

Sgt. Peterson.

(AT SIDE BAR.).

(Off-the-record discussion.).

By The Court:

As far as the statement made by the Mother, are you objecting to that?

By Mr. Fierro:

Yes.

By The Court:

The objection is sustained.

By The Court:

As far as the objection of three different, really two of the one, and one different story of the statements by the Defendant, you object to this?

By Mr. Fierro:

Yes.

By The Court:

That objection is over ruled.

(END OF SIDE BAR.).

SGT. EDWARD PETERSON, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name?

A. Edward B. Peterson.

Q. Your occupation?

A. Pennsylvania State Police.

Q. How long?

A. 21 years.

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Q. What is your rate or rank?

A. Sgt.

Q. Officer Peterson, returning to October 31, 1973, did you have occasion to go to the home of the Hubbards'?

A. Yes, Sir, I did.

Q. Who accompanied you there, if anyone?

A. I was accompanied by Lieutenant Hynick.

Q. Describe what happened when you arrived at the Hubbard home?

A. We arrived at the Hubbard home, we talked with Mr. and Mrs. Hubbard briefly, general conversation and we were later joined approximately a half hour later at the home by yourself. The DA.

Q. Then what happened?

A. Then we had, I believe you asked at the time if Kim was there and they said he was at school.....

By Mr. Fierro:

I object to this.

By The Court:

Objection is sustained as far as the conversation.

By Mr. Ertel:

Q. Just leave out, unless Mr. Hubbard was there, just what happened?

By Mr. Fierro:

No, I object to that, he could be there and it still could be objectionable.

By The Court:

The objection is sustained, unless it was stated by the Defendant himself.

By Mr. Ertel:

Q. Describe the process that went on at that point?

By Mr. Fierro:

I object to that, what does that mean?

By The Court:

Q. Do you understand the question?

A. Yes, Sir.

Q. You may answer.

A. We talked generally to Mr. and Mrs. Hubbard and were there a short time and Kim Hubbard came to the home.

By Mr. Ertel:

Q. Then what happened?

A. Then we wanted to talk to.....

By Mr. Fierro:

I object to what they wanted to do.

By The Court:

Q. What did you do, Officer.

By Mr. Ertel:

Q. Was this stated in Kim's presence?

By Mr. Fierro:

I object to your leading the witness.

By The Court:

Sustained.

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By Mr. Ertel:

Q. What was stated in Kim's presence at that time?

By Mr. Fierro:

I object.

By The Court:

Sustained.

By Mr. Ertel:

Q. Describe what occurred?

By Mr. Fierro:

I object to this, it is vague and ambiguous and he tries to get it in the back door.

By The Court:

Q. You may answer, but no conversations unless they are by the Defendant.

A. We talked with the Defendant, Kim Hubbard.

By Mr. Ertel:

Q. Who did you talk to first, if anyone?

A. Mr. and Mrs. Hubbard.

Q. Separately?

A. Yes.

Q. Did you talk to Kim separately?

A. Yes.

Q. Who was present when Kim was talked to?

A. Lieutenant Hynick and yourself.

Q. Describe that conversation?

A. We talked to Kim Hubbard. He advised us he got up at approximately 1:00 in the morning on October 31st. He went down

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to the store and bought three packs of cigarettes.....

Q. When you say "in the morning"?

A. That is 1:00 P.M. in the afternoon he got up.

By Mr. Ertel:

