

And Now, to-wit, Thursday, February 21, 1974, beginning at 9:30 A.M., EDST, the trial in the above-captioned matter was continued before the Honorable Charles F. Greevy, President Judge, and a Jury, in Court Room No. 1, at the Lycoming County Court House, Williamsport, Penna., at which time the Defendant was present with Counsel, and the following proceedings were had:

By The Court:

Mr. Ertel?

(Mr. Ertel opened to Jury at 9:30 A.M., EDST and completed at 9:58 A.M., EDST.)

By The Court:

Mr. Fierro, you have indicated you desire to make your opening statement at the close of the Commonwealth's case in chief?

By Mr. Fierro:

Yes.

By The Court:

Proceed.

(Commonwealth's Exhibits Nos. 1 through 41 marked previously.)

(Commonwealth's Exhibits Nos. 42, 43, 44 and 45 marked.)

CHIEF OF POLICE CHARLES E. SMITH, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name and occupation?

A. Chief of Police, Charles E. Smith, South Williamsport.

Chief of Police Smith.

Q. How long have you been Chief over there?

A. Four years.

Q. Chief Smith, I show you Commonwealth's Exhibit No. 42, can you identify that just generally as to what it is?

A. It is a map of a section of the Borough of South Williamsport.

Q. Now, Chief, will you come down and stand to the side so the Jury can see it. It obviously has streets marked on it, can you point out the approximate location of the Hubbard home? First, how do you know where the Hubbard home would be?

A. Hill Street and Central Avenue, at the corner of Hill and Central Avenue I lived for nine years.

Q. Where did the Hubbards live in relation to your home?

A. It would be the third house down.

Q. Will you put a big "X" and write "Hubbard Home" please in the approximate location?

A. (Witness indicates.).

Q. Now, that would be the whole block facing onto Central Avenue, is that correct?

A. Yes.

Q. Somewhere in this block between Hill and Clinton Street, is that correct?

A. Yes.

Q. Now, will you come down and can you approximate where the Hill home is located?

A. That is located in the 300 block of Hastings Street.

Chief of Police Smith.

It is the 6th home down north from Central Avenue.

Q. Can you put approximately where the Hill home would be located?

A. (Witness indicates.)

Q. Can you also locate there the approximate location of the St. Lawrence School?

A. This would be this whole block in here, the Church and the School.

Q. Would you label that, please?

(Witness indicates.)

Q. Can you identify where the Clabaugh residence is?

A. The Clabaughs live on the corner of West Central Avenue and Clinton Street, which would be, it is on the southwest corner.

Q. Would you label the Clabaugh home, please?

A. (Witness indicates.)

Q. Where does the Whitemans live, do you know?

A. They live in the 300 block of Kane Street, just which house I don't know.

Q. Do you know where the Nevel home is located?

A. The 500 block of Howard Street, the first home facing Howard.

Q. Can you approximate or locate that home on that?

A. Yes, it would be this Section 199.

Q. Mark that, please?

A. (Witness indicates.)

Q. Now, can you also locate the location of the Hum-Dinger, what is that on?

Chief of Police Smith.

MAURO
BOROUGH

A

13.

A. That is the 700 block of West Southern Avenue, right in here.

Q. Would you mark that, please?

(Witness indicates.).

Q. Do you know where the Mauro Music Store is located?

A. This is not on this map.

Q. Can you show us by pointing to the area where it would be off of, what street is it on?

A. East Second Avenue. You have to come down this street here.

Q. In other words, looking at Commonwealth's Exhibit No. 42 it would be somewhere off of the righthand side as you are facing the Exhibit?

A. Yes.

Q. All right, now, Chief Smith, can you tell us where Sylvan Dell area is located?

A. That would be east of the Borough, it is not on this chart.

Q. Do we have charts with that on?

A. Yes.

Q. I show you what is Commonwealth's Exhibit No. 43, can you describe what that depicts?

A. This is the eastern end of the Borough of South Williamsport.

Q. Would the Mauro Music Store show on there somewhere?

A. No, it is not.

Q. Would you describe what it shows and what roads it

Chief of Police Smith.

shows in relation to Sylvan Dell?

A. This would be 15 coming north into South Williamsport and Williamsport. This is East Second Avenue which runs in an eastern direction in the Borough towards the Sylvan Dell.

Q. That goes towards Sylvan Dell?

A. Yes.

Q. If you were proceeding from South Williamsport to Sylvan Dell, you could go that way?

A. Yes.

Q. Commonwealth's Exhibit No. 44, what does this depict?

A. This section here is the Sylvan Dell area.

Q. If you were coming off of the other Exhibit, would you come on down Second Avenue?

A. Yes.

Q. And come on to what, the Sylvan Dell Road eventually?

A. Yes.

Q. It is on this next one here?

A. East Second Avenue is right here, East Second Avenue would pick up, following East Second Avenue here across the railroad tracks and follows the Susquehanna River down here into the Sylvan Dell area.

Q. Is this the road here that is the broken line?

A. Yes.

Q. Would you follow the road through, please, where does it eventually wind up?

A. You can follow it down over the side of the mountain

Chief of Police Smith.

into the Old Lookout Road which comes out onto Route 15 south.

Q. Now, looking at Commonwealth's Exhibit No. 45, what does that depict?

A. This depicts the road up along the river again, which continues down here to the Arco Station which you make a sharp righthand turn across the railroad tracks and up over the mountain.

Q. You make a sharp right as you are driving on the road, across the railroad tracks again, and up towards the Look-out area, is that correct?

A. Yes, Sir.

Q. Now, here are a series of round circles, Chief, if you will identify these, what are these round circles?

A. They are storage tanks, Arco.

Q. Arco Storage tanks?

A. Yes.

Q. What is the big round circle?

A. That is a new tank that was under construction within the last couple of years.

Q. That is the old tank and there is another one over here?

A. Yes, Sir, this is also a big tank.

Q. Now, there is a broken line coming off of the Sylvan Dell Road down towards what is as you identified as the large tank, what is that road?

A. It is just a lane into a cornfield.

Q. Where does it terminate?

Chief of Police Smith.

A. It stops right in here, this is like a dike around this tank, it is approximately from six to eight feet high, that lane stops at that dike.

Q. Do you know the approximate location on there where the body was.....

By Mr. Fierro:

I thought that he had this witness on here to identify maps, and then if we are going to go further then I want him to....

By Mr. Ertel:

I am trying to put things on the map.

By Mr. Fierro:

I know that you said you wanted him on.....

By Mr. Ertel:

I object to this, if you would like to approach Side Bar, I would be happy to.

By The Court:

Side Bar, Gentlemen.

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

By The Court:

You are going to withdraw the question?

By Mr. Ertel:

Yes.

Q. I show you marked as Commonwealth's Exhibits Nos. 27 and 28, can you identify those?

A. Yes, I can, that is the Arco Storage Tanks.

Q. Now, in relationship to the map, the series of small white tanks that we see as I point them out on the two exhibits....

Chief of Police Smith. - Cindy Bricker.

tanks?

A. Yes.

Q. No further questions.

By Mr. Fierro:

I have no questions at all.

By The Court:

Proceed.

By Mr. Fierro:

May we come to Side Bar?

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

CINDY BRICKER, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Would you state your full name?

A. Cindy Bricker.

Q. How old are you, Cindy?

A. 11.

Q. Where do you live?

A. 1216 West Central Avenue.

Q. South Williamsport?

A. Yes.

Q. Did you know Jennifer Hill?

A. Yes.

Q. Did, do you know Ruthie Hubbard?

A. Yes.

Q. Going back to the 19th of October, did you have

Chief of Police Smith. - Cindy Bricker.

tanks?

A. Yes.

Q. No further questions.

By Mr. Fierro:

I have no questions at all.

By The Court:

Proceed.

By Mr. Fierro:

May we come to Side Bar?

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

CINDY BRICKER, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Would you state your full name?

A. Cindy Bricker.

Q. How old are you, Cindy?

A. 11.

Q. Where do you live?

A. 1216 West Central Avenue.

Q. South Williamsport?

A. Yes.

Q. Did you know Jennifer Hill?

A. Yes.

Q. Did, do you know Ruthie Hubbard?

A. Yes.

Q. Going back to the 19th of October, did you have

Cindy Bricker.

occasion to be with them on that day?

A. Yes.

Q. Can you tell us when you first saw them on that particular day?

A. I can't remember.

Q. Well, did you see them in the morning or afternoon?

A. Morning.

Q. What happened then?

A. They asked us if we wanted to come out and play.

Q. What happened?

A. Well, we went out and played down at the Super-Duper.

Q. Where is the Super-Duper located, do you know?

A. It is right behind our house, just about.

Q. Then where did you go, who was with you then, do you recall?

A. My sister, Sherry, Michelle Harley, and Jennifer and Ruthie.

Q. Where did you go next?

A. Went down to the Hum-Dinger.

Q. About what time was that?

A. It was in the afternoon, I don't know what time it was.

Q. Was it closer to lunch time or late in the afternoon can you tell us?

A. Close to lunch time.

Q. Now, what did you have to eat there?

A. I had french fries and soft drink.

Q. You did?

A. Yes.

Q. What did Jennifer have to eat?

A. She had a half of a hoagie and a milk shake.

Q. Did she have anything else?

A. We gave her some french fries.

Q. When you say "we", who do you mean?

A. My sister and I.

Q. Where did you go from there?

A. We went back home.

Q. Did they go with you?

A. Yes.

Q. What did you do there?

A. Well, we went down and played down the Super-Duper again.

Q. How long were you there?

A. About a half hour.

Q. Then where did you go?

A. Well, Jennifer and Ruthie left first to their house and then I went home.

Q. Do you recall going up the alley and doing anything in the alley?

A. No.

Q. Pardon?

A. No.

Q. Did you do anything in relation to a grapevine or

Cindy Bricker.

grape barber?

A. Yes, we were throwing grapes at each other.

Q. What, if anything, did Jennifer eat there?

A. She ate some grapes.

Q. Then what happened after that, do you remember?

A. No.

Q. Do you remember seeing Jennifer after that, that day?

A. No.

Q. What was Jennifer wearing?

A. She was wearing a blue football jersey and blue jeans.

Q. Did the blue football jersey have anything on it?

A. It had a number of 22.

Q. 22?

A. 22 or 33.

Q. What color were those numerals?

A. White.

Q. I have no further questions.

By The Court:

Mr. Fierro?

CROSS EXAMINATION

By Mr. Fiero:

Q. Cindy, did you know Jennifer for awhile, I mean for months or perhaps for even a few years?

A. I knew her for a couple of years.

Q. You knew Ruthie pretty good?

A. Yes.

Cindy Bricker.

Q. Now, you are being asked by the District Attorney about your activities that afternoon, you did not see Jennifer anymore that afternoon after she ate the grapes?

A. After we had the grape battle we went back up to the Super-Duper.

Q. You say a "grape battle"?

A. Well, we were throwing grapes at each other.

Q. Did she eat some of them?

A. Yes.

Q. This was in the afternoon?

A. Yes.

Q. Did you see her, that is Jennifer, anymore that afternoon?

A. No.

Q. Did you see Ruthie anymore that afternoon?

A. Yes.

Q. Where did you see Ruthie?

A. I went down to her house and asked her if she wanted to come out and play.

Q. When you say "her house", you mean Ruthie's house?

A. Yes.

Q. You went down to Ruthie's house and asked her if she wanted to play?

A. Yes.

Q. At that time did you see Jennifer Hill at Ruthie's house?

A. No.

Cindy Bricker.

Q. Are you sure of that, Cindy?

A. Yes.

Q. And, Cindy, do you have an idea of what time it was when you went to Ruthie's house to ask Ruthie to play?

A. It was around 3:00 - 3:30.

Q. Around 3:00 or 3:30?

A. Yes.

Q. And did you go into Ruthie's house?

A. Yes.

Q. Do you know how long you were there?

A. About a half hour.

Q. Now, did you see Jennifer in there?

A. No.

Q. Now are you sure that you went there at 3:30 and did not see Jennifer?

A. No, I didn't see her.

Q. You didn't see her?

A. No.

Q. Now, Cindy, you say you might have been at Ruthie's house around 3:30 that afternoon?

A. Yes.

Q. How long do you think you were in that house?

A. About ten minutes, I went back out then.

Q. You went back out?

A. Yes.

Q. Well, then did you come back again to Ruthie's house later on?

Cindy Bricker.

A. No.

Q. From Ruthie's house where did you go?

A. I was waiting outside for Ruthie.

Q. You were waiting outside for Ruthie?

A. Yes.

Q. Well then, excuse me, in other words then when you first went to Ruthie's house, Ruthie was not at home?

A. Yes, I went in to see if she would come out and she said she would be out in about 10 minutes, and I waited outside for her.

Q. She said she would be outside so you went outside and waited for her?

A. Yes.

Q. You did not see Jennifer at that time?

A. No.

Q. Now, you waited for Ruthie, did she come out?

A. No.

Q. Ruthie did not come out?

A. No.

Q. What did you do?

A. I went back home.

Q. Do you know what time you got back home?

A. Around 4:00.

Q. And how far do you live away from Ruthie's house, that is the Hubbard house?

A. About a block.

Q. Now, Cindy, do you know Kim Hubbard?

Cindy Bricker.

A. Yes.

Q. You have seen him, haven't you?

A. Yes.

Q. Do you know his car, did you know his car at that time?

A. Yes.

Q. The District Attorney was asking you about October 19th, and this was of last year, you know that?

A. Yes.

Q. When I ask you something, Cindy, did you see Kim's car in front of his house that afternoon when you were there?

A. Yes.

Q. You say you did?

A. Yes, I was sitting on it waiting for Ruthie.

Q. You were sitting on his car waiting for Ruthie, and would this be around 4:00?

A. I think so.

Q. You think so?

A. Yes.

Q. Are you sure it was Kim's car?

A. Yes.

Q. Could you tell the Jury if there was anything wrong with Kim's car?

A. Well, I couldn't see anything wrong with it.

Q. I mean like was it damaged anywhere?

A. On the fender it was.

Q. So there was something wrong with Kim's car?

Cindy Bricker.

A. Yes.

Q. Had you seen that damage before?

A. No.

Q. You saw it that day?

A. Yes.

Q. When you say that you sat on the car, what do you mean by that?

A. I leaned up against it.

Q. I see, you leaned up against it while you were waiting for Ruthie?

A. Yes.

Q. And do you have any idea how long you waited for Ruthie?

A. About fifteen minutes.

Q. And all during that time you were leaning against Kim's car?

A. Yes.

Q. How do you know what time it was when you got home, Cindy?

A. Because I went straight home and I looked at the clock.

Q. What time did the clock say?

A. 4:30, I think. *4:30*

Q. 4:30?

A. Yes.

Q. Now, listen to this, Cindy, now you know you were sworn to tell the truth, weren't you?

Cindy Bricker.

A. Yes.

Q. Now, you say you live about a block away, or did at that time anyhow from where the Hubbards' lived?

A. Yes.

Q. You still live the same block away?

A. Yes.

Q. Now, you are telling Judge Greevy and this Jury that when you left the Hubbard house you walked to your house, didn't you?

A. Yes.

Q. Which is about a block away, right?

A. Yes.

Q. When you got home you said you looked at the clock, is that right?

A. Yes.

Q. And you say when you looked at the clock the time was 4:30, is that correct?

A. Yes.

Q. And you went straight from the Hubbard house to your house?

A. Yes.

Q. You didn't go anywhere else?

A. Well, I think I went over to Michelle Hurley's house.

Q. For how long?

A. For about twenty minutes.

Q. You mean after you left the Hubbard house?

A. Yes.

Cindy Bricker.

Q. Until you got to your house?

A. Yes.

Q. Where does Michelle live?

A. About a block away from our house.

Q. A block away from what?

A. From my house.

Q. Going which way, like going towards Market Street or away from it?

A. Away from it.

Q. All the time that you were at the Hubbard house or outside of it, did you see Kim Hubbard's car?

A. Yes.

Q. Was it always there until you left?

A. Yes.

Q. And you are sure of that?

A. Yes.

Q. You think you spent around 20 minutes with Michells?

A. Yes.

Q. From there when you got home it was around 4:30?

A. Yes.

Q. By the way, Cindy, while you were leaning against Kim's car, did you see Mike or Phil Grimes, I don't know which way you may know him, did you see him next door working on a car or anything like that?

A. No.

Q. Did you pay any attention?

A. No.

Q. Of this you are sure, that you were leaning against Kim's car?

A. Yes.

Q. How long did you think you were waiting for Ruthie to come out while you were leaning against Kim's car?

A. About ten minutes.

Q. Now, did you see Kim at all?

A. No.

Q. You are sure of that, aren't you?

A. Yes.

Q. You were in Ruthie's house, weren't you?

A. Yes.

Q. You were also outside of it, weren't you?

A. Yes.

Q. And all during the time you were there you did not see Kim?

A. Yes...I mean no.

Q. Well, "Yes" you did not see him, is that correct?

A. Yes.

Q. You did not see him?

A. Yes.

Q. Who are all of the persons that you did see in the Hubbard house or outside of it that afternoon that we are now talking about?

A. I saw Ruthie and her Mother.

Q. You definitely saw her Mother?

A. Yes.

Q. She was in the house?

Cindy Bricker.

A. Yes.

Q. And those are the only two people?

A. Yes.

Q. Did you speak to Mrs. Hubbard?

A. I don't know, I forget.

Q. It is not that important. By the way, did you three girls, I mean you and Ruthie and Jennifer play at this playground that afternoon at all?

A. No.

Q. Thank you, Cindy. That is all.

By The Court:

Mr. Ertel.

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. When you talk about the playground, are you talking about St. Lawrence Catholic Church?

A. Yes.

Q. You didn't play there in the afternoon?

A. I think we played some kick ball.

Q. Where, at St. Lawrence?

A. Yes.

Q. What was Mrs. Hubbard doing when you saw her, if you recall?

A. I don't know, I forget.

Q. What was Ruthie doing, do you know?

A. Well, she was upstairs getting ready to go out.

Q. You never saw Ruthie in the house then?

Cindy Bricker. - Sherry Bricker.

A. She came down a couple of times, yes.

Q. Was anybody else with her at that time?

A. No.

Q. How about upstairs, do you know if anybody was upstairs?

A. No, I don't know.

Q. Thank you.

(Excused from witness stand.)

By The Court to Sherry Bricker:

Q. How old are you, Miss?

A. 11.

Q. Proceed.

SHERRY L. BRICKER, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Sherry, state your full name?

A. Sherry Lynn Bricker.

Q. Sherry, the girl who was just in here was Cindy, your sister?

A. Yes.

Q. She is your twin?

A. Yes.

Q. Turning back to the 19th of October, do you recall seeing Jennifer Hill on that particular day?

A. Yes.

Q. When was the first time you saw her, if you recall?

Cindy Bricker. - Sherry Bricker.

A. She came down a couple of times, yes.

Q. Was anybody else with her at that time?

A. No.

Q. How about upstairs, do you know if anybody was upstairs?

A. No, I don't know.

Q. Thank you.

(Excused from witness stand.).

By The Court to Sherry Bricker:

Q. How old are you, Miss?

A. 11.

Q. Proceed.

SHERRY L. BRICKER, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Sherry, state your full name?

A. Sherry Lynn Bricker.

Q. Sherry, the girl who was just in here was Cindy, your sister?

A. Yes.

Q. She is your twin?

A. Yes.

Q. Turning back to the 19th of October, do you recall seeing Jennifer Hill on that particular day?

A. Yes.

Q. When was the first time you saw her, if you recall?

Sherry Bricker.

A. I don't know.

Q. What did you do as far as any activities with Jennifer the first time?

A. We played kick ball.

Q. Do you recall where you were playing kick ball?

A. At the Super-Duper lot.

Q. What street is that on, the Super-Duper, do you know?

A. No.

Q. And how long did you play there, do you have any idea?

A. About a half hour.

Q. Where did you go from there?

A. We went home.

Q. Did Jennifer go with you?

A. No.

Q. All right, did you see Jennifer again?

A. No, she went home.

Q. Did you see Jennifer anymore that day?

A. No.

Q. Do you recall being at the Hum-Dinger?

A. Yes.

Q. What time were you at the Hum-Dinger?

A. I don't know.

Q. Was Jennifer with you at the Hum-Dinger?

A. Yes.

Q. Do you recall having some food at the Hum-Dinger?

Sherry Bricker.

A. Yes.

Q. What did you all have to eat there?

A. Jennifer had a "sub".

Q. That is a hoagie?

A. Yes.

Q. Did she have anything else?

A. A milk shake.

Q. How about anything else?

A. That is all.

Q. Did she have any of your food?

A. Yes.

Q. What did she have of your's?

A. French fries.

Q. Do you recall having a battle...who was with Jennifer there at that time?

A. Ruthie Hubbard, Michelle Hurley and my sister and I.

Q. Now, after that, did you have the occasion to have what is called a "grape battle" with the girls?

A. Yes.

Q. Where was that?

A. It was right by the Dairy Queen.

Q. And what, if anything, did Jennifer eat during that "grape battle"?

A. At the Dairy Queen?

Q. Well, the grape place, or where ever that is?

A. She just ate grapes.

Q. Then what happened after the "grape battle"?

Sherry Bricker.

A. We went down to the Super-Duper lot.

Q. Did Jennifer go there with you?

A. Yes.

Q. Do you know what time it was by any chance?

A. No.

Q. And after you were at Super-Duper, what did you do there, incidentally?

A. We played football.

Q. What happened after that?

A. We all went home.

Q. Did you see Jennifer anymore that day?

A. No.

Q. Did you go to the Hubbard house also with your sister?

A. Just for a little bit.

Q. Went to the Hubbard home?

A. Yes.

Q. Did you see Jennifer there?

A. No.

Q. Did you see Ruthie?

A. Yes.

Q. Do you know when you were at the Hubbard home?

A. No.

Q. You can't recall the time?

A. No.

Q. Incidentally, what was Jennifer wearing on that day, do you recall?

Sherry Bricker.

- A. Blue jeans and a red or a blue jersey.
- Q. Do you know if it had anything on the jersey?
- A. Numbers.
- Q. Do you remember the numbers?
- A. 33.
- Q. What color were they?
- A. White.
- Q. No further questions.

By The Court:

Mr. Fierro.

CROSS EXAMINATION

By Mr. Fierro:

- Q. Sherry, you say you played football at the Super-Duper?
- A. Yes.
- Q. You mean just you four girls or were there other people?
- A. There was other people.
- Q. Boys too?
- A. Yes.
- Q. Was it a sort of a rough and tumble game?
- A. Yes.
- Q. How long do you think you played football?
- A. About a half hour.
- Q. You say that sometime that afternoon you did go with your sister to the Hubbard house?
- A. Yes.

Q. But you didn't stay long?

A. No.

Q. Did you see Kim Hubbard's car?

A. I don't remember.

Q. You don't remember?

A. No.

Q. Did you see Jennifer?

A. No.

Q. Did you go into the Hubbard house?

A. Nope.

Q. You just stayed outside?

A. Yes.

Q. Did you see your sister go inside of the Hubbard house?

A. No.

Q. Did you see your sister leaning against the car?

A. Yes.

Q. Well, then you did see her leaning against somebody's car?

A. Yes.

Q. While she was leaning against the car, did anybody come out of the Hubbard house?

A. No.

Q. Did you leave the Hubbard house before your sister did?

A. Yes.

Q. In other words, you left and you left your sister behind you, didn't you?

Sherry Bricker. - Johane Hurley.

A. Yes.

Q. Did you see Kim while you were there?

A. No.

Q. That is all.

By Mr. Ertel:

That is all.

(Excused from witness stand.)

By The Court to Johane Hurley:

Q. How old are you, Miss?

A. 12.

Q. Proceed.

JOHANE HURLEY, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your name?

A. Johane Hurley, Johane Michelle Hurley.

Q. Do they call you Michelle?

A. Yes.

Q. Where do you live?

A. 1137 West Central Avenue.

Q. Is that very far from the Bricker home?

A. No.

Q. About how far, do you know?

A. Across the street.

Q. How far is it from the Hubbard place?

A. A couple blocks down.

Sherry Bricker. - Johane Hurley.

A. Yes.

Q. Did you see Kim while you were there?

A. No.

Q. That is all.

By Mr. Ertel:

That is all.

(Excused from witness stand.)

By The Court to Johane Hurley:

Q. How old are you, Miss?

A. 12.

Q. Proceed.

JOHANE HURLEY, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your name?

A. Johane Hurley, Johane Michelle Hurley.

Q. Do they call you Michelle?

A. Yes.

Q. Where do you live?

A. 1137 West Central Avenue.

Q. Is that very far from the Bricker home?

A. No.

Q. About how far, do you know?

A. Across the street.

Q. How far is it from the Hubbard place?

A. A couple blocks down.

Johane Hurley.

Q. Going back to the 19th of October, you had off school that day?

A. Yes.

Q. Did you have the occasion to be playing with the Bricker girls and Jennifer Hill?

A. Yes.

Q. Where were you playing?

A. Super-Duper.

Q. All right, and after you played there for awhile did you have occasion to have lunch?

A. Yes.

Q. Where did you eat?

A. The Hum-Dinger.

Q. Do you know what Jennifer had to eat?

A. No.

Q. You don't recall?

A. No.

Q. Where did you go from there?

A. The Catholic School.

Q. That would be the St. Lawrence Catholic Church?

A. Yes.

Q. Is that up on Central Avenue?

A. Yes.

Q. What did you do there?

A. Played kick ball.

Q. Who all was there, do you recall?

A. I forget.

Johanne Hurley.

Q. Was Jennifer there?

A. Yes.

Q. Where did you go from the Catholic School?

A. Back to the Super-Duper.

Q. Who went with you there?

A. We all went.

Q. How long were you there, do you know?

A. No.

Q. Do you recall any time at all during this day?

A. No.

Q. Did you see the "grape battle"?

A. Yes.

Q. Were you involved in that?

A. Yes.

Q. Where was that, can you tell us?

A. Right when you leave the Hum-Dinger there is a double house and then there is a grape bush.

Q. Did you see anybody eat any grapes, that you recall?

A. No.

Q. After that, did you see Jennifer anymore that day?

A. No.

Q. Who all was at the table at the Hum-Dinger, do you recall?

A. Me and the two Bricker twins and my sister were sitting at one table and Jennifer and Ruthie, Mr. Clabaugh and his son were sitting at another table across from us.

Q. Now, after the grape incident, you didn't see

Johane Hurley.

Jennifer anymore that day?

A. When we went to the Catholic School I did.

Q. Was that before you went to the Catholic School?

A. Yes.

Q. When was the last time that you recall that you saw Jennifer that day?

A. After we played football.

Q. Where?

A. At the Super-Duper.

Q. Did you go to the Hubbard home after that?

A. No.

Q. You went home?

A. Yes.

Q. No further questions.

By The Court:

Mr. Fierro?

CROSS EXAMINATION

By Mr. Fierro:

Q. Michells, you did see Cindy Bricker later on that day, didn't you?

A. Yes.

Q. She came to your house?

A. I don't remember if she did or not.

Q. You don't remember?

A. No.

Q. You don't even remember the time?

A. No.

Q. All right, that is all.

(Excused from witness stand.)

CHARLENE I. SHAFFER, being duly sworn according to law testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Would you state your full name?

A. Charlene Ina Shaffer.

Q. Where do you live?

A. 349 Clark Street, South Williamsport.

Q. Is that between two other streets, in other words that is a street running up and down the hill?

A. Right.

Q. What street does it lie between?

A. Reynolds and Fisher Street.

Q. And the other direction, the streets that run east and west, which are they?

A. Southern and Central.

Q. How close do you live to the Hum-Dinger or the Super-Duper?

A. Well, the Super-Duper is right behind me and the Hum-Dinger is about five blocks down.

Q. Now, returning to the 19th of October, do you recall what time you came home that day?

A. Yes, quarter of three.

Q. How do you place that time?

A. I left my sister's house at twenty-five of three and

Q. All right, that is all.

(Excused from witness stand.)

CHARLENE I. SHAFER, being duly sworn according to law testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Would you state your full name?

A. Charlene Ina Shaffer.

Q. Where do you live?

A. 349 Clark Street, South Williamsport.

Q. Is that between two other streets, in other words that is a street running up and down the hill?

A. Right.

Q. What street does it lie between?

A. Reynolds and Fisher Street.

Q. And the other direction, the streets that run east and west, which are they?

A. Southern and Central.

Q. How close do you live to the Hum-Dinger or the Super-Duper?

A. Well, the Super-Duper is right behind me and the Hum-Dinger is about five blocks down.

Q. Now, returning to the 19th of October, do you recall what time you came home that day?

A. Yes, quarter of three.

Q. How do you place that time?

A. I left my sister's house at twenty-five of three and

Charlene Shaffer.

it takes about 10 minutes to get home.

Q. Did you have the occasion to see Jennifer Hill that day?

A. Yes.

Q. When did you see her?

A. When I pulled into the driveway, a bunch of some younger kids and here were playing kickball in the field behind our house.

Q. Did she have occasion to come to your house then?

A. Yes.

Q. Approximately what time was that?

A. About a minute or two after three.

Q. How do you place that?

A. I started to watch a TV show at three.

Q. What show?

A. "General Hospital".

Q. Did Jennifer Hill come with her?

A. Yes.

Q. Who all was there, do you recall the children?

A. Not the younger ones, but the older ones I do, Ruthie Hubbard and Jennifer Hill and the older Hurley girl, I don't know her first name, and other than the little kids around the neighborhood, I don't remember all of them.

Q. How long did they stay?

A. About 25 minutes, approximately.

Q. How do you establish that time?

A. I went out on the front porch, and they knocked on

Charlene Shaffer.

the door and we stood out there and talked quite awhile and Ruthie mostly, and the dog came out on the porch and Jennie was playing with the dog, she didn't say too much, and we, when I went back into the house the show was over.

Q. Is that a half hour show?

A. Yes.

Q. That makes it 3:30?

A. Right....well, they just started to show the names on the TV who plays on the show.

Q. It was terminating?

A. Right.

Q. Did you see Jennifer Hill after that, that day?

A. No, they walked on up the hill, Ruthie said, "We have to go now.", and they walked on up the hill, up Clark Street.

Q. That is the last you saw of them?

A. Yes.

Q. Can you tell us what Jennifer Hill was wearing?

A. She had a pair of jeans on and a football jersey, but I didn't recall the number that afternoon.

Q. Can you tell us the color?

A. It was blue with white numbers.

Q. Is there a reason you remember that colors?

A. They are South Side's colors.

Q. I am going to show you a chart just briefly, if you come down, can you establish where your house would be on ~~is~~ you said it was between Southern....

Charlene Shaffer.

By The Court:

You are referring to what number?

By Mr. Ertel:

Q. Referring to Commonwealth's Exhibit No. 42. You live on Clark Street?

A. Yes.

Q. This is Clark Street way to your left on Commonwealth's Exhibit No. 42, and this is Southern and this is Central, which side of the street would you live on going up?

