more of it. It was a larger room, and there were photographers, and reporters and TV people.

Q And then who questioned you?

A Dr. Gerber questioned me.

Q And Mr. Danaceau was there with him, was he not?



A That is correct.

Q Your father and mother also were brought down before that crowd, weren't they?

A That's correct, sir.

Q Were you present when Sam was arrested on the 30th of July?

A Yes, sir, I was.

Q Where was Sam at that time?

A He was in my father's home.

Q Had he been out of the Bay View City from the time -- from the 4th of July up to the date he was arrested?

A The only time he was out of Bay Village was when he would be over at my brother's home in Rocky River, or when he would be called downtown to the County Court Building, I believe it was here, for interrogation.

Q Well, he was around, and he had been down to take up his work again, had he not?

A He had seen a few patients in the hospital.

Q Now, what time did the police arrive at your father's house?

A Well, it must have been around 10 o'clock in the evening.

Q Who arrived there?

A Lieutenant Mercer, I believe was there, and Officer Drenkhan.

Q And they took him into custody?

A Yes, sir.

Q At that time did you know whether or not he had called, when

those officers were there, for Mr. Petersilge?

A Yes, sir. When they came in and said that they would have to take him along with them, he asked if he could call his counsel, and he, himself, I don't believe did the calling. I believe it was my wife.

Q Did you accompany him to the City Hall?

A I asked him if he wanted me to go along with him. He said no, that wasn't necessary.

Q So he went along?

A That's right.

Q They put manacles on him?

A Yes, sir, they handcuffed him.

Q What?

A They handcuffed him.

Q And he departed, then, for the --

A Well, there was a brief waiting period. The reporters and photographers were covering the lawn and out on the highway, and screaming and carrying on, and stopping cars and trying to find out who was in cars, and so forth, and had been all evening.

Q Were there any shouts at that time?

A Oh, there was a lot of shouting.

Q What was the shouting?

A "Look in his car. Is Sam in this car?"

when  
And/I drove in earlier, they tried to see who was in

my car, and it was quite a rumpus, and my father insisted that the property be cleared before Sam was taken out of the house, and the Bay Village officers waited briefly and called another officer who finally came in a cruiser, and between them they finally were able to clear the front yard enough so that they could get out.

Q Well, the reporters were all around there and photographers?

A Oh, yes, sir. There were many, many of them.

Q You say there were shouts?

A Yes, sir.

Q And what was some of the things that were being shouted at that time?

MR. PARRINO: I object.

THE COURT: Objection will be sustained.

Q Well, Sam was there?

A Sam was in my father's home, that's right.

Q Were there shouts of "Murderer" at that time?

MR. MAHON: Object to this, if your Honor please.

THE COURT: Objection sustained.

MR. CORRIGAN: Why?

MR. DANACEAU: It is highly improper, Mr. Corrigan. You know it as well as anybody else.

MR. CORRIGAN: What?

MR. DANACEAU: You know it is highly improper.

MR. CORRIGAN: It isn't highly improper.

MR. PARRINO: Let the Judge decide.

MR. CORRIGAN: I am showing the picture surrounding the arrest of this man.

THE COURT: I know, Mr. Corrigan, but --

MR. CORRIGAN: Don't tell me it is highly improper.

MR. DANACEAU: It is highly improper.

MR. PARRINO: I think Judge Blythin is conducting these proceedings. Let him decide.

MR. CORRIGAN: All right. I accept the ruling of the Court, but don't you people tell me what is highly improper.

MR. PARRINO: We are objecting to the Court, and the Court is sustaining the objection.

MR. CORRIGAN: Well, the Court has sustained the objection, and I am accepting --

THE COURT: If you gentlemen are through, I would just like to say a word to close this matter, I hope. The Court is not interested at all in hearing anything whatever about the arrest

of anybody, because when the police are issued warrants, they arrest people, no matter who they are, nor what the offense. It has no bearing whatever on the guilt or innocence of any defendant here.

MR. CORRIGAN: I accept the ruling of the Court, but I don't accept the ruling of these gentlemen that it is highly improper. I accept your ruling.

Don't let them be telling me what is highly improper.

THE COURT: We will never solve that problem here, as to that.

Will you disregard all of this, ladies and gentlemen of the jury, please?

Q Now, then, Doctor, on the 8th of August was there an incident that occurred at your home?

A It was not the 8th of August, Mr. Corrigan, I don't believe.

Q It was the 7th of August?

A On the 7th and the late afternoon of the 6th. There were really two incidents that occurred that --

Q Now, on the 6th of August --

A That was Friday.

Q That would be Friday, what occurred that attracted your attention at your home?

A Well, I noticed --

MR. MAHON: Objection.

THE COURT: Well, I don't know  
what it is directed to at all. Let's find out  
just what it is.

A On the late afternoon of Friday, the 6th, I heard some  
noises -- my home is rather isolated, there is a stream,  
a vacant area between the hospital and my house on the  
east side of my house, and then there is a very large  
vacant area to the west, and then there is nothing across  
the street, and to the west of my house I heard some noises  
down in the woods, and I went over to investigate, and I  
saw four men just off the side of the hill. They were  
building something in a tree.

Q What?

A They were building something in a tree, and I overheard  
one of them say something about tree house. I couldn't  
imagine --

MR. MAHON: If your Honor please,  
I want to object to this. It certainly is not  
proper.

THE COURT: Yes, I know. We now  
know the direction of what it is all about. You  
will disregard all of this, ladies and gentlemen,  
please.

Q On the 9th of August, that would be --

A The 7th, Saturday.

Q Saturday. Where had you been on Friday night, do you recall?

A Yes, sir. On Friday night we had been over to my father's home -- that was his birthday, and we had gone over to my father's home, my wife and myself -- and did you want me to go ahead with the next morning?

Q Yes. What happened the next morning?

MR. MAHON: I am objecting to this, if your Honor please.

THE COURT: That would be August the 10th? Is this along the same lines?

THE WITNESS: This has nothing to do with this tree house at all.

THE COURT: What?

THE WITNESS: This has nothing to do with these men in the tree house.

MR. MAHON: Well, has it anything to do with the death of Marilyn Sheppard?

THE COURT: I don't know whether it would have anything to do with the case or not, because I have no idea what it is.

Will you just tell what it is about, Doctor?

THE WITNESS: Yes, sir.

THE COURT: Not in detail.

THE WITNESS: No.

The morning of the 7th, Saturday morning, my wife found a blood trail down my back steps leading to my car --

THE COURT: We are not interested in that. Objection will be sustained.

MR. CORRIGAN: I except to that. I think it is important. I will put it in the record.

Well, it will take me a few minutes to put this into the record because I am going to put it by question and answer, and then I think when I complete that, your Honor, that I will release the witness for cross-examination.

THE COURT: I suppose there is no point in keeping the jury here.

MR. CORRIGAN: Yes, the jury can have its recess now, I would suggest.

THE COURT: Ladies and gentlemen of the jury, we will have a few minutes' recess at this point, and as soon as we are ready for you, we will call you.

Please do not discuss this case.

(Thereupon the jury retired from the courtroom, after which the following proceedings were had in the



absence of the Court and jury):

Q On the 7th of August, will you state, Doctor, whether there was anything out of the ordinary discovered in the vicinity of your home?

A Yes, sir, there was.

Q What was there?

A That morning my wife called me back from the hospital and told me there was a blood trail leading from my back steps in through the door of my garage, down the steps in the garage, and up to a point just outside of where my car door would be.