Q. Proceed.

A. 1:00 P.M. in the afternoon. He went down to purchase three packs of cigarettes at the store, returned home, his Mother was going to wax the floor, so they could clean them and buff them, He went over to the, he advised us he went over to the Rent-All Service in Williamsport for the purpose of renting a buffer. On the way back from Williamsport he stopped at the Hum-Dinger, had a "Cosmo" and a soft drink, had a conversation with several friends in the Hum-Dinger and then returned home and his Mother was waxing the floor, and the floors were still wet, so he went out to work on his car. He said he worked on his car for awhile, came back in the house and his Mother was still waxing the floors, they were wet, so he went over to the Fifth Avenue Car Wash for the purpose of having his car washed. He said it took him approximately 25 minutes, five minutes over, five minutes back, he put three quarters in the machine, about five minutes for each quarter. On the way back from the Car Wash he stopped at the Hum-Dinger for the purpose of having a soft drink. He stated that he had a conversation with an individual by the name of Ard Stetts. They talked briefly and said they would meet later on down at the Hum-Dinger, later on that evening, and then stated that he went home.

Q. What happened then, if anything?

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A. He advised us he received a telephone call at approximately 4:45 - 4:50, the person calling was Mr. Jack Hill. Mr. Hill inquired as to Jennifer, and Kim Hubbard inquired from his Mother where Jennifer was and she said she left. Then he advised us towards dark, it was getting dark, his Mother asked him to drive around and see if he could locate Jennifer. He said he drove down towards the Humpty-Dumpty, down around the playground area, then he went down to the Hum-Dinger and then returned home.

Q. What did he say he did when he made that trip around?

A. Well, I asked him, he said he didn't really look for her, he just drove around, he went down to the Hum-Dinger and then came back home.

Q. What happened after that?

By The Court:

May I see Counsel?

(Side Bar consultation not made a part of record.).

By Mr. Ertel:

Q. What day were you inquiring about when he traced these activities?

A. We were talking about his activities and activities on October 19, 1973.

Q. At that time, what occurred next, if you recall?

By Mr. Pierro:

Not what occurred, you mean the conversation between him and the Defendant, otherwise I object.

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By Mr. Ertel:

Q. Both conversations and actions as referred to the Defendant?

A. In talking to Kim Hubbard, the Defendant, we asked him if he would voluntarily submit his shoes or footwear for examination, and he stated that he would.

Q. What happened then?

A. He went and got the shoes that we requested.

Q. What shoes were they?

A. Well, he brought, talking about a pair of boots.

Q. What did he bring first, what was the first object he brought?

A. If I recall, I believe it was a pair of sneakers.

Q. Then what?

A. Then what?

A. Then a pair of loafers.

Q. What happened about the loafers?

A. Well, then in discussing the loafers were, we learned that the loafers belonged to Mr. Hubbard.

By Mr. Pierro:

That statement I object to, we move that it be stricken and the Jury instructed to ignore it.

By Mr. Ertel:

Q. Did the Defendant tell you that is who they were, "Yes" or "No"?

A. I don't recall.

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By The Court:

The objection is sustained, strike it from the record.

By Mr. Ertel:

Q. Was it in the presence of the Defendant when you found out whose loafers they were? *Kim Hubbard was found*

A. Yes, Sir, I believe it was. *He was a sample of his own*

Q. Then what happened?

A. As I said before, we asked him if he would vountarily allow us to make an examination of the boots and also if we could voluntarily make an examination of his vehicle, which he agreed we could do.

Q. When did the boots come out?

A. They were brought down last.

Q. I show you marked as Commonwealth's Exhibit No. 96 and 97, and ask you if you can identify those boots?

A. Yes, Sir, I can.

Q. What are they?

A. They are Army combat boots.

Q. Did you obtain those?

A. Yes, Sir, I did.

Q. From whom?

A. They were set down at the table, I think they came from Kim Hubbard. *See page 558*

Q. After the boots were obtained, what happened next?

A. We talked to Kim Hubbard and he voluntarily agreed to go down to the South Williamsport Police Station with the Officers, which we did.



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Q. Was the car taken down?

A. Yes, Sir, it was.

Q. Did you have a second occasion to be present when Kim Hubbard was talking with the Police?

A. Yes, Sir, I did.

Q. When was that?

A. That was on November 1, 1973.

Q. Where was that?

A. That was at the State Police Barracks at Montoursville.

Q. At that time was he advised of his rights?

A. Yes, Sir, he was.

Q. What if anything did he tell you there?

A. In talking with Kim Hubbard on that date, his conversation, or what he related to us was essentially the same as what he had told us on October 31st with one exception.