A. The lefthand side going up.

Q. It would be somewhere in this block here?

A. Up above the alley.

Q. So it would be in the area where 108 and 109 is located?

A. Yes.

Q. Which way did you see the children disappear?

A. They went right up Clark Street.

Q. Where is the Super-Duper located? The lot?

A. Right here, it goes all of the way around Super-Duper, but they were playing in the field alongside.

Q. You are pointing to the area immediate left to the word "lane"?

A. Yes.

Q. The Super-Duper is in the area right next to "lane" on Exhibit No. 42, and your house is about 108 and 109?

A. Right.

Q. When you saw the children leaving, they were going

Charlene Shaffer.

towards Central Avenue, is that right?

A. Yes, going up Clark Street.

Q. That was approximately 3:30?

A. Yes.

Q. Thank you.

By Mr. Ertel:

I have marked Commonwealth's Exhibit No. 38, which is a Grit, I would ask the Court to take judicial notice of the fact it is a local newspaper for that particular day in question.

Q. I show you the Grit which is Commonwealth's Exhibit No. 38, and the TV schedule for Monday through Friday occurring that week of 15 to 19th, can you find where "General Hospital" is on there?

A. Yes.

Q. It shows it begins at 3:00, is that right?

A. That is right.

By Mr. Fierro:

I had told him I was willing to stipulate without introducing an entire newspaper and I don't think an entire newspaper should go into evidence on the basis of a TV Program.

By The Court:

It has not been offered yet, but at that time I will rule, Mr. Fierro.

- By Mr. Ertel:

No further questions.

By The Court:

Mr. Fierro?

Charlene Shaffer.

CROSS EXAMINATION

By Mr. Fierro:

Q. Mrs. Shaffer, of course you told us that you were not able to tell what numerals were on her jersey except to say they were white and the jersey was blue, in other words you didn't pay that much attention to what she was wearing?

A. Well, yes I did, she was leaning up against the porch post and when the dog jumped on her, she was playing with him, and I noticed what she had on.

Q. Did you notice the decorations on her blue jeans?

A. I didn't, but my daughter did.

Q. Your daughter noticed the decorations on her blue jeans?

A. Yes. She had hearts on the knees of her blue jeans.

By Mr. Ertel:

I object, it would be hearsay.

By Mr. Fierro:

I don't mind, that is your witness.

Q. She had hearts on the knees of her blue jeans?

By The Court:

From her own knowledge are you talking about?

By Mr. Fierro:

Q. Did you see the hearts on the knees of her blue jeans?

A. No, she was bent over.

Q. Do you know somebody who saw the hearts on the knees of the blue jeans that Jennifer was wearing?

Charlene Shaffer.

A. My daughter said.....

Q. Don't tell us, he does not want to know what your daughter said.

By Mr. Ertel:

I object to that comment, and I ask that it be stricken from the record and Mr. Fierro be asked to refrain from those comments.

By The Court:

Strike it from the record.

By Mr. Fierro:

Q. You do know somebody who saw whatever decorations were on those blue jeans, just "yes" or "no"?

A. Yes.

Q. Who is that "somebody" Mrs. Shaffer?

A. That is my daughter.

Q. What is her name?

A. Wendy Shaffer.

By Mr. Ertel:

I will so stipulate she had those blue jeans on.

By Mr. Fierro:

We know we had blue jeans, we are talking about the hearts, do you want to stipulate to that?

By Mr. Ertel:

I will stipulate she had red, and on her blue jeans there was some hearts and also a red stripe around the bottom.

By Mr. Fierro:

Make all your objections to the Court.

Charlene Shaffer.

By Mr. Ertel:

I object to that.

By The Court:

Proceed, Mr. Fierro.

By Mr. Fierro:

Q. You think they left around 3:30 in the afternoon?

A. No, I know they did. It was close to it.

Q. Well, say precisely, it does not matter to me, but in that area?

By Mr. Ertel:

I object to the constant comments by Mr. Fierro.

By The Court:

Proceed, Gentlemen.

By Mr. Fierro:

Q. Thereafter you did not see these children any more?

A. No, not at all.

Q. By the way, is your daughter here, was she be subpoenaed, do you know?

A. No, she is in school.

Q. Thank you, that is all.

By The Court:

Mr. Ertel, any questions?

By Mr. Ertel:

No.

(Excused from witness stand.).

By The Court:

We are going to recess, Gentlemen. During recesses

and at the time of the adjournment, the Jury and the Defendant will depart from the Court Room and everyone else in the Court Room will remain seated until the Judge leaves the Bench or until you are excused. The Defendant is now excused and the Jury is now excused.

(Recessed at 10:45 A.M., EDST.).

(Reconvened at 11:05 A.M., EDST.).

NORMA J. HILL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your name, please?

A. Norma Jean Hill.

Q. Where do you live?

A. 353 Hastings Street, South Williamsport.

Q. Are you the Mother of Jennifer Hill?

A. Yes.

Q. How old was Jennifer Hill?

A. 12.

Q. Do you know the Defendant, Kim Hubbard?

A. Yes, I do.

Q. Do you know his approximate age?

A. 20, he will be 21 in April.

Q. Mrs. Hill, returning to the 19th of October, 1973, can you tell me....well, prior to that can you tell me where your daughter was for the night?

A. She spent the night at the Hubbard home.

and at the time of the adjournment, the Jury and the Defendant will depart from the Court Room and everyone else in the Court Room will remain seated until the Judge leaves the Bench or until you are excused. The Defendant is now excused and the Jury is now excused.

(Recessed at 10:45 A.M., EDST.).

(Reconvened at 11:05 A.M., EDST.).

NORMA J. HILL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your name, please?

A. Norma Jean Hill.

Q. Where do you live?

A. 353 Hastings Street, South Williamsport.

Q. Are you the Mother of Jennifer Hill?

A. Yes.

Q. How old was Jennifer Hill?

A. 12.

Q. Do you know the Defendant, Kim Hubbard?

A. Yes, I do.

Q. Do you know his approximate age?

A. 20, he will be 21 in April.

Q. Mrs. Hill, returning to the 19th of October, 1973, can you tell me....well, prior to that can you tell me where your daughter was for the night?

A. She spent the night at the Hubbard home.

Norma Hill.

Q. Did you give her permission to go there?

A. Yes.

Q. Did you have an occasion on the 19th of October to call your daughter at the Hubbard home?

A. Yes.

Q. Can you tell us the approximate time?

A. Between 20 and 15 minutes of four when I called.

Q. That is in the afternoon?

A. Yes.

Q. What did you say?

By Mr. Fierro:

To whom? I object, your Honor.

By Mr. Ertel:

Q. To whom did you talked?

A. I talked to Jennie.

Q. Is that your daughter?

A. Yes.

Q. What did you.....

By Mr. Fierro:

I object.

By The Court:

Sustained.

By Mr. Ertel:

This is not hearsay, not what this woman said, only what she told Jennifer, not what Jennifer told her.

By Mr. Fierro:

I would like to know if my Client overheard that.

Norma Hill.

By Mr. Ertel:

It makes no difference, this is an act that took place, a physical act which took place.

By Mr. Pierro:

You are asking her about conversation between her and her daughter.

By The Court:

Gentlemen, the Court has ruled, if you care to argue you may come to Side Bar.

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

By Mr. Ertel:

Q. At 3:45 what number did you dial, do you know?

A. 322-2302.

Q. Whose number is that?

A. Hubbard's.

Q. Who answered the phone?

A. Ruthie answered the phone and I asked for my daughter.

Q. Did you speak with Jennifer?

A. Yes.

Q. I show you Commonwealth's Exhibit No. 8, can you identify that picture and who the person is? Can you identify the picture of somebody?

A. (Witness begins crying.). It looks like Jennie.

Q. Is there any doubt in your mind?

A. I never saw her look like that.

Q. All right, no further questions.

By The Court:

Mr. Fierro.

By Mr. Fierro:

I suppose I had better give the witness time to compose herself. May I recall her, or do you want me to go ahead with her?

A. I am all right.

Q. Mrs. Hill, you say you called the Hubbard house at around quarter to four?

A. That is right.

Q. On October 19th?

A. Yes.

Q. You said that Ruthie answered the phone and thereafter you spoke to your daughter?

A. That is right.

Q. Now, at that time was your husband at home?

A. No, he wasn't.

Q. Do you know where he was?

A. He was still working or he was on his way home from work.

Q. Do you know what time your husband generally leaves work?

By Mr. Ertel:

I object to this, this is irrelevant to the conversation what she was offered for, her husband will be called.

By Mr. Fierro:

She is called as a Commonwealth witness, and I feel I should explore everything the Commonwealth witnesses know about

Norma Hill.

this case, particularly since she is the Mother of the victim.

By Mr. Ertel:

We would be glad to have the telephone conversation come in.

By The Court:

The objection is over ruled, ask your question again.

By Mr. Fierro:

Q. Let me ask you about that day, do you know what time your husband, and his name is Jack?

A. That is right.

Q. Do you know what time your husband got home that day on October 19th?

A. What time he got home, it was around five after four.

Q. About five after four?

A. That is right.

Q. Do you know whether you made anyother phone calls to the Hubbard house that afternoon that is outside of this quarter to four?

By Mr. Ertel:

I object at this point, we have witnesses who will be present, he is asking for hearsay which you ruled out, I could not get it in, I think what is good for us is good for him.

By Mr. Fierro:

I think that he is so mistaken, I am not asking about conversation.

*Husband Testified
he was drinking coffee
+ that they were talking
about the stove at 5:55*

Norma Hill.

By The Court:

You are asking about other calls?

By Mr. Fierro:

What call she may have made.

Q. Did you make a call, that is what I am asking?

By The Court:

You may answer.

A. That was the only call I made.

By Mr. Fierro:

Q. When your husband got home, which you say was around 4:00 that afternoon, do you know if he made any telephone call

A. Not when he got home.

Q. Were you home with your husband, obviously from the time he got home until we will say all of the rest of the afternoon?

A. Yes, I was with my husband the rest of the afternoon. *Her husband testified she went for groceries home at 4:00 PM with JACKIE AFTER JACKIE CALLED Mr. BOARD*

Q. You don't know whether he made any telephone calls or not after he got home?

A. I know he made a call quarter, around quarter of five.

Q. He did make a call at quarter of five, now you know who he called?

A. Yes, I know.

Q. Where did he call?

A. He called the Hubbards'.

Q. He called the Hubbards' at quarter of five that afternoon, is that correct?

Norma Hill.

56.

By Mr. Ertel:

I object, she said "around".

By Mr. Fierro:

Q. Do you want to be more specific, why do you say "around"?

A. It could have been 15 or 10 of.

Q. It could have been around, it could have been 15 or 10 of, is that correct?

A. Yes.

Q. That is the time that you, Mrs. Hill, are placing your telephone, or your husband's telephone call to the Hubbard house that afternoon, is that correct?

A. Right, over an hour after I made the first one.

Q. But quarter of five to ten to five is your best estimate of the time?

A. That is right.

Q. How do you fix it at quarter of five or ten minutes to five, Mrs. Hill?

A. Because he was calling just as my Mother got home from work and that is what time she got home.

Q. Now, that you said very quiet, let me repeat it, did you say your husband was calling at about the same time your Mother got home from work and that is the time she came home from work?

A. Yes, that is the time she came home that day.

Q. That is the time she came home that day?

A. Yes.

Norma Hill.

Q. How do you know that is the time she came home that day, did you look at the clock?

A. She did.

Q. Your Mother did?

A. I did too.

Q. You did too?

A. Yes.

Q. So we want the Jury to know, you know what time the call was placed by Jack because you looked at the clock, didn't you?

A. Yes, I glanced at it and it was between quarter of and ten of.

Q. Did you hear what your husband said?

A. No, I did not.

Q. Did your husband or you make anyother telephone calls except the two we just talked about?

A. No.

Q. All right, did you or your husband receive anyother telephone calls let's say from quarter of five to six o'clock?

A. Not that I know of.

Q. Not that you know of?

A. No.

Q. Did you and your husband have your supper?

A. No.

Q. Did you leave the house?

A. I did.

Q. Did your husband leave with you?

Norma Hill.

A. I had left as he made the phone call.

Q. Are you talking about this quarter to five phone call?

A. Yes.

Q. Did he join you after the phone call?

A. He met me up the street.

Q. What do you mean by "up the street"?

A. On Central Avenue, I went to look for Jennie and so did he.

Q. So he joined you, didn't he?

A. Yes.

Q. Now, were you people in a car or on foot?

A. I was in a car, he was walking, and I picked him up.

Q. So you and your husband drove around?

A. Yes.

Q. Do you have any idea how long you drove around?

A. No, no idea.

Q. What?

A. I don't know how long.

Q. Can you tell us the approximate area that you drove about?

A. Central Avenue, the alleys, down around Southern Avenue.

Q. Anyother streets?

A. The side streets.

Q. Now, after you completed driving around, you and your husband, what did you do?

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Norma Hill.

59.

~~Q.~~ A. I went back home and nobody had heard from her yet, so we walked.

Q. You mean you and your husband?

A. Yes.

Q. You walked where?

A. We walked up Central Avenue to Hubbards'.

Q. To the Hubbard house?

A. Not to the house, to the corner by their house.

Q. To the corner, all right. I don't know, frankly, the other street which is the corner of West Central Avenue?

A. I think it is Clinton.

Q. You walked to that corner?

A. Yes.

Q. Do you know about what time it was at that time?

A. It was just starting to get dusk, I don't know what time.

Q. When you got to that corner, who did you see?

A. Dorisann and Ruth.

~~Q.~~ Q. Did you see Kim at any time that evening?

~~A.~~ A. No, I didn't.

Q. You did not see him at all on the street?

A. No, I didn't.

Q. How long were you, when you saw Dorisann, that is Mrs. Hubbard and Ruth, the daughter, did you talk to these people?

A. Yes.

~~Q.~~ Q. How long were you there?

Norma Hill.

~~_____~~ A. Probably five minutes.

~~_____~~ Q. Then where did you and your husband go?

~~_____~~ A. He went down Southern Avenue and walked up, and I walked up through the alleys and then we met, I think on Howard Street and walked through the alleys to our house and then I went home and called the Police.

~~_____~~ Q. That is when you called the Police?

~~_____~~ A. Yes.

Q. Do you know what time it was then?

A. No, I don't.

Q. Was it getting dark or was it dark?

A. It was dark.

Q. It was dark?

A. Yes.

Q. After you called the Police, did you go back toward the Hubbard house?

By Mr. Ertel:

May we approach Side Bar, your Honor?

By The Court:

Yes.

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

Proceed.

~~_____~~ By Mr. Fierro:

~~_____~~ Q. Mrs. Hill, are you sure that when you and your husband went to this corner of Clinton and West Central Avenue and you met Mrs. Hubbard and her daughter, Ruthie, you did not see Kim and both you and your husband waved at him?

Norma Hill.

A. I am positive I did not see Kim.

Q. You are positive you didn't see him?

A. I am positive. His Mother tried to tell me I saw him, I did not.

Q. His Mother tried to tell you you saw him?

A. That is right.

Q. Did your husband say anything at that time like "Hiya, Kim.", or anything like that?

A. No, in fact my husband didn't stay there and talk, he said "Hi" to them and then he kept going down Clinton Street to Southern Avenue.

Q. He said "Hiya" to them?

A. To Dorisann and Ruth.

Q. You are saying Mrs. Hubbard said to you that you saw Kim?

A. She called me and said that.

Q. When was the next time you saw Kim?

A. I wasn't seeing too well after that.

Q. I asked you when was the next time you saw Kim?

A. I think Saturday or Sunday.

Q. Wasn't it the very next day that you saw Kim when he, his Mother, Colleen Whitenight and Ruthie came to your house with food?

By Mr. Ertel:

I object to this, it is irrelevant at this point.

By Mr. Fierro:

I will follow its' relevancy, your Honor.

Norma Hill.

By The Court:

Side Bar, Gentlemen.

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

By The Court:

Read the question.

(Official Reporter read question as follows: "Q. Wasn't it the very next day that you saw Kim when he, his Mother, Colleen Whitenight and Ruthie came to your house with food?".)

A. I don't know if it was Saturday or Sunday, but it was one of those days.

By Mr. Fierro:

Q. You don't know which one of those days?

A. No.

~~Q.~~ Q. But you did see Kim?

~~A.~~ A. Yes, he helped bring the stuff in, but he didn't stay very long.

~~Q.~~ Q. I didn't hear that?

~~A.~~ A. He helped bring the food in, but he didn't stay.

~~Q.~~ Q. Well, he stayed long enough to bring the food in?

~~A.~~ A. Yes.

~~Q.~~ Q. You saw him, didn't you?

~~A.~~ A. Yes, I saw him.

Q. You saw him clearly, didn't you?

A. Yes, as clearly as I could. I was upset.

Q. Of course you were upset. Did your upset cause your vision to become blurred or anything like that?

Norma Hill.

A. Well, I was introduced to his girlfriend, but I didn't remember what she looked like.

Q. But you knew Kim, didn't you?

A. Yes.

Q. You knew him before that day?

A. Yes, I did.

Q. Now, when you looked at Kim as he was bringing the food in, could you see his face?

A. Yes.

Q. Did he have any marks on his face?

A. I didn't notice.

Q. Did you notice whether he had any marks on his hands?

A. No, I didn't.

Q. What?

A. No, I didn't.

Q. You didn't notice you mean?

A. No, I didn't notice.

Q. Mrs. Hill, isn't it true that also that same day, Saturday, that we are talking about, that you also saw Kim a second time?

A. I don't remember.

Q. What?

A. I don't remember.

Q. Don't you remember going to the Hubbard house that Saturday?

A. I remember going to the Hubbard house, but I don't

know if it was Saturday.

Q. You don't remember whether it was Saturday or not?

A. No, it could have been.

Q. What?

A. It could have been.

Q. It could have been?

A. Yes.

_____ Q. Do you remember having coffee there?

_____ A. Yes.

_____ Q. Did you see Kim?

_____ A. Yes.

_____ Q. Did you see him sitting at the table having coffee with you?

_____ A. No, he didn't sit at the table.

_____ Q. What did he do?

_____ A. He was doing something in the kitchen.

_____ Q. Do you know what he was doing?

_____ A. Baking, making icing or something.

_____ Q. Did you see him come in to where you were sitting?

_____ A. I don't know if he did that or not.

_____ Q. I didn't hear you?

_____ A. I don't know if he came in where I was sitting or not, it is kind of in the same room.

_____ Q. It is kind of in the same room, you could see him?

_____ A. Yes.

_____ Q. Do you remember whether he was wearing a "T" shirt and undershirt?

A. I don't know what he was wearing.

Norma Hill.

Q. Mrs. Hill, do you remember this date that you were having coffee at the Hills' (Hubbard) that your husband was with you and Garth was with you?

A. I was having coffee at the Hubbards'.

Q. At the Hubbards', pardon me, your husband Jack was with you and Garth was with you, is that correct?

A. Yes.

Q. Now, does it bring it back to your memory it was also that Saturday we are talking about, October 20th?

A. It could have been, I don't remember if it was Saturday or Sunday, but it was on the weekend.

Q. Well, is it true your husband Garth were with you?

A. Yes.

Q. Who was in the Hubbard house at that time?

A. Dorisann and Kim and his girlfriend.

Q. How long did you stay?

A. Probably 10 or 15 minutes, I don't know, maybe not that long.

Q. Do you recall we are talking about the time that you, Jack and Garth, were at the Hubbard house having coffee, whether you say it was Saturday or Sunday, do you recall Kim serving Garth a piece of cake?

A. I don't know if Kim served it to him, but I think Garth had a piece of cake.

Q. What you are telling me is even though Kim was there, you didn't pay any attention to him?

A. I wasn't there to see Kim, I had been there to

Norma Hill.

— see his Mother.

Q. Even so, are you saying that you didn't look at Kim?

A. I may have glanced at him, I didn't sit there and look at him the whole time.

Q. Did you speak to Kim?

A. I don't know, probably, I usually do.

Q. Well, if you glanced at him and if you probably spoke to him, did you see any marks on his hands or body or face?

A. I didn't notice any.

Q. Would you have noticed them if they were there?

A. No, I would not have noticed, I didn't look at him that close.

By Mr. Ertel:

I object.

By The Court:

It was answered.

— By Mr. Fierro:

— Q. You, of course, are not going to give any answers that are going to help Kim?

— A. I am going to tell the truth.

— Q. Tell us whether you saw any marks on his hands or face at any time beginning on October 19th, because you did testify you saw him twice at least one day?

By Mr. Ertel:

I object, it has a preamble and not a question.

By Mr. Fierro:

It is a question, I am sure the lady understands it.

Norma Hill.

By The Court:

Q. Did you understand the question?

A. I didn't look at him close enough to see anything.

By Mr. Fierro:

~~_____~~ Q. From the, during the time of October 19th or the next day, October 20th, did you get a phone call from a girl saying, "Mommy, please help me! "?

~~_____~~ A. Not that day, no.

~~_____~~ Q. Not that day?

~~_____~~ A. It was.....

By Mr. Ertel:

I object to this, it is irrelevant.

By Mr. Fierro:

I am asking if she got a phone call.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Mrs. Hill, of this you are sure that on October 19th your daughter, Jennifer, did not reach home?

A. That is correct.

Q. Correct?

A. That is right.

~~_____~~ Q. Didn't you make the statement on October 19th to the Hubbards that you were looking for her sneakers?

~~_____~~ A. No, I did not.

~~_____~~ Q. Or her bag?

~~_____~~ A. No, I did not.

Norma Hill.

Q. Did you make the statement you were looking for her bag?

A. I may have.

Q. You may have?

A. Yes.

Q. Aren't you sure, Mrs. Hill?

A. I don't remember what I said to them.

Q. You don't remember what you said to them?

A. No.

Q. Do you know what clothing your daughter wore on October 19th?

A. Yes, I know she had her football jersey on.

Q. What else?

A. Her blue jeans and sneakers.

Q. Blue jeans and sneakers?

A. And coat.

Q. Are those the blue jeans that have a heart on the knees?

A. No, the light blue jeans.

Q. Are you saying, Mrs. Hill, that the blue jeans that she wore did not have the red hearts on the knees?

A. I am saying I believe when she left their house to come home she had her light blue pants on, yes. *why*

Q. I didn't ask you what she had on when she left the Hubbard house, because you don't know, you were not there?

A. I didn't see her.

Q. I am asking you, do you know what your daughter

Norma Hill.

— had on, on October 19th, did you see her at any time on
— October 19th?

— A. No, I did not.

— Q. You did not?

— A. No.

Q. I will ask you, do you know what your daughter was wearing when she left your house on October 18th?

A. Yes, I do.

Q. What was she wearing?

A. She had her dark blue jeans with the hearts on the knees, she had her jersey with "33", she had her black sneakers that were worn out and her old blue coat, jacket.

Q. Old blue Navy-type blue jacket, right?

A. It had been an old South Williamsport jacket.

Q. Sports-type jacket?

A. Yes.

Q. Faded blue, something like that, right?

A. Yes.

Q. This is October 18th, is this correct, Mrs. Hill?

A. Right.

Q. You definitely know she had jeans that had hearts on her knees?

A. She had those on when she went up there.

Q. Besides hearts on the knees on those blue jeans, was there something, you know, at the bottom on the cuff?

A. The same material was on the bottom.

Q. I am sorry?

Norma Hill.

A. The same material was on the bottom.

Q. It was like a red fringe around the entire circumference of the trouser?

A. Yes.

Q. These were trouser-type pants, these jeans, correct?

A. They were bell bottoms.

Q. What I mean, they looked like pants, it is not a dress?

A. No, it is not a dress.

Q. Right?

A. Right.

Q. Of course, you didn't see your daughter at all on October 19th, did you?

A. No.

Q. Mrs. Hill, were you shown your daughter's clothing by the Police after her body was discovered?

A. No, I was not. *How did Mrs Hill know what Jennifer wore on 19th when she*

Q. No further questions. *didn't see her?*

By The Court:

Mr. Ertel?

By Mr. Ertel:

I am waiting for the clothing so we can have her identify it. We have a sequestration order, but we have our evidence, I would like to have him remain in the Court Room because of the complication of marking this stuff.

By The Court:

Any objection?

Norma Hill.

By Mr. Fierro:

No.

(Commonwealth's Exhibit No. 46 marked.)

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Mrs. Hill, rather than go through these items with you, can you tell me generally what Jennifer had with her when she left her home?

A. She had what I said she had on when she left, she had her dark blue pants with the red hearts and the red trim at the boom. She had her blue jersey with the number "33" on. She had her old black sneakers on and her old blue jacket. She had a Glick bag with her light blue pants in for the next day, and clean underwear, and I don't know, I think it was pajamas.

Q. Now, you have stated on cross examination, Mrs. Hill, that Mrs. Hubbard tried to tell you that you saw Kim, when was that?

A. It was several weeks later, I think, or several days later.

Q. What was that conversation?

A. She said that he had been on his bicycle and she said, "Didn't you see him? He was there when you were there.", but I didn't see him.

Q. Did she insist on it?

A. Yes.

By Mr. Fierro:

I object to this.

Norma Hill.

By The Court:

The objection is sustained.

By Mr. Ertel:

Q. Was there more than once she mentioned this?

A. Yes.

Q. Can you tell us approximately how many times?

A. At least two.

Q. What did you respond to her?

A. I just told her that I didn't see him.

Q. No further questions.

By The Court:

Mr. Fierro?

RE-CROSS EXAMINATION

By Mr. Fierro:

Q. Did you see anybody on a bicycle on that evening of October 19th?

A. No.

Q. Did you see anybody else except Mrs. Hubbard and Ruthie?
NORMA SAW A TOM EDWARDS ON KANE ST

A. I don't remember seeing anybody else, I may have seen somebody.

Q. Do you remember seeing somebody you don't know who it was?

A. I was looking for Jennie, I was not paying any attention to anybody else.

Q. Well, Mrs. Hill, the statement just now that you were looking for Jennie, you were not paying any attention to anybody

Norma Hill.

else, that means, doesn't it, that Kim could have been there and you didn't pay attention and didn't see him, isn't that correct?

By Mr. Ertel:

I object.

By The Court:

The objection is sustained.

By Mr. Pierro:

Q. Your statement you were paying attention or weren't paying attention to anybody because you were looking for Jennie, doesn't that mean you were not looking around to see who else was there?

A. I was looking around, but I was looking everywhere I could, but I was looking for Jennie.

Q. You were not paying particular attention to other people, were you?

A. No.

Q. That is all.

By The Court:

Mr. Ertel?

By Mr. Ertel:

Nothing further.

(Excused from witness stand.)

JACQUELYN HILL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

Jacquelyn Hill.

74.

By Mr. Ertel:

Q. State your full name?

A. Jackie Hill.

Q. How old are you?

A. 13.

Q. You are the sister of Jennifer Hill?

A. Yes.

Q. That was your Mother who just testified?

A. Yes.

Q. Jackie, going back to the 19th of October, did you see Jennie on that day?

A. No.

Q. Did you have the occasion to make a phone call on that day?

A. Yes.

Q. Approximately what time?

A. About twenty-five after four.

Q. Who did you call?

A. The Hubbards.

Q. To whom did you speak?

A. Ruthie.

Q. Did you speak to anybody else?

A. No.

Q. Did anyone tell you to call there?

A. My Mother.

By Mr. Fierro:

I object to this, your Honor.

Norma Hill.

else, that means, doesn't it, that Kim could have been there and you didn't pay attention and didn't see him, isn't that correct?

By Mr. Ertel:

I object.

By The Court:

The objection is sustained.

By Mr. Pierro:

Q. Your statement you were paying attention or weren't paying attention to anybody because you were looking for Jennie, doesn't that mean you were not looking around to see who else was there?

A. I was looking around, but I was looking everywhere I could, but I was looking for Jennie.

Q. You were not paying particular attention to other people, were you?

A. No.

Q. That is all.

By The Court:

Mr. Ertel?

By Mr. Ertel:

Nothing further.

(Excused from witness stand.).

JACQUELYN HILL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

Jacquelyn Hill.

74.

By Mr. Ertel:

Q. State your full name?

A. Jackie Hill.

Q. How old are you?

A. 13.

Q. You are the sister of Jennifer Hill?

A. Yes.

Q. That was your Mother who just testified?

A. Yes.

Q. Jackie, going back to the 19th of October, did you see Jennie on that day?

A. No.

Q. Did you have the occasion to make a phone call on that day?

A. Yes.

Q. Approximately what time?

A. About twenty-five after four.

Q. Who did you call?

A. The Hubbards.

Q. To whom did you speak?

A. Ruthie.

Q. Did you speak to anybody else?

A. No.

Q. Did anyone tell you to call there?

A. My Mother.

By Mr. Fierro:

I object to this, your Honor.

Jacquelyn Hill.

By The Court:

The objection is sustained.

By Mr. Pierro:

If she answered, I don't know, I move it be stricken.

By The Court:

Strike it from the record, she did, she said her Mother. The Jury is instructed to disregard the answer.

By Mr. Ertel:

Q. Who was home when you called?

A. You mean at my house?

Q. Yes?

A. Well, my Mom and Dad and my Sister and my Brother and that, I think that is all.

Q. And to whom did you speak at the Hubbard home?

A. Ruth.

Q. What did you ask Ruthie?

By Mr. Pierro:

I object, your Honor.

By The Court:

The objection is sustained.

By Mr. Ertel:

No further questions.

CROSS EXAMINATION

By Mr. Pierro:

Q. Jackie, were you in Court while your Mother just testified?

A. Yes.

Jacquelyn Hill.

Q. You heard her testify as to who made calls to the Hubbard house, didn't you?

A. Yes.

Q. You heard her testify as to what time she thought those calls were made, didn't you?

A. Yes.

Q. Were you at home when your Dad called the Hubbard house?

A. I don't know, because I was out looking with my Mom and I don't know when he called.

Q. You don't know when he called?

A. No.

Q. Your Mother just testified that he called at quarter or ten minutes to five and that she was present, now were you there when your Father called?

By Mr. Ertel:

If she remembers.

A. I don't remember.

By Mr. Fierro:

Please don't interrupt the witness. I object to any remarks.

By The Court:

If there is any objection, make them to the Court.

By Mr. Fierro:

He was not making an objection.

By The Court:

That is what I am stating now, if there is any

Jacquelyn Hill.

objections, make it to the Court. Proceed, Mr. Fierro.

By The Court:

Q. Do you understand the question, Miss?

A. Yes.

By Mr. Fierro:

Q. Is your answer "yes" to the question, or don't you know?

A. I don't know.

Q. Did you hear me ask your Mother about the calls that were made.....

By Mr. Ertel:

I object to the question.

By Mr. Fierro:

I have not finished the question.

By The Court:

Refrain from answering until I hear the whole question.

By Mr. Fierro:

Q. Did you hear me ask your Mother about the calls that were made that afternoon?

A. Yes.

Q. To the Hubbard house?

A. Yes.

Q. Did you hear that question?

A. Yes.

Q. Did you hear your Mother's answer?

A. Yes.

Jacquelyn Hill.

By Mr. Ertel:

I object to this line of questioning, because that is not a correct statement of what he asked, he asked the question.....

