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MR. BAILEY: Call Doctor Don, please.

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THEREUPON, the defendant, further to maintain the issues on his part to be maintained, called as a witness DR. HORACE M. DON, who, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF DR. HORACE M. DON

By Mr. Bailey:

Q Will you tell us your name, please?

A Doctor Horace M. Don.

Q Where do you live?

A Okmulgee, Oklahoma.

Q Oklahoma?

A Yes.

Q You say that your name is Doctor Don; what is your occupation?

A I am a physician.

Q What kind of practice do you have?

A I have a general practice.

Q How long have you been a physician, doctor?

A I graduated in 1952.

Q Do you know the defendant, Sam Sheppard?

A Yes, sir.

Q When did you first meet him?

A I met Doctor Sheppard when I went to Bay View Hospital as an intern in 1952 to '53.

Q Was your internship, sir, immediately after you graduated from medical school?

A Yes.

Q Did you have occasion to work with Doctor Sheppard as an intern?

A Yes, sir.

Q What was he when you first came to the hospital, was he an intern or was he a doctor?

A Doctor Sheppard was the head of the Department of Neurology and Orthopedic Surgery.

Q Do you know whether or not there were any other neurosurgeons in the Bay View Hospital staff when you first went to work there?

A No, sir, there was not.

Q Just Sam Sheppard?

A Yes, sir.

Q Did you have occasion to work with him on medical cases within and outside the limits of the hospital?

A Yes, sir.

Q Did you ever observe him performing surgery?

A Yes, sir.

Q Did you ever observe him engage in any other activities

such as eating?

A Yes, sir.

Q Any sports?

A Yes, sir.

Q Can you tell us with certainty, doctor, whether he is right or lefthanded from your observation?

A He is righthanded.

Q Now, doctor, had you completed your internship by July, 1954?

A July, 1953.

Q So that you were then a resident, is that correct?

A No, I went out in general practice in Bay Village.

Q I see. Did you have an office there?

A Yes, sir.

Q Where was the office?

A On Bassett Road.

Q In addition to your general practice, did you render any other kind of medical service?

A I worked with Doctor Sheppard in the Emergency Department at the hospital.

Q And were you on the hospital staff at this time?

A Yes, sir.

Q Did you have any other position not connected with the hospital as a physician?

A I was police physician at Westlake.

Q At the same time Sam Sheppard was?

A Yes, sir.

Q I take it then you divided up the work between you?

A Doctor Sheppard was out of town quite a bit doing surgery at other hospitals. In that event I took his calls.

Q Now, in connection with your duties as police physician in Westlake, did you have occasion to have anything to do with a case involving a party named Corino?

A Yes. I don't recall just how they spell that.

Q Was this prior to or subsequent to the murder of Marilyn Sheppard?

A It was approximately one month prior to the Sheppard case.

Q In connection with your duties in that case did you have occasion to meet Coroner Sam Gerber?

A Yes, sir.

Q Where did you meet him?

A I met him in the Police Department in Cleveland.

Q Do you remember the date?

A It was on a Sunday. I don't recall the date.

Q You say it was about a month prior to the murder?

A Yes.

Q Was anybody with you at the time you met him?

A There was another officer from Westlake and I believe his first name is Tony, but I don't recall his last name.

Q What were you doing in the police station on that day?

A There had been a shooting of the two brothers, they were held up early morning, early Sunday morning, and there was a suspect that they wanted to take down for questioning at the Cleveland Police Department, and they asked me to accompany the police officer to bring this man into the department.

Q This was a Westlake police officer?

A Yes.

Q And is this the man you called Tony?

A Yes, sir.

Q Now, do you remember where it was in the police station that you first saw Sam Gerber?

A It was in one of the offices. I couldn't tell you just exactly which office.

Q Were you introduced to him at some time?

A He introduced himself.

Q And did you have conversation with him?

A Yes, sir.