Q. What was that exception?

A. It had to do with when he came in contact with Ard Stetts on October 31st, he said he didn't talk with Ard that afternoon around 4:00, he said it was later on in the evening, he saw him at the Hum-Dinger.

Q. Did you have occasion to see him again?

A. Yes, Sir, I did.

Q. When was that?

A. This was on November 3rd, it was a Saturday at the Williamsport Police Station.

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Q. What occurred at that time?

A. It was about 2:30 that day, and I walked into the Council Chambers at South Williamsport, and the Defendant was there.

Q. Describe that conversation, if you will, please?

A. At that particular time in the Council Chambers, I had no conversation with the Defendant.

Q. What, if any, conversation did you hear the Defendant have with anyone else?

A. He had a conversation with, at that time with Lieutenant Hynick.

Q. What was that?

A. Lieutenant Hynick asked him would it be safe to assume that if his car was seen on October 19th, that he was driving it, and he said if his car was seen on October 19th that he was driving the car.

Q. Anything else?

A. He asked him if he was ever down in that particular area.

Q. What did he say?

A. He said "No."

Q. What are you talking about?

By Mr. Fierro:

Not not area what he was talking about, what Lieutenant Hynick was talking about and whether he specified.

By Mr. Ertel:

Q. What areas are being talked about, continue, give the conversation?

A. He was talking about the area of Sylvan Dell.

Q. What was the conversation about, if you recall?

A. Lieutenant Hynick asked the Defendant if had ever been down at that particular area, down the Sylvan Dell Road.

Q. What did he say?

A. He said no.

Q. Were you there from the beginning of the conversation, or was the conversation going on when you arrived?

A. It was going on when I arrived, I was there for a very short time.

Q. Then where did you, what happened after that?

A. I went over to the Chief's Office, the conversation I just talked about took place in Borough Council Chambers, I went over to the Chief's Office, which is separate. Corporal Barto was there and Kim Hubbard came over there, the Council Chambers.

Q. What happened there?

A. We were talking to Kim and at that time and I asked him about the mud on his car and in his car.

Q. What did he say?

A. He said, "What mud are you talking about?", and he got very excited and agitated.

By Mr. Pierro:

I object to that.

By The Court:

The objection is sustained.

*Witness tried to tell the  
Police that he found it  
in his car at Sylvan Dell*

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By Mr. Ertel:

Q. Did he raise his voice?

By Mr. Fierro:

I object to your leading the witness.

By Mr. Ertel:

Q. What, if anything, did he do with his voice, if anything?

By Mr. Fierro:

That is leading.

By The Court:

Be more specific in your answer, Sir, rather than a conclusion.

A. He became rather loud. He was excited, he was agitated at the question.

By Mr. Ertel:

Q. What occurred next?

By Mr. Fierro:

I move that the answer that he became excited and agitated be stricken.

By The Court:

Strike it from the record.

By Mr. Ertel:

Q. Describe his condition.

By Mr. Fierro:

I object to that.

By The Court:

Q. Do you understand the question?

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A. Yes.

Q. You may answer, but no conclusions, what you observed.

A. When I asked the question, he became very vocal and very loud.

By Mr. Ertel:

Q. What did he say, if anything?

A. At that particular time, after I asked him about the mud, Chief Smith came in his office and he said that Attorney Bonner was there to see Kim Hubbard and Kim said, "I want to tell you about the mud.", and I said, "No, I would rather you talk with Mr. Bonner before you discuss this with me any further.", and he left and had a conversation or discussion with Mr. Bonner.