By Mr. Fierro:

I object to his making.....

By The Court:

Side Bar, Gentlemen.

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

By The Court:

Mr. Fierro, rather than my having the question read back, would you restate it, please?

By Mr. Fierro:

Yes, your Honor.

Q. Now, Jacquelyn, you have heard your Mother's answers this morning, didn't you?

A. Yes.

Q. Did you hear your Mother answer that she heard or saw you make a telephone call to the Hubbard house?

By Mr. Ertel:

I object to the question.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. When I asked your Mother what calls were made to the Hubbard house, you didn't hear your mother say that you called, did you?

Jacquelyn Hill.

By Mr. Ertel:

I object to the question, it is a misstatement.

By The Court:

Reword your question.

By Mr. Fierro:

Q. Was your Mother present when you made this call to the Hubbard house?

A. Yes.

Q. She was, you are sure of that?

A. Yes.

Q. Who asked you to make that call?

A. My Mom.

By Mr. Ertel:

I object to that, I asked the question and it could not be answered.

By The Court:

The objection is over ruled, it was answered.

By Mr. Ertel:

I will withdraw the objection anyway, since I did want the answer.

By Mr. Fierro:

Q. Were you present when your Mother made a call to the Hubbard house?

A. No.

Q. Was your Dad at home when you made this call?

A. Yes.

Q. Was your Dad there when your Mother asked you to

Jacquelyn Hill.

— make the call?

— A. Yes.

— Q. And you say that was around, I am sorry, 4:25?

— A. Uh-huh.

Jacquelyn calls at 4:25

— Q. How do you fix that time?

— A. Well, I was up at my girlfriend's house and I was staying overnight and my Mom called me, I don't know what time she called me anyhow, but I left about ten after five.... after four, something like that, I don't know what time it was, but I looked at the clock when I got home, it was about twenty after four, and then I set at the table a little bit and it was twenty-five after and she told me to call.

— Q. Jacquelyn, were you there when your Father called the Hubbard house?

— A. I don't know, I don't remember.

— Q. You don't remember?

— A. No.

— Q. Were you there when your Mother called the Hubbard house?

— A. No, because I think at the time she called I was at my girlfriend's house.

Q. When you called the Hubbard house you spoke to Ruthie?

A. Yes.

Q. Did you ask to speak to anyone else?

A. No.

Q. You did not?

A. No.

Jacquelyn Hill.

Q. All right, that is all.

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Jackie, before you get off of the stand, were you in the Court Room when Mr. Fierro asked what calls your Mother and Father placed to the home, were you here?

A. Uh-huh.

Q. Did he ask what calls were placed, or just what your Mother and Father placed, do you recall?

A. No.

Q. No further questions.

By Mr. Fierro:

No further questions.

(Excused from witness stand.).

By The Court:

Proceed.

By Mr. Ertel:

I would like to call Mrs. Hill for a moment.

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

NORMA JEAN HILL, previously sworn, recalled and testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Mrs. Hill, were you asked by Mr. Fierro what all calls were made from your home?

By Mr. Fierro:

I object to that.

Norma Hill.

By The Court:

The objection is sustained.

By Mr. Ertel:

Q. Mrs. Hill, did you, when you answered as to the phone calls, what phone calls were you relating to?

By Mr. Fierro:

I object to this, this is improper re-direct and also leading.

By The Court:

Just ask the question, Sir.

By Mr. Ertel:

Q. Mrs. Hill, were you ever asked whether anybody else other than your husband and you made any phone calls?

A. No.

By Mr. Fierro:

I object to what she was asked.

By The Court:

Sustained.

By Mr. Ertel:

Q. Did Jennifer....did Jackie make a call in your presence?

A. Yes, she did.

By Mr. Fierro:

I object on the grounds it is improper re-direct and the other girl did testify.

By The Court:

The Court will permit it, but, however, it is very

Jacquelyn Hill.

Q. All right, that is all.

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Jackie, before you get off of the stand, were you in the Court Room when Mr. Fierro asked what calls your Mother and Father placed to the home, were you here?

A. Uh-huh.

Q. Did he ask what calls were placed, or just what your Mother and Father placed, do you recall?

A. No.

Q. No further questions.

By Mr. Fierro:

No further questions.

(Excused from witness stand.)

By The Court:

Proceed.

By Mr. Ertel:

I would like to call Mrs. Hill for a moment.

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

NORMA JEAN HILL, previously sworn, recalled and testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Mrs. Hill, were you asked by Mr. Fierro what all calls were made from your home?

By Mr. Fierro:

I object to that.

Norma Hill.

By The Court:

The objection is sustained.

By Mr. Ertel:

Q. Mrs. Hill, did you, when you answered as to the phone calls, what phone calls were you relating to?

By Mr. Fierro:

I object to this, this is improper re-direct and also leading.

By The Court:

Just ask the question, Sir.

By Mr. Ertel:

Q. Mrs. Hill, were you ever asked whether anybody else other than your husband and you made any phone calls?

A. No.

By Mr. Fierro:

I object to what she was asked.

By The Court:

Sustained.

By Mr. Ertel:

Q. Did Jennifer....did Jackie make a call in your presence?

A. Yes, she did.

By Mr. Fierro:

I object on the grounds it is improper re-direct and the other girl did testify.

By The Court:

The Court will permit it, but, however, it is very

Norma Hill.

leading. It has been answered.

By Mr. Ertel:

Q. What, if anything, did you say to her prior to that phone call?

By Mr. Fierro:

I object.

By The Court:

The objection is sustained.

By Mr. Ertel:

No further questions.

By Mr. Fierro:

Nothing further.

By The Court:

Mrs. Hill, you are prohibited from discussing your testimony with anyone except the District Attorney or a member of his staff.

By Mr. Fierro:

I request that all Commonwealth witnesses be sequestered because I notice one now has been recalled.

By Mr. Ertel:

In that case, I ask that all Defense witnesses be sequestered too.

By The Court:

May I see Counsel?

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

By The Court:

Mr. Ertel, you have asked that all Defense witnesses be sequestered?

By Mr. Ertel:

Yes.

By The Court:

Including the Parents?

By Mr. Ertel:

Yes.

By The Court:

Now, Mr. Fierro, you have asked that all Commonwealth witnesses be sequestered, including the Parents?

By Mr. Fierro:

Yes.

By The Court:

All witnesses will be sequestered, the District Attorney's witnesses will report to the Witness Waiting Room and the Defendant's witnesses will report to Court Room No. 3. Defense witnesses in Court Room No. 3 and the Commonwealth witnesses in the Witness Waiting Room.

(Witnesses leave Court Room.).

By The Court:

Is there anyone subpoenaed by the Commonwealth or the Defense in the Court Room?

(No Response.).

By The Court:

Mr. Fierro, are there any witnesses in the Court Room that you intend to call, at this time?

James Clabaugh.

By Mr. Fierro:

I am looking, and I have asked, I really don't know them all that well, but the Court has made the statement to them. If there are any of my witnesses here that are subpoenaed, please leave. Now, the Father is here but I have no intention of calling him.

By The Court:

Proceed. We will take one more witness this morning.

By Mr. Ertel:

James Clabaugh.

By The Court to James Clabaugh:

Q. How old are you, Sir?

A. 11.

JAMES A. CLABAUGH, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. James Allen Clabaugh.

Q. Where do you live?

A. 921 West Central Avenue, South Williamsport.

Q. What grade are you in, Jim?

A. Sixth.

Q. How far do you live from the Hubbards?

A. Half a block.

Q. Going back to the 19th of October, did you have

James Clabaugh.

By Mr. Fierro:

I am looking, and I have asked, I really don't know them all that well, but the Court has made the statement to them. If there are any of my witnesses here that are subpoenaed, please leave. Now, the Father is here but I have no intention of calling him.

By The Court:

Proceed. We will take one more witness this morning.

By Mr. Ertel:

James Clabaugh.

By The Court to James Clabaugh:

Q. How old are you, Sir?

A. 11.

JAMES A. CLABAUGH, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. James Allen Clabaugh.

Q. Where do you live?

A. 921 West Central Avenue, South Williamsport.

Q. What grade are you in, Jim?

A. Sixth.

Q. How far do you live from the Hubbards?

A. Half a block.

Q. Going back to the 19th of October, did you have

James Clabaugh.

that day off from school?

A. Yes.

Q. Did you see Jennifer Hill that day?

A. Yes.

Q. Where did you see her?

A. At the corner of Clinton.

Q. Corner of Clinton?

A. Yes.

Q. Were you at home at the time?

A. No, walking.

Q. You were walking?

A. Yes.

Q. Can you come down here, Jim?

(Witness leaves stand.).

Q. Now, Jim, down here is the river, and you live...

A. Right here.

Q. Stand aside so the Jury can see....

By The Court:

You are referring to what Exhibit?

By Mr. Ertel:

Commonwealth's Exhibit No. 42.

Q. Now, this is where you live, Jim?

A. Yes.

Q. Now, where did you see Jennifer?

A. Right here in front of Mrs. Gray's house.

Q. Mrs. Gray is across the street from you?

A. Yes.

Q. Approximately what time did you see her there?

A. Around 4:00, I don't know the exact time.

Q. And what did she have on at that time?

A. She had a blue PO Jacket, it said "South Williamsport", and she had a jersey and I forget what color, red or blue.

By The Court:

Take the stand.

(Witness returned to stand.)

By Mr. Ertel:

Q. Now, when you saw her walking, did you see her walking?

A. Yes.

Q. Which side of the street was she on?

A. Towards the river. .

Q. That would be the north side?

A. Yes.

Q. What did you see her do?

A. She was walking past, she had her coat on, was unzipped and she was carrying a little bag.

Q. Can you describe that bag?

A. It had pink lines through it and it was white.

Q. And did you talk to her at that time?

A. Yes.

Q. What did you say, if you can recall?

A. I said "Hiya".

Q. Is that all?

A. Yes.

James Clabaugh.

Q. How do you fix the time around 4:00, did you do anything peculiar around that time or anything?

A. No.

Q. What had you done earlier in the day?

A. I was doing homework.

Q. But you saw a pink bag, could you recognize that if you saw it again, do you think?

A. What?

Q. The bag?

A. Yes.

(Commonwealth's Exhibit No. 47 marked.)

Q. I show you marked as Commonwealth's Exhibit No. 47, can you identify that as being similar like the jacket you saw?

A. Yes.

By Mr. Fierro:

I object to that, your Honor, being similar to or like.

By The Court:

Would you reword your question?

By Mr. Ertel:

Q. Can you identify that, you can look at it?

A. No, she had a lighter coat on that this.

Q. You think she had a lighter coat on than that?

A. Yes.

Q. No further questions.

James Clabaugh.

CROSS EXAMINATION

By Mr. Fierro:

Q. Now, Jim, you just got through looking at a jacket that the District Attorney showed you that was marked as Exhibit No. 47, and you picked it up in your own hands and you said, "No, she had a lighter coat.", is that correct?

A. Yes.

Q. So that the coat that the District Attorney showed you is not the coat that you saw her wearing, isn't that true?

A. Yes.

Q. You are sure of that?

A. Not absolutely sure.

Q. Well, surer than saying no, you said that was not the coat she had on?

A. Yes.

Q. Is this the coat you saw, you said she had a lighter coat on?

By Mr. Ertel:

I object, is he asking a question then?

By Mr. Fierro:

I am asking a question.

Q. Didn't you say when you were shown the jacket known as Exhibit No. 47, you held it up, the District Attorney said, "Is this what she had on that day?", and you said, "No, she had on a lighter coat.", isn't that what you said?

A. Yes.

Q. So that this jacket you were shown is not the jacket

James Clabaugh.

that you saw her wearing that afternoon?

A. Yes.

Q. Is that a correct statement?

A. Yes.

Q. By the way, Jim, did you see that shirt she had on that had the number "33"?

A. Yes, it was blue or red, I forget.

Q. Did you see the numbers on it?

A. White numbers, I couldn't remember the numbers.

Q. But you did see white numbers?

A. Yes.

Q. Now, you said it was around 4:00, Jim, and I would like to know whether it could have been quarter to four or 3:30, or quarter after four, do you have any way of helping us find out when you thought you saw her, or were you just guessing?

A. No, it was about four.

Q. Well, when you say "about", what does that mean, like quarter to four?

A. Yes.

Q. Quarter off?

A. Yes, around that.

Q. Around quarter of four?

A. I don't have the exact time.

Q. Most of us don't, Jim, and I wonder if you can't help us a little bit trying to tell us why you say it might have been quarter to four?

James Clabaugh.

By Mr. Ertel:

I object why he might have said it.

By Mr. Pierro:

Q. Why do you fix it at around quarter of four?

By Mr. Ertel:

I object, he didn't fix it about quarter of four.

By Mr. Pierro:

He just made the statement.

By Mr. Ertel:

He said it could have been.

By Mr. Pierro:

That is good enough for me, and I want to inquire....

By The Court:

Q. Do you understand the question?

A. Yes.

Q. You may answer.

A. I was at 3:30 and then 4:00, about 4:00 I did my homework and Mrs. Hubbard said she left about quarter of four to...

By Mr. Pierro:

Q. In other words, what you are doing is you heard Mrs. Hubbard say that she left around quarter to four and so that is why in your mind you are saying it was around quarter to four?

A. Correct.

By Mr. Ertel:

I object, he didn't say it was around quarter of four, he said it could have been around, he said it was around 4:00.

James Clabaugh.

By Mr. Fierro:

You were over ruled on that once.

By The Court:

The objection is over ruled, proceed.

By Mr. Fierro:

Q. Jim, did you notice around quarter to four as were watching Jennie, you said it was Clinton, I suppose Clinton and West Central Avenue?

A. Yes.

Do you know where the Grimes live?

A. Yes.

Q. Do you know Mike, or I think some people call him Phil, do you know Mike or Phil Grimes?

A. Yes, I know him.

Q. Did you notice a car in front of the Grimes' house at the time you saw Jennie?

A. Yes, they were working on their car.

Q. Where was this car, in front of whose house?

A. Mike's.

Q. That is Mike Grimes?

A. Yes.

Q. You say they were working on that car?

A. Yes.

Q. What did you see about the car concerning its' equipment, like any tires off or hood up?

A. Hood up.

By Mr. Ertel:

I object, it is irrelevant.

James Clabaugh.

By Mr. Fierro:

Not only does it go to fix time, but we will follow it up.

By The Court:

Is your examination going to be extensive?

By Mr. Fierro:

This is it.

By The Court:

You may answer.

By Mr. Fierro:

Q. What did you see about this car?

A. The hood was up and I didn't see nobody, I just saw the hood was up.

Q. That is all, Jim, thank you.

By The Court:

The Court is going to recess now for noon luncheon.

The Defendant is excused.

By Mr. Fierro:

He wants re-direct.

By The Court:

Not at this time, we are going to try to keep this schedule, and the lunch is here. The Defendant is excused and the Jury is excused.

Jim, you will not discuss your testimony with anyone except the District Attorney or a member of his Staff.

By Mr. Fierro:

Before we go, I want to put on the record, although

James Clabaugh.

I said that was my last question, I do have one more to ask him before re-direct.

By The Court:

You will be back at 1:15.

(Excused from witness stand.).

By The Court:

The Court will recess until 1:15.

(Recessed at 12:15 P.M.)

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

(James Clabaugh returned to witness stand.).

By The Court:

Mr. Fierro, you have indicated that you had one more question?

By Mr. Fierro:

Yes.

Q. Jim, at the time you say you saw the Grimes' car with the hood up, first let me ask you this, did you know what Kim Hubbard's car looked like?

A. Yes.

Q. Was there anything wrong with it, like any damage anywhere on the car?

A. I don't know of any.

Q. What?

A. I don't know.

Q. You don't know?

A. No.

Q. Did you recognize it last October whenever you

James Clabaugh.

saw it?

A. I didn't see it when I was right there.

Q. That is what I was asking, going to ask you, but what I am asking you now whenever you did see Kim's car did you recognize it that it was Kim's car whenever you did see it?

A. Sometimes, yes.

Q. Can you tell us if you saw Kim's car parked there at the time you saw Jennifer walking down the street?

A. I saw Mike's car and it had the hood up, I couldn't see nothing from there.

Q. Did you see Kim's car or not?

A. No.

Q. You did not see his car?

A. No, the hood was in the way, I just looked at that car.

Q. That is all.

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Did you see anyone around that car?

A. No.

Q. You didn't see any feet under it?

A. No, there might have been somebody under it, but I didn't see them.

Q. How long were you in that vicinity?

A. A matter of seconds.

Q. Incidentally, you say you spoke to Mrs. Hubbard about this case?

James Clabaugh.

By Mr. Fierro:

He didn't say that.

By Mr. Ertel:

I believe he said that.

Q. Did Mrs. Hubbard talk to you about the times in this case?

A. No.

Q. Didn't you talk to Mrs. Hubbard....

By Mr. Fierro:

I object to his leading.

By The Court:

Refrain from leading the witness.

By Mr. Ertel:

Q. On cross examination were you asked you, how you established the times and you said Mrs. Hubbard told you something?

A. I heard her say that she left at quarter of.

Q. Where did you hear this, Jim?

A. She talked to my Mother.

Q. How long ago was this, Jim?

A. Today.

Q. Today?

A. Yes.

Q. Is that the first time you heard that quarter of four time?

A. No.

Q. When did you hear it before?

A. My Mom went to get the groceries and I was there, and I had to do the rest of my homework from Thursday.

James Clabaugh. - Mary Mundrick.

Q. No further questions.

By Mr. Pierro:

Nothing more.

By The Court:

You are prohibited from discussing your testimony with anyone, except the District Attorney or his staff.

(Excused from witness stand.)

MARY A. MUNDRICK, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Mrs. Mundrick, would you state your full name?

A. Mrs. Mary Agnes Mundrick.

Q. Mrs. Mundrick, where do you reside?

A. 905 West Central Avenue, South Williamsport.

Q. How far is that from the Hubbard home?

A. About a block.

Q. Where is it in relation to St. Lawrence Church?

A. Right opposite it, not the Church, the School, opposite the School.

Q. Returning to the 19th of October, did you have the occasion to see a girl at some time in the afternoon?

A. Yes, I did.

Q. Can you tell us what time in the afternoon that was?

A. I would judge about quarter of four.

Q. And can you describe that girl as you saw her that

James Clabaugh. - Mary Mundrick.

Q. No further questions.

By Mr. Pierro:

Nothing more.

By The Court:

You are prohibited from discussing your testimony with anyone, except the District Attorney or his staff.

(Excused from witness stand.)

MARY A. MUNDRICK, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Mrs. Mundrick, would you state your full name?

A. Mrs. Mary Agnes Mundrick.

Q. Mrs. Mundrick, where do you reside?

A. 905 West Central Avenue, South Williamsport.

Q. How far is that from the Hubbard home?

A. About a block.

Q. Where is it in relation to St. Lawrence Church?

A. Right opposite it, not the Church, the School, opposite the School.

Q. Returning to the 19th of October, did you have the occasion to see a girl at some time in the afternoon?

A. Yes, I did.

Q. Can you tell us what time in the afternoon that was?

A. I would judge about quarter of four.

Q. And can you describe that girl as you saw her that

Mary Mundrick.

afternoon?

A. Yes, she was wearing dungarees and she carried a little bag, a white and pink bag from her side, I mean from her hand.

Q. Where was she at the time you saw her, Mrs. Mundrick?

A. Opposite my home, and other side of the street, the north side of the street.

Q. When you say "the north side", then that would be the side towards the river?

A. Towards the City, that is right.

Q. And do you recall what she had on as far as the shoulder area?

A. She had a coat on, and I don't remember whether it was three-quarter length or to the knees, I can't remember, but it was not a long coat.

Q. The bag you say she had, did you recognize that as any particular type of bag?

A. Yes, it was a plastic bag similar to a shoe bag that one of the merchants put out here in the City.

Q. Do you know what merchant that would be?

A. I think it was Glick.

Q. Where were you located at the time you saw this child?

A. In my kitchen window, it faces the street.

Q. Which direction was the child travelling and on what street?

Mary Mundrick.

A. She was travelling east and she crossed Kane Street and right opposite of the school is the last I had seen her.

Q. Have you seen her since that time?

A. No, I have not.

Q. Did you ever see a picture of that girl anywhere?

A. Only in the paper, I never saw the girl before, I would not have known her.

Q. Did you recognize the girl at that time, the picture in the paper?

By Mr. Fierro:

I object to that, that picture is not here, it is not in evidence.

By The Court:

The objection is sustained.

(Commonwealth's Exhibit No. 48 marked.).

By Mr. Fierro:

I would like to come to Side Bar.

By The Court:

Side Bar.

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

By Mr. Ertel:

Q. The picture you saw in the paper, did it have a caption under, a person's name that you identified?

By Mr. Fierro:

I object to that, that would be the best evidence, and furthermore this may be now recalling whatever a newspaper may have printed.

Mary Mundrick.

By The Court:

Reword your question.

By Mr. Ertel:

Q. I show you marked as Commonwealth's Exhibit No. 48, and ask you if you can identify that?

A. Yes, that is the girl.

By The Court:

You will follow it up later?

By Mr. Ertel:

Yes.

Q. Thank you.

By The Court:

Mr. Fierro?

CROSS EXAMINATION

By Mr. Fierro:

Q. Mrs. Mundrick, this girl that you saw around quarter to four that afternoon, you said she was wearing dungarees?

A. They were not tight, they were bell bottoms.

Q. Do you know what color?

A. They were dark blue. Jennie left my home in

Q. You could tell that they were bell bottom, you call it?

A. Yes.

Q. Well, did you notice anyother markings on those dungarees?

A. No, I didn't, not knowing the girl I would not....

Q. All right, you didn't notice any of the markings.

Mary Mundrick.

You noticed she was carrying this plastic Glick or whatever bag?

A. That is right.

Q. You said she was wearing a three-quarter length or to the knees coat?

A. I don't think it was a long coat, I can't quite remember.

Q. Well, your testimony was that she was wearing a three-quarter length or to the knees?

A. It was more to the knees, it was not three-quarters.

Q. More to the knees?

A. Yes.

Q. Do you know if that coat had any markings on it?

A. No, I don't, I was not that close to the girl.

Q. Were you able to tell the color of the coat?

A. I can't remember the color.

Q. Now...

A. My most vivid recollection of seeing her go down was this little bag she held.

Q. Could you tell what she wore under the coat?

A. No, I was not that close to her.

Q. So that your recollection of this girl at quarter to four was that you can't remember the type of colored coat she was wearing, it was probably to her knees and she had on dark blue dungarees?

A. That is right.

Q. You live across the street from the Grimes?

A. No.

Q. You don't?

Mary Mundryck.

A. No.

Q. This is all you know about this case?

A. That is all I can tell you on this girl.

Q. That is all.

By Mr. Ertel:

That is all.

By The Court:

You are prohibited from disclosing what your testimony was and discussing your testimony further except with the District Attorney or a member of his staff.

A. I understand.

By Mr. Fierro:

It may be some of these witnesses, I don't know about the District Attorney's position, but some of these witnesses may be excused, I don't know.

By The Court:

You will inform each one as they get through?

By Mr. Ertel:

The people know outside what to tell them.

By The Court:

You will be informed by a member of the staff when to be excused.

By Mr. Fierro:

That does not take into account whether I would like to have them excused.

By The Court:

Would you check with Mr. Fierro on each of those?

By Mr. Ertel:

I was not familiar he subpoenaed any of these people.

By Mr. Fierro:

I don't have to, they are in the Court and subject to recall.

By The Court:

Would you indicate to the Court before they leave which ones you would like to have remain?

By Mr. Fierro:

I didn't think about it this morning. Now, this lady I know I don't need her, and as far as I am concerned she may be excused.

By The Court:

If there are any that has been excused, you can discuss it with the Court at that time.

By Mr. Ertel:

Gary Whiteman.

GARY WHITEMAN, being duly sworn according to law, testified as follows:

By Mr. Fierro:

I would like an offer on this, your Honor.

By The Court:

Q. How old are you, Sir?

A. 10.

By The Court:

On or off the record?

By Mr. Ertel:

I was not familiar he subpoenaed any of these people.

By Mr. Fierro:

I don't have to, they are in the Court and subject to recall.

By The Court:

Would you indicate to the Court before they leave which ones you would like to have remain?

By Mr. Fierro:

I didn't think about it this morning. Now, this lady I know I don't need her, and as far as I am concerned she may be excused.

By The Court:

If there are any that has been excused, you can discuss it with the Court at that time.

By Mr. Ertel:

Gary Whiteman.

GARY WHITEMAN, being duly sworn according to law, testified as follows:

By Mr. Fierro:

I would like an offer on this, your Honor.

By The Court:

Q. How old are you, Sir?

A. 10.

By The Court:

On or off the record?

Gary Whiteman.

By Mr. Pierro:

Off the record at first.

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

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name?

A. Gary Allen Whiteman.

Q. How old are you?

A. 10.

Q. Where do you go to school?

A. Central Elementary.

Q. South Williamsport?

A. Yes.

Q. Where do you live, Gary?

A. 342 Kane Street.

Q. Where is that in relation to the St. Lawrence School?

A. About a half block down the street.

Q. On Kane Street?

A. Yes.

Q. Going back to the 19th of October, the day you had off school, did you have the occasion to see Jennifer Hill that day?

A. Yes.

Q. Where did you first see her?

A. I first saw her I was playing kick ball with her the St. Lawrence Playground.

Gary Whiteman.

Q. At that time, what was she wearing, if you recall?

A. A blue and white jersey and a pair of jeans.

Q. How long did you play kickball that morning, if you recall?

A. I can't remember.

Q. Did you see her later that day?

A. Yes.

Q. About what time?

A. About between 3:30 and 4:00.

Q. Where did you see her?

A. Crossing Winthrop on South side of West Central.

Q. Crossing Winthrop, now, the south side would be the side away from the river or towards the river?

A. Away from the river.

Q. In other words, she was on the side of the street away from the river and crossing Winthrop Street, is that correct?

A. Yes.

Q. Do you want to look down here and see where I am pointing is correct, Gary, I am pointing to Exhibit No. 42, she was crossing this way, is that correct?

A. Yes.

Q. Where were you, Gary, at that time?

A. I was in front of the St. Lawrence School.

Q. Where is St. Lawrence School in relation to that?

A. (Witness indicates.).

Q. You are pointing right to the corner of Kane and West Central on the north side, is that correct?

Gary Whiteman.

A. Yes.

Q. Did you speak to her at all?

A. When we were playing kickball I spoke to her a little.

Q. How about when you saw her on the street crossing Winthrop on the South side?

A. No.

Q. What was she wearing at that time, do you recall?

A. The same thing she was wearing when she was playing kickball, a numbered jersey and the jeans, with a plastic bag.

Q. What kind of plastic bag was that, do you recall?

A. No, but it was striped, it had white stripes.

Q. Where was that?

A. When she was crossing Winthrop.

Q. Did she have it in her hand?

A. She had it in her hand.

Q. How do you know it was Jennifer Hill?

A. I recalled the jersey.

Q. Is that the last time you saw her?

A. Yes.

Q. No further questions.

CROSS EXAMINATION

By Mr. Fierro:

Q. I didn't get your last name?

A. Whiteman.

Q. Gary, whatever time you say you saw her, which was between 3:30 and 4:00, she was walking on West Central Avenue

Gary Whiteman.

and she was crossing Winthrop and the District Attorney pointed like in this direction, he was pointing towards Market Street, is that the direction she was walking?

A. Yes.

Q. And at that time you saw that she was wearing this blue jersey with white numerals?

A. Yes.

Q. And she had on these blue jean pants?

A. Yes.

Q. Is that all she was wearing?

A. That is all I can remember.

Q. Plus, of course, you saw her holding this plastic bag?

A. Yes.

Q. You don't remember whether she was carrying a jacket in her hand?

A. I can't remember.

Q. You can't remember that?

A. No.

Q. You don't remember whether she was wearing a jacket?

A. That is right.

Q. You don't remember?

A. That is right.

Q. You do remember seeing this blue jersey with the numerals?

A. Yes.

Q. You could see the whole of the jersey, nothing was covering the jersey?

Gary Whiteman.

A. I am not sure about on her left shoulder, the right shoulder.

Q. The right shoulder, what would there be, Gary?

A. I am not sure, all I know there was something hanging down over it.

Q. Something hanging off of it, you don't know what it was?

A. No.

Q. All right, that is all.

By Mr. Ertel:

That is all.

By The Court:

Do you have a desire to have this Gentleman remain,

Mr. Fierro?

By Mr. Fierro:

No.

By The Court:

You are prohibited from discussing your testimony with anyone except the District Attorney or a member of his Staff. You are excused when the District Attorney or his Staff informs you that you are excused. Thank you, son.
(Excused from witness stand.).

By Mr. Fierro:

May we come up a moment?

By The Court:

Yes.

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

Gary Whiteman. - Jeffrey Whiteman.

By The Court:

Proceed.

By Mr. Ertel:

Jeffrey Whiteman.

JEFFREY L. WHITEMAN, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Jeffrey Whiteman.

Q. Where do you reside?

A. 342 Kane Street.

Q. The boy that just testified is your brother?

A. Yes.

Q. How old are you?

A. 14.

Q. Where do you go to school?

A. Senior High, South Side.

Q. Returning to the 19th of October, 1973, did you have the occasion to see Jennifer Hill that day?

A. Yes.

Q. Where?

A. She was playing kickball at St. Lawrence School.

Q. Can you tellus how she was dressed?

A. She had a blue and white "33" football jersey and blue jeans, and I believe black sneakers.

Q. How long did you play kickball or football with her

Gary Whiteman. - Jeffrey Whiteman.

By The Court:

Proceed.

By Mr. Ertel:

Jeffrey Whiteman.

JEFFREY L. WHITEMAN, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Jeffrey Whiteman.

Q. Where do you reside?

A. 342 Kane Street.

Q. The boy that just testified is your brother?

A. Yes.

Q. How old are you?

A. 14.

Q. Where do you go to school?

A. Senior High, South Side.

Q. Returning to the 19th of October, 1973, did you have the occasion to see Jennifer Hill that day?

A. Yes.

Q. Where?

A. She was playing kickball at St. Lawrence School.

Q. Can you tell us how she was dressed?

A. She had a blue and white "33" football jersey and blue jeans, and I believe black sneakers.

Q. How long did you play kickball or football with her

Jeffrey Whiteman.

at St Lawrence Catholic School?

A. She left around 3:00.

Q. What time did you leave there then?

A. I left about 4:00 to pass papers.

Q. Did you see her after she left at 3:00?

A. No.

Q. That is the last time you saw her?

A. Yes.

Q. Was your brother at the playground there too?

A. Yes.

Q. What time did he leave, do you recall?

A. No.

Q. No further questions.

CROSS EXAMINATION

By Mr. Fierro:

Q. Jeffrey, this kickball game that Jennifer and you people were playing, about how long were you playing it?

A. Well, I was playing football, I couldn't tell you exactly how long, I believe they were playing when I came out.

Q. As I understand, you were not playing in the same game?

A. No, we were all in the same playground, they were playing lengthwise and we were playing across.

Q. That is all you know what you saw her wear at that time?

A. Nothing further.

By Mr. Ertel:

No Questions.