Q Did some part of that conversation relate to the Sheppard matter?

A Yes, sir.

Q Will you tell us what was said, by you and by Doctor Gerber?

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A He introduced himself and he asked me my name. I told him that I was Doctor Don, and I was the police physician for Westlake.

And he said, "What hospital do you work out of?"

I said, "Bay View Hospital."

He said, "Are you one of the Sheppard clan?"

I said, "Well, if being on the staff at the hospital makes me one of the members of the clan, I guess I am."

And at that point he made the remark, "I am going to get them some day."

Q Doctor Don, calling your attention to the 4th day of July, 1954, did you have occasion to see Sam Sheppard on that day?

A Yes, sir.

Q Where was he?

A At Bay View Hospital.

Q What time did you first see him?

A Somewhere around 10:00 in the morning.

Q Did you make any observations about his condition at that time?

A He was swollen about the face, eye, cheek.

Q Did you have any conversation with him or hear him say anything?

A No, well -- he was in a state of shock and under sedation at the time.

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MR. SPELLACY: Objection.

THE COURT: Sustained, counselor.

It is not responsive.

Q Without reference to his condition, do you remember hearing him saying anything?

A Yes, he kept saying, "Why did they do it, why didn't they do it to me?"

Q Did you ever hear him in the course of that day or any other time making reference to the events that had happened or that he claimed to have happened the night before, without using the word "they," in other words, did he always refer to more than one assailant or did he ever say, "he" or "she" that you can recall?

A He said "they".

Q How long were you in his presence on that day on the first occasion at the hospital?

A Oh, that must have been about five or ten minutes.

Q Now, have you ever been to Sam Sheppard's house before the 4th of July?

A Yes, sir.

Q Once or more times?

A Oh, several times.

Q Had you ever been there late at night, say around midnight?

A Yes, sir.

Q And were the occasions that you were there late at night socially or professionally?

A Professionally.

Q Would you tell us the circumstances under which you would go to the Sheppard house late at night prior to July, 1954?

A If we would have an accident case brought to the hospital, and if it wasn't serious and it was just a matter of deciding whether there was a fracture or some injury, instead of calling Doctor Sam to the hospital we would get the X-rays and take them out to his house to have him view the films as to what we should do with the case.

Q In other words, to seek his advice?

A Yes.

Q As head of the Department of Neurosurgery?

A Yes, sir.

Q Doctor, did he have a shadow box at the house?

A Did he have a what, sir?

Q A shadow box at the house?

A He had a view box.

Q Would you tell the jury what that is, just briefly?

A A view box is a box that has lights behind it, behind a plate glass, that you put your X-ray films up to, to give your viewing.

Q When you came to the Sheppard home late at night for

the purpose of having X-rays viewed and obtaining the advice of Doctor Sam Sheppard, can you tell us what door you would enter by?

A The door that faced Lake Road.

Q And can you tell us whether or not on those occasions the door was locked or unlocked?

A Unlocked.

Q By the way, did you ever have to awaken Doctor Sheppard personally, rouse him out of his sleep?

A Occasionally at the hospital, if there had been an accident or so, and he would lay down on one of the carts, I have had to awaken him.

Q This is prior to July, 1954?

A Yes, sir.

Q When you had to wake him on these occasions was he the kind of person who would snap to quickly, or was he difficult to wake up?

A He was difficult to wake up.

Q On the occasions when you would go out to the house with these X-rays, how would you see to it that Doctor Sheppard was awakened then?

A Occasionally we would call him first on the phone. Other occasions we would just go out to the house and call upstairs and have him come down.

Q Now, did he wake up first, or did someone else?

A Usually Marilyn.

Q And then she would get him up so you could talk to him?

A Yes.

Q After you saw Sam Sheppard on July 4th at the Bay View Hospital, did you go somewhere?

A I went out to the house.

Q You mean Sam Sheppard's house?

A Yes.

Q When you arrived was anyone else there?