Q. Did you ever have contact with the Defendant after that?

A. No, I did not.

Q. No further questions.

CROSS EXAMINATION

By Mr. Fierro:

Q. Now, Officer Peterson, you have been on the force about 20 years?

A. 21 years.

Q. And you know from your experience and your professional expertise that people do innocently make mistakes when they recount a story, don't you know that?

A. On occasion.

Q. As a matter of fact, you, a professional Officer of 21 years experience made a mistake just now in your own

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testimony, don't you recognize that?

A. No, Sir.

Q. You don't?

A. No.

Q. Well, one of the very first things you said, isn't it true, until the District Attorney asked you another question, when you said about the statement that was being made, you said that Kim Hubbard told you he got up at 1:00 A.M., and then you changed that to 1:00 P.M. after the District Attorney asked the question, do you remember that now?

A. Yes, Sir, I do.

Q. So you made a mistake testifying under oath, didn't you?

A. It was a mistake.

Q. Sure it was a mistake. In fact, even when you said 1:00 P.M. you also used the term 3:00 P.M. as well, didn't you?

A. If I recall, I said 1:00 P.M. in the afternoon.

Q. But it was different than 1:00 A.M., wasn't it?

A. Yes, Sir.

Q. So now won't you tell this Jury that even professionals like you make mistakes, let alone an ordinary human being, you recognize that?

A. Everyone makes mistakes.

Q. Sure they do, because you are here, aren't you, essentially to tell the Jury that Kim Hubbard in some variation or other changed his story, isn't that correct?

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A. No, Sir, it is not.

Q. It is not?

A. No.

Q. Well, you were talking about, for example, the difference between the conversation of October 31st, between that and November 1st, and your answer to the November 1st conversation with Kim or questioning, you said "No, that conversation was essentially the same as October 31st.", that the only thing Kim Hubbard changed was the time he saw Stetts?

A. That is correct.

Q. Then we are down to, I think the November 3rd conversation, is that correct? Those were the three you were involved in, true?

A. Yes.

Q. Of course, during one or more of these sessions the District Attorney was present, wasn't he?

A. Yes, Sir, he was.

Q. I am sure that he must have asked a bunch of questions, didn't he?

A. Yes, Sir, he did.

Q. He probably asked more questions than the rest of the people put together, didn't he?

A. No, he didn't.

Q. Now, are we down to November 3rd, which I believe is the last time, if the date is wrong tell me, is the last time that you were in Kim Hubbard's presence when he was being interrogated, is that correct?

*Kim came into the waiting room to see me and I asked him Cop's name and he said you're*

*HEARD*

*will*

*25K-11*

*AT case 1100*

Sgt. Peterson.

A. When I was in his presence on that particular date, yes, Sir.

Q. You were not present all of the time, as I understand it, you were in and out or somebody else came in and out?

A. No, he was already there when I arrived.

Q. He was there before you, and probably had been undergoing some questioning before you got there?

A. I don't know what took place before I got there.

Q. Now, in any case on November 3rd, you said, and I want you to be sure about this, that Lieutenant Hynick asked Kim Hubbard a question of, to this affect, whether he called him "Kim" or "Mr. Hubbard" does not matter, he said to Kim, "Now, if your car was being operated on October 19th, would you say that you are the only one who was driving that car?", and Kim said, "Yes, I would be the only one who was driving it.", is that correct?

A. Yes.

Q. You say Hynick asked that question?

A. Yes, Sir.

Q. Are you sure you are not mistaken about that?

A. No, I am not.

Q. You are not?

A. No.

Q. Of course, you did not hear either Barto testify or Hynick testify here, did you?

A. No, Sir, I did not.



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Q. If I tell you that Barto testified that he, Barto, asked that question, would you change your statement now?

By Mr. Ertel:

I object to the question, Corporal Barto has not testified.

By Mr. Pierro:

Q. I was ruffling through these papers to get his name.

By Mr. Ertel:

Corporal Houser advised him of his rights.