By The Court:

You are prohibited from talking to anyone about your testimony except the District Attorney or the Defense Attorney and members of their Staffs.

By Mr. Fierro:

He may be excused.

By The Court:

You are listed also, I limited it to the District Attorney, you may speak to any of them. If there is any problem, the Court, inform me and the Court will inform them they may speak to you or a member of your staff.

By Mr. Fierro:

As far as I am concerned, he may be excused.

By The Court:

You are excused if the District Attorney's staff excuses you.

By Mr. Ertel:

You are excused.

THOMAS E. PETERS, being duly sworn according to law, testified as follows:

By Mr. Fierro:

I would like an offer.

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

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name?

A. Thomas Eugene Peters.

By The Court:

You are prohibited from talking to anyone about your testimony except the District Attorney or the Defense Attorney and members of their Staffs.

By Mr. Fierro:

He may be excused.

By The Court:

You are listed also, I limited it to the District Attorney, you may speak to any of them. If there is any problem, the Court, inform me and the Court will inform them they may speak to you or a member of your staff.

By Mr. Fierro:

As far as I am concerned, he may be excused.

By The Court:

You are excused if the District Attorney's staff excuses you.

By Mr. Ertel:

You are excused.

THOMAS E. PETERS, being duly sworn according to law, testified as follows:

By Mr. Fierro:

I would like an offer.

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

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name?

A. Thomas Eugene Peters.

Thomas Peters.

Q. Where do you live?

A. South Williamsport.

Q. How old are you?

A. 18.

Q. Can you give your address?

A. 1630 West Southern Avenue.

Q. Do you know the Defendant in this case, Kim Hubbard?

A. I do.

Q. Have you ever had the occasion to ride in Kim's car?

A. Yes.

Q. And how often have you ridden in the car prior to this incident approximately?

A. Oh, six or eight times, I don't know.

Q. Do you recall any unusual object which was on that car at the time you rode in it?

A. No, I didn't see any.

Q. Well, did you ever have the occasion to get hit on the head with something in that car?

A. Well, I mean, it just slid off, it didn't actually hit me on the head, it hit me in the back, it was a helmet just slid.

Q. What helmet?

A. It was a white helmet in the back seat on the top. Between the window and the back of the back of the seat.

Q. What kind of helmet was it, can you describe it

Thomas Peters.

better than that?

A. It was just a white, like Army helmet, I guess you would say.

Q. What was it made of, do you have any idea?

A. No.

Q. Now, when was this when it hit you either in the back or on the neck approximately in relation to the 19th of October?

A. I can't remember.

Q. Well, can you give us an approximation of the time?

A. No, I can't, I don't remember when that happened.

Q. Was it weeks, months....

By Mr. Pierro:

I object to his leading.

By The Court:

Refrain from leading the witness.

By Mr. Ertel:

Q. Can you give it to us in weeks, months or days?

By Mr. Pierro:

I object, the witness answered, he said, "I can't remember when."

By The Court:

Ask him his best recollection.

By Mr. Ertel:

Q. Your best recollection as to the approximate.....

By Mr. Pierro:

That is too vague to me, and I object to that.

Thomas Peters.

By "The Court:

The objection is over ruled.

A. To the best of my knowledge, it was two weeks before or so.

By Mr. Ertel:

Q. How many occasions did you see that helmet in there, do you recall?

A. No, I don't no.

Q. Did you see it more than once?

A. Oh, yes.

Q. All right, did you have the occasion to see Kim Hubbard on the day of this particular, on the 19th of October, the day school was off and the kids were on the street?

A. Well, like I told the man that questioned me before....

By Mr. Pierro:

We don't know what he told somebody else.

By The Court:

No, just answer the question.

By Mr. Ertel:

Q. To the best of your recollection?

A. I saw him, I am sure that I saw him that night.

Q. All right, did you see his car that evening?

A. I don't think he brought his car.

Q. Where did you see him that night?

A. At the Hum-Dinger.

Q. About what time was that, approximately?

Thomas Peters.

A. Between 6:00 and 9:00.

Q. Was there anyone else there that night?

A. Yes, there were quite a few, there was a few people there, yes.

Q. Now, where was this white helmet located in the car when you saw it there?

By Mr. Fierro:

Excuse me, I object, that is vague, when he saw it where, when? Now, this witness already testified he is very vague about that, and that question is ambiguous.

By Mr. Ertel:

I will be very specific.

Q. In the time that you saw this helmet on the occasions more than once that you saw this helmet in Kim Hubbard's car, the one time you estimated was approximately two weeks before the incident, where was the helmet located in the car?

A. In the same place.

Q. On the ledge by the window?

A. Yes.

By Mr. Fierro:

He is leading and that is not what this witness said, and I object.

By The Court:

Refrain from leading the witness.

By Mr. Ertel:

Q. Where did you say it was located?

A. The same place.

Thomas Peters.

Q. Where was that?

A. On the top deck behind the back seat.

Q. No further questions.

CROSS EXAMINATION

By Mr. Fierro:

Q. Tom, you did not see Kim's car on October 19th, did you?

A. Not that I recollect.

Q. The only time you saw Kim was at the Hum-Dinger that night somewhere between 6:00 and 9:00?

A. Yes, I would say that, about that time.

Q. Was Colleen with him?

A. If I remember I think she came later.

Q. Do you know how long he was there?

A. No, I have no idea.

Q. 6:00 to 9:00 is pretty far apart, can you close that gap at all?

A. No, I don't think so.

Q. Well, you are not saying that you think Kim was there for three hours?

A. No, I don't think he was there for three hours, all I know I saw him between that time.

Q. Do you have any idea how long he was there that evening?

A. I don't know, maybe an hour and a half, two hours I don't know.

Q. Maybe an hour and a half or two hours?

Thomas Peters.

A. Yes.

Q. Now, this, we are talking about is October 19th, the day that Jennifer disappeared, you understand that?

A. Yes.

Q. Do you think he was at the Hum-Dinger about an hour and a half to two hours? He may have been there as early as 6:00, that is what you are saying?

A. I am not saying he may have been there as early as 6:00 or as late as 9:00, but that is just the approximation of time that I recollect seeing him.

Q. All right, let's put it this way, your testimony is that between 6:00 and 9:00 you think Kim was there from an hour to an hour and a half?

A. Yes, I should say so.

Q. Now, you are sure this was the night Jennifer disappeared, October 19th?

A. Yes.

Q. You say there were a lot of people there at that time, weren't there?

A. There was quite few, there always is at night.

Q. Now, did you ever see this white helmet of Kim's simply laying on the back seat?

A. Can I use names?

Q. No, I am asking you a question, did you ever see this helmet that you are talking about in Kim's car when it was merely sitting on the back seat and not on the ledge?

A. Oh, no, never.

Thomas Peters.

Q. Do you know where he got this white helmet, Tom?

A. I have no idea, he never told me.

Q. You are not sure according the way you answered us as to when you really first saw this white helmet?

A. That is right.

Q. You are not sure. Did you know, Tom, that Kim went to work at Stroehmann Brothers' Company?

A. Yes.

Q. Did you know that?

A. Yes, I knew that.

Q. Did you know that he went to work at Stroehmann Brothers' Company on October 24, 1973, did you know that?

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

Q. You don't know the date, but you do know he did go to work at Stroehmann's, right?

A. Right.

Q. Did you know, Tom, that when Kim went to work at Stroehmann Brothers' Company on October 24th, that is when he got this white helmet.....

By Mr. Ertel:

I object, that would be well outside of his recollection, he already stated when he saw the helmet.

By Mr. Fierro:

I am asking him if he knows something as a fact, he can say "yes" or "no".

By Mr. Ertel:

There is no way for this man to know anything like the

Thomas Peters.

By The Court:

You may answer "yes" or "no".

By Mr. Pierro:

Q. Do you want me to repeat the question?

A. Yes.

Q. Do you, Tom, know that the white helmet that you say you saw in Kim's car was given to him first on October 24th when he went to work at Stroehmann Brothers', now either you know that or you don't know that, which one?

By Mr. Ertel:

I object.

By The Court:

You expect to follow it up?

By Mr. Pierro:

I expect to follow it up.

By The Court:

I will permit it.

By Mr. Pierro:

Q. Did you know that?

A. No, I didn't know he got it when he went to work at Stroehmann's.

Q. Does this account as to why you are not sure as to when you first saw this white helmet, you are not sure, are you?

A. No.

By Mr. Ertel:

Objection.

Thomas Peters.

By The Court:

The objection would be sustained.

By Mr. Fierro:

Q. You are not sure when you first saw this white helmet in his car?

A. No, I am not.

Q. That is right. But, Tom, we are sure that you saw him in the Hum-Dinger for about an hour to an hour and a half on the night that Jennifer disappeared somewhere between 6:00 and 9:00?

A. Right.

Q. That is right, thank you, Tom, that is all.

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Mr. Peters, you have stated, how long, over how long a period of time did you see that helmet in his car?

By Mr. Fierro:

This is improper re-direct, he is trying to re-vitalize his witness.

By The Court:

The objection is over ruled, you may answer, Sir.

A. Would you repeat the question?

By Mr. Ertel:

Q. Over how long a period of time did you see this helmet in the car?

A. I couldn't tell you.

Q. But you did state that you knew, you saw it two

Thomas Peters.

weeks prior to this incident, is that correct?

By Mr. Fierro:

I object, in the face of this last answer that is improper re-direction and it is leading.

By The Court:

It is leading, re-word your question.

By Mr. Ertel:

Q. When was the first time you saw the helmet in Kin's car?

By Mr. Fierro:

I object, that is improper.

By The Court:

The objection is over ruled.

By Mr. Ertel:

Q. When was it prior to this incident that you first saw it?

By Mr. Fierro:

I object, that is leading.

By The Court:

Reword your question?

By Mr. Ertel: (To Reporter.).

Would you repeat the question I asked?

By Mr. Fierro:

No, I objected to it.

By The Court:

That has been quite a few questions back, ask the question again.

Thomas Peters.

By Mr. Ertel:

Q. Did you ever ride in the Defendant's car after Jennifer Hill disappeared?

By Mr. Fierro:

I object to that on the grounds that it is leading and improper re-direct.

By The Court:

It is leading, would you re-word your question?

By Mr. Ertel:

I don't see how it is leading, your Honor, it does not suggest an answer.

By The Court:

Reword your question.

By Mr. Ertel:

Q. When, if ever, did you ride in the Defendant's car after Jennifer Hill disappeared?

By Mr. Fierro:

I object.

By The Court:

Q. Do you understand the question?

A. Yes.

Q. You may answer, the objection is over ruled.

A. No, I don't think so, because another guy got a new car at that time, and we were always riding around with him.

By Mr. Ertel:

Thank you, no further questions.

Thomas Peters.

By The Court:

Mr. Pierro?

RE-CROSS EXAMINATION

By Mr. Pierro:

Q. Tom, you don't know when you actually saw the white helmet in the car, do you ?

A. No, I don't know the first time, no.

Q. You don't know whether it was before or after October 19th, do you?

A. No, I don't.

Q. That is all that I want to know, thank you.

By The Court:

Mr. Ertel?

By Mr. Ertel:

Q. Do you know whether or not you rode in the car after the 19th?

By Mr. Pierro:

I object now, he has just answered that question more than once.

By The Court:

It was just answered and it is repetitious.

By Mr. Ertel:

No further questions.

By Mr. Pierro:

That is all.

By The Court:

You are prohibited from discussing your testimony or

Thomas Peters. - Hynick.

the case with anyone except the District Attorney or the Defense Attorney or one of their Staff.

A. Okey.

By The Court:

He is excused, Mr. Fierro?

By Mr. Fierro:

Well, frankly....let him go.

By The Court:

You are excused providing one of Mr. Ertel's Staff excuses you, Sir.

LIEUTENANT STEVEN HYNICK, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Steven J. Hynick.

Q. Your occupation?

A. Lieutenant with the Pennsylvania State Police.

Q. Lieutenant Hynick, did you have the occasion to take into custody the car of Kim Lee Hubbard?

A. Yes, Sir, I did.

Q. And were you in that car when it was transported to the Borough Hall at South Williamsport?

A. Yes, Sir, I was.

Q. I show you Commonwealth's Exhibit No. 26 and ask you if you can identify that?

A. Yes, Sir.

Q. What is it?

Thomas Peters. - Hynick.

the case with anyone except the District Attorney or the Defense Attorney or one of their Staff.

A. Okey.

By The Court:

He is excused, Mr. Fierro?

By Mr. Fierro:

Well, frankly....let him go.

By The Court:

You are excused providing one of Mr. Ertel's Staff excuses you, Sir.

LIEUTENANT STEVEN HYNICK, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Steven J. Hynick.

Q. Your occupation?

A. Lieutenant with the Pennsylvania State Police.

Q. Lieutenant Hynick, did you have the occasion to take into custody the car of Kim Lee Hubbard?

A. Yes, Sir, I did.

Q. And were you in that car when it was transported to the Borough Hall at South Williamsport?

A. Yes, Sir, I was.

Q. I show you Commonwealth's Exhibit No. 26 and ask you if you can identify that?

A. Yes, Sir.

Q. What is it?

Hynick.

Q. What is it?

A. It is a 1967 Oldsmobile sedan owned by Kim Hubbard from 1030 West Central Avenue in South Williamsport.

Q. I show you marked as Commonwealth's Exhibit No. 25, can you identify that?

A. Yes, Sir, this is the same car showing, with the showing of the front of the car. The first picture here is the photograph from the back end.

Q. I show you what is Commonwealth's Exhibit No. 23, and can you identify that?

A. Yes, Sir, that is the same car.

Q. Now, when you took that car into your custody, can you tell me what, if anything, was on the back ledge of that particular car?

A. Yes.

By Mr. Fierro:

I would like to know when we are talking about.

By The Court:

Establish the date.

By Mr. Ertel:

Q. What was the date you took the car into custody?

A. October 31, 1973.

Q. What was on the back ledge when you took that car into custody?

By Mr. Fierro:

I object to that, it is too remote to the issue and

Eynick.

date in this case.

By The Court:

The objection is over ruled, you may answer, Sir.

A. On the ledge of the car, inside of the car, that is the portion of the car over the back seat, on the right side of the car, the passenger side, was a white construction helmet.

By Mr. Ertel:

Q. Is that shown in any of those photographs which I handed to you which are Commonwealth's Exhibits?

A. Yes, Sir.

Q. Which one?

A. This one here, Sir.

Q. Commonwealth's Exhibit No. 26?

A. Yes.

Q. I have no further questions. I would like to recall him at a later date for other testimony.

(Conversation between Mr. Ertel and Mr. Pierre not audible.)

By Mr. Ertel:

Let's have it on the record.

By Mr. Piarro:

I am asking him something if this is the Exhibit with the white helmet, I will say it outloud, is this the Exhibit with a white helmet?

By The Court:

That is referring to Commonwealth's Exhibit No. 28

By Mr. Piarro:

No. 26.

Q. Is this the one, Lieutenant?

WHAT'S PIERRE
PLEADING UP
WITH
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HEAR? 126.

Hynick.

A. Yes, Sir.

CROSS EXAMINATION

By Mr. Pierro:

Q. Is there another one here with the picture of the white helmet or not?

A. That is all.

Q. That white object in this Exhibit No. 26, is that the helmet?

A. Yes, Sir.

Q. It is upside down, isn't it?

A. Yes.

Q. What is this other object next to it, do you know?

A. A pair of sneakers.

Q. What other objects are next to it, do you know?

A. A pair of hub caps and some clothing.

Q. Did you examine those items when you took this car into custody, did you make a list of them?

A. Not everything, Sir.

Q. You know what they were at the time?

A. Yes, Sir.

Q. May I see that, please?

A. Yes, Sir.

Q. You knew what they were at the time?

A. Well, the hub caps were not there at the time.

Q. That is what I am trying to find out?

A. You asked me what was there when I first took the car into custody.

*SEEK
PHOTO NO. 26
ON
PAGE 17*

Hynick.

Q. Here is a photograph of a car that you identified as Kim's and when the District Attorney questioned you, you said that helmet was on that ledge?

A. Yes, Sir.

Q. Now, I see on that ledge various other articles, now at the time this photograph was taken, was this car in police custody?

A. Yes, Sir.

Q. Now, at the time you took this car into custody, I think you said October 30th or 31st?

A. 31st.

Q. At the time you took this car into custody, you said that helmet was on that ledge, didn't you?

A. Yes, Sir, I did.

Q. Was that helmet on that ledge in the same position that shows in this photograph?

A. To the best of my knowledge, Sir.

Q. Well, then were those other articles that are in this picture also on that ledge at that time?

A. The sneakers and some of the clothing was there.

Q. You mean you are telling this Jury that there is other articles on that ledge that are shown in this picture that were not on the ledge when you took the car into custody, isn't that correct?

A. I didn't say that, Sir.

Q. I am asking you, isn't that right?

A. I said the sneakers and clothing was there.

Hynick.

Q. I know what you said, but you are not answering my question and I will ask you again, at the time you took this car into custody on October 31st, aren't there some articles that appear on the ledge of this car in this picture, Exhibit No. 26 that were not there when you got the car?

A. With the exception of the hub caps, Sir.

Q. What does that mean?

A. The clothing and the sneakers were there.

Q. You haven't answered my question, have you?

A. I am trying to.

By Mr. Ertel:

I object, he is badgering the witness.

By The Court:

The objection is over ruled.

By Mr. Fierro:

Q. How long have you been a Police Officer?

A. 36 years.

Q. You are now a Lieutenant of the State Police?

A. Yes.

Q. You have been with the Criminal Investigation Division, whatever it is called, for how, for many years?

A. Yes.

Q. You have testified in Court many times?

A. I have.

Q. You say you are trying to answer my question?

A. Yes, Sir.

Q. Go ahead and answer it.

Hynick.

By Mr. Ertel:

I object, there is no question on the floor.

By Mr. Fierro:

Q. Do you know what the question was?

A. You asked me what articles were on the ledge of the car when that car was taken into custody.

Q. By you?

A. Yes, Sir, and I am trying to answer, I said the sneakers and the clothing were there.

Q. Then I asked you another question, and I will ask you again, look at Exhibit No. 26, look at what is on the ledge of the car, you told this Jury this car was always in Pol custody from the time you took it until the photograph was made.

A. That is correct.

Q. I am saying to you that I can see there are other articles on the ledge of that car, aren't there, Lieutenant?

A. There is.

Q. Those articles were not on the ledge of that car when you took it into custody were they?

A. No, Sir.

Q. Were they?

A. No, Sir. You are talking about the hub caps?

Q. I don't know what you are talking about, hub caps are on the ledge of the car?

A. Right. They were not there when that car was first taken into custody by you?

A. Yes, Sir.

Hynick.

Q. Was that clothing there on the ledge when you brought the car in?

A. There was some clothing there.

Q. Was all of that clothing there that appears in this photograph?

A. As far as I could see.

Q. And to the right of the helmet, what is that article?

A. I can't make it out.

Q. You can't make out what it is, but you will tell the Jury that there is an article on the ledge of that car in this Exhibit to the right of the Helmet, isn't that right?

A. There is some articles there.

Q. You don't know what it is?

A. Not offhand.

Q. That article was not on the ledge of the car when you took it in custody on October 31st, was it?

A. I can't answer that.

Q. You can't answer that?

A. No, Sir.

Q. Lieutenant, the day you took this car in custody, you talked to Kim Lee Hubbard about taking that car, didn't you?

A. Yes, Sir.

Q. You didn't have a search warrant, did you?

A. No, Sir.

Q. You asked him if he would voluntarily surrender that car, isn't that correct?

Hynick.

A. Yes, Sir.

Q. And he did, didn't he?

A. That is right.

Q. You told him he didn't have to, isn't that right?

A. That is correct.

Q. Nevertheless, he went along with you, didn't he?

A. Yes, Sir.

Q. Now, think back, Lieutenant, remember now asking Kim to also surrender certain articles of clothing and his sneakers?

A. I didn't ask him that, Sir.

Q. You are sure?

A. Yes, Sir.

Q. Was Mr. Ertel with you at the time?

A. Yes, Sir.

Q. Now, you are sure you don't remember asking Kim to also surrender sneakers and clothing?

A. No, Sir.

Q. You don't remember?

A. No, Sir, I didn't ask him.

Q. Who asked him?

A. I don't know, I would not know, Sir.

Q. You would not know?

A. No.

Q. Did you ask him that day when or where he got this white helmet?

A. No, Sir, I did not.

Hynick.

Q. Do you know how long he owned or possessed that white helmet?

A. No, Sir, I don't.

Q. Did you ask him for anything else at the time you asked him to surrender the car?

A. Yes, Sir.

Q. What did you ask him for?

A. A pair of combat boots.

Q. Did he give them to you?

A. Yes, Sir.

Q. Did he give them to you voluntarily?

A. That is correct.

Q. And at the time that he surrendered these articles of clothing and the car, you told him that he didn't have to, didn't you?

By Mr. Ertel:

I object to the question, he never put it in, it implies he asked him to surrender clothing.

By Mr. Fierro:

I am asking if it is true did he ask for these things.

By The Court:

Q. Do you understand the question, Sir?

A. Yes, Sir.

Q. You may answer, the objection is over ruled.

A. I didn't ask for the clothing, Sir.

Hynick.

By Mr. Fierro:

Q. You asked for boots, sneakers and the car?

A. I didn't ask for the sneakers, just for the one item.

Q. Who did?

A. I don't know, Sir.

Q. Did you ask to see any articles of clothing, including shoes?

A. Yes, Sir, I did, at the house.

Q. This is the same day?

A. Yes, Sir.

Q. All right, let's get this down clearer, I believe that somebody told Kim on October 31st.....

By Mr. Ertel:

I object, what he believes is not relevant.

By Mr. Fierro:

Maybe it is not, but he can answer.

By The Court:

Rephrase the question.

By Mr. Fierro:

Q. I believe somebody, either you or somebody with you told Kim on October 31st that he did not have to surrender these things voluntarily, is that correct?

By Mr. Ertel:

I object, we don't even know what things he is talking about.

By Mr. Fierro:

Q. The automobiles, boots, or whatever things you may

Hynick.

have asked him for.

By Mr. Ertel:

I object.

By The Court:

The objection is over ruled, you may answer, Sir.

A. I only asked for the car and the boots. I can't answer for anybody else, Sir.

By Mr. Pierro:

Q. Was there anybody with you who did for anything else on that day?

A. Yes, there was somebody with me.

Q. Who was it?

A. Sgt. Peterson.

Q. In your presence did Sgt. Peterson ask for anything?

A. No, Sir, not in my presence, I didn't hear it.

Q. Back to October 31st, Lieutenant, and you asked for boots and a car, Kim's car and Kim's boots, is that correct?

A. Yes.

Q. And when you asked him for the boots and for the car, didn't you tell him that he did not have to voluntarily surrender them?

By Mr. Ertel:

I object, we have been over it the fourth time.

By Mr. Pierro:

I am trying to get it clear.

A. I said I answered your question several times.

By The Court:

You may answer again, Sir.

Hynick.

A. Yes, he was warned that he didn't have to turn the car and the helmet or the boots to me.

By Mr. Fierro:

Q. Nevertheless, he did voluntarily surrender them, didn't he?

A. Yes, Sir.

Q. He didn't have a Lawyer present, did he?

A. No, Sir.

Q. In fact, did he have anybody present when you made this request?

A. Well, his Father and Mother were in the house.

Q. They were in the house?

A. Yes, Sir.

Q. Now, how long did you have this car in Police custody beginning October 31st?

A. Approximately two weeks.

Q. Did you exhibit, point out this car to any prospective witnesses?

A. No, Sir, I did not.

Q. Did anybody point out this car to any prospective witnesses in your presence?

A. No, Sir.

Q. Are you saying that when you took this car into custody, that you turned it over to whom?

A. Trooper Keppick, and Trooper Gomb.

Q. Do you know where it was taken?

A. Yes, Sir.

Hynick.

Q. Where?

A. The garage at the South Williamsport Borough Building.

Q. Did you go there along with the car at the time?

A. Yes, Sir.

Q. And then you left the car there?

A. The car was left there, yes, Sir.

Q. Did you ever go back to that car?

A. Yes, Sir.

Q. For what purpose?

A. To examine it, the exterior, the interior.

Q. When did you go back?

A. Over a period of a couple of days.

Q. Did you examine it the day you took it in?

A. Yes, Sir.

Q. What did you do in your examination?

A. We just made a search of the inside.

Q. Who is "we"?

A. Trooper Keppick, and Trooper Gomb, then they continued with their examination of the car for the next day.

Q. Let me ask you what you did on October 31st, either alone or in association with other officers?

A. In company with other officers.

Q. Did you examine this car on October 31st?

A. Yes, Sir.

Q. The interior and exterior?

A. Yes, Sir.

Hynick.

Q. What did you find on the interior?

A. You mean the contents of the car?

Q. I want to know what you found?

A. There was some paper cups there, cigarette butts, a lot of dirt, and items we talked about on the ledge of the back seat, straws, an empty soda bottle.

Q. Lieutenant, you have already told us that the items that are on the back seat in this picture, not all of them were there on October 31st, not on the ledge, isn't that correct, Sir?

A. I said with the exception of one item.

Q. Where did that item come from?

A. It came from the wheels when the wheels were taken off the car.

Q. Who put them there?

A. I was not there when they were put back there.

Q. Except they now show up in the picture?

A. That is right, the picture was taken after the hub caps were taken off of the car.

Q. There is another item to the right of the helmet that was not there on October 31st, is that correct?

A. I didn't say it wasn't there, I don't recall seeing it there.

Q. You don't recall seeing it there and you don't know what it is?

A. No, Sir.

Q. Now, when you say you examined this car, what was

Hynick.

your purpose in making the examination?

A. To determine what we could find on the inside of the car.

Q. Did you make a list, you or anyother officer in conjunction with you, make a list of what was found on the interior of this car?

A. I didn't at that time, no, Sir.

Q. Did you later?

A. I didn't.

Q. Somebody else did?

A. Yes, Sir.

Q. Have you told us everything that you found, or saw found in this car?

A. What I observed on the interior.

Q. On October 31st?

A. Yes, Sir.

Q. I am sorry, you were answering and I was asking, did you tell us everything that you saw or that you found, or saw found, on the interior of this car on October 31st?

A. To the best of my knowledge, Sir.

Q. Did you remove anything from this car on October 31st?

A. No, Sir, I did not.

Q. Did either of the other officers remove anything?

A. I have no knowledge of it, Sir.

Q. You were there, weren't you?

A. I wasn't there for the entire examination of the car.

Q. Now, look, you are a Policeman attached to and for

Hynick.

part of this investigation?

A. Yes, Sir.

Q. You consulted with other Police Officers concerning this matter?

A. Yes.

Q. You were one of the Investigators on this case?

A. Right.

Q. Do you know, if the other Officers, in discussing this investigation with you removed anything from this car?

By Mr. Ertel:

We will have the other Officers here.

By Mr. Fierro:

I want to know from him.

By The Court:

Q. Do you understand the question?

A. Yes, Sir, I understand.

Q. You may answer?

A. Not in my presence.

By Mr. Fierro:

Q. I didn't ask you if it was in your presence, do you know any other Officers removed anything else from this car?

A. I don't know.

Q. You don't know?

A. No, Sir, because I was not there for the entire examination of the car.

Q. I didn't ask you if you were there for the whole examination, I only want to know from you if you know in discussing

Hynick.

with other Police Officers whether they removed anything?

A. No, Sir, I don't know if they removed anything.

Q. You don't know?

A. No, Sir.

Q. The purpose of your investigation and examination of this car was to determine whether or not Jennifer had been in that car, isn't that correct?

A. Yes, Sir.

Q. Because at that time Kim Hubbard was a suspect, wasn't he?

A. Yes, Sir.

Q. So that you are COMPARE SIDE BAR 613 D.A. SAYS NOT A SUSPECT UNTIL BOTTOM whoever else with you, either that

day or later, made an examination to see if you could find anything that belonged to Jennifer Hill, isn't that correct?

A. Yes, Sir.

Q. You also made an examination of that car to see if you could find anything in that car that came from the field or the area where Jennifer's body was found, isn't that true?

A. That is correct, yes, Sir.

Q. Now, Lieutenant, were you one of the first Police Officers to examine this car?

A. No, Sir.

Q. Who was the first one?

A. Trooper Keppick and Gomb.

Q. Weren't you there when they were doing it?

A. I was present, yes, but I wasn't taking an active part at that time in examining the inside of the car.

Hynick.

Q. I thought you told me you did examine the inside of the car?

A. I did that day, you asked me if I examined that day.

Q. Yes?

A. Yes, I did.

Q. You examined it for the purpose we were talking about, that is trying to find out whether there was any evidence related to this case?

A. That is right.

Q. Now, you examined this car on October 31st, you said you didn't remove anything from the car?

A. That is correct.

Q. Did you find any women's clothing in the car?

A. I didn't.

Q. Did either of the other Troopers find any women's clothing?

A. I don't know if they did or not.

Q. You don't know and you were there?

A. Yes, Sir.

Q. What is the matter, weren't you looking, Lieutenant?

A. Yes.

Q. You were looking for, I will withdraw that question. You were looking for blood stains, if they were there?

A. Yes, Sir.

Q. Did you find any blood stains?

A. No, Sir.

Q. You were looking for evidence that might indicate a struggle in that car, weren't you?

Hynick.

A. Yes, Sir.

Q. Did you find any evidence, tell this Jury, did you find any evidence that indicated there was a struggle in that car?

A. I didn't.

Q. Well, you were looking for it though, weren't you?

A. I said there were two Troopers making an investigation.

Q. I am asking you about you?

A. I am answering for myself, I didn't.

Q. Did you find any evidence in that car on October 31st when you examined it that indicated there was a struggle in that car?

A. I didn't, Sir.

Q. No, you didn't, that is your answer?

A. Yes.

Q. How did you go about making this investigation, you, I mean?

A. As far as my part in it?

Q. Yes?

A. I supervised the examination of the car.

Q. What does that mean, explain it to us?

A. I wanted to make certain that there was an examination made of the interior of the car for any evidence we could, would be noticeable at that time. Two of the people who conducted the investigation were in charge of, were making the check of the inside of the car.

Q. Under your supervision?

Hynick.

A. Yes, Sir.

Q. And in your presence?

A. But I wasn't there during the entire examination of the car.

Q. But you know, they reported to you concerning the results, didn't they?

A. Yes, Sir.

Q. So that you would know whether anything was found or not, because these men were under your supervision, weren't they?

A. That is right.

Q. Now, tell us, these men who were under your supervision, what did they remove from this car?

A. They removed samples of mud and a few other items from the inside of the car.

Q. I am not satisfied with your saying "a few other items", I want to know what they were?

A. Anything that a vacuum cleaner could pick up off the floor or the seats.

Q. Do you know what that was?

A. No, Sir, everything that was placed in the bag and taken to the State Police Crime Laboratory at Harrisburg.

Q. Did you make a list of that before it was sent down?

A. Just what was, whatever was scooped up by the sweeper was placed in a bag and taken down.

Q. I asked you did you make a list of what was taken

Hynick.

down?