Q And when you discovered this blood trail, did you inform the police?

A Yes, sir, I did.

Q And did the police come then to your house to make an examination of the blood trail?

A Yes, sir, they did. The Bay Village police came, took pictures, measured it, and asked me about it, and my wife.

Q Who were the police that came?

A I believe it was Sergeant Hubach, and I believe Lieutenant Mercer.

Q Did you at the same time call someone to examine that blood?

A Yes, sir, we did.

Q Who was that?

A Dr. Harry Schneiderman, of the Clinical Pathological Laboratory in the Hanna Building.

Q Did he take a sample of blood away?

A Yes, sir, he did.

Q The next day did anybody from the Cleveland Police Department come there?

A Yes. My wife tells me that there were two police officers from the Cleveland Police Department.

Q You don't know of it personally?

A No, I don't.

MR. CORRIGAN: We make an offer.

These questions are dictated in the record out of the presence of the jury, and we make this offer of proof.

(Thereupon following recess, at 11 o'clock proceedings were resumed in the presence of the jury and the Court, as follows):

MR. CORRIGAN: Take the witness.

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## CROSS-EXAMINATION OF DR. RICHARD N. SHEPPARD

By Mr. Mahon:

Q Doctor, you have been looking at some notes there?

A Yes, sir.

Q May I see them, please?

A Yes, sir. I'll get them in order here.

(Witness hands notes to Mr. Mahon.)

Q Doctor, when did you make these notes?

A My wife and I made those up last Thursday evening, just to help us as far as our memory of dates were concerned. She has a calendar that she keeps social events and various other things on, and it was taken from that and our memory.

Q Will you keep your voice up so all these folks can hear you?

THE COURT:

Speak a little

louder, please.

A I say, we took those notes last Thursday evening. My wife and myself sat down and tried to get a sequence of events so that I could keep in mind some definite dates that might possibly be asked me, and they were taken from a social calendar that my wife keeps and our memory.

Q These notes were not made on the dates that are set forth

in these notes, were they?

A No, sir, they were not, other than some of the dates were marked on the calendar which was then transferred to those.

Q And you talked over this matter with your wife?

A Yes, sir.

Q And she suggested certain dates, did she?

A Between us we tried to recall certain dates that certain things took place.

Q These dates or these notes are not of your personal knowledge at all, all of them, at least, are they?

A They are of my personal knowledge in that I recalled them when we discussed them together. There may be two or three things in there that had nothing to do with me, as I recall.

Q Now, you have one note here on July 9th. You have testified --

THE COURT: That would be  
Friday.

THE WITNESS: Yes.

Q You have testified here that it was on Friday, July 9th, that you came down to my office and made a statement.

A That was to the best of my recollection, sir.

Q Well, are these other notes to the best of your recollection?

A They are to the best of our recollection.

Q Is it "our" recollection or "your" recollection that you

are testifying?

A Our, combined, my wife and myself.

Q Well, we want your recollection, sir, not your wife's.

A It was mine, also.

Q Now, what else occurred on the 9th day of July?

A On Friday Dr. Sam made a tour of the house and, to our recollection, I have here that we had our fingerprints taken. However, I believe that probably was on the afternoon of the 8th that that took place, because I believe Detective Rossbach was on the trip to Dr. Sam's home and he was, I know, present when our palm printing was done. It must have been the afternoon before that that was done. Therefore, this note is not correct.

Q That's not correct. And, as a matter of fact, weren't you in my office on the 14th of July and not on the 9th of July?

A I'm not sure of that, Mr. Mahon. I know I was down there. Things were certainly very confusing. I thought that it was on the 9th.

Q You thought it was?

A I know I was down there, though, and --

Q You are guessing about the 9th, aren't you?

A Yes, sir., that's right. That was the best of our recollection.

Q Do you know when the officers questioned Sam at the

hospital?

A The first day?

Q No. The latter part of the week?

A I know that they questioned him on Thursday.

Q On Thursday. And it was the following day, the 9th, that he went out to the house, is that right?

A That's as I recall it.

Q And were you there when the officers started to question him?

A I believe I was in surgery that morning. I don't recall being present at the time that he was being interrogated.

Q Well, were you present before he was being interrogated, when Dr. Gerber was there, Deputy Sheriff Rossbach and Yettra, Schottke and Gareau, Cleveland police officers --

A I recall being --

Q -- Mr. Corrigan and Mr. Petersilge?

A I recall being outside of the room. I may have stepped in briefly and out again at that time. I remember those people being there in the morning, yes, sir.

Q And did you hear the talk that was going on there at that time?

A Yes. I got a general idea of what was going on.

Q And there was quite a lot of talk and quite a lot of difficulty in getting to talk to Sam, wasn't there?

A There was certainly a lot of confusion at that particular

time.

Q Well, what confusion was there? Now, you tell us.

A Well, Dr. Gerber was going into the room -- I was not in the room myself, so I can't tell you exactly what occurred in there.

MR. CORRIGAN: Well, don't tell anything that you didn't know -- that you don't know, not something you heard.

A Well, I saw these people going into the room. I heard on the outside something about a subpoena, and then that matter was dropped, and the next thing I knew Mr. Corrigan and Mr. Petersilge left the room, and I assumed that the interrogation of Dr. Sam proceeded at that time.

Q Did you know that the Coroner had to issue two subpoenas and threaten to serve them until he could talk to -- or someone could talk to Sam?

A No, sir, I didn't know that.

Q You didn't know that?

A No, sir.

Q You have been very close to Sam during his lifetime, haven't you?

A Yes, sir, I have been very close, although we are eight years apart in age.

Q And you watched his progress as he grew older?

A Yes, sir.

Q When he went to high school and to college and finally became a doctor, you watched that progress pretty close, didn't you?

A Well, of course, while he was in high school I was in college. I wasn't at home with him during this period because our ages are different.

Q I see.

A When he was in medical school, I was already back here but, of course, I have been interested in his training.

Q You knew that he was rather athletically inclined, don't you?

A Yes, sir.

Q And what branch of athletics did he have at high school?

A Well, he was voted, I believe, the best all-around athlete of his class. I believe he was active in football and in track primarily, in high school, as I remember.

Q And then after he left high school, he continued his athletic endeavors?

A Well, he did for one year in college. He was on the college football team, I know, the first year.

Q What college was that?

A Hanover College.

Q And then when he went to Los Angeles to college there, did he still engage in athletics?

A While he was in Los Angeles, the only athletics that I



know of that he indulged in was some swimming, and at that time he was quite interested in tennis. I have heard him speak of playing tennis, he and Marilyn together, on many occasions.

Q And after he returned here to practice his profession, he continued to be actively engaged in athletics?

A After he returned here, I have known of no athletics that Dr. Sam was -- really had time to do other than the swimming and water skiing, which he was most interested in.

Q And that is quite strenuous, is it not?

A It is a very active sport.

Q And did you know that he also played basketball?

A He didn't, as far as I know, play basketball to any extent throughout his athletic career. He did shoot baskets in front of his or in his driveway with some of the high school boys. I don't believe Dr. Sam was particularly interested or active in basketball. I may be wrong in that.

Q And was he also a bowler?

A No, sir.

Q He is not a bowler?

A I have never known him to bowl.

Q Do you know of any other athletics that he performed?

A Well, I know that he discontinued his tennis to a great extent. I don't know really of any other athletics that he was active in.