By Mr. Pierro:

Q. Corporal Houser, if I tell you Corporal Houser is the man who said he asked him that question, would you change your statement?

A. No, because of what I heard Lieutenant Hynick ask. In fact, he preceded his question by stating, "Do you mind if I ask you a few questions, Kim?". Now, what was asked by Corporal Houser prior to my getting there, I don't know, he may have asked the same question, I don't know that.

Q. Did you see Corporal Houser draw up a statement concerning the three questions he asked Kim Hubbard, did you see him do that?

A. Did I see him do what?

Q. Draw up a statement, you know, type it up and sign it concerning the three questions he asked Kim Hubbard?

A. I told you that I was not there at that time.

Q. Did you see him draw up a statement?

A. I was in the Council Room a brief period of time,

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then I went over to the Chief's Office, and I don't recall the conversation Corporal Houser had with the Defendant.

Q. Did you see Houser there?

A. Yes.

Q. Did you hear him ask any questions at all?

A. No, I didn't.

Q. Now, if I tell you that Lieutenant Hynick did not give any testimony as to who was driving Kim's car on October 19th, would you change your statement?

A. No, because I can only relate to you what I remember.

Q. What you saw and what you heard?

A. That is right.

Q. The October 31st conversation, I gather took place in the Hubbard home?

A. Yes, Sir, it did.

Q. The November 1st conversation took place in the Police Hall?

A. No, Sir.

Q. South Williamsport, I mean?

A. No, Sir.

Q. In his house again?

A. No, Sir.

Q. Where?

A. The State Police Barracks.

Q. The November 3rd conversation, was that the one in the South Williamsport Municipal Hall?

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A. Yes.

Q. We will call it the South Williamsport Police Hall, for short.

By The Court:

Mr. Fierro, is your examination going to be extensive?

By Mr. Fierro:

Yes.

By The Court:

We will recess for noon at this time. The Defendant is excused. The Jury is excused. Court is recessed.

(Recessed at 12:10 P.M.).

(Reconvened at 1:15 P.M.).

(Sgt. Edward Peterson returned to the stand.).

By Mr. Fierro:

Q. Mr. Peterson, as I understand, on October 31st when you were in the Hubbard house, when you did get to speak to Kim, that somebody, and you can tell us who, warned him about his rights, which you Police, and we Lawyers, know as the Miranda Rights, isn't that right?

A. Yes.

Q. Who was that, was it you?

A. You mean was he given his rights at that time?

Q. By you?

A. May I answer the question, I said at that time he was not given his rights.

Q. He was not?

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611.

*He will not be asked the question*  
A. No, Sir. He voluntarily surrendered.

Q. Well, it doesn't matter, you were asking questions?

*Police were going to do*  
A. The Defendant was not a suspect at that time.

Q. It doesn't matter, you were asking him questions

I said?

A. Right.

Q. That was a time when you asked him to turn over

his boots?

A. I said this was a voluntary surrender.

Q. My question was at that time you asked him to turn

over his boots?

A. Yes, I did.

Q. And he or somebody got the boots and gave them to you?

A. Right.

Q. Was it he, the Defendant?

A. Yes, it was.

Q. Those are the boots that have been identified

in evidence?

A. Yes.

Q. And you or somebody asked the Defendant if he would not turn over his car?

A. Yes, Sir.

Q. And he voluntarily did that too?

A. Yes, he did.

Q. This was the same day?

A. Yes, Sir, it was.

Q. And that was the day you say that he was not

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read his rights because he was not a suspect?

A. From the Miranda ruling he was not a suspect, he was not in custody nor was he deprived from his freedom of acts in any significant way which is covered under Miranda.

Q. I am glad you are a student of the law. My only question is you did not read him his rights that day, did you?

A. No, I didn't.

Q. Nor did anybody else that you know of?

A. Yes, he was, I do know of somebody who read him his rights.

Q. Who?

A. Corporal Barto.

Q. When?

A. When we arrived at the South Williamsport Police Station.

Q. Was that before or after you got the boots and the car?

A. This was after.

Q. In other words, when you got the boots and the car, Kim Hubbard had not been given the Miranda rights, isn't that correct?