A There were a number of police officers, Doctor Garber, some of his men from his department, I imagine.

THE COURT: Fix the time, Counselor, please.

MR. BAILLY: Yes, your Honor.

Q What time did you go out to the house, if you recall?

A That would have been around 10:30 in the morning.

Q This was right after you observed Doctor Sheppard in the hospital?

A Yes.

Q How many people would you say were in and about the Sheppard home when you got there at 10:30?

A Well, I would say there was a dozen or so.

Q And were they all adults?

A No, there was one child that I recall in the house.

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Q Was there any conversation between this child and Doctor Gerber in your presence?

A The child had asked permission to go into the house.

Q And did you hear any response by Doctor Gerber?

A He said that he could go in.

Q Did you see the child go in the house?

A Yes, sir.

Q How old a child was this, doctor?

A Oh, I would say about ten, eleven.

Q Boy or girl?

A Boy.

Q For how long a period of time were you inside the house?

A Quite a while. I don't recall how long exactly.

Q Would you say an hour?

A I imagine about an hour, hour and a half.

Q Were you doing something while you were there?

A Several officers along with myself had gone through the house completely looking for any type of object that could have been used as the murder weapon.

Q What rooms in the house did you personally search?

A One or two of the bedrooms, and the living room, and in the basement.

Q Prior to your departure from the house on that day, did you hear any additional conversation involving Doctor Sam Gerber?

A Yes, sir.

Q Where did this take place?

A Outside the home.

Q And do you recall who he was talking with or did you know the people he was talking with?

A Well, they were other gentlemen, again, I imagine from his office.

Q Is this shortly after you arrived or when you were leaving, or can you fix the time for us?

A This was about an hour, or hour and a half, or two hours after I had arrived.

Q And what did you hear Doctor Gerber say on that occasion?

A He stated that it was evident that the doctor had done it, and that they should go and get a confession from him.

Q Was this prior to noon time on July 4th, 1954?

A I don't recall.

Q Do you remember what time you left on that day?

A It was about around noon, one o'clock.

Q Do you know what a rongeur is, doctor?

A Yes, sir.

Q Tell the jury what it is?

A A rongeur is an instrument that we use in neuro and orthopedic surgery.

Q What does it look like?

A Well, there are several types of rongeurs. But it is, I suppose, an object something like pliers. It has a pulling mechanism.

Q What do you use it for?

A There are cutting rongeurs that are used to cut bone, such as this.

Q When you searched the Sheppard home on July 4th, did you see any cast spreaders such as Defense Exhibit TT hanging around?

A No, sir.

Q Did you see any cast cutters such as Defense Exhibit UU hanging around?

A No, sir.

Q I am going to show you an impression, what has been termed an impression, on State's Exhibit Number 35, one pillow, and I will ask you to look at that bloodstain, doctor, and view this outline here.

Now, have you ever seen a surgical instrument that would fit that pattern?

A No, sir.

Q Did you ever see anything in the house that day, surgical or otherwise, in the way of an instrument that was similar in size and shape to the impression disclosed by that pillow?

A No, sir.

MR. BAILEY: You may have the witness.

THE COURT: Counselor Corrigan or Spellacy?

CROSS EXAMINATION OF DR. HORACE M. DON

By Mr. Spellacy:

Q Sir, when did you graduate from school?

A Sir?

Q When did you graduate from school?

A In 1952.

Q What school was it that you graduated from?

A Des Moines.

Q Des Moines what?

A Des Moines College.

Q Des Moines College?

A Osteopathic Medicine and Surgery.

Q Where is that located?

A Des Moines, Iowa.

Q Then you came to intern at Bay View Hospital in Cleveland, is that correct?

A Yes, sir.

Q And you interned there for how long?

A One year.

Q And after the one year what did you do?

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A I went out in general practice in Bay Village.

Q Where did you live at that time?

A In Fairview Park.