Q Well, he had a punching bag down in his basement, didn't he?

A Oh, yes. He did like to keep himself in condition and use the punching bag periodically. He didn't do it every night or anything of that kind.

Q And wasn't he also engaged in weight lifting?

A I have never seen Dr. Sam do any weight lifting. I know he had some bell bars that he used occasionally, but I personally have never seen him use them.

Q He had bell bars, though, didn't he?

A Yes, or a weight lifting bar.

Q Weight lifting bars. He kept himself in pretty good condition, physical condition?

A I would say so.

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Q You have testified here that Sam and Marilyn seemed to be very happy?

A Yes, sir.

Q Did you ever know of any rift between them at all?

A Certainly nothing of any major character, Mr. Mahon.

Q Did you know anything of a minor character?

A Yes. There were --

MR. CORRIGAN: Wait a minute.

"Minor character." I object. I say, I object to things of a minor character.

THE COURT: No. He may testify to what they were. If they are minor, they are still minor.

THE WITNESS: Do you want me to answer?

THE COURT: Yes.

MR. MAHON: Yes.

A I know that on several occasions, particularly at the time of various holidays, that is, Thanksgiving, Christmas, there was usually a little misunderstanding -- or not misunderstanding -- argument, about whose family they would have the Christmas dinner with. They generally would compromise and go to both.

Marilyn's family lived on the East side of town, and, of course, they had a close family group over there, so

that she, as a child, had been used to having her Christmases, and so forth, with, and our family on the West Side was very much the same, and there was some disagreement there, but generally it was resolved by most often by their eating or being with us part of the day and then going to the West Side part of the day -- I mean the East Side part of the day.

Dr. Sam, the last few years particularly, was rather loathe to leave the West Side, because on holidays there were usually so many emergencies that came into the hospital, and he was in charge of that work.

I know of another occasion where Dr. Sam was not very happy. He had made a trip to Boston for some special work, and while he was gone Marilyn had had a new sink unit and disposal unit installed in the house without his knowledge, and after he got back, there was no big argument, but I know that he felt that that wasn't quite the thing -- the way it should be done.

I know that -- I never heard of any particular disagreement about this, but I know that Marilyn returned to Cleveland in 1950 during the summer, she was back about two months, and during that period of time Dr. Sam had written to her saying that he had taken a date to a school dance. I think she discussed that or mentioned it to my wife, but I can't think of any disturbance. I know that Marilyn had difficulty in adjusting to the life of a doctor's

wife. She was very much in love with Sam. Sam was, to my knowledge, very much in love with her, but Marilyn had difficulty particularly when Dr. Sam got into his clinical work, that is, as an intern and a resident where his hours were irregular, and he had to spend nights at the hospital, and Marilyn didn't like that very well. She wanted Sam to spend all of his free time with her.

I know Dr. Sam was very conscientious in his medical work. I do know that in California, even on his nights off, if there was a particular surgery that would come up, Dr. Sam would return to the hospital and try to help as much as possible and learn as much as he could, and I don't think Marilyn quite understood that situation, that so often in a doctor's life the profession has to come first, and I think she was a bit jealous of Sam's profession.

Q Was there ever any talk of separation, Doctor?

A Pardon?

Q Was there ever any discussion about separation?

MR. CORRIGAN: Object unless he  
was there and heard Sam and Marilyn discuss  
separation.

THE COURT: Well, if he knows --

A No, sir, that was never discussed with me, Mr. Mahon.

Q Well, you know, do you not, Doctor, that your wife sent a  
letter to Marilyn?

MR. CORRIGAN: Object.

THE COURT: Well, he may say  
whether he knows.

MR. CORRIGAN: Well, if he knows,  
all right.

A Yes. She mentioned to me, in fact, that she had read the  
letter to me. However, when she told me that, I told her  
that I had no recollection of her --

MR. CORRIGAN: Object to what you  
told her, and --

A -- reading it to me.

THE COURT: You have answered the  
question, Doctor.

Q Well, the subject matter of the letter was separation of  
Sam and Marilyn, wasn't it?

MR. GARMONE: Object unless he  
knew the contents of it and read it before it  
was sent.

THE COURT: Do you know what the  
contents of the letter was?

THE WITNESS: No, sir. I don't  
recall the contents of the letter at all.

Q You discussed the letter with your wife?

A My wife told me that she had read the letter to me --

MR. CORRIGAN: Object to that.

A -- and I have no recollection of that incident --

MR. CORRIGAN: Wait a minute,  
Doctor. When I object you just keep quiet.

I object to what his wife told him.

THE COURT: I don't think we  
ought to go into that with him. He says he  
does not know what the letter stated.

Q Doctor, coming down to the morning of the 4th of July, you  
received a telephone call at about 6 o'clock in the morning?

A Yes, sir.

Q That was from Mayor Houk?

A Yes, sir, that was.

Q And you hurriedly dressed and went to Sam's home, arriving  
there about 10 or 12 minutes later?

A That's right, sir.

Q And when you arrived there who did you see?

A As I entered the house, I saw Mayor and Mrs. Houk, Dr.  
Sam in the study, as I have described, and there were two  
or three other people beyond Mayor Houk and his wife in  
the living room of the house.

Q Did you enter from the Lake Road side?

A Yes, sir.

Q Did you see any police officers there?

A Yes, sir. There were police officers, and I didn't know

that these men were firemen, but they, at first glance, looked like police officers. I didn't know them personally. I assumed they were all police officers.

Q And when you arrived there, there was an ambulance in the yard, was there not?

A There was an ambulance in the driveway, as I recall.

Q Yes. And there was a police car there?

A One or two police cars.

Q And you saw police officers in uniform?

A Yes, sir.

Q You know Mr. Drenkhan, don't you?

A Yes, sir.

Q Did you see him there that morning?

A Yes, I did.

Q And when you first went in you observed this medical bag on the floor upended?

A That's right, sir.

Q And you noticed that some of the contents were strewn about on the floor?

A Yes. It looked like quite a lot. There were a lot of vials and bottles and contents spread out on the floor.

Q And there was still some contents in the grip, also?

A There was still some lying inside of it. It looked like it had been tipped out --

Q It hadn't been entirely emptied out, had it?



A It didn't appear that that was the case, no.

Q It appeared as though it had just opened and upended, and whatever rolled out was right there on the floor, is that right?

A Well, I couldn't be specific as to that. It could have beendropped from a height or with force. It was -- I think the material was spread out a little bit more than what you would expect if you just simply upended it and opened it.

Q Well, it wasn't spread out over a great area, was it?

A Well, as I recall, you had to step over some of it as you came in.

Q Then you went into the den, I believe you testified, is that right?

A I didn't go into the den at first. I glanced into the den. This all took place in a period of just a few seconds. I saw Mayor Houk and the bag, and glanced in the den, and saw Dr. Sam sitting there, and asked where Marilyn was, all in practically the same breath.

Q And then you immediately started for the upstairs?

A That's right.

Q And what route did you take to get up there?

A Through the kitchen.

Q And as you got up on the platform you asked someone to get some knives for you?

A That's right.

Q Doctor, I want to show you what is marked here State's Exhibit No. 11, and ask you if you recognize that photograph, the scene of that photograph?

A Yes, sir, I recognize it.

Q And does that photograph represent that bag and its contents as you first saw them there?

A I don't believe it does, sir.

Q You don't believe it does?

A No, sir. It doesn't look the way I remember it.

Q And what is the difference?