A. No, he wasn't.

Q. No, he had not?

A. He was not given his rights, it was not required.

Q. I am not asking you if it was required, I am asking you if it was done?

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A. I answered that, I said no he wasn't.

Q. Now, you wanted his boots and his car what for?

A. For examination purposes.

Q. For examination purposes, what for?

A. To make a comparison.

Q. With what?

A. With the casts that we had and also with the casts of the footprints we had.

*DON'T SEND TO Lab. till let me see it*

*CHS'S TAKEN AWAY 25-11*

Q. You wanted the boots and you wanted the car

to make a determination whether those boots and that car could have been evidence concerning the crime?

A. Yes, Sir.

Q. (To The Court.). Your Honor, may we come to Side

Bar?

By The Court:

Yes, Sir.

(AT SIDE BAR.).

By Mr. Fierro:

*King's Rights Violated*

In view of the statements just made by this Officer, which I didn't know that he was going to make, no one having warned me in advance, I believe that his answers have effectively deprived the Defendant of his Constitutional Rights inasmuch as the boots and the automobile were surrendered without the Miranda warning, although the Officer admits they were taken into custody for the purpose of determining whether or not they could have been used as evidence concerning the crime in question, and I was not able to file a Motion to Suppress because I didn't know

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and was not aware that he was not given his Miranda rights until just now and I feel that under the law that this man's testimony should be heard on a Motion to Suppress, based upon what he said right now.

By Mr. Ertel:

Well, first, he was not a suspect until after the boots were compared. Number two, he did it voluntarily. Number three, we do have a voluntary statement signed by him surrendering the car and the boots, giving us the authority to take them and process them.

By The Court:

Your objection is over ruled, you are protected on the record.

By Mr. Fierro:

That voluntary statement he is talking about was signed afterwards.

By The Court:

I assume it was done at the time.

By Mr. Fierro:

No, signed after the boots and car were surrendered.

By Mr. Ertel:

He gave us the boots at his house, the boots were taken by Peterson. The boots were handed to us, they were taken to the Borough Hall at which time he, they asked the Defendant if he would voluntarily let us keep them, and he signed a thing, and he also signed the card at that time he was advised of his rights when he arrived at the Hall, not before.

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By The Court:

We discussed this area of testimony at the pre-trial, but I don't believe we discussed when he was informed of his rights at pre-trial.

By Mr. Ertel:

He said at that time that he assumed everything was all right, and he waived his rights.

By Mr. Pierro:

Until I heard this.

(Off-the-record discussion.)

(END OF SIDE BAR.)

By Mr. Pierro:

Q. Mr. Peterson, you made reference to Jack Hill, who was the Father of the dead girl, having called to the Hubbard house at quarter to five on October 19th, is this the statement that you got from Kim Hubbard?

A. Yes, Sir, he said he received a call at approximately 4:45 - 4:50.

Q. I said is this the statement you got from Kim Hubbard?

A. Yes.

Q. Did you check it out with Jack Hill?

A. Yes, we did.

Q. These boots that have been offered in evidence, they must have had more dirt on them when you got them on October 31st than what they appear to be like today? Wouldn't you say that is true?

NO RIGHT TO  
hold Kim  
ACEK  
PRE-TRIAL



Sgt. Peterson.

A. Yes, Sir.

Q. What happened to all that dirt that was on those boots when you got them, did you scrape them off and preserve the mud and dirt for evidence?

A. No, Sir, I didn't.

Q. Who did, do you know?

A. I don't know. I had no control of the boots when once I took them down and turned them over to Trooper Fama who in turn gave them to our Custodial Officer, Corporal Houser, I had no further contact with the boots.