Q Fairview Park?

A Beg your pardon -- yes, Fairview Park.

Q That would have been what year?

A That was '53, '54.

Q 1953 to '54?

A Yes, sir.

Q Where did you live in Fairview Park?

A I don't recall the street.

Q Well, approximately, was it south of Lorain Road, north of Lorain Road?

A It was north of Lorain Road.

Q And how long did you practice in Bay Village?

A For approximately a year.

Q Approximately a year?

A Yes.

Q And did you practice in the Cleveland area after practicing in Bay Village?

A I did for, oh, about two or three months after the murder.

Q Where did you practice?

A When, sir?

Q Well, after practicing in Bay Village where did you

practice at?

A On July 1st of '54 I had moved to an office in Parma.

Q And how long did you practice in Parma?

A Just a few months.

Q Did you then move to Oklahoma after that?

A I moved to Iowa.

Q Pardon me?

A I moved to Iowa; Tipton, Iowa.

Q When did you go to Tipton, Iowa?

A About September of '54.

Q You practiced then in Tipton, Iowa?

A Yes, sir.

Q How long did you practice in Tipton, Iowa?

A For approximately a year and a half.

Q Now, after Tipton, Iowa, did you then move to Oklahoma?

A No, I stayed in Iowa until 1958.

Q Well, did you practice in other towns other than Tipton?

A Yes, sir.

Q What other towns did you practice in?

A Albia and Bussie, Iowa.

Q Pardon?

A Albia and Bussie, Iowa.

Q Then in 1958 you moved to the area that you live in

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now?

A No, I bought a hospital in Holden, Missouri.

Q Holden, Missouri?

A Yes, sir.

Q How long did you remain in Holden, Missouri?

A Another doctor and I owned and operated the Holden Hospital and Clinic from '58 to '61.

Q From '58 to 1961?

A Yes.

Q Then from Holden, Missouri, did you move to where you are now?

A Yes.

Q And you operated or practiced as a doctor in the town that you have told us about from 1961 to the present time, is that correct?

A Well, I have just been there about seven months.

Q About seven months. Prior to -- what is the name of the town, again?

A Okmulgee.

Q Prior to Okmulgee where did you practice?

A Malika, Oklahoma.

Q How long were you in Malika?

A Again, I operated a hospital for four years at that time.

Q Four years?

A Yes.

Q Sir, in 1954, you were in general practice in July of 1954, is that correct?

A Yes, sir.

Q Prior to this time you had been in general practice for how long?

A Since July of '53.

Q So about a year?

A Yes, sir.

Q And you lived in Fairview Park during that period of time that you were out in practice?

A Yes, sir.

Q Is it not a fact, sir, that you were a close friend and associate of Doctor Sam Sheppard?

A I was an associate in the hospital with Doctor Sheppard, I worked with him.

Q Well, you had some common interests together, didn't you?

A Yes.

Q I mean like sports cars?

A Yes, sir.

Q On occasions you would come over with your sports car and take Doctor Sam for a ride, or he had a sports car, too?

A Yes.

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Q You had this common interest together, didn't you?

A Yes, sir.

Q Incidentally, do you know how many cars he had?

A At that time I believe he had two.

Q Do you know what kind of cars?

A Ford convertible and the Jaguar, and he had an MG prior to that, too.

Q Are you sure it was a Ford convertible?

A I am not sure. It was another car.

Q Do you recall a Lincoln Continental?

A Yes, I believe I did.

Q In July of 1954 he had a Lincoln Continental, didn't he?

A I don't recall.

Q Now, you have indicated while you were interning at Bay View Hospital, that you had occasion to go over to the Sheppard home, is that correct?

A Yes, sir.

Q At night?

A Yes, sir.

Q What time at night?

A Oh, it could be at all hours. Usually accidents start later in the evening, and would go all night.

Q You would take the X-rays out to him?

A Yes, sir.