A. No, Sir, I didn't.

Q. Who did?

A. The men who were making the, conducting the examination of the car.

Q. That is the fellows you have already told us about?

A. Yes, Sir.

Q. Did you see the results of that Laboratory examination?

A. Yes, Sir.

Q. Do you have it here?

A. No, Sir, the man in charge from the Laboratory has the results.

Q. Did you personally make an examination, I am not talking about supervise?

A. Of what, Sir? I made a lot of examinations.

Q. Of this car?

A. The interior of the car?

Q. Yes?

A. Yes, Sir.

Q. You did?

A. Yes, Sir.

Q. Okey, while you were making the personal examination, did you see any blood inside of this car?

A. No, Sir, I didn't.

Q. Did you see any women's clothing inside of this

Hynick.

car?

A. No, Sir, I didn't.

Q. Did you see any evidence indicating there was a struggle inside of the car?

A. No, Sir, I didn't.

Q. Did you look at the seats in this car?

A. Yes, Sir, I looked them over.

Q. Did you look generally at the interior of the car?

A. I did.

Q. Did you see the fabric, if it was fabric or whatever the textile or otherwise of the seats, were they destroyed in any way other than normal wear and tear?

By Mr. Ertel:

I object, how can a person tell?

By Mr. Fierro:

Let him say it.

By Mr. Ertel:

I do object.

By The Court:

Q. Do you understand the question?

A. Yes, Sir.

Q. The objection is over ruled.

By Mr. Ertel:

I will withdraw the objection then.

A. From my observation, I couldn't say for certain.

Hynick.

By Mr. Fierro:

Q. You couldn't say what for certain?

A. Anything about the wear of the fabric in the inside of the car.

Q. Did anything appear to you in the total interior of the car that it had recently been destroyed in any way, recently destroyed and

A. Not to me, Sir.

Q. Did you look for fingerprints in this car?

A. I didn't, Trooper Keppick did.

Q. Did you find any hair in this car?

A. I didn't, Sir.

Q. But we know somebody did, don't we?

A. That is correct.

Q. Who was it that found that hair, do you know?

A. No, Sir.

Q. You don't?

A. No, Sir.

Q. That wasn't found the day you took the car in, was it?

A. No, Sir.

Q. Did you or your men on October 31st vacuum the interior of this car?

A. Not until the following day.

Q. All right, the following day, but it was in Police custody, wasn't it?

A. Yes, Sir.

Hynick.

Q. But you were there when it was vacuumed?

A. No, Sir.

Q. Do you know who did it?

A. Trooper Gomb was one of the members, do you know whether anybody tried to get any fingerprints out of this car?

A. Yes, Sir.

Q. Who was it?

A. Trooper Kappick.

Q. Are they the two Officers who the next day, presumably November 1st, did a thorough interior examination of the car or were there others?

A. No, they were the two.

Q. That would have been November 1st, wouldn't it?

A. The first, and it was a couple days after that.

Q. Also November 2nd?

A. I don't know the exact dates.

Q. There are some records about this somewhere?

A. Yes, Sir, there is.

Q. Did you ask Kim Hubbard for anything else except the boots and car, like, for example, did you ask him, excuse me, did you ask him for his clothing?

A. No, Sir, I....are we talking about clothing?

Q. Yes?

A. No, Sir, I didn't.

Q. Somebody in your presence?

A. Not in my presence.

Q. Did you see any clothing that may have been surrender-

Hynick.

ed by Kim?

A. No, Sir, I don't.

Q. Did you interrogate him?

A. Yes, Sir, I did.

Q. For how long?

By Mr. Ertel:

I object to this, we are going to recall him for this purpose, he was only offered for the purpose of the car at this time.

By Mr. Fierro:

He is a Commonwealth witness, a member of the investigating team, while he is on the stand I think it is just as efficient if we go ahead instead of waiting for the District Attorney saying "We are going to recall him.", and furthermore, all of the questions concern the very meat of this case.

By Mr. Ertel:

I do not dispute all of these questions as to the interrogation of Kim Hubbard going to the meat of the case, however I am going to recall him in order and my case at this point, and I am entitled to proceed in an orderly fashion.

By The Court:

Would you establish whether this was on the 31st or not, before I rule?

By Mr. Fierro:

Q. Did you interrogate him on the 31st?

A. At his home, yes, Sir.

Hynick.

By The Court:

The objection is over ruled for the date of the 31st.

By Mr. Fierro:

Q. Now, we are still talking about October 31st, did you also interrogate him at the Borough Hall?

A. Yes, Sir, I did.

Q. So that you interrogated Kim Hubbard twice on October 31st?

A. No, Sir, just once at his home.

Q. How about Borough Hall?

A. That was on a different date, Sir.

Q. I was asking you about October 31st, how long were you in his house on the 31st?

A. Approximately a couple of hours.

Q. Did you, Lieutenant, spend a couple of hours interrogating this boy?

A. No, we didn't spend that much time talking to him.

Q. What were you doing there for a couple of hours?

A. Talking to his Father and Mother.

Q. And to Kim Hubbard?

A. No, he was not home when we, when we first got there.

Q. How long did you interrogate him that day?

A. Approximately an hour.

Q. An hour?

A. Yes.

Q. And I suppose you told him that he didn't have to

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answer your questions, isn't that right?

A. Very true.

Q. And he voluntarily answered your questions, isn't that right?

A. Yes, Sir.

Q. You told him he had a right to have a Lawyer, didn't you?

A. Yes, Sir.

Q. You told him he had a right to remain silent, didn't you?

A. Yes , Sir.

Q. In other words, you gave him what we have known and what we know as the standard Miranda warning, isn't that what you gave him?

A. Yes.

Q. Even after you gave him that warning, this boy consented to answering your questions, isn't that correct?

A. Yes.

Q. And he had no Lawyer there, did he?

A. No.

Q. And he didn't ask for one, did he?

A. No, Sir.

Q. Was it during this hour interrogation or shortly after that, that Kim turned over his boots and car to you?

A. That is right.

Q. Now, I would like to know, as they relate to this case, what questions you asked Kim Hubbard....

Hynick.

A. Concerning his activities on the 19th of October.

Q. And also concerning whether or not he saw Jennifer Hill, you asked him that, didn't you?

A. I don't remember if I asked him or somebody else did.

Q. Who would that somebody else be?

A. The people who were in my presence.

Q. Who are they?

A. Sgt. Peterson.

Q. You two men?

A. Yes, Sir.

Q. Between you two men on October 31st, didn't you question this boy over a period of an hour as to whether or not he saw Jennifer Hill that day?

A. During our conversation with him that was mentioned by Sgt. Peterson.

Q. Lieutenant, is this the only time you were in the Hubbard house?

A. I was there on two occasions.

Q. Is this the only time you interrogated Kim in the Hubbard house?

A. That is correct.

Q. Are you sure that the District Attorney wasn't there with you?

A. Yes, Sir, he was.

Q. I thought you just, you said just this other Trooper
and somebody else isn't that what you said?

Hynick.

A. I said when I first come here that Sgt. Peterson and District Attorney, Mr. Ertel, was with me.

Q. Really, is that what you told us?

A. Yes, Sir, I did say that.

Q. Wasn't the District Attorney asking questions also?

A. Yes, Sir.

Q. Well, then there were three of you asking Kim Hubbard questions in his house on October 31st, right?

A. Yes, Sir.

Q. And the District Attorney was there when you asked Kim to surrender his car and boots, is that right?

A. Yes, Sir.

Q. Now, this is not the last time that you questioned Kim, is it?

A. No, Sir.

Q. You questioned him thereafter, didn't you?

A. That is right.

Q. Somewhere in the course of your investigation this thing about the white helmet became important, as you know, isn't that correct?

A. That is correct.

Q. Did you bother to find out where or when Kim Hubbard got this white helmet?

A. No, Sir, I didn't.

Q. Do you know if anybody did?

A. Not to my knowledge.

Q. So far as we know through you, Lieutenant, nobody

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on the investigating staff to this minute has ever bothered to find out where or when Kim got the white helmet, isn't that a correct statement? - *when did they look to Eastern Wood Products*

A. Not to my knowledge. If they did, I don't know about it.

Q. That is right, so that you don't know whether or not Kim Hubbard got this white helmet on October 24th, you don't know that, do you?

A. No, Sir.

Q. This white helmet, you looked at it, didn't you?

A. Yes, Sir.

Q. Do you know where it came from?

A. I said that I didn't.

Q. Did you ask Kim about it?

A. No, Sir.

Q. Was there anything on this white helmet that had a label or something you could trace?

A. I don't recall if it had or not.

Q. Was there anything about it that you could have checked out, like for example whether there were steel shavings in it or bread and water or flour or anything?

A. I didn't examine the helmet.

Q. And you never questioned anybody about that helmet, did you?

A. No, Sir.

Q. Do you know anybody who questioned anybody about this helmet?

Hynick.

A. Not to my knowledge.

Q. Were you present when somebody from the Police showed this car to Mrs. Nevel and pointed out this white helmet on the ledge?

By Mr. Ertel:

I object to that, that is a statement and not a question.

By Mr. Fierro:

I am asking if he was present when this was done, he either was or wasn't.

By Mr. Ertel:

I object, it implies that was done.

By Mr. Fierro:

Yes, I say it was done and I intend to prove it.

By Mr. Ertel:

I would be happy to have you do it.

By Mr. Fierro:

You heard it at the preliminary examination.

By The Court:

Do you expect to follow it up?

By Mr. Fierro:

I expect to follow it up through the District Attorney taking the stand or one of his Policemen.

By The Court:

Q. Do you understand the question?

A. Yes, Sir, I do.

Q. You may answer, the objection is over ruled.

Hynick.

A. No, Sir, I was not.

By Mr. Fierro:

Q. Were you present when these photographs were made of this car?

A. No, Sir, I was not.

Q. Do you know who put the other articles on the ledge of that car that you say were not on the ledge when you took control of it on October 31st?

A. No, Sir, I don't.

By The Court:

Mr. Fierro, we are going to take a recess at this time. The Defendant and the Jurors are now excused.

By Mr. Fierro:

He wants to talk to me.

By The Court:

Sheriff, you will arrange that they go in the other room over here reserved for Mr. Fierro.

Court is recessed for ten...for fifteen minutes.

(Recessed at 2:45 P.M. and reconvened at 3:00 P.M.).

(Lieutenant Steven Hynick returned to the witness stand.).

By The Court:

Proceed, Mr. Fierro.

By Mr. Fierro:

Q. Lieutenant Hynick, on October 31st when you were in the Hubbard house talking with Kim and Mr. and Mrs. Hubbard, was that the occasion that you told Mr. Hubbard, that is the Father, that there were more than two sets of footprints at the

Hynick.

scene where Jennifer's body was found?

A. Yes, Sir. Can I qualify my answer, Sir?

Q. Well, I was going to ask you another question, you answered the question.

By Mr. Ertel:

I believe the man is entitled to explain.

By Mr. Fierro:

Some questions do not require an explanation.

By The Court:

The Court does not feel an explanation is necessary, proceed.

By Mr. Fierro:

Q. And didn't you also tell him, these were your words, or substantially your words, that you couldn't tell whether it was two or more people whose footprints were down there where the body was found?

A. No, Sir, I did not.

Q. Well, what did you say about it?

A. We talked about shoe prints, a boot print and a sneaker print.

Q. You say "we", I am talking about you, what did you say?

A. I am talking about Joe, Mr. Hubbard.

Q. No, I am asking what you said to him, about these prints where the body was found?

A. Just the one set of prints where the body was found is what I, what we talked about.

Hynick.

Q. I thought you admitted awhile ago that you did make a statement such as that, you said there was more than one set of prints made by possibly two people or more?

A. Not under, not where the body was found.

Q. What did you say to Joe regarding footprints?

A. There was one set of footprints right under the body and there was a pair of sneaker prints out in the roadway.

Q. Is that what you said to Joe Hubbard?

A. That is correct. That was my request to explain my answer.

Q. That is all.

By The Court:

Mr. Ertel.

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Sgt., or just to clear up a few things, or Lieutenant, I am sorry, are you the administrative head of the Department?

A. That is correct, yes, Sir.

Q. Are you the actual operating personnel in the investigation of the crime?

A. I don't understand what you mean.

Q. By the "operating personnel", I mean were you directly in charge of this investigation to details and things of that sort?

A. No, Sir, not as far as the investigation was concerned itself.

Hynick.

Q. Who was in charge?

A. Corporal Barto.

Q. Do you make detailed inventories and examination of vehicles or do you have a special department for that?

A. Other people do that, Sir.

Q. Who is in that department in your Barracks?

A. Trooper Keppick, Sir.

Q. So that when you state here that you examined this car, did you make the detailed thorough examination of that?

A. An....

By Mr. Fierro:

I object, he is leading the witness.

By The Court:

Refrain from leading.

By Mr. Ertel:

Q. Who would make a detailed R&I examination?

By Mr. Fierro:

Not who would, who did.

By The Court:

The objection is sustained, it is what happened in this case.

By Mr. Ertel:

He asked this man what he knows from various things, but he was not there, how can he say?

By Mr. Fierro:

Don't say he was not there, the man said he was there.

Hynick.

By Mr. Ertel:

Q. Were you there at all times when detailed examination of this car was made?

A. Not in all cases.

Q. Were you there constantly when, at the time that the detailed examination was made?

A. No, Sir, I was not.

By Mr. Fierro:

I object to his leading his own witness.

By The Court:

Refrain from leading.

By Mr. Ertel:

Q. Will you describe your role in this examination of the car?

By Mr. Fierro:

That is repetitious, it has been done twice.

By The Court:

The Court will permit it however, the objection is over ruled.

By Mr. Ertel:

Q. Go ahead and explain?

A. My position is Lieutenant in the State Police, my role in this investigation was administrator to see that the proper persons were doing their job.

By Mr. Fierro:

I object to that, that is not responsive.

By The Court:

Answer the specific question, Sir.

Hynick.

By Mr. Ertel:

Q. What was your role in this investigation?

By Mr. Fierro:

I object to that general, vague question, on the grounds that it is improper re-direct and repetitious.

By The Court:

Q. In addition to what you testified to, what was your role in this specific case, Sir?

A. To see that the proper persons were assigned to different phases of the investigation.

By Mr. Ertel:

Q. Incidentally, how many days after the disappearance of Jennifer Hill did you confiscate or get the car from Kim Hubbard, how many days had elapsed?

By Mr. Fierro:

As I understand the District Attorney's original statement and the Court's ruling, I had to limit myself to October 31st, because he said he was going to recall this witness.

By The Court:

He is opening it up now.

By Mr. Ertel:

Now, wait a minute, if I may....

By Mr. Fierro:

You may do it at Side Bar.

By The Court:

Side Bar.

Hynick.

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

By The Court:

Mr. Ertel, do you want the question read back?

By Mr. Ertel:

No.

By The Court:

Proceed.

By Mr. Ertel:

I have no further questions subject to recall.

By The Court:

Mr. Fierro?

By Mr. Fierro:

Subject to what the Court and we discussed at Side Bar.

By The Court:

All right. Do you have any further examination on what he covered on re-direct?

By Mr. Fierro:

Your Honor, I got to say not on that point.

By The Court:

Lieutenant, you are prohibited from discussing your testimony or the case with anyone except the District Attorney or the Defense Attorney or members of their Staff.

A. Yes, Sir, I understand.

(Excused from stand.)

Nevel.

BETTY J. NEVEL, being duly sworn according to law,
testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Betty J. Nevel.

Q. Where do you live?

A. 503 Howard Street.

Q. That is in South Williamsport?

A. Yes.

Q. How far is that off of Central Avenue, how many

blocks?

A. A block and a half.

Q. Which side of the street do you live on, on Howard

Street?

A. The east side.

Q. That would be towards Market then?

A. Yes.

Q. Are you north or south of Central Avenue?

A. South.

Q. Now, Mrs. Nevel, do you know the Defendant in this
case, Kia Hubbard?

A. No, I do not.

Q. Did you know Jennifer Hill?

A. No, just her sister.

Q. Now, going back to the 19th day of October, 1973,
can you tell us what, if anything, unusual happened on that day

Nevel.

that makes you recall?

A. Well, it was the day I was to have my cat put to sleep, and school was out that day, and I went shopping in the morning, and talked to the Doctor, and in the afternoon we were watching television and this is when Jennie came up the street.

Q. Now, who was watching television with you?

A. My daughter, Beth.

Q. How old is she?

A. 11.

Q. What grade of school is she in relation to Jenny Hill?

A. She was in the 6th grade and Jenny was in the 7th.

Q. Would you describe approximately what time of day you saw Jenny Hill?

A. 4:30.

Q. How do you establish that time?

A. Well, the program on television, well one was ending and the "Flintstones" were coming on.

Q. Which was ending, do you recall?

A. "Secret Storm".

Q. Now, will you describe what happened at that time of day and what you observed?

A. Well, I was seated at the couch, and she came up the street and she looked at my door, I had a Halloween decoration on and I asked my daughter who she was and she said "Jenny Hill", and I turned and kept watching and she got in the car.

Q. What car did she get into?

Nevel.

A. A light green metallic car.

Q. All right, and where did you, would you describe what she did, what her activities were as she proceeded up the street, how you watched her and what she did?

A. She was looking around.

Q. Would you sort of show the Jury exactly what you mean by "looking around"?

A. Well, she was looking towards the street and in my backyard, and just looking around.

Q. Then what happened?

A. Well, then the car pulled up and she took a little skip before she started to run, and she went across the back of the car and into the opposite the driver's side.

Q. Could you observe the driver?

A. Well, I seen an outline, but I didn't, I couldn't describe his face.

Q. Did the driver do anything as far as.....

A. I just seen the hand.

Q. Would you show us what you mean by "seen the hand"?

A. Well, just, you know, close to the window, I could see a hand movement.

Q. What happened when Jennifer got into the car?

A. Well, they drove away.

Q. Could you see her get into the car, physically get into the car?

A. Yes.

Q. All right, now would you describe the car and its'

Nevel.

contents, the best you can recall?

A. Well, it was light green and it was metallic and had the helmet on the back, on the ledge, and a Pennsylvania license number.

Q. Do you recall what the license number was?

A. It was 1, 9 or 7.

Q. Which number in the license was that?

A. The first number.

Q. Did you have occasion to see that car again?

A. Did you have occasion to see that car again?

A. At a later date I seen it on 6th Avenue.

Q. Do you recall what date at all?

A. No, I don't.

Q. When you saw it on 6th Avenue, where is 6th Avenue in relation to your home?

A. A couple of doors away, it would, it is towards the mountain, it would be south.

Q. You were located on Howard Street, I am pointing to Exhibit No. 42, if you step over here, here is Mountain Avenue and here is 6th Avenue, is that correct?

A. Yes.

Q. And would this be the approximate location of your home on Howard Street?

A. Yes.

Q. Now, where approximately on 6th Avenue did you see that car again?

A. Well, coming across here.

Nevel.

Q. Now, let's return to the 19th of October, the day you saw Jennie Hill, which direction was Jennie going?

A. Up this way.

Q. That would be going towards the mountain, is that correct?

A. Yes, south towards the mountain.

Q. On Howard Street?

A. Yes.

Q. Now, which way was the car that picked her up going?

A. The same direction.

Q. In other words, it was going south on Howard Street, where did the car stop?

A. In the front of the house, next door.

Q. Could you tell whether or not Jennifer got in the front seat or back seat of the car?

By Mr. Fierro:

I object to his leading the witness.

By The Court:

Refrain from leading the witness.

By Mr. Ertel:

Q. Do you know, could you tell which door she got into the car, if any?

A. Yes, I did say that the front, opposite the driver.

Q. Did you see that car again, after you saw it on 6th Avenue?

A. I don't know whether I saw it after on 6th Avenue or

Nevel.

Q. I see....

By Mr. Fierro:

She didn't finish her answer.

By The Court:

Q. Was your answer finished?

A. What, on 6th Avenue?

Q. Your answer to the question?

A. I seen the car again in the garage, but I don't know whether it was before I saw it on 6th Avenue or after.

By Mr. Ertel:

Q. Where did you see it in the garage?

A. The Borough Hall Garage.

Q. Were you able to identify the car at that time?

A. Some things about it, but the damage was confused

me.

Q. What do you mean by the "damage"?

A. Well, I didn't see the damage on the day she got in on the 19th.

Q. What view did you have of the car on the 19th when she got into it?

A. Mostly the back, and a little bit of the side.

Q. Did you see the front of the car at all?

A. No, I did not.

Q. Now, when you observed, can you tell us what that street is like as far as trees and so on, on Howard Street between Mountain Avenue and 6th Avenue?

A. There is a lot of trees on it, all on one side.

Nevel.

Q. Which side?

A. Well, in front of our house there is two, and then there is three across the street, and a big Oak tree in the side yard of the, across the street.

Q. I am not sure if you answered this, could you tell me if there were more than one person in the car before Jennifer Hill got in or after she got in?

A. I only saw one person.

Q. Now, can you describe how Jennifer Hill was dressed?

A. She had a football jersey on with the number "33", and she was carrying a pink and white plastic bag and a jacket on the left arm, blue with a white stripe some where, and black and white sneakers.

(Commonwealth's Exhibit No. 49 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 49, and ask you if you can identify this as the type.....

A. Yes.

Q. What is it?

A. Glick shoe bag.

Q. Is it similar to or like the one Jennifer Hill had?

A. Yes.

Q. No further questions.

By The Court:

Cross examination.

Nevel.

CROSS EXAMINATION

By Mr. Fierro:

Q. Mrs. Nevel, you testified previously at the preliminary hearing in this matter, didn't you?

A. Yes.

Q. You are saying, Mrs. Nevel, that you are watching television, you are concerned because you have to put your cat to sleep that night?

A. Yes.

Q. So while you are watching television, you are distracted because you see somebody walking outside on your sidewalk?

A. Yes. I don't keep my eyes glued to a TV set. Nobody went up the street that day.

Q. That is what attracted your attention to that fact, that nobody went up the street that day, so as soon as you saw somebody you got curious?

A. I am always curious about the children that go up and down the street, I watch them come home from school, watch them go to school.

Q. So you got curious about this child, although you know that day your child was off school?

A. Yes.

Q. School was out?

A. Yes.

Q. Was there any particular reason for you to be curious about that child?

Nevel.

A. Well, she looked close to my daughter's age and I wanted to know if she knew her and she was pretty, and I just thought, well I just asked her if she knew her.

Q. You are sitting watching television, you are sitting on a chair or couch or something?

A. Yes.

Q. I assume that your window has some sort of curtains on them?

A. Yes.

Q. And while you are watching television, somehow out of the corner of your eye you see a girl?

A. Yes.

Q. Through the curtained windows?

A. Yes.

Q. Walking north on Howard Street, and so you decide to get curious about it and get up, don't you?

A. No, I did not get up.

By Mr. Ertel:

I object to the question, it is a misstatement of her testimony. She didn't....

By Mr. Fierro:

I don't want to know from you what she said, just your objection.

By The Court:

It was answered, proceed.

By Mr. Fierro:

Q. You did see this girl through the curtains, didn't

Nevel.

you?

A. Yes.

Q. So you get curious, and you say to your daughter, "Who is this girl?"?

A. Yes.

Q. Is that right?

A. Yes.

Q. Now, do you still remain seated?

A. Yes.

page 217X Q. Does your daughter get up and go to the window?

A. Yes.

Q. Your daughter says, "Well, that is Jennifer Hill."

A. Yes.

Q. Now, your daughter goes back and sits down?

A. I don't know that she went back and sat down, I don't know that.

Q. You don't know that?

A. No.

Q. You know you made an excellent identification of Jennifer Hill's clothing, you know that, don't you?

A. Yes.

Q. But you don't know whether your daughter went back and sat down?

A. I was looking out the window, my head was looking out the window.

Q. Your head was looking out the window, your daughter was at the same window, wasn't she?

Nevel.

A. She was at the same window, yes, but I was not looking at her.

X Q. You were not looking at her, but she is looking out the same window?

A. Yes. *Page 217*

Q. Don't you know whether your daughter is standing by the window?

A. She was not standing.

Q. Let me ask the question.....

Q. You said she was standing.

Q. Wasn't she standing?

A. No, Sir.

Q. Your daughter remained seated?

217 X A. She got up and came over and got on her knees on the couch, opened the curtains and looked out.

Q. So we know now your daughter got up from wherever she was seated, she went over, she knelt on the couch, she parted the windows, and that is the window you were looking out of?

By Mr. Ertel:

I object, nobody can part windows.

By Mr. Fierro:

Q. Parted the curtains?

A. I have double windows.

Q. The curtains you parted, were you looking through that section of the window?

A. I was looking through the other section, they are

double windows, she was on the other section.

Q. You were looking through the windows, the curtains were not parted, not parted through the windows you were looking through?

A. Yes, I opened them.

Q. Did you get up or were you able to remain seated?

A. I could turn, the couch sets across the two windows, the front window is that way, and when I seen her come up Howard Street I watched and I turned and kept on watching her.

Q. Did you part the curtains?

A. Yes.

Q. All right, you parted the curtains too, and you are asking your daughter who this girl is and she says, "It is Jennifer Hill."?

A. Uh-huh.

Q. And so you continued to watch her?

A. Uh-huh.

Q. When you first saw her, where was she, like in front of so and so house, where was she?

A. When I first saw her?

Q. Yes?

A. The, I first caught a glimpse of her at my front door, she looked at my front door, there was a Halloween decoration on it.

Q. How do you know she looked at your Halloween decoration?

A. She looked at the door, she had to see it.

Nevel.

Q. How do you know she looked at the door?

A. Well, that is where her eyes were looking.

Q. How do you know her eyes were not simply looking in the direction of your house?

A. Well, I can tell when somebody is looking at my door.

Q. You can?

A. Yes.

Q. All right, you can tell when somebody is looking at your door, now you can also tell this Jury that you can tell that she was looking at your Halloween decoration, can't you?

A. Yes.

Q. And that is what you are telling this jury, aren't you, that when you saw Jennifer Hill you can tell from the way her eyes were looking, that they were looking at your Halloween decoration?

A. For an instant, yes.

Q. That is what you are saying?

A. Yes.

Q. What did she have in mind as she was walking up the street?

By Mr. Ertel:

I object.

By The Court:

The objection is sustained.

By Mr. Fierro:

I don't like this chatter back here.

Nevel.

By The Court:

The Court will clear the Court Room, those that are making the noise, unless it stops immediately.

By Mr. Fierro:

Q. In any case, you do know what her eyes were looking at, don't you?

A. At that particular, there, yes.

Q. Now, you said that she was turning her head?

A. Yes.

Q. From side to side?

A. Yes.

Q. Right?

A. She was looking around.

Q. She was looking around?

A. Yes.

Q. Now, since you know that she was looking when she looked at your door, since you know she was looking at your Halloween decoration, when you say she was looking around, what was she looking for?

By Mr. Ertel:

Objection.

By Mr. Fierro:

Only to test her credibility.

By The Court:

Sustained.

By Mr. Fierro:

Q. Of course, you don't know what she was looking for,

Nevel.

do you?

By Mr. Ertel:

Objection.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Do you even know if she was looking, can you tell that?

A. Sure she was looking.

Q. Do you know at what?

By Mr. Ertel:

Objection.

By Mr. Fierro:

If she knows.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Describe again how she was dressed?

A. She had a football jersey on, blue and white, number "33", and she had black and white sneakers, and what she was carrying.

Q. Tell us?

A. Well, the pink and white plastic bag, and a jacket on her left arm, it was blue with a white stripe somewhere.

Q. What did you notice about her jeans, were there any unusual markings?

A. I didn't notice them.

Nevel.

Q. You didn't?

A. No.

Q. Mrs. Nevel, you say that a car drove up, green, now you said "metallic" green?

A. Uh-huh.

Q. Is there any difference between that and acrylic green?

A. I don't know what acrylic green is.

Q. Do you know what metallic green is?

A. Yes, it has a brightness about it, shiny.

Q. Does acrylic green have a brightness about it?

By Mr. Ertel:

Objection, she said she don't know that, what that is.

By The Court:

Sustained, reword your question.

By Mr. Fierro:

Q. Do you know the difference between acrylic green and metallic green?

By Mr. Ertel:

I object.

By The Court:

You may answer?

A. I only know metallic, I don't know what acrylic green would be.

By Mr. Fierro:

Q. Are you a paint expert of some sort?

A. No.

Nevel.

Q. You are not?

A. No.

Q. You see this car moving south on Howard Street, right?

A. Yes.

Q. Now, at the time you see this car, you, of course, are still watching Jennifer, aren't you?

A. Yes.

Q. From the time that you saw Jennifer when she got opposite to approximately where your front door is, once having found out from your daughter that it was Jennifer, you simply didn't go back to watching TV, you continued to observe Jennifer, didn't you?

A. And the car.

Q. Well, of course, Jennifer came before the car?

A. Yes.

Q. In fact, Jennifer got as far as your next-door-neighbor?

A. Yes.

Q. When the car came into view, is that right?

A. Into my view?

Q. Is that right?

A. Uh-huh.

Q. And this metallic green car pulled up opposite to where Jennifer was standing or walking, is this true?

A. Opposite, what do you mean "opposite"?

Q. Well, it was near where Jennifer was?

Nevel.

A. Yes, it stopped.

Q. And you saw a hand?

A. Yes.

Q. That seemed to beckon?

A. It seemed that way, it moved.

Q. At least you can see the hand, couldn't you?

A. Yes.

Q. Now, this is a hand of a person behind the driver's wheel, right?

A. Uh-huh.

Q. So you could see that far, see that much of the car, couldn't you?

A. Yes.

Q. You couldn't tell whether it was a man's hand or woman's hand, could you?

A. It was a man's hand, yes.

Q. It was a man's hand?

A. Yes.

Q. Tell the Jury how you can tell from where you were in your room of your house that it was a man's hand?

A. Well, the size of it.

Q. Tell the Jury about the size of it?

A. Well, you can tell a man's hand from a woman's hand.

Q. Tell us how you can tell, I mean in this case, that it was a man's hand and not a woman's hand?

A. The knuckles were too big for a woman.

Q. Now, let's see how far away were you from this car when you saw this hand?

Nevel.

A. I don't know, I didn't measure it.

Q. Well, you have some idea, Mrs. Nevel?

A. I do not, I did not measure.

Q. Was it the length of this room from where you are seated, is that how far the car was?

A. It is hard to tell from the inside to the outside, to judge from the inside, when you go outside it is different.

Q. I am trying to find out if you can use any object in this room to tell this Jury how far away this car was when it stopped to pick up Jennifer from where you were seated, was it the length of this room or any object in this room, or further than this room?