Q. The only thing you know there was a lot more mud and dirt on those boots when you got them than there is on them today?

A. I would say there was dirt on the boots, but not a lot.

Q. More than what is on them today?

A. I looked at them briefly around the sole, I didn't see the bottom of them or what was on them.

Q. How about the car, did you have anything to do with the mud and dirt that was on the inside of the car?

A. No, Sir, I assigned an Officer to process the car, I had nothing to do with the car itself, I assigned an Officer to process the car, I had nothing to do personally with the automobile.

Q. Did you look inside of the car when you took it into custody?

A. I didn't take it down.

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Q. Did you look at it when it got there, whenever that is?

A. Very briefly.

Q. Did you look inside?

A. Yes, I did.

Q. Did you see whether it was dirty, had dirt on the floor?

A. I didn't pay that much attention, because I was going to have the car processed, I was not going to do it myself.

Q. In any case, while this boy was being questioned, whatever you asked him to submit, particularly the boots and the car, he did so voluntarily?

A. Yes, Sir, but he was being interviewed, he was not being questioned.

Q. Let's put it this way, your way, he was being interviewed?

A. That is right.

Q. In your interview, he was being asked questions, is that correct?

A. In regards to his activities for that particular day.

Q. He was being asked questions, wasn't he?

A. Not in regards to particularly what he did, but in trying to get the stores to whatever, or what every one did in that particular household to try to find out when the little girl left the house, and if he had seen her and so on.

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Q. Well, in order to do that, you were asking him, Kim Hubbard, or somebody was in the team, you were asking questions, weren't you?

A. Yes, we were, we were talking with him.

Q. When you say talking to him, answer this specifically, were you or any member of that team asking him questions on October 31st?

A. On the 31st?

Q. Yes, we were talking with him, he was telling us what he did that particular day.

Q. I want to ask you this question, were you talking, were you asking him questions, not talking with him, were you asking him questions?

A. He was telling us what he did that particular day.

Q. Don't you know how to answer this question?

A. Yes, I do.

Q. Well, then answer it?

A. I just answered.

Q. Were you asking him questions?

A. He was telling us what he did that day.

Q. I said were you asking him questions?

A. He was not a suspect, he was not being questioned.

Q. (To The Court.). Your Honor, will you ask him to answer?

By The Court:

Q. The question was, did you ask him any questions?

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A. Yes, I did.

By Mr. Fierro:

Q. And Mr. Ertel, the District Attorney, was asking questions too, wasn't he?

A. Yes, he talked with him also.

Q. Answer this question, was Mr. Ertel asking him questions?

A. Yes, he was.

Q. That is all.

By The Court:

Mr. Ertel?

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Officer Peterson, you were asked about this conversation and about trying to track Jennifer' activities on the 31st at the Hubbard home by questioning people, did the Defendant indicate he had seen her that day at all?

A. Yes, he did.

By Mr. Fierro:

He is repeating, this was brought out on direct.

By The Court:

The objection is sustained.

By Mr. Ertel:

Q. What, if anything, did he say about Jennifer Hill?

By Mr. Fierro:

That was already answered on direct.

Sgt. Peterson.

By The Court:

If it is different than what you have already testified to, you may answer.

Q. A. Yes, he told me he did see her on that particular day.

By Mr. Fierro:

*Kim coming from Susan Duber home heard his own sister yell and he waved, not at her but at to Ruth*

That was not different and I move it be stricken.

By The Court:

I will permit it to stand.

By Mr. Fierro:

Your Honor, the District Attorney is repeating.

By Mr. Ertel:

Q. When?

A. He said he saw her after he got up and went down to get some cigarettes, he saw the kids playing in the field, playing football, there was an exchange of waves, he waved to the kids and the kids waived to him and that was the extent of it.

By Mr. Ertel:

Thank you.