A The vials, and so forth, are coming over toward this corner -- it seems that the bag was turned a little bit more with this open side facing more directly south, and these vials and bottles spread out on the floor a little more here. The vials and bottles were very, very noticeable. I don't remember the stethoscope and the other case here so noticeably. The vials were the things I noticed mostly, and they were out quite apparent.

Q And in this photograph it shows that some of the contents are still in that grip, is that right?

A Yes, it does.

Q Did that appear that way to you that morning?

A Yes, there were still some contents in the grip.

Q Well, now, when you asked for these knives, Doctor, there was an officer there in the kitchen, wasn't there?

A He was following right behind me as I was going through the kitchen.

Q That was Officer Drenkhan, wasn't it?

A Yes, it was. I didn't know Officer Drenkhan well enough before this time to call him by name, but I --

Q You now know that it was Officer Drenkhan?

A I now know that it was Officer Drenkhan, yes.

Q And he obtained the knives for you, did he not?

A Yes. He reached up and pulled them off the rack.

Q And then you went upstairs?

A That's right.

Q And Officer Drenkhan went out -- followed you up, did he not?

A Yes, he did.

Q And when you got upstairs and over to the room, just what did you see, Doctor?

A As I stepped into the room I saw Marilyn lying in her bed face up. She was about a third of the way down in the bed. Her head was off of the pillow. Her feet were protruding off the foot of the bed, oh, about a foot. They were straight out. A sheet covered the lower portion of her body. Her right arm was hanging off the side of the bed. It was out in the space there off the side of the bed. I could see that her face was battered. There was a large bloody area behind her head. There were numerous cuts on

her forehead. I noticed them particularly on the left side of her forehead. There seemed to be a series on the left side, three or four in a row. The blood was wet. It was tacky. It was starting to clot.

I raised the sheet -- well, first I took her pulse and there was none. I got my stethoscope from my bag and listened to the chest. Her gown was rolled up rightly in the back. It looked as though she had either been pulled or scooted down in bed, because the gown was rolled up tightly in the back and around under the arms. Her chest -- breasts were completely bare, as was the throat. I placed the stethoscope on her chest and found no evidence of heart tone, although I did notice that there was some body heat present.

I raised the sheet to see if there was any injury on the lower part of her body, saw none. Her left hand was at the side of her body at that time. I saw the bloody condition of the room, as I have discussed previously.

Q Well, now, Doctor, I want to show you what is marked State's Exhibit 20, and ask you if you recognize the scene on that photograph?

MR. GARMONE: What exhibit was that,  
John, please?

MR. MAHON: Pardon me. State's

Exhibit 20 and Defense Exhibit J.

A Well, I recognize the general layout of the room here, but this is certainly not the way I saw her when I first went up in that room.

Q It is not?

A Definitely not.

Q And what is the difference?

A She is pulled down in bed much further than she was. Her feet are bent at the knees and hanging down off the side of the bed. Her blouse is all pulled up around the front of her here. Her left arm is across her abdomen. It's certainly not the way I first saw her.

Q It is not?

A No, sir.

Q Well, now, let me show you State's Exhibit No. 10. Do you recognize that scene?

A The general scene. This is just another view, I think, of this picture I saw previously, but it doesn't look the same as I saw it.

Q It does not look the same?

A It doesn't.

Q And you say that her head was pulled down further?

A I don't know about the head. Mainly, the thing that doesn't jibe with me is the fact that these legs are bent clear over to the foot of the bed. As I recall them, they were more straight out.

Q Well, Doctor, if her head was moved, then her feet were moved, isn't that right, and her legs?

MR. CORRIGAN: Object to that.

A They may not have been moved very far, Mr. Mahon. It's just bent at her knees, here. If she was back up another,

probably an inch or two, these legs would be straighter.

Q An inch or two?

A Two or three inches.

Q Again referring to State's Exhibit No. 10, up above her head towards the head of the bed there is not a pool of blood, is there?

A Well, there's a pool of blood considerably above her head here, several inches.

Q well, that would be merely a running off from the wounds there, wasn't it?

A Not necessarily, not necessarily. It could be, certainly.

Q Do you want to say, then, Doctor, that her body had been pulled down from its original position when you saw it?

MR. CORRIGAN: Object. He  
didn't say that.

MR. PARRINO: That is what  
he is asking him.

MR. MAHON: I am asking him.

THE COURT: He is asking him  
that.

A I don't know whether it had been pulled down, Mr. Mahon, but that is not my recollection of how I saw her when I first saw her.

Q And you say that the arm, the left arm, as you saw it, was not across the body?

A Not as I recall it at my first visit, no, sir.

Q Are you sure about that?

A Yes, sir, I'm sure about that. I raised the sheet.

Q Now, referring again to State's Exhibit No. 10, this shows a pillow on the bed there, does it not?

A Yes.

Q That is some distance away from the head of Marilyn, isn't it?

A It appears to be, yes.

Q And is that the way it was when you first saw the body?

A I felt that the pillow was closer to the head than that location.

Q And how much closer?

A That would be very difficult to say.

Q How much distance was there between the head the nearest edge of the pillow to Marilyn's head?

A I would have to estimate. In my first impression when I saw this sight, my first impression was anywhere from three to five inches, and that picture looks like it's farther than that.

Q And there wasn't a trail of blood that led from where Marilyn's head was lying up to the pillow, was there?

A I don't know. I didn't look at that that closely.

Q Well, it doesn't show so in this picture, does it?

A No. There are speckles and spots up there.



Q Just speckles and spots, yes, but there is not a heavy concentration of blood from the head to the pillow, is there?

A No, sir. But this shows a stain, I think, where her arm is lying and there is no arm there, on the far side.

Q You say, Doctor --

A There it is again (indicating).

Q Where was the right arm when you saw it?

A The right arm, when I came into the room the first time, was out off the bed.

Q And will you demonstrate how it was or will you point it out yourself there?

A Well, as nearly as I can. The arm, as I came in the room and saw her the first time, was protruding off the side of the bed. It was out at about this angle. (Indicating).

Q Pretty near at right angles to the body, is that right?

A Pretty nearly so, as nearly as I can recall.

Q And is that the arm that you took the pulse on?

A Yes, it is.

Q Now, you say, Doctor, that State's Exhibit No. 10, that it shows where the arm was on the sheet?

A Well, that's just a guess on my part.

Q Well, let's not guess about this, Doctor. This is serious.

MR. CORRIGAN: Oh, I object

to that and ask it be stricken out and the

jury be instructed to disregard it.

MR. MAHON: You don't want guesses, do you, Mr. Corrigan?

MR. CORRIGAN: I object to that, and ask it be stricken out and the jury disregard it.

THE COURT: All right. Let's go ahead.

Q You say that that mark on that bed is from an arm hanging over there?

A It could be from the position of the arm.

Q Not what it could be, Doctor.

A It's the most likely thing that could have caused that.

Q Well, now, let me show you, Doctor, State's Exhibit 9. Do you see that?

A Yes, sir.

Q Do you recognize that?

A Yes. I recognize the general --

Q And that blood mark is away up by the head, isn't it, shown on that photograph?

A Yes, sir, it is; yes, sir, it is.

Q So it couldn't have been the arm that caused that, could it?

A Apparently not in this picture. Apparently it must not be. That was just an interpretation from those other pictures.

Q That was an interpretation. You are satisfied now that

it was not sticking out that way, aren't you?

A I know the arm was sticking out the side of the bed, but it must not have made that spot that showed on the other picture.