A. Well, it wasn't further than the length of this room.

Q. Well, was it about the length of this room?

A. Well, gee, I couldn't judge until I was outside, I could tell you better outside than inside.

Q. Was the car, Mrs. Nevel, as close to you as I am, or further?

A. Well, it was further than you.

Q. Was it further than where I am standing now?

(Standing near entrance to Court Room.)

A. No, I would not say.

Q. Back here? (At last row in Court Room.)

A. No.

Q. How about this? (Next to last row.)

Give us your best estimate?

Nevel.

A. Well, back a little bit.

Q. Possibly around here?

A. I didn't measure.

Q. I am asking for a fair estimate, would this be your best estimate of the distance that the car was away from you when it stopped to pick up Jennifer?

A. It was not in a straight line like that. (Mr. Fierro standing near back row of seats on the righthand side as you enter the Court Room.).

Q. What was not in the straight line?

A. I was not looking straight like that.

Q. You were looking towards the lefthand side of the car?

A. The back.

Q. And the lefthand side, or you couldn't have seen the hand, could you?

A. Yes, I saw the hand.

Q. Well, that means you could have seen the lefthand side of the car because that hand was on the lefthand side of the car?

A. Yes.

Q. And behind the driver's wheel, wasn't it?

A. Yes.

Q. Now, at the distance we just indicated to this Jury you could tell whether that hand was male or female, couldn't you?

A. Well, not only the hand, but the head, I seen the

Nevel.

Q. Did it have hair like, maybe like a woman would wear?

A. No.

Q. Was it short cropped?

A. It didn't seem that way, just dark.

Q. Just dark hair?

A. Yes.

Q. You could see that through the rear window of the car, couldn't you?

A. No.

Q. Where did you see it?

A. From the side.

Q. From the side window of the car you could see it was dark hair?

A. Yes.

Q. Could you see that it was long?

A. It wasn't real long, no. I didn't see long hair.

Q. Well, look at Kim's hair, was it like that?

A. The same color.

Q. The same color, but was it like his hair now?

A. I couldn't see that good that it was, I know it wasn't long, not down his back, I know that.

Q. You couldn't see that well about his hair or her hair, whoever the person was, right?

By Mr. Ertel:

Objection.

By The Court:

The objection is sustained, reword your question.

Nevel.

By Mr. Fierro:

Q. I will go on. Now, you say from that distance you could see the knuckles were too large to be a woman's hand, is that right?

A. Yes.

Q. Isn't that what you said?

A. Yes.

Q. That hand did not go outside of the car, did it?

A. No.

Q. You had to see it through the glass, didn't you?

A. Uh-huh.

Q. And that is the glass in the front door of that car, isn't that true?

A. Right.

Q. Did you see any damage on either one of the two lefthand doors of that car?

By Mr. Ertel:

May I have that read back?

By Mr. Fierro:

I will ask it again.

Q. Did you see any damage on either of the two left-hand doors of that car?

A. No, I wasn't looking at the bottom part of the car.

Q. You were not looking at the bottom part of the car?

A. I was looking mainly trying to get a good look at who was in the car.

Q. You were curious about who was picking up Jennifer?

Nevel.

A. Yes.

Q. Now, can you explain to us why your eyes were able to see the front window of the lefthand door, but not see below that and see the panel part of the door?

By Mr. Ertel:

I object to the question.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. You did testify under direct examination that you did not see any damage when you saw this car, isn't that what you said?

A. Yes, on the 19th.

Q. That is what we are talking about?

A. Yes.

Q. Now, you made the statement that you didn't see any damage, does that mean you didn't see any because you didn't know there was any or you didn't see any because you didn't look?

A. Because I didn't look.

Q. Now, the lefthand side of the car that you were facing as you were looking out the window, is that right?

A. No, mostly the rear part and the back side.

It was in the middle of the street, it didn't pull up to the curb.

Q. Middle of the street, which put the car further out, so you had a better view of the car?

By Mr. Ertel:

I object to that, I don't understand that question.

Nevel.

By The Court:

The objection is sustained, reword your question.

By Mr. Pierro:

Q. Didn't you have a better view of that car because it was out in the middle of the street rather than the curb, closer to you?

A. No, I would have had a better view at the curb. It would have been closer.

Q. It was out in the middle of the street, you think?

A. It stopped in the middle of the street.

Q. The righthand side of the car is the car that is away from you, isn't it?

A. Yes.

Q. That was the hidden side of the car, wasn't it?

A. Yes.

Q. Yet you are able to tell, without being able to see the righthand side of the car, which door she got into?

A. Oh, yes.

Q. Sure?

A. Because I seen her get into it.

Q. You could tell without being able to see the doors, is that correct?

A. You mean she got opposite the driver's side, yes.

Q. Were you able to see the doors on the righthand side of that car?

A. No.

Q. Now, the Police questioned you about this thing,

Nevel.

didn't they?

A. Uh-huh.

Q. You mean "yes"?

A. Yes.

Q. More than once, isn't that right?

A. Yes.

Q. In fact, you were taken to the Borough Hall where this car at one point in time was placed, isn't that correct?

A. Uh-huh.

Q. You mean "yes"?

A. Yes.

Q. And there were what, two or three Officers there when they asked you to come down?

A. Two.

Q. Doyou know their names?

A. Yes, Lieutenant....

Q. Lieutenant what?

A. Well, I can't pronounce it.

Q. Hynick?

A. Yes.

Q. Somebody else?

A. Yes, Captain Ross.

Q. That is a South Williamsport Policeman?

A. Yes.

Q. Were they the only two that was there?

A. Yes.

Q. You were asked to identify the car that was there

Nevel.

at the Borough Hall, weren't you?

A. Yes, Uh-huh.

Q. You mean "Yes" ?

A. Yes.

Q. In fact, one of these two Officers said to you, "Mrs. Nevel, is this Kim Hubbard's car?", isn't that right?

A. No, I didn't know whose car it was.

Q. What did they say to you?

A. They didn't say whose car it was.

Q. What did they say to you?

A. "Is this the car you seen?".

Q. Did they say when?

A. Yes, on October 19th.

Q. Is this what they said to you, Mrs. Nevel, "Is this the car you saw on October 19th that Jennifer Hill got into?", is that substantially what they asked you?

A. I don't know for sure, but it sounds like that would have been what they asked me.

Q. Well, you were there?

A. Yes.

Q. And you answered them, you said, "I cannot say it was and I cannot say it wasn't."?

A. Yes, because of the damage, I didn't notice the damage.

Q. You didn't notice the damage?

A. Yes.

Q. Which was on the lefthand side of that car, isn't

that right?

A. Uh-huh.

Q. You mean "Yes"?

A. Yes.

Q. There were two items of damage, one on the door, one on the left fender, right, that you saw at the Police Borough Hall?

A. Yes.

Q. It was pointed out to you, wasn't it?

A. No, it was not pointed out to me.

Q. You looked at it?

A. Yes.

Q. And yet when asked by the Officers you were unable to identify whether that was the car that picked up Jennifer Hill, isn't that the truth?

A. No, just the damage.

Q. Damage or not, didn't you say, "I cannot tell you that it was, and I cannot tell you it wasn't."?

A. Well, I said the metallic color was the same.

Q. Madam, didn't you tell the Police that you could not say whether that was the car or whether it was not?

By Mr. Ertel:

I object, he is now badgering the witness.

By Mr. Pierro:

I am always badgering whenever they are saying something that you don't like.

Nevel.

By Mr. Ertel:

No, Mr. Fierro, you are always badgering when you repeat the question eight times.

By Mr. Fierro:

I have to repeat it because I have not gotten a precise answer.

By The Court:

Read the question.

(Official Reporter read question as follows: "Q. Madam, didn't you tell the Police that you could not say whether that was the car or whether it was not?")

By The Court:

The objection is over ruled, you may answer.

A. I didn't say it was and I didn't say it wasn't.

By Mr. Fierro:

Q. Precisely. Do you remember at the preliminary examination when I asked you about that identification of the car there at the Police Borough Hall?

A. Yes.

Q. Didn't you answer then, you made the statement that you told the Police, "I cannot say that that was the car, and I cannot say that it wasn't the car.", do you remember that?

A. Uh-huh.

Q. You mean "Yes."?

A. Yes.

Q. Now, do you remember, Mrs. Nevel, that somebody pointed out a white helmet to you on the ledge of this car?

Nevel.

A. No, I seen it there.

Q. You seen it there at the Police Borough Hall?

A. Uh-huh.

Q. Did somebody mention it to you?

A. No.

Q. Did somebody say that, "Did you see this before?"?

A. I don't recall.

Q. You don't recall?

A. No.

Q. I know the District Attorney asked you that at the preliminary hearing, didn't he?

A. Yes.

Q. He pointed to it in the photograph, didn't he?

A. Yes.

Q. He said to you, Mrs. Nevel, "This white helmet, did you see this on the ledge of the car that picked up Jennie on October 19th?", that is what he asked you?

A. Yes, I seen it on October 19th.

Q. No, this is what he asked you, didn't he?

A. Yes.

Q. And you said "Yes.", that that the car you saw pick up Jennifer on October 19th had a white helmet on the ledge, isn't that what you said?

A. Yes.

Q. And, in fact, you are saying it today, aren't you?

A. Yes.

Q. And you are saying today that although the lefthand

Nevel.

side of the car was exposed to your view, you cannot tell this Jury where you saw any damage on the lefthand side of the car, can you?

A. No.

Q. Now.....

Q. But I got venetian blinds and one of the slats may ave been in that area.

Q. Sure....

A. Where the damage was, yes, it could have been.

Q. Sure it could have been, there is something....

A. A slat in the blind.

Q. There is something about your window.....

By Mr. Ertel:

I believe she is able to answer the question.

By Mr. Fierro:

Q. There is something about your window, the way you are saying, or the way you held open the slats might have intefered with your vision?

A. With that particular spot.

Q. Are you telling this Jury that one of the slats obstructed your vision?

A. No.

Q. That is what I want to know?

A. It could have.

Q. I am asking you if it did?

By Mr. Ertel:

Objection.

Nevel.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Did you have any obstructed vision when you are looking at this car on October 19th, from whatever source?

A. No, I saw it.

Q. All right, you saw it. Now, if you saw it, can you explain to this Jury why you didn't see that crushed left fender and dented left panel of the door?

By Mr. Ertel:

I object to the question.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Of course you know, you said you saw one of the first numbers of the license plate, you gave three different numbers, didn't you have that car in sight long enough that you could have picked up the entire license plate number?

A. No, it was too fast.

Q. Too fast?

A. Yes, it stopped, she ran in and away it went, fast.

Q. But you got three of the 10 digits, you don't know which one was the first one, you are just saying it has to be.....

By Mr. Ertel:

There are not ten digits in a license number in the State of Pennsylvania.

Nevel.

By The Court:

Q. Do you understand the question?

A. No.

Q. Reword your question.

By Mr. Pierro:

A. You saw either a 1, or 9 or 7, and you can't tell which one it was, is that correct?

A. Well, it was 1, a 9 or 7 is what I saw.

Q. I said can you tell which one of the three it was? The first number, or can't you?

A. It was a 9.

Q. It was a 9?

A. Yes.

Q. When the District Attorney asked you, you said it was either a 1, or a 9 or 7, didn't you?

A. Yes.

Q. Now you are saying positively that the first number was a 9, is that correct?

A. Uh-huh.

Q. By "Uh-huh" you mean "Yes"?

A. Yes.

Q. Do you remember testifying at the preliminary hearing, Mrs. Nevel, that you also said that you thought the first number on that license plate was a 1, a 9 or 7, but you didn't know which one it was, wasn't that your testimony before?

A. Yes.

Q. Now today you are positively saying it was a 9?

Nevel.

A. Yes.

Q. Why didn't you say it when the District Attorney asked you?

A. Well, the picture was right there and it was a 9 on it.

Q. The picture of what?

A. Of the car.

Q. You mean that he just showed you?

A. Yes, it was right there before my eyes, it was a 9.

Q. In other words, on seeing the picture you are saying that the first number was a 9, is that right?

A. Yes, I said a 1, 9 or 7, and I seen it was a 9.

Q. But you saw it from the picture he showed you?

A. Yes.

Q. All right, did you say Jennifer ran around the car?

A. Uh-huh.

Q. You mean "Yes"?

A. Yes.

Q. Mrs. Nevel, you, of course, don't know to this day whose car that was that you saw, do you?

A. Well, nobody ever told me whose car it was, it was not told.

Q. Mrs. Nevel, probably the single largest point of identification concerning this car was this white helmet on the

Nevel.

ledge, wasn't it?

A. Yes, and she got in the car.

Q. That was one of the single most important things that you remember, isn't that correct?

By Mr. Ertel:

I object now.

By The Court:

Q. Do you understand the question?

A. No.

Q. Reword the question.

By Mr. Fierro:

Q. One of the single most important items of identification concerning the car that picked up Jennie on October 19th was this white helmet on the ledge, isn't that right?

A. And the metallic.

Q. And the metallic green, okey.

Q. Now, you are sure, Mrs. Nevel, that on October 19th at 4:30 this metallic green car that picked up Jennifer Hill had a white helmet sitting on the ledge of that car?

A. Yes.

Q. You are sure of that, aren't you?

A. Yes.

Q. In fact, you are positive of that, aren't you?

A. Yes.

Q. Let me see that picture that the District Attorney showed you, Commonwealth's Exhibit No. 26, take a look, is this the one that the District Attorney showed you?

Nevel.

A. Uh-huh.

Q. You mean "Yes"?

A. Yes.

Q. Do you see that white helmet?

A. Yes.

Q. Now, was that white helmet in that position when you saw it, I am not talking about the car, the position of the white helmet on October 26th, is that the way it looked to you?

A. Well, no, I think it was turned over.

Q. It was turned over?

A. Yes.

Q. Was it in approximately the same position on the ledge of the car?

A. No, it seemed over this way a little more.

Q. You mean to the left of the picture?

A. Yes.

Q. The left of the car, is that correct?

A. Yes.

Q. Now, there are other things on the ledge of the car in this particular picture, do you see that?

A. Yes.

Q. Well, the car that you saw on October 19th, besides this white helmet, did it have anything else on the ledge of the car?

A. No, there was no hub caps or no shoes there.

Q. Well, was there anything else besides the helmet?

A. I didn't see anything else but the helmet.

*Check Affidavits
Testimony
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*Check Affidavits
Testimony
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Nevel.

Q. Are you saying there wasn't anything else, or you don't know whether there was anything else?

A. I just saw the helmet.

Q. Mrs. Nevel, do you know as a fact, I am asking you if you know, that the only white helmet that Kim Hubbard owned was the one that he got on October 24th when he went to work at Stroehmann Brothers, do you know that?

By Mr. Ertel:

I object.

A. No, I don't know that.

By Mr. Fierro:

I will permit the answer to stand.

Q. What is your answer?

A. No.

Q. The answer is no, that you don't know that?

A. No.

Q. What you do know is when you saw, if it is Kim Hubbard's car, we will say it was, in the garage at the Police Hall, you saw that what, two weeks after Jennifer disappeared?

A. No.

Q. When did you see it?

A. The following Friday.

Q. The following Friday that she disappeared, Mrs. Nevel?

A. No, the next week.

Q. The next week?

A. Yes, it was two.

Q. It was two weeks?

Nevel.

A. Yes.

Q. We will make it clear, when you went to the Police Borough Hall, and saw Kim Hubbard's car there, that was approximately two weeks after Jennifer disappeared, is that correct?

A. Yes.

Q. As a matter of fact, it had to be sometime after October 31st, or don't you know?

A. No, I don't know.

Q. No, you don't know?

✓ A. No, it was before Halloween.

Q. It was before Halloween?

A. Yes.

Q. Quite frankly, I don't know when Halloween is?

A. I think it is the 31st, isn't it?

Q. I don't know, but you say you saw this car at the Police Station before Halloween?

A. Yes.

Q. Okey, and you think Halloween, I would like to have, although I don't know, I would like to have the Court take judicial notice when that particular day was last October, and I don't know how we are going to find out.

By The Court:

May I see Counsel?

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

By The Court:

We will find out and then take judicial notice of it.

Nevel.

By Mr. Fierro:

Q. Mrs. Nevel, is it your testimony now that you went to the Police Borough Hall before Halloween to see this car?

A. I think it was before.

Q. Is that your best recollection?

A. Yes, that it was before Halloween day, yes, I think it was.

Q. All right, who asked you to come down, or did they come and get you?

A. They came and got me.

Q. Who came and got you?

A. I told you that before.

Q. Lieutenant Hynick and Captain Ross?

A. Yes.

Q. Came to your house and drove you to the Borough Hall?

A. Yes.

Q. And brought you back home?

A. Yes.

Q. Do you know what day of the week Halloween was last year?

A. No, not exactly what day of the week, Thursday, something like that, or Saturday, I don't know what day.

Q. Do you remember some of the questions I asked you at the Preliminary Hearing concerning about you getting the newspaper daily, you said "Yes.", didn't you?

Nevel.

A. I don't remember you asking me.

Q. I will ask you then?

A. You didn't ask me before.

Q. I will ask you now?

A. Yes, I get the newspaper.

Q. You got the newspaper then daily too, didn't you?

A. Yes.

Q. Don't you remember me asking you questions about that?

A. That I got the newspaper?

Q. Don't you remember me asking you, Mrs. Nevel, do you remember me asking you questions about your reading the newspaper last year concerning the matter, don't you remember?

A. Reading the newspaper, I said I didn't, I wasn't reading it that week.

Q. Mrs. Nevel, is it your testimony now that you were not reading the newspaper the week that Jennifer disappeared?

A. Yes, I was not reading it.

Q. Why not?

A. Well, that week I was upset about my pet, and I was busy sewing for the Mummies' Parade that was to come up, and until the paper came I was busy with dinner, and then I would sit down at the sewing machine, and I just didn't bother reading it until Sunday morning when I picked up the Grit and I started to read and I said to Beth we.....

Q. I am not asking what you said to anybody, I want to know about your reading Sunday morning, this is October 29th,

Nevel.

probably October 31st, that Sunday nevertheless, was the first that you read in the newspaper about Jennifer's disappearance, isn't that right?

A. Yes.

By The Court:

Now, Mr. Fierro, if you want that date I have the 1973 Calendar in front of me, it shows that Halloween was on October 31st, which was a Wednesday. Any objection, Mr. Ertel?

By Mr. Ertel:

If that is when it was, that is when it was.

By The Court:

Proceed.

By Mr. Fierro:

Q. Now that you heard the, what the Judge has said concerning Halloween, which was October 31st, on a Wednesday, I will go back, did you go down to the Police Borough Hall and see that car before or after Halloween, if you know?

A. I don't remember whether it was before or after Halloween.

Q. Now, let's go back as to when you read the paper which was on Sunday, the Sunday after Jennifer's disappearance, you read the paper and you knew because you read her name, and you knew who she was, your daughter told you, read that Jennifer Hill had been missing since Friday, isn't that right?

A. No, it was Sunday morning around 9:00 in the Grit, that was the first I felt like even reading anything. It seems to me I only remember about when it came to the football jersey, then

Nevel.

it brought back everything. If I had read the Sun-Gazette or listened to the radio. I would have remembered it sooner.

Q. For whatever reason you didn't listen to the radio or read the Williamsport Sun, we know you did now read and know all about Jennifer and it came back to mind that Sunday morning, is that correct?

A. Yes.

Q. You continued to read the paper in the following days concerning the search for Jennifer, didn't you?

A. No, I didn't keep up with it, no, I didn't.

Q. You didn't?

A. No, I did not.

Q. On Sunday morning, Mrs. Nevel, perhaps October 31st, you read in the Grit about Jennifer's disappearance and there was a search going on for her, and you just said it all came back to you?

A. I don't remember reading.

Q. Now, are you testifying that you thereafter did not continue your interest in this matter by reading the papers?

A. Not everything, no, I didn't, I never do read everything.

Q. Didn't you care?

A. Yes, I cared.

Q. When you read about Jennifer's disappearance on October 31st and it brought back everything to you.....

By Mr. Ertel:

I object.

Nevel.

By The Court:

The objection is sustained, October 31st was a Wednesday.

By Mr. Fierro:

Q. Excuse me, Sunday, the following Sunday, the girl disappeared on October 19th, I am sorry, and you read about it in the paper the following Sunday?

A. Uh-huh.

Q. The 21st, probably? I am sorry, I stand corrected, I had Halloween on my mind, we will go back to make sure, she disappeared on the 19th, you know that, don't you?

A. Yes.

Q. The following Sunday, which would be the 21st of October, you read about it in the Grit, is that correct?

A. Yes.

Q. You said it all came back to you then?

A. Yes, and what I saw, I saw her, yes.

Q. You remembered then, reading this article, that you saw Jennifer get into a car at 4:30 the previous Friday, you remembered that, didn't you?

A. Yes.

Q. And in reading the paper, you read that Jennifer disappeared somewhere between 4:00 and 5:00, you read that, didn't you?

A. No.

Q. You didn't read that?

A. No, I didn't.

Check
205

Q. What did you read concerning the time of disappearance

A. When I read the football jersey, somewhere the football jersey came, I don't know where it was, it must have been in the paper, because I put the paper down immediately.

Q. You mean you did not....

A. I did not continue to read, I said we remembered it, I said to Beth.....

Q. You did not continue to read the paper?

A. I did not continue to finish the article, no.

Q. But did you learn from that article, whatever you read of it, that she disappeared Friday?

A. I had heard she disappeared before, that Friday.

Q. You mean you learned it from people?

A. Yes.

Q. When did you hear it, like the day before, Saturday?

A. Not until the day after.

Q. All right, the day after was Saturday, she disappeared Friday, you read the paper Sunday, did you hear about it that Saturday?

A. You mean the Sunday, she disappeared on the 19th, you mean that Sunday?

Q. Yes, you said you read the paper?

check 204
A. No, it was the following Sunday, it was nine days later.

Q. You, are you saying you didn't read a paper for nine days later?

A. No, I did not.

Q. You did not?

Nevel.

A. No.

Q. But somebody talked to you or told you about her disappearance?

A. Yes, about her disappearance.

Q. The day after she disappeared?

A. Yes.

Q. Now, you heard it from more than one person, didn't you?

A. Yes.

Q. Now, you heard from more than one person the day after she disappeared, that Jennifer in fact disappeared on October 19th?

A. I heard it from one person on that day.

Q. On the same day she disappeared?

A. No, the day after, I didn't know she disappeared until the day after.

Q. Well, you found out later, you found out Saturday she disappeared, didn't you?

A. Yes.

Q. Then probably you heard it from other people even the next few days about this matter, didn't you?

A. Well, I heard, yes, I heard things.

Q. Because you heard or somehow new there was a search going on for her, isn't that correct?

Nevel.

*she wasn't
found until
4 or 5 o'clock
day*

A. Well, yes, I heard, but I didn't....

Q. Yet, Mrs. Nevel, in spite of what you heard, even though you didn't read the newspaper, you knew that Jennifer had disappeared on Friday, you knew there was a search going on for her, you never bothered to tell the Police about this for quite sometime, did you?

A. Well, I am saying I didn't recall it until nine days later, that Sunday morning, before the body was found I recall it.

Q. You recalled the very next day when people told you that Jennifer disappeared, you answered that question?

A. Yes, but I didn't pay any attention to it.

Q. You didn't pay any attention to it?

A. No, I didn't, I started to change the subject and talking about my cat and was crying about my pet.

Q. All right, and then you knew several days later, as I pointed out, you knew there was a search going on for Jennifer Hill?

A. I think everybody did.

Q. But in spite of this knowledge, you, the person who saw her get into a car on Friday at 4:30, you never bothered to tell anybody about it for how long, tell the Jury?

A. Nine days, the Sunday morning.

Q. For nine days you never bothered to tell anybody, did you?

A. My family.

Q. I will get to that. When you did tell somebody,

Nevel.

it wasn't the Police, was it?

A. Not right away.

Q. Who did you tell it to first?

A. My husband.

Q. You didn't go to the Police about it, it was your husband, wasn't it?

A. Yes, but he told them to come and talk to me.

Q. He told them to come and talk to you?

A. Yes.

Q. During this time, did you have a telephone in your house?

A. Yes.

Q. And during all of the time you knew and heard about this search going on for Jennifer, during the nine day period, did you once pick up the phone and call anybody, any sort of an authority to tell them what you knew about Jennifer's disappearance?

A. No.

Q. You didn't?

A. No. I wanted to talk to them in my home, not up there.

Q. Why didn't you pick up the phone when you first heard about it on Saturday and tell the authorities what you knew and say, "Look, come up to my house and talk to me about it.", why didn't you do it that way?

A. I guess I was just afraid.

Q. What were you afraid of, Mrs. Nevel?

A. Coming here.

Nevel.

Q. What?

A. Probably this, going through this.

Q. Going through this?

A. Yes, having to go through this.

Q. It didn't prevent you from going through this, did it?

By Mr. Ertel:

I object, that is an obvious thing.

By The Court:

The objection is sustained.

By Mr. Fierro:

Q. Now, Mrs. Nevel, what did you do, read in the newspaper there was a reward being offered for information?

A. No.

Q. Did that prompt you in some way?

A. No.

Q. Is your only answer to this Jury that you remained silent for nine days that you were afraid that you would have to go to Court?

A. Yes.

Q. Now, Mrs. Nevel, at the preliminary hearing didn't I ask you whether you read about this the next, the very next day and your answer was that you did?

A. I don't recall you asking me if I read about it the very next day.

Q. Then your answer is that you don't recall?

A. No, I don't remember you saying about reading it.

Q. Mrs. Nevel, do you know who owned the car that

Nevel.

picked up Jennifer?

A. No, I did not.

Q. No, you did not?

A. No.

Q. Thank you, that is all.

By The Court:

Mr. Ertel?

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Mrs. Nevel, have you been promised any reward, or have you testified here for any reward?

By Mr. Fierro:

I object to that, I was talking about newspaper reward and not any that the District Attorney might offer.

By The Court:

Sustained.

By Mr. Ertel:

That reward is at the discretion of the District Attorney's office and the Police Department.

By Mr. Fierro:

I asked her about a newspaper offer.

By Mr. Ertel:

That newspaper was conditioned upon that, if you, if he wants to look it over.

By Mr. Fierro:

I don't want to look it over at all, I asked her if she was prompted by a newspaper reward.

Nevel.

By The Court:

She answered "No."

By Mr. Ertel:

Q. Did you come in here to testify to receive a newspaper reward for testimony?

A. No, I didn't have any idea any reward would have anything to do with me, I didn't find her. The only reward I knew when they found her body looking for her.

Q. Thank you, no further questions.

By Mr. Fierro:

Nothing further.

By The Court:

Mrs. Nevel, you are prohibited from discussing your testimony in this case with anyone, except the District Attorney or the Defense Counsel or their Staff.

(Excused from witness stand.).

By The Court to Beth Nevel:

Q. How old are you, Miss?

A. 11.

BETH NEVEL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your name, please?

A. Beth Nevel.

Q. Where do you live, Beth?

A. 503 Howard Street.

Beth Nevel.

Q. South Williamsport?

A. Yes.

Q. Do you know Jennifer Hill?

A. Yes.

Q. How do you know her?

A. Well, I saw her every day at school.

Q. And was she in the same grade as you were?

A. I am one grade behind her.

Q. Did you see Jennifer Hill on the 19th of October?

A. Yes.

Q. Was that the day you had off school?

A. Yes.

Q. Where did you see her, Beth?

A. She was walking up Howard Street.

Q. Where were you when you saw her?

1972 X
A. On our living room couch looking out the window.

Q. Can you tell us the best of your recollection how she was dressed?

A. She had a Glick shoe bag, she was wearing slacks.

Q. Do you remember anything else about her dress?

A. No.

Q. What happened as far as what she did on that particular day as she came up Howard Street?

A. Well, she was walking up the street and a car came in the middle of the street and she got in the car.

Q. Do you remember the color of the car?

A. It was a pale color.

Nevel.

By The Court:

She answered "No."

By Mr. Ertel:

Q. Did you come in here to testify to receive a newspaper reward for testimony?

A. No, I didn't have any idea any reward would have anything to do with me, I didn't find her. The only reward I knew when they found her body looking for her.

Q. Thank you, no further questions.

By Mr. Fierro:

Nothing further.

By The Court:

Mrs. Nevel, you are prohibited from discussing your testimony in this case with anyone, except the District Attorney or the Defense Counsel or their Staff.

(Excused from witness stand.)

By The Court to Beth Nevel:

Q. How old are you, Miss?

A. 11.

BETH NEVEL, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your name, please?

A. Beth Nevel.

Q. Where do you live, Beth?

A. 503 Howard Street.

Beth Nevel.

Q. South Williamsport?

A. Yes.

Q. Do you know Jennifer Hill?

A. Yes.

Q. How do you know her?

A. Well, I saw her every day at school.

Q. And was she in the same grade as you were?

A. I am one grade behind her.

Q. Did you see Jennifer Hill on the 19th of October?

A. Yes.

Q. Was that the day you had off school?

A. Yes.

Q. Where did you see her, Beth?

A. She was walking up Howard Street.

Q. Where were you when you saw her?

Page 172 X
A. On our living room couch looking out the window.

Q. Can you tell us the best of your recollection how she was dressed?

A. She had a Glick shoe bag, she was wearing slacks.

Q. Do you remember anything else about her dress?

A. No.

Q. What happened as far as what she did on that particular day as she came up Howard Street?

A. Well, she was walking up the street and a car came in the middle of the street and she got in the car.

Q. Do you remember the color of the car?

A. It was a pale color.

Beth Nevel.

Q. You don't remember the color though?

A. No.

Q. What happened when she got in the car?

A. I turned my head.

Q. You don't know what happened after that?

A. No.

Q. Who was in the living room with you when you observed her coming up the street?

A. My Mother.

Q. Did you make any exclamation as to who it was?

A. I said it was Jennie Hill.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Fierro:

Q. Why did you say it was Jennie Hill?

A. Because I know her and I could identify her if I saw her.

Q. You mean you just said all at once, you said, "Oh, that is Jennie Hill.", or something like that.

A. Yes.

Q. Not because your Mother asked you?

A. Well, she asked me who she was.

Q. All right, and you say that you saw that she was wearing what kind of clothing?

A. Slacks.

Q. You don't know how to describe anything else?

A. No.

Q. You don't know much else about the car except you

Beth Nevel.

thought it was pale?

A. Yes.

Q. Did your Mother ask you to do anything about what you saw, like did she say to you, "I want you to look at the license plate.", or anything like that?

A. No.

Q. Did your Mother express anyother interest in this car or in Jennie, ask you any more questions or say anything more about it at that time?

WHY WOULD
MOTHER SAY
UNUSUAL
173 A. She said "It is unusual her walking up Howard Street.".

Q. That is what your Mother said?

A. Yes.

173 Q. Then after Jennie got in this car, you didn't look, did you?

x A. No.

Q. Did your Mother say anything at that time?

173 A. No.

Q. Like she didn't say, "Jennie is getting into somebody's car.", or anything like that?

A. I don't remember.

Q. Did you get a good look at that car?

A. No.

Q. All right, did you see Jennie get into the car?

A. I did.

Q. Could you see the back of the car?

A. I don't remember.

Q. You don't remember?

Beth Nevel.