RE-CROSS EXAMINATION

By Mr. Fierro:

Q. Now, this last statement of your's that Kim said he saw Jennifer along with other children playing in the field, is that correct?

A. Yes, Sir.

Q. And that he waved to these kids and these kids waved back, is that the statement that you made?

Sgt. Peterson.

A. Yes, Sir.

Q. There was nothing in your investigation that shows that Kim had any personal contact with Jennifer, is there?

A. No, I am only saying what he told me.

Q. Just answer the question?

A. No, Sir.

By Mr. Ertel:

I object to that.

By Mr. Fierro:

He didn't answer it, your Honor.

By The Court:

Proceed, Gentlemen, it is answered now.

By Mr. Fierro:

Q. Was there anything in Kim's statement to you or your investigation of October 31st that shows Kim had any personal contact with Jennifer?

By Mr. Ertel:

Objection.

By The Court:

Q. Do you understand the question?

A. Yes, Sir.

Q. You may answer?

A. The first part of it, he did relate he saw her that particular day. In regards to the investigation that disclosed that it did.

By Mr. Fierro:

Q. That it did?

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Sgt. Peterson.

A. Yes.

Q. Your investigation?

A. The investigation of the State Police.

Q. Mr. Peterson, don't you understand that I am asking you these questions, instead of the State Police, I would like you to answer these questions.

By Mr. Ertel:

He is asking for conclusion based upon investigation he got the answer and does not like it.

By Mr. Fierro

What is it that I don't like?

By The Court:

Gentlemen, just a minute.

By Mr. Fierro:

I will reask the question.

Q. Mr. Peterson, from what you learned on October 31st, first in talking to Kim, did Kim have any personal contact with Jennifer Hill, did he say so?

A. Other than, only other than what I told you.

Q. Repeat it?

A. That he saw her in a field and he waved to her and the kids waved back.

Q. Did he say he waved to her alone or just waved to the kids? *To his sister*

A. I said he waved to the kids in the field.

Q. And you also testified that he told you that

Sgt. Peterson.

the kids waved back, is that correct?

A. Yes, Sir.

Q. Did he say to you that he spoke to Jennifer Hill?

A. No, he didn't.

Q. Did he say to you that Jennifer Hill spoke to him?

A. No, he didn't.

Q. All right now you on October 31st, did you find out from your investigation, outside of what Kim may have told you, did Jennifer Hill speak to Kim?

A. Up until that point on the 31st?

Q. Yes?

A. Not to my knowledge.

Q. Did Kim speak to Jennifer?

A. I don't know. I can only relate what he told me.

Q. That is all you know?

A. That is what he told me.

By Mr. Ertel:

I object to the question, are you referring as to the October 31st cut-off date?

By Mr. Fierro:

His investigation, when he spoke to this man.

By Mr. Ertel:

You are only talking about the conversation....

By Mr. Fierro:

I will ask another question.

Q. Did you in any part of your investigation, I don't care when, can you bring to the attention of this Jury a witness



Sgt. Peterson. - Lieut. Hynick.

who will testify that Kim had personal contact with Jennifer Hill on October 19th, an eye witness?

A. No, I can't.

Q. And that is all.

By The Court:

Mr. Ertel?

By Mr. Ertel:

No further questions.

(Excused from witness stand.).

LIEUTENANT STEVEN HYNICK, previously sworn, recalled and testified as follows:

By Mr. Fierro:

I want an offer on this witness, your Honor.

By The Court:

Side Bar.

(Side Bar consultation not made a part of the record.).

DIRECT EXAMINATION

By Mr. Ertel:

Q. Lieutenant Hynick, you previously have been sworn, is that correct?

A. Yes, Sir, I have.

Q. Lieutenant Hynick, on the 31st of October, 1973, in the company of Officer Peterson and myself, did you proceed to the Hubbard home?

A. Yes, Sir, I did.

Q. Would you describe what conversation you recall of having with the Defendant, Kim Hubbard, on that occasion?