Q It was not out at right angles, either, was it?

A It was when I came in, sir, yes, sir, it was. It was hanging off the side of the bed. It was in the way as I came in.

Q Well, wasn't it hanging out something like that, Doctor? (Indicating).

A Well, as to the actual number of degrees, that would be very difficult to say, but as nearly as I can recall, it was close to a 90-degree angle from the body.

Q Close to a 90-degree angle?

A Well, that's at right angles. It may have been not quite that. As I came into the room, the arm was hanging off the side of the bed.

Q All right.

A Out into the room.

Q Now, you took her pulse?

A Yes.

Q And you used your stethoscope?

A Yes, sir.

Q On her chest?

A Pardon me?

Q On her chest?

A On her chest, yes, sir.

Q You said that her chest was bare?

A It was.

Q And showing you State's Exhibit No. 9, that shows her chest bare, does it not?

A Yes, partially.

Q And is that the condition that that was in when you first saw it?

A My recollection, Mr. Mahon, is that this pajama top or gown was much higher and much less apparent than this.

Q Well, was there a dressing gown on her when you saw her?

A There was what I thought was a shortie nightie that was rolled up in the back and far up around her shoulders.

Q But you knew that there was a gown of some kind there, didn't you?

A Oh, yes, there was a pajama top or nightie of some kind.

Q That was quite apparent?

A It was not quite apparent. I knew that there was one there; I saw it.

Q Well, Doctor, that gown was over her arms at the shoulders, was it not?

A Yes, it was, that's right.

Q And that was quite apparent, wasn't it?

A That was noticeable, yes.

Q Well, it was very noticeable, wasn't it?

A My recollection was that it was much less noticeable than it is on the picture.

Q Well, Doctor, anyone who looked at that body couldn't have missed the fact that there was a garment covering her shoulders and part of her chest, could they?

A The garment, you couldn't have missed it, no, sir, but my first impression was that that gown was rolled, and tightly so, up to the shoulders. That picture shows the gown quite loose, and as I put my stethoscope on there, my first impression, as I recall it, was that there was not that much gown apparent that the picture shows.

Q Well, now, Doctor, you determined that she was dead at that time?

A Yes, sir, I did.

Q And did you determine how long she had been dead?

A I made a statement, I believe, to you, and I think I made an estimate at the Bay Police Station -- it would be a rather wild guess -- but I believe I said somewhere between 18 minutes up to a half an hour and as much as up to two hours; anywhere from 18 minutes to two hours.

Q It could have been two hours?

A It's conceivable.

Q It could have been 18 minutes?

A The 18 minutes it could have been, although I feel that that's probably unlikely.

Q That's very unlikely, isn't it, Doctor? It was much longer than 18 minutes, wasn't it?

A The reason I estimated the 15 to 18 minutes was that the thing I had in mind as I entered the room was if the death had been anywhere -- if I could estimate between three to five minutes, then I could have an opportunity or a possibility doing cardiac massage, and I knew that her death had been longer than could have made the cardiac massage possible or feasible.

Q You also testified out to Bay Village?

A At the inquest.

Q At the Coroner's inquest, did you not?

A Yes, sir, I did.

Q And what did you testify to out there as to the time of her death, length of time?

A I don't remember exactly, but I believe it was 15 minutes to a half hour or more.

THE COURT:

A little louder,

Doctor.

A 15 minutes to a half hour or more, I believe is what I testified to, in that neighborhood.

Q Didn't you say from an hour to an hour and a half?

A No, sir, I don't believe that I said that.

As I recall the testimony there, someone said that I told Police Chief John Eaton that I may have said that in passing in the yard to --

Q Did you tell that to John Eaton?

A I don't remember making that statement to him. However, if he said that I said that, I am quite sure he is an honest man.

Q Well, didn't you testify at the inquest that it could have been anywhere from 30 minutes to a couple of hours?

A I may have.

Q And you say that now, don't you?

A I say that now.

Q Now, after this -- by the way, did you lift the sheet when you were up there, Doctor?

A The first time that I was up there I lifted the sheet, the first time.

Q And did you observe whether or not she had any gown on below the waist?

A I didn't see any pajamas at all below the waist. I didn't lift the gown that far. I just raised it and got a general idea. I didn't see any gown or any pajama pants on at all. That is mainly the reason that I got the impression that she had on a shortie nightie.

Q And you went over to Chip's room, I believe you testified?

A Stepped up the hallway, yes, sir.

Q And you found that he was all right?

A He was sound asleep.

Q And then you went downstairs?

A That's right.

Q How long had you been up in that room where Marilyn's body was?

A Probably not more than a minute or two.

Q And when you went downstairs, did you go into the den there where Sam was?

A Yes, sir, I did.

Q And what happened in there?

A Well, I don't recollect or recall my exact words, but I spoke to Sam. He was still sitting in the chair with his hands clasped behind his neck. I asked him where his injury was, where he was hurt the most. He indicated his neck.

I told him Marilyn was gone, there was nothing I could do, and with that he slid off the chair onto his face, still holding his neck and said, "Oh, God, no."

Q Doctor, did you say to him, "Sam, did you do that?"

A No, sir. I'm sure I said nothing of that kind.

Q You are sure you said nothing of that kind?

A I am sure I said nothing of that kind.

Q You said a minute ago that you couldn't recall what you said?



- A I can't recall my exact words, Mr. Mahon, but such a thought as that never crossed my mind.
- Q When Sam slid down to the floor, what happened then?
- A He was moaning, crying. I was certainly in an upset state myself. I stepped out, as I recall, I stepped across the hall into the kitchen. There was some police officers there. I think Mrs. Houk was in the kitchen. Very briefly they told me what had happened, the story that he had been hit upstairs and followed someone down to the beach and was hit down there. And about that time Dr. Steve and his wife arrived in the hallway. I saw them come in and go by.
- Q Where were you at when Steve arrived?
- A As I recall, I was in the kitchen.
- Q What did Steve do when he arrived?
- A I can't tell you exactly. He stopped briefly. I think he went into the den for a moment or two, and then proceeded on through into the living room.
- Q Did you see him going into the den?
- A I saw him stop by the den door. I don't remember, to tell you the truth, whether I saw him go in or not. Things were certainly in a very confused state at that time in my mind and in the house.
- Q Did he speak to you when you came in -- when he came in?
- A No, sir.

Q Did you speak to him?

A No, sir.

Q Did he look into the kitchen to see you?

A I don't believe he did. I don't recall speaking to him or him speaking to me. He just came right in and either glanced into the library or stepped in for a moment or two and then went on.

Q And then what happened after that?

A I intended to go on upstairs with Dr. Stephen. He was going on around through the living room, I assumed that he was, and I was going to go on up the steps with him. About that time either Mrs. Houk or Officer Drenkhan, someone called me and said I had a phone call, to come to the telephone. So I did, I went to the telephone, and I talked to Dr. Brill, one of the interns from the hospital.

Dr. Brill asked me if there was anything we needed up at Dr. Sam's house in the way of medical equipment or any additional help or anything that he could do, and I told him no, that I didn't feel there was anything that he could do to help at all and hung up. And then I went on up the stairs through the kitchen and met or saw Dr. Stephen in Marilyn's room.

Q Well, didn't you and Steve go up there together?

A No, sir, we did not. I know that that is mentioned that way in my -- in the inquest testimony.

MR. PARRINO: I object to the witness answering this way, your Honor. He is not responding to the question.