Q To have his interpretation of the X-rays, is that correct?

A Yes, sir.

Q Who would take the X-rays?

A I would.

Q You would take the X-rays?

A Yes, sir.

Q You would ask for Doctor Sam Sheppard's interpretation of the X-rays?

A Yes, sir.

Q He was the head of the neurology department, is that right?

A He was head of the Department of Neurology and Orthopedic Surgery.

Q And, of course, I think you indicated he was the only one in the department, is that correct?

A Yes, sir.

Q Now, when you took these pictures out to him at all hours of the night as you have indicated, would you ring the door bell?

A No, sir.

Q Pardon me?

A No, sir.

Q What would you do?

A Walk into the house.

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Q Just walk into the house?

A Yes, sir.

Q You wouldn't call or anything beforehand?

A Occasionally we might put in a phone call. Not always.

Q You say occasionally, not all the time?

A No, sir.

Q Well, sometimes it would be necessary for him to come down to the hospital, wouldn't it?

A If the accident was large and involved a number of people, he would, we would call him and he would come down to the hospital.

Q But you are telling us that if it were a minor accident that you would have the X-rays taken and -- you would take the X-rays out to his house for his interpretation?

A Yes.

Q Well, if the interpretation were then something that was not minor, but major, it would be necessary for him to go back to the hospital with you, wouldn't it?

A Yes, sir.

Q But you didn't call him before going out to his home?

A Occasionally.

Q Pardon me?

A Occasionally.

Q You would go out there unannounced?

A Yes, sir.

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Q And walk into the house?

A Yes, sir.

Q Did you have a key to the door?

A No, sir.

Q When you went into the house would you call?

A I would walk to the bottom of the stairway, and holler up.

Q Was there a door bell on the house, do you know?

A I don't recall.

Q You would walk to the bottom of the stairs and call up; did you ever go upstairs?

A No, sir.

Q When you went to the bottom of the stairs, would you have to call once or would you call twice or how many times would you call?

A Usually a couple or three times.

Q Two or three times?

A Yes, sir.

Q And Doctor Sam would come down?

A Eventually, yes.

Q How was he dressed on these occasions?

A Different ways.

Q Well, tell us different ways.

A Well, sometimes he would have shorts, T-shirt. Sometimes he would have trousers on.

Q What kind of a T-shirt?

A Just regular undershirt, T-shirt.

Q When you say regular, do you mean the kind with the sleeves on them?

A Yes.

Q The kind with a collar around here?

A Yes, sir.

Q Were there occasions when he wouldn't have a T-shirt on?

A Yes, sir.

Q Sometimes he would have a T-shirt on and sometimes he wouldn't?

A Yes, sir.

Q And sometimes he would have trousers on, is that correct?

A Yes, sir.

Q And other times -- did he wear pajamas?

A No. He evidently wore shorts.

Q He wore shorts. Now, how many occasions did you go out to the house like this?

A Oh, I would say half a dozen or so.

Q Do you know when they were that you went out to the house like this?

A No, I don't recall any dates.

Q You don't recall any dates. Well, was it winter, was it summer, was it spring, or was it fall, can you tell us?

A It could be any time of the year.

Q It could be any time of the year?

A Yes.

Q Now, this incident involving the Careno -- the Careno incident you told us about, that had to do with a shooting on Lorain Road, didn't it?

A Yes, sir.

Q Careno's is a restaurant on Lorain Road, isn't that right, or they owned a restaurant on Lorain Road?

A Yes.

Q Or is it Center Ridge Road, I think it is?

A I don't recall the name of the road right now.

Q Were you an intern at the hospital at that time?

A No, I was out in practice at that time.

Q You were the police surgeon for Westlake?

A For Westlake.

Q You shared this duty with Doctor Sam Sheppard, is that correct?

A Yes, sir.

Q Did you have a badge, too?

A Yes, sir.

Q Now, did you have anything to do with the Bay Village Police Department?