A. I don't know.

Q. You don't know?

A. No.

Q. That is all right, I have nothing further. Thank you.

By Mr. Ertel:

Thank you, Beth, that is all.

(Excused from witness stand.)

By The Court:

Gentlemen, we will recess. Everyone will remain seated. Mr. Pierro, does your Client want to talk to you?

By Mr. Pierro:

Yes.

By The Court:

Sheriff, see that he is given an opportunity. The Defendant is excused and the Jury is excused. Court is now recessed.

(Recessed at 4:20 P.M. and reconvened at 4:45 P.M.)

DWAYNE GLECKNER, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. Your name....

By Mr. Pierro:

I want an offer.

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

By The Court:

Proceed, Mr. Ertel.

By Mr. Ertel:

Q. State your full name, please?

A. Dwayne F. Gleckner.

Q. Your occupation?

A. I am a life insurance agent.

Q. For whom?

A. For Baltimore Life.

Q. How long have you been a life insurance agent?

By Mr. Fierro:

Does that have a bearing on this case? Otherwise,

I object.

By Mr. Ertel:

Just to give background.

By Mr. Fierro:

I object to that.

By The Court:

I won't strike it, but let's proceed with what the offer was.

By Mr. Ertel:

Q. Mr. Gleckner, do you also have a part-time occupation or duty?

A. Yes, I am in the Civil Air Patrol Squadron Commander.

Q. What is your rate or rank?

Dwayne Gleckner.

A. Captain.

Q. As part of the Civil Air Patrol, did you join in the search for Jennifer Hill?

A. Yes, I did.

Q. How long were you searching for her, do you recall?

A. A week, around that.

Q. Did you have the occasion on or about the 28th of October, 1974, to discover her body?

A. Yes, I did.

By The Court:

Would you change that date?

And Ertel ask him on or about so that Gleckner would be safe from perjury

By Mr. Ertel:

Q. I beg your pardon, 1973, on or about the 28th of October, 1973?

A. Yes.

why did he say that in the change of statement

Q. Would you describe where you found the body, what time and what day of the week it was?

A. Well, it was on a late Sunday afternoon, approximately just a little bit before 4:00 in the cornfield off of Sylvan Dell Road.

Q. Would you describe, if you will come down please, and ask you if you can identify what is marked as Commonwealth's Exhibit No. 37, which is a photograph on the board, if you can just stand over here where I am, can you identify that photograph?

A. Yes.

Q. What is that of?

A. That is of the field where I found her.

Dwayne Gleckner.

Q. What is, all right, can you describe what your path of travel was just prior to the time you found the girl?

A. Yes, I was coming in a direction towards South Williamsport through the cornfield, probably about a half dozen of so rows until I came to the road that goes back through the field, and then I went back that road towards the tanks.

Q. What kind of boots were you wearing?

A. Jump boots.

Q. Did they have any nails or anything in them?

A. Not that I remember, I don't know.

Q. When you went back that road, what did you observe?

A. Approximately half way back and off to the left side of the road I seen the body.

Q. Looking now, can you point out on that photograph where the body was located approximately?

A. Yes, right here in this area.

Q. That shows there is a hole there, was that a hole there when you.....

A. No.

Q. Were you there when that hole was made?

A. Yes, I was there, I was not back in that area, but I was.

Q. In the vicinity?

A. Yes.

Q. If I put an "x", would that be the approximate location?

A. That would be the approximate location.

Same Dumb Questions

Dwayne Gleckner.

Q. I will write the word "body", now turning to Commonwealth's Exhibit No. 36, can you identify that photograph?

A. Yes, that is also the same area taken from a different angle.

Q. Now, can you show the road you walked back on that particular photograph?

A. That one right here.

Q. Can you locate the location of the body where you saw it?

A. Yes, a little over half way back.

Q. I will mark an "x" again and the word "body". Turning to Exhibit No. 45, can you recognize that map of the area?

A. Yes, this is the Sylvan Dell Road along here.

Q. Can you identify the road which you identified on the previous Exhibit?

A. It would be back to the tanks.

Q. Now, if you will return to the stand. Where were you in the roadway when you observed the body?

X A. Along the left side of the road.

Q. What did you do when you observed the body?

X A. Turned around and went back out through, out to the center of the road and out to the Sylvan Dell Road.

Q. What was your next thing?

A. The next thing was to radio back to our Headquarters.

Q. What did you do as far as the area was concerned?

Dwayne Gleckner.

By Mr. Ertel:

The photographs are available and he is available for cross examination.

CROSS EXAMINATION

By Mr. Fierro:

Q. Mr. Gleckner, whatever you testified to, is that your complete knowledge of this case?

A. Yes.

Q. Were you on foot when you discovered this body?

A. Yes, I was.

Q. Were you alone?

A. Yes.

Q. The area that was marked by the District Attorney on these two Exhibits, the photographs, it shows like an indentation in the cornfield, they were not there when you discovered the body, apparently that area was cleared out?

A. Yes.

Q. Were you there when that area was cleared out?

A. I was not at the area when it was cleared out, I know of it being cleared out.

Q. You walked along this, we will call it the cornfield road, it is a private road, isn't it?

A. Yes.

Q. The one you pointed out?

A. Yes.

Q. On both of these Exhibits they look like indented black marks and this indentation here which forms sort of a short

Check page 219
(Turned Around Back To Court as Lt. Court To 311th St. Mont. 1/222.

Dwayne Glecher.

"T", that is the area that was cleared out of the cornfield where the body was found?

A. Yes.

Q. You walked along this road, and you looked in between these rows of corn and saw this body?

A. Yes.

Q. You did not approach the body?

A. No, I did not.

Q. What did this Major do when he came upon the scene, did he walk along the same road?

A. Yes.

Q. Walk approximately up to the same position where you were and saw the body?

A. Yes.

Q. And he did not walk into that area?

A. No.

Q. Of course the Police came, were you there when the Police came?

A. Yes, Sir, I was.

Q. Did they also walk along this private road between the cornfields?

A. Yes.

Q. Did they walk towards the body?

A. Not to the best of my knowledge, I don't know for sure.

Q. You don't know?

A. I don't know.

Dwayne Gleckner.

Q. Did you see them walking along this private cornfield road?

A. Yes.

Q. You did see them walking along there?

A. Yes.

Q. How many of them were there, just give me an idea?

A. Chief Smith from South Side was the first one to arrive and shortly after that the State Police arrived and in total, I don't know.

Q. Half dozen or so?

A. At least, minimum.

Q. At 4:00 P.M., you said it was around 4:00 P.M. when you said you saw the body, did it start to rain?

A. Shortly after that, yes.

Q. What is "shortly after"?

A. Well, at least a half hour.

Q. About 4:30?

A. I would say 4:30, quarter of five.

Q. At that time were the Police there?

A. Yes.

Q. At that time was the area around the body, was it being stripped of the corn, if you personally know?

A. I don't know what time the corn was taken out, I know it was taken out, but as far as the time, I am not sure.

Q. Mr. Gleckner, you were asked by the District Attorney about your jump boots, there were a lot of people in this search wearing the jump boots or that type of boot?

Dwayne Gleckner.

A. Yes.

Q. That you know of?

A. Yes.

Q. You were asked about whether you had any nails in your boots and you said, "Gee, I don't know."?

A. I don't.

Q. Now, when you saw the body in this cornfield, about how far to the left and, of course, as we are looking at these photographs, it is to the left of this private road, how far to the left that is off of the private road did you see the body, just give me an idea?

A. Three to four feet, I would say, off of the side of the road.

See Miller 294 - 15 FT

Q. And how was it lined; that is with respect to, let's see, there appears to me to be corn, the rows of corn appear to be on this photograph going north and south?

A. No, they were running at right angles to the road.

Q. On this picture they are running at right angles to the road?

A. Yes.

Q. This is Commonwealth's Exhibit No. 36. That is the one where the cornfield runs at right angles to the road, is that correct?

A. Yes.

Q. I can't tell, can you tell me on Exhibit No. 36 how do these rows of corn run, because in this area I can't tell?

A. They would run from top to bottom on the picture

Wayne Gleckner.
the rows.

Check
226
ONCE HE
REACHED THE
COMMING WAS
HE WALKED
ENTERS FIELD
AGAIN

225.
29 foot
sewer
Photos
I + 2

Q. On No. 36 they would run from top to bottom?

A. Yes.

Q. That is the same in the area where the body was found, running from top to bottom?

A. The rows ran parallel to Sylvan Dell Road.

Q. All of the fields of corn shown in this picture?

A. Yes, that I was in.

Q. Run parallel, and this is Sylvan Dell Road shown on No. 36?

A. Yes.

Q. She was found just a few feet in, in one of these rows?

A. Yes.

Q. Did you notice how was she laying?

A. Her feet were towards the road.

Q. And was her body parallel and running in the same direction as the rows of corn? — Impossible!

A. Yes.

Q. Parallel to the rows?

A. No, parallel to Sylvan Dell Road, but not to the farm road.

Q. The rows of corn also run parallel to Sylvan Dell?

A. Yes.

Q. Her body was also lying parallel to Sylvan Dell Road like the rows of corn?

A. Yes.

Q. Do I take it she was found in between two rows of

Most Important

There might be
||| (Knew the way on...)

Impossible!
10 Photos
3, 4, 5, 6, 7

Drayne Gleckner.

corn?

A. Yes.

Q. Not on top of any corn stalks?

A. No, not to the best of my knowledge.

Q. When you first saw this body, did you see whether or not there were any corn stalks that were broken?

A. I did not notice any.

Q. You didn't notice any?

A. No.

Q. Well, the body was only a few feet off of the road, you didn't notice any, did you?

A. I didn't notice any broken corn stalks.

Q. Of course, when you first saw this body, Mr. Gleckner or Captain, whatever you want to have me call you, I don't care, do you want me to call you "Captain"?

A. No.

Q. All right, when you first saw this body, Mr. Gleckner, you must have been only a few feet away from it?

A. I was.

Q. I would suspect two or three feet?

A. Probably not more than five, at the very most.

Q. Did you enter onto the cornfield itself?

A. No, I did not.

Q. You know something, I forgot what I was going to ask you, but I will take this one picture of the girl, I am looking at Commonwealth's Exhibit No. 2, I am looking at Commonwealth's Exhibit No. 1 and I am wondering whether they are

*EXHIBIT NO. 1
EXHIBIT NO. 2
CALL NAME*

Dwayne Gleckner.

one and the same with the exception of perhaps one of them being a clearer picture, or more enlarged picture?

A. One is probably closer, a little more larger.

Q. That is No. 1?

A. Yes.

Q. No. 1 and 2 are identical, so the Jury will know except No. 1 is a better close-up view of what you saw on October 28th at 4:00?

A. Yes.

X Q. Were you there when this picture was taken?

X A. No, I was not, I was still in the general area, but I was not there at the scene when the picture was taken.

X Q. Well, if you will look at No. 1, Mr. Gleckner, you notice the righthand side of the picture there appears to be something that is white, I don't know what it is, did you see that there at the time you found this body?

/ A. I don't remember seeing it.

X Q. You don't remember seeing it?

X A. No.

X Q. And you don't know what it is, do you?

/ A. No, I don't.

X Q. You can't even tell by looking at this picture which is Commonwealth's Exhibit No. 1, you can't even tell what it is, can you?

X A. No, Sir, not for sure.

X Q. Well, I don't mind if you want to guess, do you think if you guess you can tell us what this white object is that

Dwayne Gleckner.

was not there when you found the body?

By Mr. Ertel:

I object to that statement that it wasn't there.

By Mr. Fierro:

That is what is, what he said.

By Mr. Ertel:

He said he does not remember, and there is quite a difference.

By The Court:

Reword your question.

Mr. Fierro:

Q. Do you remember seeing that white object there that appears on Commonwealth's Exhibit No. 1 when you discovered the body?

A. No, I don't remember seeing it there.

Q. Even on this picture, Commonwealth's Exhibit No. 1, it is as close to the road as the body, isn't it?

A. It appears to be, yes.

Q. Well, according to the picture, if you say it is different, say so?

By Mr. Ertel:

I object to the interpretation of the picture.

By The Court:

Well, it is what he recalls at the scene. Proceed,

Mr. Fierro.

By Mr. Fierro:

Q. Is the body of Jennifer as shown in this Exhibit

Dwayne Gleckner.

substantially accurate as you saw it at the time, that day at 4:00?

A. Yes.

Q. And as far as you are concerned, this Exhibit No. 1 substantially and accurately reproduces what you saw?

A. Yes.

Q. Except for one thing, isn't that correct, and that is this white object on the righthand side of the picture?

A. It could have been there, I don't know for sure.

Q. Did you see it?

A. I don't remember seeing it.

Q. Well, it is a rather large, white object, isn't it?

A. Yes.

Q. And it is prominently displayed in this picture, isn't it?

A. Yes.

Q. And it is close, at least on this picture, as Jennifer's feet are to the road, isn't that correct?

A. Yes.

Q. And yet you say you did not see that white object?

A. No.

By Mr. Ertel:

I object, he did not say he didn't see it.

A. I said I don't remember seeing it.

By Mr. Fierro:

Q. You don't remember seeing it, you remember seeing the body?

Dwayne Gleckner.

A. I will never forget that.

Q. Now, by looking at this do you know what that white object is, or don't you?

A. No, Sir, I don't know for sure.

Q. Do you want to guess?

A. It looks like it could be a "t" Shirt or something like that.

Q. Could be a "T" shirt or something like that?

A. Yes.

Q. It is white, isn't it?

A. Yes.

Q. And even on this photograph it is in plain view, isn't it?

A. Yes.

Q. Now, you discovered the body, and if you look at this photograph, tell the Jury how far away from the body that white object is?

A. Probably about four feet.

Q. Do you know what happened to this white article?

A. No, Sir, I have no idea.

Q. Do you know if the Major saw this white article?

A. I have no idea whether he saw it or not.

Q. Well, then, Mr. Gleckner, is your role, this is your role and your knowledge of this case?

A. Yes, Sir.

Q. That is all.

Dwayne Gleckner.

By The Court:

Mr. Ertel?

By Mr. Ertel:

I would like to offer the photographs at this time and have them shown to the Jury.

By Mr. Fierro:

I have no objection to them being received in evidence, but I don't like, the Court of course will decide, but I don't like the idea of the photographs, or any exhibits being passed around the Jury while testimony is being taken.

By Mr. Ertel:

If you don't mind, I will let them look and pass them around, and I won't ask any questions.

By Mr. Fierro:

This will dissipate time as well.

By The Court:

You have no objection to the photographs?

By Mr. Fierro:

None.

By The Court:

The Court has not seen the photographs yet, I will reserve my ruling. Proceed.

By Mr. Ertel:

I think that it is important that the Jury be able to see what we are talking about as we go.

By The Court:

Are your next witnesses going to talk about the same

Dwayne Gleckner.

thing?

By Mr. Ertel:

Yes, Sir, and that will give them some explanation of what he is talking about and make it easier for them to visualize.

By The Court:

May I see Counsel at Side Bar?

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

By The Court:

They are admitted, but the request of passing them through the Jury at this time is denied.

(Commonwealth's Exhibits Nos. 1 and 2 admitted into evidence.)

By The Court:

Any further questions of this witness?

RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. What was the tread like on your shoes, if you recall?

A. Fairly worn. It was at one time a square design on the sole.

Q. What do you mean by "square"?

A. It had little squares or diamonds, something similar to that on the sole.

Q. No further questions.

By Mr. Fierro:

None, your Honor.

Hunsinger.

By The Court:

The Court instructs you that you are prohibited from talking about your testimony in this case to anyone except the District Attorney or Defense Counsel or one of their staff.

(Excused from witness.)

By The Court:

Mr. Fierro, do you excuse this Gentleman?

By Mr. Fierro:

Yes.

By The Court:

If the District Attorney excuses you, you are excused.

LOUIS HUNSINGER, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Louis E. Hunsinger.

Q. Your occupation?

A. I am Field Manager for an Insurance Company.

Q. Do you do something as part time?

A. Yes, I am in the Civil Air Patrol, I am

Mission Coordinator.

Q. What is your rate or rank?

A. Major.

Q. Mr. Hunsinger, did you have the duties of

Hunsinger.

By The Court:

The Court instructs you that you are prohibited from talking about your testimony in this case to anyone except the District Attorney or Defense Counsel or one of their staff.

(Excused from witness.)

By The Court:

Mr. Fierro, do you excuse this Gentleman?

By Mr. Fierro:

Yes.

By The Court:

If the District Attorney excuses you, you are excused.

LOUIS HUNSINGER, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, please?

A. Louis E. Hunsinger.

Q. Your occupation?

A. I am Field Manager for an Insurance Company.

Q. Do you do something as part time?

A. Yes, I am in the Civil Air Patrol, I am

Mission Coordinator.

Q. What is your rate or rank?

A. Major.

Q. Mr. Hunsinger, did you have the duties of

110
ON OR
Abner
NELK

Code 15

Remember
what this
said
I almost
serviced up
the weeks
I said that
I found
the body 234.

coordinating the search for Jennifer Hill for the Civil Air Patrol?

A. Yes.

Q. On the 28th of October, did you receive a message as to the location of the body?

A. Yes, we got the message in that we had a code set up, because we had a lot of problems with other people monitoring our frequencies so we set up a code and the code came over, so I went down and confirmed it.

Q. Who went with you, if anyone?

A. No one.

Q. Who was there when you arrived?

A. Lieutenant Gleckner and there was some others in the truck out on the road, but Lieutenant Gleckner met me.

Q. What did you do then?

A. Well, we walked back into the, down the road, and I confirmed that he had found something, and we went back out and I sent a radio back to our Headquarters to call "Smitty".

Q. That is "Smitty" being the Chief of Police?

A. Chief of Police.

Q. And did you go back into the cornfield at all?

A. No.

Q. Did you disturb anything at the scene?

A. No.

Q. Did you leave the roadway, the cornfield road?

A. No.

Q. Now, when you were, what did you do after that,

NOTE
deprehended
Dewey
with him
on 28th

Code 15
check
220

Hunsinger.

after you went back and radioed?

A. Then we established security to make sure that nobody got back in there and disturbed anything.

Q. How did you do that?

A. Well, we had quite a few troops in the area and we just set up a skirmish line all of the way up to the tracks and some down the tracks and we sealed off both ends of the road to make sure nobody did disturb anything there.

Q. When you say the "tracks", are you talking about the railroad tracks?

A. Yes, they are in back of the tanks.

Q. Did anyone go down to that body until the Police arrived then?

A.. Not besides Gleckner and myself.

Q. Did you see anything in the roadway, the cornfield roadway as you went back?

A. Well, we saw some tire tracks, so we walked down the center so we would not disturb anything.

Q. No further questions.

CROSS EXAMINATION

By Mr. Fierro:

PETE
~~Q. When you say "we walked back up the cornfield", I assume you mean yourself and Gleckner?~~

A. Yes.

~~Q. And the Jury already knows, and I suppose you seen this Exhibit No. 36, do you want to come down and look, maybe you can't see it from there?~~

Hunsinger.

*Exhibit No. 36
found by
J.M. + H. Kees
with Sylvan
Dell Road
"Kees I was in"*

236.

(Witness leaves stand.)

Q. Exhibit No. 36, my finger is pointing to the Sylvan Dell Road?

A. Right.

Q. And these are the cornfields, and they run parallel to Sylvan Dell Road?

A. Right.

Q. You see the "x" the District Attorney put there?

A. Yes.

Q. There is an indentation in one of the cornfields, it makes it look dark or black, that is the spot where the body was found?

A. Yes.

Q. At the time you saw it, that was not an indentation, it was solid rows of corn like the rest of the field, is that right?

A. Yes.

(Returned to witness stand.)

Q. You and the Lieutenant then walked up this private cornfield road?

A. Yes.

Q. And you also saw the body?

A. Yes.

Q. You say you saw tireprints on this cornfield road?

A. Yes.

Q. How many sets?

Hunsinger.

A. I couldn't tell you, I really don't know, we have been trained, we never got involved in anything like this but we are trained never to disturb anything, so as a result we went up the center so nothing would be disturbed.

Q. But you mean as you looked at them you couldn't count?

A. As far as I can say, I can't say. I can say I saw, just saw there was tracks.

Q. You just let it go at that?

A. Right.

Q. You can't tell this Jury whether there was two sets of tracks or not, or three sets of tracks, you can't tell?

A. I guess not.

Q. From what you saw?

A. Yes.

Q. You just ignored the problem?

A. That is right.

Q. Now, Commonwealth's Exhibit No. 1, is that substantially and accurately what you saw when you walked up to that are where the body was lying?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Take a good look at the picture?

A. As near as I can tell. All I did was glance, I saw her legs.

Q. You didn't see any of the corn stalks broken or

Hunsinger.

anything else broken where her body was lying?

A. No, I didn't notice any. Like I say, I just looked and saw her legs.

Q. As her picture, or as this picture shows her body was lying between the corn stalks running in the same direction as the rows of corn stalks?

A. I would say.

Q. With her feet being closer to the road?

A. Yes.

Q. And being what, three or four feet off the road?

A. Yes, not far.

X Q. Just about three or four feet?

A. Yes.

Q. Now, you look at the right in this photograph,

and it is No. 1, you are holding, and you see this white object which is just as close to the road as her feet, right?

A. Yes.

Q. Do you know what that object was?

A. No.

Q. Didn't you see it?

A. I didn't pay any attention to it.

Q. Thank you, that is all.

By Mr. Ertel:

Thank you, that is all.

By The Court:

You are restricted and prohibited from revealing your testimony or discussing the case with anyone except the District Attorney or Defense Counsel or their Staff. Proceed.

Body
J. Miller
Negative
C. Hill
Reid's
photos
1 & 2

See Gluckner - 224
See Miller - 284 - 15 FT

Doctor Miller.

00252

(Excused from witness stand.)

DOCTOR EARL R. MILLER, being duly sworn according
law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, Doctor?

A. Earl R. Miller.

Q. Your occupation?

A. Physician.

Q. How long have you been a physician, Doctor Miller?

A. Since 1946.

Q. Will you tell the Jury your medical backbround
as far as, let's start with College, your educational background?

A. Locally school. Bachelor's Degree in Science,
Washington-Jefferson. M.D. Degree from the University, School
of Medicine.

Q. When did you receive your M.D.?

A. 1946.

Q. Did you have any further training?

A. After that in the Air Force as Flight Surgeon.

Q. How long did that take?

A. Two years in the Air Force.

Q. As well as being a Medical Doctor, do you have
an official duty in this County?

A. I am Coroner.

Q. Doctor Miller, on October 28th in the afternoon,
late afternoon, did you have occasion to go to the scene of a

Doctor Miller.

00252

(Excused from witness stand.).

DOCTOR EARL R. MILLER, being duly sworn according
law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, Doctor?

A. Earl R. Miller.

Q. Your occupation?

A. Physician.

Q. How long have you been a physician, Doctor Miller?

A. Since 1946.

Q. Will you tell the Jury your medical backbround
as far as, let's start with College, your educational background?

A. Locally school. Bachelor's Degree in Science,
Washington-Jefferson. M.D. Degree from the University, School
of Medicine.

Q. When did you receive your M.D.?

A. 1946.

Q. Did you have any further training?

A. After that in the Air Force as Flight Surgeon.

Q. How long did that take?

A. Two years in the Air Force.

Q. As well as being a Medical Doctor, do you have
an official duty in this County?

A. I am Coroner.

Q. Doctor Miller, on October 28th in the afternoon,
late afternoon, did you have occasion to go to the scens of a

Doctor Miller.

body located on the , in the Sylvan Dell area in the cornfield?

A. Yes.

Q. Can you tell me approximately what time you arrived there?

A. Between 4:15 and 4:30.

Q. What did you do when you got there?

A. I parked my car along the right side of the road there there were Troopers in the road stopping traffic. I parked my car on the right side of the road and was shown a little path, wagon type path into a cornfield. I was instructed to walk down the center of this trail, staying out of the bare spots.

Back in the cornfield there were other Troopers and from this little path you could see the body of a person lying on the ground in the cornfield.

Q. Now, did you go back to the body at that time?

A. At that time, no.

Q. Were there photographs taken before you went back there?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 1 and ask you if you can identify that?

A. Yes, Sir, that is the scene of the body lying in the cornfield.

Q. Is that how you saw it when you arrived that day?

A. Yes.

Q. I show you Commonwealth's Exhibit No. 2, can you identify that, please?

Doctor Miller.

A. This is the scene, it is the same scene taken from a farther distance from the body, and it is within keeping of along the edge of the path, the wagon path into the cornfield.

Q. Now...

A. This is aimed in an easterly direction.

Q. I show you marked as Commonwealth's Exhibit No. 3, Doctor, and if you can identify that?

A. Yes, that is a closer view of the body taken from the south side of the body.

Q. Was this taken from some distance from the body ?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 4, and ask you to identify that?

A. Yes, this is a picture closer to the body and taken from the north side.

Q. I show you marked as Commonwealth's Exhibit No. 5, and ask you if you can identify that?

A. Yes, this is a closer picture of the body taken from the south side after I pulled the jacket down, revealing specifically to show the position of the arm and the upper torso of the body.

(Commonwealth's Exhibit No. 6 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 6, can you identify that?

A. Yes, this is a picture taken from the opposite side of the body showing again the position of the hand in the jacket, the hand being still in the upper part of the sleeve

Doctor Miller.

of the jacket.

Q. Had the jacket been moved at that point?

By Mr. Fierro:

Now, only if he knows, we are trying to get along in this case.

A. I moved the jacket.

Q. He moved the jacket?

A. I testified before on previous film that I turned the jacket down and kept it in this position to demonstrate, I asked the picture be taken from one side and then the photographer walked around the body and took the picture from the opposite side.

By Mr. Ertel:

Q. I show you marked as Commonwealth's Exhibit No. 7, can you identify that?

A. Yes, this is a picture from the head of the body demonstrating the position of the corn stalk....

By Mr. Fierro:

Q. The what?

A. The corn stalk, it is under the left shoulder, holding the shoulder up off of the ground.

By Mr. Ertel:

Q. I show you marked as Commonwealth's Exhibit No. 8, can you identify that?

A. Yes, that is another close view of the picture of the opposite side of the head. As a matter of fact, it has picture of my hand in it and I am demonstrating the ear ring in the

check page 276 B971 should be

Doctor Miller.

right ear.

Q. Now, Doctor, after these photographs were taken, what was done as far as you were concerned at that time?

A. The next immediate thing that we did was to cut corn stalks away from the body in an advancing distance out away from the body. These were labeled and identified as to the relative position of the body.

Q. Did you dictate this to somebody?

A. Trooper Houser was acting as my scribe, I was dictating all of the things I saw on the ground and measurements at that time.

Q. Will you describe how you approached the body?

A. After Trooper Keppick took the original pictures, No. 1 and No. 2, I proceeded to the south, in a south direction out of a distance of approximately 20 to 30 feet and entered the cornfield and make a circular path to come into the body from the head end, which is demonstrated by No. 7.

Q. Would it help you to show that to the Jury in doing this?

By Mr. Fierro:

It is not whether he says it is helpful.

By The Court:

No. 1 and 2 have been admitted, the others have not been admitted yet.

By Mr. Ertel:

We will offer cross examination so we can get those admitted.

ok. Miller

*Check Mount
Date due 7-7*

*BASED ON PHOTOS 1 AND 2 KEPPICK 14T
26-29 4+ MARK - MILLER IS CONCLUDE
SUSPICION WITH BODY LYING ON GROUND*

Doctor Miller.

By Mr. Fierro:

Are you through with this witness?

By Mr. Ertel:

I am offering him for cross examination as to the pictures.

By The Court:

You are not finished, proceed.

By Mr. Ertel:

I would like to move their admission at this point.

By The Court:

And it has been objected to as he has not had an opportunity for cross examination.

By Mr. Ertel:

I offer him for cross examination as to the photographs.

By The Court:

Are you finished with the witness?

By Mr. Ertel:

No.

By The Court:

Proceed with your direct examination.

By Mr. Ertel:

Q. After you proceeded around to the head of the body, what did you do next?

A. Well, that was when we finished taking the pictures in this direction, then we cut the corn stalks out, after we

Doctor Miller.

got all of the corn stalks out, there was a readily identifiable footprint next to the body, and at that time Trooper Keppick secured the plaster of Paris and we made a print of that indentation in the ground.

Q. Is that in one of the photographs that you have?

A. No, I do not see it. there is one with the footpring.

Q. I show you Commonwealth's Exhibit No. 11, can you identify this, Doctor?

A. I can identify this, but that is not the picture I was looking for.

Q. If you identify that, we will, until we find 12 here.

A. This is a picture laterally outward from the left knee, left thigh, and it shows the picture of my hand with a ruler in my hand, with the ruler against the girl.

Q. Did you go around the body and make measurements?

A. Yes.

Q. Of footprints?

A. Yes. At this particular time we attempted, or I attempted to identify impressions on the ground. The ground was quite granular and, it is, of course, in a cornfield that had not been cultivated recently and had not been rained upon recently. Since the surface element of the ground was quite granular in opposition to fine powder, immediately around the body there was impressions which would make you think they were footprints.....

Doctor Miller.

By Mr. Fierro:

I object to that statement and move that it be stricken, he said, "...make you think it would be footprints...".

By Mr. Ertel:

Q. Were these footprints?

A. These were impressions that I interpreted as footprints.

By The Court:

Any objection?

By Mr. Fierro:

Yes.

By The Court:

The objection is over ruled, it may remain.

By Mr. Ertel :

Q. If you would describe the photograph, maybe I can find it for you?

By The Court:

He can step down.

(Doctor Miller leaves witness stand.).

By The Court:

Mr. Ertel, it is definite we are not going to finish with this Gentleman, if you want to have a breaking spot?

By Mr. Ertel:

All right, it is just as good as any.

By The Court:

The Court is going adjourn for today. We will reconvene tomorrow morning at 9:00. No one may leave until the

Doctor Miller.

Court announces. The Defendant is now excused and the Jurors are now excused.

Court is adjourned until 9:00 tomorrow morning.
(Adjourned at 5:30 P.M., EDT.).

And Now, to-wit, Friday, February 22, 1974, beginning at 9:00 A.M., EDST, the trial in the above-captioned matter was continued before the Honorable Charles F. Greevy, President Judge, and a Jury, in Court Room No. 1, at the Lycoming County Court House, Williamsport, Penna., at which time and place the following proceedings were had:

(IN CHAMBERS.).