MR. GARMONE: Put a question to him.

THE COURT: It will clear itself up. All right.

- 10 Q Doctor, you said that you read that in your inquest testimony, is that right?
- A Yes, sir.
- Q You have been studying that pretty close, have you?
- A No, sir, I have not.
- Q And in that inquest testimony, you said that you and Steve went up the stairs together, didn't you?
- A I did.
- Q Is that right? Now you say that is not so?
- A That's right.
- Q Do you know what you told the police when you made a statement on July the 6th?

MR. CORRIGAN: Let's see the statement if you are going to use it.

MR. MAHON: Will you please let me conduct this examination, please?

MR. CORRIGAN: No, we want to see the statement if you are going to use it.

MR. MAHON: Well, I haven't attempted to use it yet.

MR. CORRIGAN: Well, you have got it in your hand and you are asking questions about it.

THE COURT: He may ask him that question.

MR. MAHON: I may ask him a lot of

questions and not use the statement.

MR. CORRIGAN: We have the right to examine a statement.

MR. MAHON: You certainly have no right at this time at all.

THE COURT: Let him answer the question. The question is whether he knows what he told the police on July the 6th.

Now, that certainly he may answer.

MR. CORRIGAN: Well, we have a right to examine the statement, your Honor.

THE COURT: Oh, he is not using any statement.

MR. MAHON: I am not using the statement up to this moment.

THE COURT: He is only asking --

MR. GARMONE: You can tell Mr. Corrigan that without shouting at him..

MR. CORRIGAN: Yes. They don't have to shout at me.

MR. MAHON: It doesn't seem to impress him very much. I have said it a half-dozen times.

THE COURT: He is only asking him if he remembers what he stated to the police on

July the 6th. He can answer that yes or no.

A I have a general recollection, Mr. Mahon.

Q And what did you tell the police at that time?

A You mean about this business of Dr. Steve and myself going upstairs together?

Q That's right.

A I told them the same thing, but may I explain it?

Q You told them what same thing?

A I very likely said that Dr. Steve and I went up together.

Q Not what you very likely said. What did you say?

A I can't remember specifically from July the 6th.

Q Can you give us the substance of what you said?

A I believe that I said that Dr. Stephen and I went up the stairs together.

Q And is that the fact or not?

A No, it is not.

Q And when did you decide that that was not the fact?

A I had completely, absolutely forgotten that I had received a phone call that morning. I had no recollection whatsoever of that phone call until about two months ago when Dr. Brill talked with me and asked me if I didn't remember him calling me. When he mentioned it to me, I could have sworn that he hadn't talked to me at all that morning. I had no recollection of that phone call. After he told me what

the conversation was, I then remembered that he had called me and when, but I could have absolutely sworn that there had been no phone call whatsoever up to the time Dr. Brill told me about it and told me about the conversation.

Q Well, Doctor, the time that you made a statement to the police in Bay Village, that was on the 6th day of July?

A I believe that's right.

Q Two days after this occurrence, that's right, isn't it?

A That's right.

Q But you did go upstairs, and was Steve upstairs when you got up there on the second occasion you were up there?

A Yes, sir.

Q And where was he at then?

A He was in the room where Marilyn was.

Q And what was done there at that time?

A Dr. Steve was, I believe, taking her pulse or trying to with the hand -- right arm, and I believe he was taking her pulse or trying to, and he stepped to the door -- I was right behind him in the doorway -- he stepped to the door and I mentioned to him, "I will see to it that Chip is taken care of. You see about Sam," or words to that effect.

Q Did you go into the room when Steve was in there?

A At that particular time?

Q Yes.

A I don't recall whether I stepped clear into the room, or

whether I was just in the doorway.

Q There hadn't been<sup>any</sup>/change in Marilyn's body from the time you were first up there until you were up there that second time, when Steve was there?

A Not that I noticed.

Q And then I believe you have testified that you aroused Chip?

A Yes, sir.

Q Got him up?

A That's right.

Q And you took him home?

A I took him to my home.

Q Took him to your home, rather, is that correct?

A That's right.

Q Mrs. Houk assisted you in getting him dressed?

A That's correct.

Q Did you observe other portions of the house there that morning, Doctor?

A Yes, sir.

Q I am talking about this first occasion when you were there, now.

A The first visit -- certainly not very closely. I could see that things were disturbed in Marilyn's desk in the living room. Her papers were on the floor, and also that the drawers were out of Dr. Sam's desk in the den. There were trophies lying on the floor, and there was also an



Island Lake Camp cup, which is another type of trophy, lying on the floor there.

Q And you saw these drawers in this desk in the dining room or the living room were pulled out?

A Yes. They appeared to be pulled out.

Q Not altogether out. They were still hanging in their place?

A That's right. They had been partially pulled out.

Q But they had been pulled out from closed position, is that right?

A That's right.

Q And there were some papers on the floor?

A That's right, sir.

Q And did you go around to the east end of the living room -- or to the west end?

A No, sir. I don't believe I went around that end of the living room at all at any time that I can remember.

Q When you came downstairs with Chip, did you come through the kitchen?

A Yes, sir, we did.

Q At any time did you go up to the second floor from the living room side?

A I don't remember going through that particular portion of the house at any time.

Q Do you know how Steve went up to the second floor when you were in the kitchen?

A Well, I saw him pass on into the dining room, dining area, and I naturally assumed that he went on around and up that way.

Q Well, did you see him going up the stairs?

A No, sir, I did not see him going up the stairs.

Q And then after you took Chip to your home you went over to the hospital?

A That's right.

Q And you testified that you saw Sam over there about the X-ray room there someplace?

A That's right.

Q Is that right?

A That's right, sir.

MR. MAHON: Does your Honor want to adjourn at this time? It is about 12 o'clock.

THE COURT: You are not going to be able to finish?

MR. MAHON: Oh, no.

THE COURT: Ladies and gentlemen of the jury, we will now adjourn for the noon hour and return at 1:15 this afternoon.

In the meantime, please do not discuss this case.

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(Thereupon at 12 o'clock p.m. an adjournment was taken to 1:15 o'clock p.m., Tuesday, December 7, 1954, at which time the following proceedings were had):

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Tuesday Afternoon Session, December 7, 1954.

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

Thereupon DR. RICHARD N. SHEPPARD resumed  
the stand and testified further as follows:

CROSS-EXAMINATION OF DR. RICHARD N. SHEPPARD (CONT'D)

By Mr. Mahon:

Q Doctor, just before we adjourned I was asking you about  
the time that you were at the hospital after you took  
Chip to your home, and you said that you saw Sam in  
the vicinity of the X-ray room, is that right?

A Yes, sir, that's right.

Q You made no examination of him at that time?

A No, sir, I did not.

Q And sometime after that you and Steve went back to  
Sam's house, is that correct?

A That's right, sir.

Q And about what time did you go back there?

A As nearly as I can recall, it was in the neighborhood  
of 7:30 in the morning.

Q And who was there at that time?

A There were a number of police officers, Larry Houk and  
several other people. I can't tell you everyone who was  
there.

Q What time did Dr. Gerber come?

A Dr. Gerber arrived shortly after 8:00. It might have been around 8:10.

Q And that's when he ordered everyone out of the house?

A Yes, sir.

Q Did you go back into the house after that?

A No, sir. I didn't enter the house after he asked us to leave.

Q Well, when you went back there from the hospital about 7:30, you were in the house at that time, were you?