A Unofficially.

Q Pardon me?

A Unofficially.

Q You were the unofficial police surgeon for Bay Village?

A Yes, sir, along with Doctor Sheppard.

Q Was he an official, or unofficial, if you know?

A I don't recall.

Q At any rate, you had occasion to see Doctor Gerber, you told us about?

A One occasion.

Q One occasion. That is the first time you had ever met Doctor Gerber?

A The first time was the shooting a month prior to the murder.

Q And that would have been in June of '54?

A Yes.

Q That was at the Cleveland Police Station?

A We had brought the person to be questioned down to the Cleveland Police Station.

Q The meeting with Doctor Gerber took place in the Cleveland Police Station?

A Yes, sir.

Q Did he participate in the questioning, do you know?

A That I don't know.

Q Were there Cleveland detectives present?

A I believe so.

Q Do you know their names, the Cleveland detectives?

A No, sir.

Q Was it in the Homicide Unit?

A I really don't know.

Q Do you recall what floor it was on?

A No, I don't.

Q Doctor Don, you testified in the first trial, didn't you?

A Yes, sir.

Q Did you at any time tell Mr. William Corrigan about this particular incident with Doctor Gerber?

MR. BAILEY: I object unless it is shown that he was questioned about it.

THE COURT: Overruled.

MR. BAILEY: I am sorry; was the question did he at any time tell Mr. Corrigan not only during trial but at any time?

MR. SPELLACY: At any time.

MR. BAILEY: The objection is withdrawn.

A Which Mr. Corrigan are you referring to?

Q Mr. William Corrigan, the man who asked you questions in the first trial, the man who represented Doctor Sam Sheppard.

A Yes, I told him about it.

Q You told him about it. Did he ask you this question

in the first trial?

A No, sir.

Q So you didn't testify to this in the first trial?

A No, sir.

Q Of course, you know now that Mr. William Corrigan is dead, don't you?

A Yes, sir.

Q Tell me, on July 4th, 1954, what time did you go to the hospital that morning?

A It was somewhere between nine and ten o'clock in the morning.

Q Nine and ten o'clock?

A Yes, sir.

Q Why did you go to the hospital?

A We had received a call from Doctor and Mrs. Selnik that Marilyn had been killed.

Q That was the nature of the call?

A Yes.

Q But you went directly to the hospital from your home?

A Yes, sir.

Q Did your wife accompany you?

A No, sir.

Q You went alone?

A Yes, sir.

Q Now, did you know that Doctor Sam Sheppard was at the

hospital when you left your home to go to the hospital?

A No, sir.

Q Did you know where Doctor Sam Sheppard was when you left your home to go to the hospital?

A No, sir.

Q What time was it that you arrived at the hospital?

A Probably ten minutes or so after I received the call.

Q What time did you receive this call, again?

A Somewhere between nine and ten o'clock.

Q Somewhere between nine and ten you received this call?

A Yes.

Q And you went directly to the hospital?

A Yes.

Q Who was the first person you talked to when you went to the hospital?

A I don't recall. I imagine I talked to one of the nurses.

Q Well, did you see Steve Sheppard there that morning at the hospital?

A Yes.

Q Now, without telling us the conversation you had with Steve, did you talk to Steve?

A I had gone --

Q Do you understand my question, doctor? Without telling us the conversation that you had with Steve, did you talk to him, yes or no you can answer that?

A No.

Q You didn't talk to Steve?

A No.

Q Let me ask you this: Where did you see Steve Sheppard?

A I beg your pardon, I asked him one question.

Q Where did you ask him this question?

A This was in Doctor Sam Sheppard's room.

Q He was in the room with Doctor Sam Sheppard?

A Yes.

Q What time was this?

A Shortly after I arrived at the hospital.

Q This would have been between nine and ten o'clock?

A It would have been about fifteen minutes after I had received the call.