A Yes, sir, I was.

Q And did you make any particular observations at that time?

A Dr. Stephen and I together walked around the various rooms in the house, just to see what the situation was.

Q Were you through the living room?

A I was in the living room, and I saw the condition of the room.

Q And what was the condition of the living room?

A The only thing that I saw out of order there was Marilyn's desk was open. The desk was -- the leaf of the desk seemed to be propped slightly on the back of a chair. The drawers were partially pulled out and there were papers and various things that had apparently been in the desk lying about on the floor. Other than that, I didn't see anything out of order or anything in the room that I recall.

Q Now, at the time that you were upstairs when you first arrived and then later on when you went up there with Steve --

A Is that the first visit?

Q -- or you saw Steve up there --

A Yes, sir.

Q -- did you make any observations in the bedroom there?

A Dr. Steve and I walked around in the bedroom, walked over to the -- that would have been the west side of the bedroom and noted that there were some flecks of blood on the shade or curtain on that side, and also noted that there were some flecks that had apparently hit the shade or curtains on the north windows, and Dr. Steve got down on his hands and looked under the bed and mentioned to me that -- no, that is not at that time. You are talking about the second time that I went up, the first time Dr. Steve went up?

Q The first and second time you went up there.

A I went up twice, because I was up the second time with Dr. Stephen, but that was my first --

Q When you first arrived there, you went up and the police officer was the only one that was with you at that time, is that right?

A That's right.

Q Did you make any observations at that time?

A Other than Marilyn's body, no.

Q And then you later on, after Steve arrived, you were up there when Steve was there?

A That's right.

Q That is the second time you were up?

A That's right. That was --

Q Did you make any observations at that time?

A No, sir, not at that time.

Q Well, did you later go up then?

A Yes, sir. When we returned, after 7:30. I have those visits confused in my mind somewhat.

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Q And that would be the third time that you went up there?

A That's correct, sir.

Q And is that when you made these observations that you are telling us about?

A That's right, sir.

Q And you observed these blood specks on the door?

A Yes, sir.

Q And how high were they?

A The door to the bedroom that opened in on the righthand side as you enter, and the closet door, which was closed, which was next to it, seemed to be fairly well covered with rather large blood spatters, spots. They went up pretty well -- pretty high on the door. It dwindled off as it got higher up. I don't believe that I saw them on the ceiling at all.

Q How far did they go down on the door?

A I couldn't tell you that for certain. They were fairly low.

Q How far is that wall where the doors are from the bed?

A Probably not much more than three feet, three, three and a half feet, I would estimate.

Q And then you saw some specks on the curtain, you say?

A On the curtain and shade on the west and north sides.

Q And how far is that from the bed?

A Well, the west wall, it would be the width of the one twin

bed, and the space between, and then another twin bed, and then there was a radiator. How far that would be -- five, seven feet, perhaps, or thereabouts.

Q And how high was the blood speck from the floor there?

A Those that I noted were on the -- at about eye-level on the shade, the few that I saw there.

Q Did you see any other specks?

A There were some blood specks on the wall behind the bed.

Q That would be the head of the bed?

A That's right, the head of the bed.

Q And how far up were they from the floor?

A Well, they didn't seem to go up much higher than approximately a foot from the ceiling, is the best way I could say it.

In other words, from the corner of the room down approximately a foot, it seemed to be fairly clear on that wall. It seemed to be below that.

Q It would indicate, then, from the position of those blood specks, would it not, that as the blood spread it was quite a high arc, is that right?

MR. CORRIGAN: What is that?

THE COURT: That the blood spread  
at a high arc.

A A high arc?

Q Yes.

MR. CORRIGAN: I object to that.



THE COURT: He may answer.

MR. CORRIGAN: That draws a conclusion.

THE COURT: I know, but he may  
say what his opinion is, if he has any.

A I don't think necessarily it would mean an arc, Mr. Mahon.  
It might have been a straight trajectory from a single  
point out.

Q You mean that it might have traveled over to the curtain  
in a straight line?

MR. CORRIGAN: Object to that.

It is purely speculative.

THE COURT: He may say what he  
means.

MR. MAHON: I am just asking him  
what he means.

A I think that is possible.

Q And that it might have traveled in a straight line from its  
source, on the wall back of the bed pretty near up to the  
ceiling?

MR. CORRIGAN: Object what it might  
have done.

THE COURT: He may answer.

A It is difficult for me to theorize on how those blood specks  
occurred behind the headboard. It might have occurred that  
way, I just don't know.

Q I see. Well, on any of the occasions when you went up there that morning, either your first visit there or your second or third, did you see any evidence of a struggle there, outside of what you saw on that bed where Marilyn was?

A Other than the bed being disarranged, I could see no -- you mean like broken furniture, or something of that kind? No, sir.

Q Or tipped over furniture, or scuffed floors, or anything at all?

A There was carpeting on the floor. I didn't see any evidence of --

Q How long did you remain in the room on that third visit?

A That would be very difficult to say. It couldn't have been more than a couple of minutes, two or three minutes.

Q And then you inspected some of the other rooms up there or all of them?

A Yes, sir. Then Dr. Stephen and I walked around into the other rooms upstairs.

Q Now, did you enter that room again at any time that day, that bedroom?

A I don't believe that I did, sir.

Q Were you there when Marilyn's body was removed from there?

A No, sir.

Q How long did you remain there on your second visit there?

A Dr. Steve and I came back to the house. We were there until Dr. Gerber arrived, and left. If we got there around 7:30, Dr. Gerber probably left around 8:15, just guessing, so it must have been in the neighborhood of 45 minutes.

Q And when Dr. Gerber left, you knew that he was going to the hospital to see Sam, didn't you?

A I heard he was going up to the hospital.

Q And is that why you went to the hospital?

A Yes, sir. Dr. Stephen and I followed. We thought that there might be something that we could do to help and --

Q And what was done at the hospital there?

A Dr. Gerber -- when we got there Dr. Gerber had preceded us, and he went on down the hall to see Dr. Sam. I believe Dr. Stephen was with him. I stayed up in the hallway and talked to my father.

Q Did you go in Sam's room at all that morning?

A Later on that morning.

Q Well, while Dr. Gerber was there?

A I don't believe that I did. I don't recall that I did.

Q How long did Dr. Gerber remain there, by the way?

A That would be again just a guess. You mean in Dr. Sam's room?

Q Or at the hospital there?

A It was a brief time. I wouldn't think he was there more than

more, oh, possibly 10 or 15 minutes.

Q And then did you see Sam after that?

A After that?

Q Yes.

A I believe I stepped in the room.

Q Was he in bed at that time?

A He was in bed.

Q And did you examine him at all at that time?

A No, sir, I did not.

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Q The X-rays had been taken at that time?

A Yes, they had.

Q Did you examine the X-rays?

A I went into the X-ray dark room and took a look at the wet films.

Q And did you arrive at any opinion as to his injury from those films?

A No, sir. I am not a Roentgenologist, and we don't ordinarily diagnose things from wet films. I don't generally give an opinion from the X-ray, although I do like to, on many occasions, look at the X-rays. But I didn't diagnose anything from the X-rays at that time .

Q I see. Did you see the X-rays after that?

A I have seen them, but that was quite a bit later.

Q How much later?

A Pardon?

Q How much later?

A Oh, I believe it was after Sam left the hospital. I couldn't tell you exactly.

Q Did you give Sam an examination at any time while he was in the hospital?

A No, sir, I did not.