Q Did you see Doctor Samuel Gerber at Bay View Hospital, or around that time?

A No, sir.

Q Do you know if he had been there at the hospital at that time?

A When I left the hospital he was out at the house.

Q When you left the hospital he was out at the house?

A Yes.

Q When you got to the hospital, you assured yourself that Marilyn was dead, is that correct?

A I had been told of this.

Q Now, you talked with Doctor Steve Sheppard?

A I asked him one question.

Q And was this question asked in the room where Doctor Sam Sheppard was?

A Yes.

Q Tell me, at this time did you examine Doctor Sam Sheppard?

A No.

Q How long were you in that room?

A Probably three to five minutes.

Q You didn't have occasion to examine him as a physician?

A No, sir.

Q Sir, based upon your own knowledge, you don't know what was the matter with him at that time, is that correct?

A The only thing I observed was multiple abrasions and contusions about the face.

Q Multiple abrasions and contusions?

A Yes.

Q What are multiple?

A Many.

Q How many did you see?

A Well, you take a glance, the whole face seemed to be swollen and his cheek and his eyes.

Q My question was, how many multiple abrasions did you see?

A I didn't count them.

Q Can you give us an estimate as to how many you saw?

A Probably three or four.

Q Where were they located?

A About the mouth, the cheek, eyes.

Q Where on the mouth?

A Around the lips.

Q How many on the lips?

A I didn't count them.

Q You did notice the swelling on his right side of his face, didn't you?

A Yes.

Q Is this why you said many?

A Yes.

Q Now, from the hospital you went out to the Sheppard home, is that correct?

A Yes.

Q Did anyone request you to go out to the Sheppard home?

A No, sir.

Q You knew that Marilyn had been killed, is that correct?

A I found that out.

Q And you knew that the police were out there, is that correct?

A I surmised that they were.

Q You went out to the home?

A Yes, sir.

Q Did you go out to the home to assist the police?

A I went out to see if there was anything I could do.

Q You conducted an investigation out at the home, is that correct?

A There were several officers and myself that were asked to go through the house to see if we could find anything that might be used as a weapon.

Q Now, doctor, what officers were there?

A Mr. Drenkhan, Mr. Hubach --

THE COURT: Patrolman Drenkhan,
is that your testimony? Officer Drenkhan was
there?

THE WITNESS: Yes.

THE COURT: Please proceed,
Counselor.

Q Was Sergeant Hubach there?

A Yes, sir.

Q That was Sergeant Hubach at that time, is that correct?

A Yes, sir.

Q Was Chief Eaton there?

A Yes, sir.

Q Was Doctor Gerber there?

A Yes, sir.

Q Did you know at that time Patrolman or Detective Pat Gareau?

A No, I did not, at that time.

Q Was he there at that time?

A I don't recall.

Q Was Officer Robert Schottke there at that time?

A I don't recall. I don't know him.

Q Well, when you arrived there was the body of Marilyn Sheppard still there?

A No, it had already been removed.

Q Pardon me?

A It had been removed.

Q The body had been removed already, is that correct?

A Yes.

Q When you arrived there?

A Yes.

Q And this is the first time you arrived there that day?

A Yes.

Q Now, you don't know whether or not Doctor Samuel Gerber

had been to Bay View Hospital before you went there, do you?

A No, I don't.

Q How long did you remain at the home that morning?

A Roughly an hour and a half.

Q Hour and a half?

A Two hours.

Q And you conducted a search of the premises?

A I was one of several.

Q One of several, how many?

A I believe that there were about four or five other officers.

Q Did you go down to the beach?

A We were primarily looking in the house itself.

Q Sir, do you understand my question? Did you go down to the beach?

A I believe I did later.

Q Did you go down the side of the hill?

A I went down the steps.

Q Did you search on the side of the hill?

A No.

Q There were people searching on the side of the hill, weren't there?

A Yes, sir.