Q Was it Wednesday that the funeral was?

A Yes, sir, I believe it was.

Q Sam attended that funeral?

A Yes, he did.

Q And when did Sam leave the hospital?

A To attend the funeral?

Q No. When was he discharged from the hospital?

A I believe it was Thursday afternoon late, but I wasn't there when he was discharged. That's the best of my recollection, however.

Q That was the day after the funeral?

A Yes.

Q And after that, he stayed at your father's home?

A Yes, sir.

Q And on Friday he went to his own home at the time the officers were out there, isn't that right?

A As I understand it, yes, sir..

Q And when did he start to work in the hospital again?

A Well, I can't say that he actually started to work in the hospital as you might generally accept that term.

Q Well, when did he --

A I don't know, sir.

Q When did he come to the hospital and start visiting patients?

A I couldn't give you a date on that. I don't really know.

Q Haven't you any idea?

A It would be the wildest kind of a guess. I don't remember when.

Q Well, did you make any note about that?

A When he went to work?

Q That's right.

A No, sir.

Q You kept a pretty good history of all the other things that occurred?

MR. CORRIGAN: Oh, I object to  
that question.

THE COURT: Let him answer.

A I don't think I kept a pretty good history. I just had a general rundown of some of the dates that certain things or events took place.

Q Well, you have about four pages of them there, haven't you?

A Yes, sir.

Q And it covers from June until August, doesn't it?

A There are a few dates after that on there, also.

Q Yes. But you have no notation as to when Sam returned to the hospital to administer to patients?

A No, sir.

Q Well, was it a matter of a week after he was discharged?

A Well, you are asking me a date that I don't know, Mr. Mahon. I know that Dr. Sam, when he was able, was concerned about two or three patients that had been cared for previously, and I think went up to the room to look at them, but I don't know when that date was or what date that was.

Q Well, now, after the 4th of July, did you go to Sam's house again?

A I drove my wife up to Dr. Sam's house.

Q Did you say that was on the 5th?

A I believe that was on the 5th.

Q That would be on a Monday?

A I believe that's correct.

Q And you obtained some clothing there?

A My wife went upstairs to get some clothing for Marilyn.

Q Now, after that, did you go back to the house on any other occasion?

A I don't believe I was back to the house again then until the day that we went up there to get some clothing for Dr. Sam and also -- I guess it was in the evening -- and two of the cars were moved.

Q And is that the day the Jaguar and the jeep were removed?

A That's right.

Q And who took the Jaguar?

A Dr. Steve drove the Jaguar home.

Q And did you use it after that?

A I used it quite some period later, yes, a month or so later.

Q Was there a medical kit carried in the Jaguar?

A At the time that I had it?

Q At any time, if you know.



A Dr. Sam carried his medical kit in the Jaguar whenever he used it.

Q How many medical kits did Sam have?

A Only two, that I know of. There is a small Boston bag in the back of the Jaguar. Is that what you are referring to, sir?

Q Well, did he carry instruments in that?

A I think he had some cast material that he carried in that bag. I --

Q Did you see -- pardon me. Were you going to say something?

A I just know that he had cast material in the back of the Jaguar.

Q I see. Did you see any orthopedic wrenches in the back of the Jaguar?

A No, sir, I did not.

Q Was there a bag that they were carried in, such instruments as that?

A There was a small Boston bag in the back of the Jaguar, when I had it, but I don't know where Dr. Sam carried these wrenches. He may have carried them in that bag, but that is not my type of work and I pretty much stay away from it. I don't know what type of equipment he had there, whether there were wrenches in it or not.

Q I see. You have testified here, Doctor, that at the time of the inquest at Normandy School, that Steve was

searched before he testified, is that correct?

A To the best of my recollection, not searched but they patted his -- at least on one occasion, I believe.

Q He was patted down?

A To the best of my recollection.

THE COURT: You mean he was frisked?

THE WITNESS: Yes, sir.

Q Somebody patted him down in that manner, is that right? (Indicating).

A As I recall.

Q And you also said that Sam was searched?

A Yes, in the same manner.

Q In the same manner. You mean he was patted down?

A That's right.

Q They didn't put --

A They didn't put their hands in his pockets.

Q No one put his hands in his pockets, did they?

A No.

Q And you were not searched or patted down?

A Not that I recollect.

uke 14 Q Well, you know, do you not, that Steve had been carrying  
a gun?

MR. GARMONE: Objection. The  
best evidence --

THE COURT: I think he may  
say that.

A Well, I knew Dr. Stephen had a gun in his home, but I did  
not know that he was wearing it or carrying it at any time  
on his person.

Q I see. You knew, did you not, that Sam was carrying a gun,  
didn't you?

MR. GARMONE: Objection.

THE COURT: He may answer that.

The subject has been brought in.

A Answer?

THE COURT: Yes.

A Yes. Dr. Sam wore a small pistol for two or three days,  
I believe.

Q And you did not carry a gun, did you?

A No, sir.

MR. MAHON: That is all.

## REDIRECT EXAMINATION OF RICHARD N. SHEPPARD

By Mr. Corrigan:

Q Doctor, there is one date that I forgot to ask you about.

Do you recall November the 11th of this year?

A Yes, sir, I do.

Q That was Armistice Day?

A That's right.

Q Were you at your brother's house on November the 11th?

A Yes, sir, I was.

Q What time did you go there?

A That is pretty hard to say. I think it was in the afternoon, early afternoon.

Q Did anybody accompany you?

A Yes. My wife.

Q Did you gain admission to the house?

A Yes, we did.

Q How did you gain admission to the house on the 11th of November?

A Sergeant Hubach brought the key with him and opened the door for us.

Q And when you went in what did you do?

A We were getting some clothing together. My wife gathered up the dirty clothing, dirty linen, and so forth, that had been in the basement for the past four months, and I

checked the furnace to be sure that the water was high enough in the boiler, and -- did you want me to go on?

Q Well, during the course of that visit did Hubach find anything in that house?

A Yes, sir, he did.

Q Tell me about it -- tell the jury about it.

A We had been in the house a few moments, 10 minutes or so, doing the things I have mentioned. My wife and I came down to the kitchen. I believe she had been in the kitchen for a few moments, and we were -- took the ice cubes out of the ice box to be sure to leave the doors open so the icebox would be all right, and at the time she noted a rather foul odor. She was smelling around trying to find where it came from, and it seemed to be coming from the wastebasket, and Sergeant <sup>Hubach</sup> was in the kitchen with us, and suggested that probably some milk containers that the police had had in there previously and thrown in the wastebasket might have been causing an odor and suggested that the wastebasket be taken out and burned, the contents, and as my wife picked up the wastebasket and moved it, Sergeant Hubach looked on the floor and said, "Well, there is a key."

And Dorothy set the wastebasket down and asked Mr. Hubach whether or not she should pick it up and give it to him, or whether or not it is all right to touch it or not, and he said, "Pick it up and hand it to me," and she did.

So Sergeant Hubach took the key and looked at it and immediately went to the Lake Road door and fitted it into the door and worked the lock. He then put it into his pocket, and that's all I know about the key.

Q Was there anything on the key, do you remember?

A Yes. It was a small key chain, a little link chain, and it was connected -- or connected to the key chain there was a small cylinder-like arrangement. I have never seen any quite like it myself.

Q And that was November the 11th?

A That was November the 11th.

MR. CORRIGAN: That is all.

MR. MAHON: That is all.

(Witness excused.)

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