Q The brush there was quite heavy, wasn't it, on the

side of the hill?

A In areas there was quite a bit of brush.

Q The steps there were quite steep going down to the beach, weren't they?

A Yes, sir.

Q Do you know if anything was found while you were there?

A Before I left that morning a couple of boys brought in a packet that had a watch and other things in it.

Q Did they bring this into the house?

A I don't recall if it was brought into the house or brought to the men outside.

Q Were you there when this was done?

A I don't -- I recall that they stated that they had found this, but I didn't see it.

Q You didn't see them find it?

A No.

Q If I told you this was about one o'clock that they found it, would that refresh your memory, to your recollection?

A It doesn't bring it back.

Q Well, now, you mentioned that Doctor Gerber made a statement to somebody; do you recall that?

A Yes, sir.

Q Who did he make that statement to?

A I would imagine they were men --

Q No, do you know who he made that statement to?

A No, I don't know the names of the individuals.

Q Do you know if they were Bay Village policemen?

A I don't believe they were, unless Chief Eaton was there.

Q Unless Chief Eaton was there?

A Yes.

Q Was Patrolman Drankhan there?

A I don't know if he was in that party at that time.

Q Was Sergeant Hubach there?

A I don't recall that he was in that party at that time.

Q Were they Cleveland detectives?

A I surmise that they were.

Q You surmise, you don't know, though?

A No.

Q Then you left the house that day, is that correct?

A Yes.

Q Did you return to the house at any time after that?

A Later on in the afternoon.

Q And did you go back to conduct a further investigation?

A No, I took another party over to the house.

Q How long did you remain at the house that time?

A Oh, probably 15 minutes or so.

Q Did you go back to the house after that?

A Not that I recall.

MR. SPELLACY: No further questions.

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REDIRECT EXAMINATION OF DR. HORACE M. DON

By Mr. Bailey:

Q Doctor, you have told us that Coroner Gerber said on the morning of the 4th, "It looks like the doctor did this, let's go get his confession."

Now, did you testify to that at the last trial?

A No, sir.

Q I will ask you to study this.

A Oh, yes, sir, I did.

Q Did you also testify about your trips to the Sheppard home with X-rays, at the last trial?

A Yes, sir.

Q Now, have you ever prior to today told anyone other than Bill Coirigan, the prior defense lawyer, about the remarks Sam Gerber made in June in the Cleveland police station?

A I told the family about it.

Q Had you ever met me before I came into this trial?

A I met you last January or February.

Q And where was that?

A At Doctor Steve Sheppard's house.

Q You were in town for some occasion at that time?

A Yes, sir.

Q And did you have conversation with me at that time?

A I talked to you at that time.

Q Did we have conversation about this incident in the Cleveland police station?

A Yes.

MR. BAILEY: That is all.

RE-CROSS EXAMINATION OF DR. HORACE M. DON

By Mr. Spellacy:

Q When you say you told the family about it, that was the Sheppard family?

A Yes.

MR. SPELLACY: No further questions.

THE COURT: You are excused.

I will be with you in a minute, gentlemen, please.

MR. BAILEY: All right, your Honor.

THE COURT: Ladies and gentlemen of the jury, there is not another witness available at this time. However, it is ten minutes to 12:00 and we are near our customary luncheon recess hour, at any rate. So we will adjourn for the day.

While you are away on your weekend adjournment, you will bear in mind the instructions

given you on each occasion when you leave the room. You shall not discuss this case or what you have heard of it amongst yourselves.

You shall not permit anyone else to discuss it with you, nor shall you permit yourselves to overhear anything that relates to this case by any means of communication, having in mind the instructions given you specifically with respect to printed material, radio, or television commentators, or comments made through the news media.

We will stand adjourned until 9:15 on Monday morning, and may I see counselors in chambers, please.

(Thereupon an adjournment was taken to 9:15 a.m., Monday, November 14, 1966, at which time the following proceedings were had:)

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