By Mr. Fierro:

On the record. Your Honor, I requested this conference for this reason, prior to this morning the District Attorney has told the Court that he probably will have Officers testify concerning the Defendant's inconsistent statement as to his whereabouts prior to 4:00 P.M. on the day that Jennifer Hill disappeared, and the Defense then argued to the Court that if that were allowed in, the question of smoking "pot", the buying or selling or giving or the smoking of it might forcibly become introduced, thus prejudicing the atmosphere of this trial. I am now here to say that the Court, and add to my argument this, that it now appears from the Commonwealth's testimony, and unquestionably will later on, that there was no contact between the Defendant and the decedent at least prior to 4:00 P.M., or perhaps 4:30, if one of the witnesses is to be believed, but to allow the Commonwealth all latitude, from quarter to four, prior to quarter of four there was no contact between the deceased and the Defendant in any manner whatsoever. Assuming that the Commonwealth proves contact later on, I agree, that is admissible, but I am saying to the Court the Defendant's movements prior to

that time, since there was no contact at all, do not relate at all to what happened beginning at 4:00 P.M. and are no more germane than what he did a week before, since they are not related to the issue here. In other words, your Honor, what I am saying is if the Defendant had made inconsistent statements or frankly lied about any other matter a week before, it is not germane than his lying as to what he did at 2:00 or 3:00 P.M. that afternoon, especially because they do relate to "pot" and it may be that he was trying to cover or whatever, but has no significance to this issue, and I am asking now that the Court rule on this matter.

By The Court:

When we had the other pre-trial discussion the Court stated that I would rule on each one individually when and offer was made. The Court now has had an opportunity to research the law, and is it coming up this morning or not, Mr. Ertel?

By Mr. Ertel:

I don't know.

By The Court:

What I want before them is make an offer, I have searched the law. Anything further, Mr. Fierro?

By Mr. Fierro:

No.

By The Court:

Mr. Ertel, I am not asking you to reply at this time, because the Court has stated that it wants a full offer on this type of testimony.

By Mr. Ertel:

Which type?

By The Court:

The type of testimony that Mr. Fierro talked about today as prior inconsistent statements.

By Mr. Ertel:

Not prior, but inconsistent statements.

(Off-the-record discussion.)

(Returned to Court Room No. 1, at which time no Jurors were present. The only parties present were the District Attorney and Defendant with his Counsel. Jurors were not in the Box.)

By The Court:

At this time you may proceed, Mr. Ertel.

(At this time the Court reviews slides of victim.)

By The Court:

Who is going to identify these, the Coroner?

By Mr. Ertel:

Yes, this is a picture of the head.

By The Court:

The purpose of this?

By Mr. Ertel:

This is to show petechiae around the eyes. There is something around the eyes which indicate strangulation and also shows the markings on the head of the victim. ✓

By Mr. Fierro:

What do those markings show?

By Mr. Ertel:

1 shows her injuries, that is all I can tell you. ✓

By Mr. Fierro:

Injuries from what? ✓

By Mr. Ertel:

I don't know.

By Mr. Fierro:

I think we should find out, because, your Honor, just having this slide being shown, if it is not necessary, through his expert, then that is completely inflammatory. This slide is one of the ugliest looking thing of a corpse that a person can look upon, and if that would not inflame the Jury, nothing would. His expert is a Forensic Pathologist, a Doctor Catherman, and I know he can testify without the aid of this particular slide, to say that this child was manually strangled. Unless there is something peculiar about the markings on this slide shown on the righthand side, there are two or three scratches. He wants to say there is something unusual which requires it being shown, if there is nothing unusual about it, then I would ask the Court that the Jury not see this slide.

By Mr. Ertel:

Well.....

By The Court:

We are not going to argue it now, I want to see all the slides first.

By Mr. Ertel:

I only have three.

(Commonwealth's Exhibits Nos. 56, 57 and 58 marked for identification.).

By The Court:

Now, go ahead.

By Mr. Ertel:

Now the purpose of this, Commonwealth's Exhibit No. 57, is to show the markings on the neck which is a strangulation mark and it shows the petechiae of the eyes, but it shows the strangulation marks from which he can draw conclusions. Here are the markings on the neck, and that is the main purpose of that.

By The Court:

The same argument, Mr. Fierro?

By Mr. Fierro:

Even more so, your Honor, if he wants to use this to show strangulation marks on the neck, he is exhibiting, to put it bluntly, an ugly corpse that appears to have been manhandled, and that inference may be drawn by the Jury. Now, the markings on the neck the Doctor does not need this photograph to tell the Jury that he saw markings on the neck, he can say so without showing this photograph, and when Mr. Ertel talks about the word he used, it was petechiae, what he means is the breaking of small blood vessels under the skin which the Coroner or some other Doctor can say when a person is manually strangled there is a breaking of small blood vessels under the skin, and it appears in various places, without showing this disturbing photograph.

Handwritten:
1. How many
2. How many

By The Court:

The next slide.

By Mr. Ertel:

The next would be 58, that is to show the markings on the back of the neck and the midline, which are external markings here, of thumbpring or nailprint, I should say.

By Mr. Fierro:

I think the District Attorney should go further, I think if the District Attorney is going to establish that thumbprint belongs to the Defendant, I agree that this can be shown, but it must be established through a fingerprint expert. If the District Attorney says he cannot establish that, that this belongs to the Defendant, then I say it is useless and the Coroner or the Forensic Pathologist can say, "Yes, I found a thumbprint.", and he can describe where. Now, I am asking the District Attorney, is that thumbprint, does the Commonwealth expect to prove that thumbprint is the thumbprint of the Defendant?

By Mr. Ertel:

By circumstantial evidence, yes.

Handwritten:
CHECK
351
"I saw it" "I saw it"

By Mr. Fierro:

No, by fingerprint evidence?

By The Court:

We won't argue at this time. Is that your last one?

By Mr. Ertel:

Yes, Sir.

Doctor Miller.

(Off-the-record discussion.)

(Jury entered Court Room at 9:45 A.M., EDST.)

(Doctor Earl R. Miller returned to witness stand.)

By Mr. Ertel:

Q. Doctor Miller, yesterday you were looking for a photograph, have you cleared that up in your mind as to which photograph you were looking for?

A. There was not one taken at the time, I recalled that there had been one taken.

Q. Now, I show you what is Photograph 11, can you identify that, please?

A. Yes, that shows taking a measurement of an imprint on the ground, lateral to the body at the level of the knee.

Q. Is that a fair representation of what you saw at that time?

A. Yes, Sir. That also shows my hand in there, as a matter of fact.

Q. I show you marked as ~~See Son Gazette Photo~~ Commonwealth's Exhibit No. 12, can you identify that, please?

A. Yes, Sir.

Q. This is what?

(A. This is a picture of the, of a fresh cast and imprint into the ground, which is at the, at the right shoulder level of the body. The body is not shown in this picture, the body has been removed.)

Q. Is that a fair representation of what you saw on that particular day?

Doctor Miller.

A. Yes, Sir.

Q. I show you marked as Commonwealth's Exhibit No. ¹³ 13, can you identify that?

A. Yes, this is a picture that was found, or I am sorry, this is a picture showing the stick that was found under the body and which we have used as a point of reference for multiple measurements and geographical location of imprints with the body after the body has been removed. This shows a ruler measuring an imprint that is next to and over the stick.

Q. Is that a fair representation of what you saw on that particular day?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 14, can you identify that, please?

A. This is a picture showing some vegetation and my arm and a rule, and I need another picture in order to localize it for the people.

Q. I show you Commonwealth's Exhibit No. 20, is that the one you wish to look at?

A. Yes.

Q. Can you identify that one, please?

A. Yes, this is a picture after the cast, plaster of Paris cast has been made of the representative footprint scene and it shows a stick which is again was under the body. It shows corn stalks which have been cut. In relationship then to your Exhibit No. 14, you can see the vegetation relating to the cast which was at the level and outside of the right shoulder.

SAYS ON CAST on Photo 20, - says 2 imprints on 265

Doctor Miller.

Q. And is that a fair representation, Commonwealth's Exhibit No. 14, of what you saw at that particular time?

A. Yes.

Q. We will come back to Commonwealth's Exhibit No. 20, so let's keep that out, please. I show you marked as Commonwealth's Exhibit No. 15, can you identify that, please?

A. Yes, this shows the rule measuring another imprint into the ground, and I can orient it with Photograph No. 11.

Q. Is that a fair representation of what you saw at that particular time?

A. Yes, Sir.

Q. Now, in relation to Photograph No. 11, can you orientate that as far as where the body was located?

A. The easiest thing to identify is the two big globs of dirt, the rectangular identification you can see, the lower one in the picture is just laterally and to the left of the left lower leg of the body. The other one is almost at the knee level, but is more lateral or more left to the left leg of the body. These two objects are easily identified.

Q. Are these a fair representation of what you saw on that day?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 16 can you identify that?

A. Yes, Sir.

Q. What is that?

Doctor Miller.

A. This shows the rule lying at the end of the stick and inside of the original cast, it was an imprint which was partially obscured by the victim while the victim was lying on the ground and at the right side of the victim.

Q. Was that a fair representation of what you saw on that particular day?

A. Yes, Sir.

Q. Now, turning to Commonwealth's Exhibit No.....

A. These, just by comment, Sir, these two films also on 16 and 12 show the plastic material that we put over some of these casts because it had started to rain.

Q. Now, turning to Commonwealth's Exhibit No. 20, can you identify that?

A. Yes, Sir, again shows the cardinal point, shows the stick which had not been moved, it shows the plaster which had been poured into the imprints. The picture was taken for orientation, for identification before these prints, before these casts were moved from the specific imprints.

Q. Is that a fair representation of what you saw at that particular time?

A. Yes, Sir.

Q. Now, turning to Commonwealth's Exhibits Nos. 1 through 8, can you re-look at those and tell us if they are a fair representation of what you saw on that particular day and identify each photograph if you do?

A. You wish me to identify them?

Q. Just identify the Commonwealth Exhibit Number and

257

(No Plastic)
Photo All is wet - Body Not Mins

Doctor Miller.

tell me if that is a fair representation of what you saw on that day?

A. No. 1 is the view taken from the path in the corn-^{LANE} field in relatively close proximity to the body. It shows specifically the legs and the clothing and sneakers around the ankles and the lower extremities.

Q. Incidentally, there is an object to the right of the body there which appears white in the photograph, can you identify that?

A. Yes, that was a part of a pair of pajamas.

Q. Is that a fair representation of what you saw prior to moving into the body?

A. Yes, Sir. No. 2 is the same scene a little bit farther towards the road. You can see the same objects, although the pajamas are more obscured by vegetation, corn and weeds. ^{weed}

Q. Is that a fair representation of what you saw on ^{Go on} that day? ^{on the edge of corn field}

A. Yes, Sir.

Q. Go on? ^{with the picture on Jury Page 310}

A. No. 3 shows the body with the jacket pulled down over the torso and upper thighs and this picture was taken from the south side of the body and it shows a white object here which has the "Glick" name on it, and I know it to be a Glick shoe bag. If you, I know it to be a Glick shoe bag, if you look at it intently you can see grey on this black and white picture, you can see the grey stripes of the bag. ^{BACK OF}

Q. On the photograph that is black and white?

Doctor Miller.

A. Yes.

Q. Is that a fair representation of what you saw on that day?

A. Yes.

Q. Continue with No. 4, please?

A. No. 4 shows the same material as viewed from the other side of the body, namely the north side of the body and therefore you are seeing the detail of the right body. You can even see the Glick shoe bag above the body in the, in this picture, and the stripes are easier to see on this picture.

Q. Is that a fair representation of what you saw?

A. Yes, Sir. No. 5 shows the body with the jacket having been pulled down by myself, demonstrating that the right arm is still in the upper part of the sleeve of the jacket.

Q. Is that a fair representation of what you saw on that day?

A. Yes, Sir. ^{Page 310 says he moved coat for to show hand} (No. 6) is the same, the body and jacket have not been moved, but this shows a picture from the other side of the body, namely the north side and it demonstrates that the hand is still in the upper part of the sleeve of the jacket.

Q. Is that a fair representation of what you saw on that day?

A. It is. No. 7 shows the body as we approached it from the east. The cardinal point of interest is that it shows the left shoulder being supported up off of the ground by a corn stalk which is pointed, I know it to be pointed to the east, in this picture it shows it pointing to the right. The significance

Doctor Miller.

being this demonstrates the position of which the body came against the corn stalk.

Q. Do you know that to be a fair representation of what you saw on that day?

A. Yes, Sir. The other point, if I may add, shows the left ear without an ear ring.

Q. All right?

A. The last picture you handed me, No. 8....

Q. Doctor, No. 7, was that a fair representation of what you saw?

A. It was. No. 8 shows the head from the, with the camera from the right side depicting the fact there is an ear ring in the right ear. It also shows my hand pulling the leaves of the corn stalk out of the way so you got a good view.

Q. Is that a fair representation of what you saw on that day?

A. Yes.

Q. (To The Court.). At this point, your Honor, we would like to offer in evidence these photographs and offer him for cross examination as to the photographs.

By The Court:

Mr. Fierro?

By Mr. Fierro:

I want to wait until he is through with this witness.

By The Court:

The Court is going to rule on the photographs at this

Doctor Miller.

time, if you desire to cross examine strictly on the photographs, I will permit it, Sir.

By Mr. Pierro:

No, I am going to wait until this witness is through, and you may rule as the Court sees fit.

By The Court:

As I understand now, Mr. Ertel, Nos. 1 and 2 have been admitted without objection of the Defense Counsel, and you are now offering for admission Nos. 3 through 16, is that correct?

By Mr. Ertel:

Nos. 9 and 10 are different objections, they are not photographs.

Page 709 Ertel says
These are true
Photographs

By The Court:

No. 9 and 10 I don't have on my list. What you are offering now, would you make it specific?

By Mr. Ertel:

It is Nos. 3 through 8, No. 20, 11, 12, 13, 14, 15 and 16.

By The Court:

These Exhibits are admitted into evidence over the objection of the Defense Counsel, and the Jury is specifically instructed in regards hereto, these photographs are admitted into evidence for the purpose of some showing the nature of the wounds received by the deceased, some showing the conditions of the scene of the alleged crime and others helping you to understand the testimony of the witnesses who have referred and will refer to

Check these numbers being re-admitted
709

Doctor Miller.

them. The photographs of the deceased are not pleasant photographs to look at. You should not let them stir up your emotions to the prejudice of the Defendant. Your verdict must be based on a rational and fair consideration of all the evidence and not on passion or prejudice against the Defendant, the Commonwealth, or anyone else connected with this case. Those Exhibits are admitted into evidence.

By Mr. Ertel:

Q. Doctor Miller, if you will, can you take Photograph No. 20, which you have previously identified as the photograph of the casts, and can you arrange on the floor these objects and identify the objects as you go and then describe where the body was in relation to the cast?

A. Yes, Sir.

By The Court:

See that the objects are marked.

By Mr. Ertel:

They are marked.

By Mr. Fierro:

I would like to know what this experiment is and whether or not this man is qualified to conduct this experiment.

By The Court:

May I see Counsel at Side Bar? Might I state again, as I did in my opening remarks, that Counsel and I are required by law to take up certain matters out of your hearing. We may do this at the Bench, as we are doing now, or in my Chambers, or I shall ask you to leave so that we may do so in the Court Room.

This morning we did so in the Court Room while you were in the Deliberation Room. You should not concern yourself with any of these proceedings.

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

By Mr. Ertel:

Q. Doctor Miller, when you were there, will you describe the process you did in measuring and what happened as far as making of casts, can you go through that in detail?

A. Yes, Sir. As we first approached the body, coming from a wide area around the body, we were looking for footprints or disturbances in the ground. We found none until we got in the immediate vicinity of the body. At that time we attempted, or I attempted to make measurements of impressions. Some of these impressions were quite vague and ill-defined. The process of which this was done, was Trooper Houser had a pad of paper and was writing down, I was calling off measurements and roughly orientating them in relationship to the positions of the body, and Houser would call back the measurements to make sure he heard what I was saying. We took, Trooper Keppick and myself, made an imprint, made a cast of the first imprint which looked like it would be reproducible was outside of the lateral to the right shoulder. At that time we were aware that there were other prints partially obscured, particularly one to the right of the body, and obscured by the right arm, so that we could not make a print.

Q. Now, what do you mean by making a print?

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Body parallel with KILLS

A. Making a print is the pouring of wet plaster of Paris solution into the ground and dropping pieces of wire, such as a cut coat hanger into this mould on the top surface of it to give it reenforcing so it would not be broken in being handled and being extracted from the ground.

Q. Now, continue, please, with your narrative?

A. It become apparent there were other prints which we would be able to make impressions of with plaster of Paris after the body was moved. At that particular time, I spent more time looking at the body and the most obvious things of the body were the multiple petechiae around the eyes, the face, the tongue and on reflection of the eye lids in the conjunctival surfaces of the eye, that being the vascular covering of the eye ball. There was a particular arrangement, sor of linear arrangement of a row of petechiae on the left side of the neck.

(To me, petechiae in a localized area of the body such as the head and neck in a deceased person is indicative of a strangulation process, and it was at this time that the decision was made that we do, ~~we~~ not uncover the body or do anything more with the body until we secured the services of a consultant, a Forensic Pathologist.) At this stage of the game, with myself watching the footprints, making sure that the Troopers who were being used to pick up the body and remove it immediately to the east through the same row of corn, my job at that time was to safeguard that no Trooper stepped anywhere near in this vicinity and by supervision of having them pick up the body and move it, that was accomplished. We then went back, Trooper

Doctor Miller.

Keppick
1007
See Bill Nixon
Hospital
265.

Keppick and myself, and he prepared the plaster of Paris and he poured it into the imprints on the ground. I dropped the reinforcing wire into them. We completed this through a total of six imprints, one of which is actually a casting of two imprints, so we eventually have a total of six casts. At that time we had a picture taking, which is specifically being No. 20, and is necessary for the orientation of where these casts came in relationship, the picture shows in relationship to the stick and the previous picture shows the relationship of the stick to the body, so I can identify the relationship of the cast to the body which has been removed.

Q. Now, Doctor, can you identify those casts, prints?

(A. Yes, Sir. I saw Trooper Keppick put his initials on them at that time.) → See Bill Nixon about Hospital Incident

Q. I show you marked as Commonwealth's Exhibit No. 50 and ask you if you can identify that in relation to the photograph and what it is? 274. 256-257-Photo 16

A. Yes, your Exhibit No. 50 is the first cast which was made which is and was outside and lateral to the right shoulder of the body. Poured before leg was removed → 275 Right shoulder area
STALK

Q. Doctor, possibly it might be convenient for you to write the Commonwealth Exhibit No. on the photograph so the Jury would be able to understand which relates to which?

A. Yes. (Marks photograph.)

Q. I show you marked as Commonwealth's Exhibit No. 51, and ask you if you can identify that?

A. Yes, that is the cast which actually is, has two

Doctor Miller.

imprints, and the first one at the lower part of the Picture No. 20.

Q. Where was that in relation to the body?

A. That was underneath the buttocks. We have, that has the deepest heel print of all of that we acquired, and another heel print going in the, or in a slightly diagonal angle to it. These heel prints we did not see until after the body was moved.

Q. Can you mark that on Commonwealth's Exhibit No. 20?

A. (Witness marks.).

Q. I show you marked as Commonwealth's Exhibit (No. 52, can you locate that on Commonwealth's Exhibit No. 20? *Page 275*

A. Yes, Sir, that is the cast which was immediately *50* at the end of the stick in No. 20. You can see it, the end of the stick is right underneath this corner of the cast and that is the one that we could partially see under the body under the right arm, and we made the cast after the body was removed, or moved.

Q. Can you mark that? Maybe you can write it right on the print itself?

A. Right over the white?

Q. Yes?

A. It will show better. Would you like me to put 50 and 51 over the white?

Q. Yes, I think it would show better. I show you marked as Commonwealth's Exhibit (No. 53, and ask you if you can identify that?

A. Yes, Sir, this is the cast at the lower level of the stick in the picture of No. 20.

Q. Where would that be in relation to the body?

Doctor Miller.

A. Immediately to the left under the left lower abdomen. *Another Partially obscured Foot Print*

Q. I show you marked as Commonwealth's Exhibit No. 54, can you identify that?

A. Yes, Sir, that is the extension of a print above, immediately above the stick which was to the left of the body.

Q. And you marked that on Commonwealth's Exhibit No. 20 as you have the other ones?

A. Right, Sir.

Q. I show you marked as Commonwealth's Exhibit No. 55, can you identify that, please?

A. Yes, Sir, that is the uppermost cast as shown in the picture on Exhibit No. 20.

Q. You will mark that also?

A. Yes, Sir.

Q. Now, Doctor, the footprints as you observed them, in which direction was the toe pointed in relation to the heel, in relation to the body?

A. The toes were basically pointed towards the foot of the body, that is towards the west. *(check page 295)*

Q. Where would the road be, the farm road be?

A. The toes are pointing towards the path through the cornfield.

Q. Now, Doctor, can you arrange these casts in a similar design on the floor, using the photograph and then layout where the body would be in relation to the cast?

A. Yes, Sir.

By The Court:

Now, Gentlemen, Side Bar.

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

By Mr. Ertel:

Q. Now, Doctor, would you come down, please?

By The Court:

Now, no conversations unless they are on the record.

By Mr. Ertel:

Yes, Sir.

(Witness leaves stand.).

By Mr. Fierro:

May I have Side Bar?

By The Court:

Members of the Jury, as I have stated to you this morning, there are matters that are required by law to take up out of your hearing. At this time I am asking that you leave the Court Room so that we may do so in the Court Room. (AT SIDE BAR.).

By Mr. Ertel:

All that we are going to do is put the photographs up that have been admitted, have him refer to the photographs and hand him the casts on the floor so he can relate the two, show where the body was on the ground as it relates to the photo.

By Mr. Fierro:

He is going to put some photographs on this stand.

Doctor Miller.

By Mr. Ertel:

I will put all of them, I will, I am not putting the body up.

By Mr. Fierro:

It does matter to me, what I am going to say he has some photographs up here on the pedestal which are going to be up in the air, so to speak, and then he is going to have these casts. Now, there is no relationship between what is on the ground and what is on these, on this pedestal. Of course, he can explain this is an experiment to do what, that he can't do on the stand?

By Mr. Ertel:

It shows the Jury exactly how the photographs relate to those prints and what is happening.

By Mr. Fierro:

He already said that on the stand, and he even identified photographs. It does not show the Jury exactly nothing, because the casts are on the floor of the Court Room and the photographs or some of them, are six feet up in the air.

By The Court:

Except this, I assume that just the cast by itself, unless they see the photograph with it, is probably not going to mean as much to them.

By Mr. Fierro:

Let it go.

By The Court:

What is the purpose of the demonstration?

Doctor Miller.

By Mr. Ertel:

The purpose of the demonstration is to layout the casts approximately in the same location they were in the day they were made, to show the footprints in relation to the location of the body. The measurements are approximately within an inch. He will describe where each one is and point to the one on the photograph, which is Commonwealth's Exhibit No. 5 and also relation to Commonwealth's Exhibit No. 20, which is the photograph when the cast was poured and after the body was removed, and he will probably use other photographs to relate those to the casts and show exactly where these footprints were in relation to the body.

By Mr. Fierro:

Well, we don't object to the casts being placed on the floor, but it seems to me that the Doctor can testify where these casts were relative to a particular photograph. In fact, he has already done so. Now, I don't know what No. 20....now, No. 20 apparently is characteristics of the various items that are now in, on the Court Room floor, is that correct?

By Mr. Ertel:

It is a picture of them.

By The Court:

Does the pointer have any significance?

By Mr. Ertel:

The pointer is the stick.

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Exhibit 20 is picture
of ACST

Plural

Doctor Miller.

By Mr. Fierro:

Where is the stick?

By Mr. Ertel:

Probably in the cornfield. You mean do we have the stick? We don't have the stick.

By Mr. Fierro:

The stick that was under the body?

By Mr. Ertel:

We don't have that stick.

By Mr. Fierro:

Consequently I think, that is Exhibit No. 20, your Honor, upper righthand corner that is now a photographically depicted to the Jury what is now on the Court Room floor, and what then is the purpose of this Exhibit? He has the two photographs he can explain, which he has already done.

By The Court:

Is there any objection to the photograph at the bottom?

By Mr. Fierro:

I don't object to the photographs as such, I am going to object later on, although you admitted it, on the grounds that it is inflammable, but let me look at this bottom one, Judge.

By The Court:

What is the stick there?

By Mr. Ertel:

The same stick. The stick has not been moved.

Doctor Miller.

By Mr. Fierro:

The stick you were talking about under the body is shown in this photograph?

By Mr. Ertel:

Yes.

By The Court:

The other is the ruler you testified about?

By Mr. Ertel:

Yes.

By Mr. Fierro:

That is his ruler, that is something injected, that is not necessary for this purpose.

By Mr. Ertel:

Obviously we are missing something there, but the point is it shows the relationship of this cast so he can show it in relationship to this stick and where it was in relation to the body, because the stick is a reference point which is here and under the body.

By Mr. Fierro:

But the stick is shown in No. 20.

By The Court:

What other photographs do you want the Doctor....

By Mr. Ertel:

I think that is all we will have the Doctor refer to.

By The Court:

Anything further, Mr. Fierro?

Doctor Miller.

By Mr. Fierro:

Nothing further.

By The Court:

The objection is over ruled, you may bring the Jury back.

(Jury returned to Court Room.).

By The Court:

May I see Counsel?

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

By Mr. Ertel:

I would move into evidence Commonwealth's Exhibits nos. 50 through 55.

By The Court:

Those are the casts?

By Mr. Ertel:

Yes, Sir.

By The Court:

Any objection?

By Mr. Fierro:

Not if they are the casts.?

*Fierro is asking
what they did
NOW*

By The Court:

They are admitted.

(Commonwealth's Exhibits Nos. 50, 51, 52, 53, 54 and 55 admitted into evidence.).

By The Court:

The Jury is again instructed that the photographs and the casts are admitted for the purpose of showing the condition

Doctor Miller.

at the scene of the alleged crime and helping you to understand better the testimony of the witnesses who refer them, and I as I have also stated, the photograph of the victim is not a pleasant photograph to look at. You should not let it stir up your emotions or to the prejudice of the Defendant. Your verdict must be based on a rational and fair consideration of the evidence and not on passion or against the Defense, the Commonwealth or anybody connected with the case. Proceed.

By Mr. Ertel:

Q. Doctor Miller, will you, obviously on the floor are casts laid out with a pointer, can you explain what you have done in relation to these casts?

A. Yes, Sir. The crucial point in relationship of the picture to the casts is the stick.

By The Court:

The Jurors may stand up if they care to, in the back row.

By Mr. Ertel:

Q. We can move this up a little closer.

A. The stick we do not have, so we are substituting a pointer only as a characterization of the original scene. This again is the picture taken of the original scene after the plaster had been poured, before the plaster casts have been moved. In correlating the picture with the scene on the floor, you will note I testified that the one cast, namely which you identify, No. 50, here is this cast. It was poured before the cast was moved, and that is what this picture is. This is No. 16,

Doctor Miller.

it shows my taking a measurement of an imprint on the ground, and this picture you notice shows the smoothness here in opposition to the roughness, to the pebble effect of the ground which I previously mentioned. We were unable to take the casting of this imprint with the body there, because of the position of the arm.

Q. The arm that you are referring to is on Commonwealth's Exhibit?

A. Commonwealth's Exhibit No. 5. This is the right arm of the victim. Subsequently, the body was picked up and removed in that direction in a linear manner and this then was casted. This was casted and we proceeded around casting these in this manner. This is the, the display of the casts are to show you the relative position of the casts in a representation of what this picture shows as a photograph.

Q. Now, Doctor, Commonwealth Exhibit No. 51, which is the cast which looks somewhat like an inverted "Y" to the Jury, where was that located in relation to the body as shown in Commonwealth's Exhibit No. 5?

A. You cannot see it in Exhibit No. 5 because it is right under the buttocks.

Q. And Commonwealth's Exhibit No. 52 where was that in relation to the body?

A. It is relatively under the right arm, lateral, parallel with the body. } what does that mean

Q. And Commonwealth's Exhibit No. 50 would be where?

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266-5200-AT
END OF STICK

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List
5200-AT

Doctor Miller.

A. This is under the right shoulder, slightly laterally to the right shoulder.

Q. Could you see that, was the right shoulder on the ground when you got there?

A. The right shoulder is slightly raised above the ground because of the corn stalks. 242- LEFT SHOULDER OFF (C...)

Q. Which way were they bent, away from the head?

A. They were directly in the line of the head.

Q. Proceeding in the direction of the head?

A. In the direction of the head or as we would say anatomically with a cephalad direction.

Q. East or west?

A. That is pointing east.

Q. Now, Commonwealth's Exhibits Nos. 53, 54 and 55, where would they be located?

A. They are, 53, and 55 are over the stick, slightly separated, which is lateral to the body and it would be up in this position, under the shoulder going again toward the head or cephalad.

Q. Which way was the heel of the prints?

A. The...

Q. The back of the heel, which way was that located on these prints, can you show us that?

A. The prints, if you turn over the casts you will see the round part of the heel is pointing towards the head or east.

29 #5
Q. The back of the shoe?

Doctor Miller.

Check
12 ver
page
559
about
277

see 259 First Paragraph
A. The back of the shoe is pointing eastward.

Q. Now, were there measurements taken of these prints except for one of them before they were cast?

A. We took measurements of indentations on the ground where ever we found them. When the body was moved, and we found the prints which this has made a cast of.....

Q. 51?

A. 51, particularly there are two heel prints under there, particularly one of them is very distinct, was sharply outlined and was the deeper imbedded into the ground than the other imprints. We spent particular attention to 51 and 52 because of the definition of these imprints at that time. There were other imprints we could not cast, and you have 55, is really a poor quality.

Q. And was 51 a good quality?

A. It is very good.

Q. Anything that was able to be cast, was it cast?

A. No, Sir, you could have cast the whole ground.

Q. I mean to get any kind of definition?

A. We cast everything we thought that would give us definition.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Rierro:

I was hoping this would be a good time for a break.

By The Court:

The Court is willing to take the break at this

Doctor Miller.

time, this is time for the break anyway. The Defendant is excused. Everyone else remain seated. The Jury is excused. Court is recessed, for 15 minutes.

(Recessed at 10:30 A.M., EDST.)

(Reconvened at 10:50 A.M., EDST.).

(Doctor Earl R. Miller returned to witness stand.).

By Mr. Pierro:

Q. Doctor, you mentioned that in your examination of this area, long with the Troopers, that you found many other impressions but they were ill or poorly defined?

A. I found, yes, Sir, right in the immediate vicinity of the body.

Q. Well, when I say "you", I don't mean that you found them alone, maybe the Officers found some. I mean whatever knowledge you and the Officers working concurrently had is all right for you to express under this questioning. In what area surrounding the body, what was the extent of the area in which you found any impressions at all?

A. Oh, within two feet.

Q. Surrounding the body?

A. Basically laterally with the body. If you recall, this is in a corn field and the markings that I am talking about are within the confines of which would be basically four rows of corn.

Q. What were they, about 18 inches apart, these rows? Two feet apart?

A. I would imagine they are about two feet.

HAD TO SAY THAT BECAUSE HE SAID CORN ONLY 2 FT APART

Doctor Miller.

Q. You say four rows?

A. Would be the extreme extent.

Q. That is eight feet?

A. Yes.

Q. So these various impressions, the good ones and bad ones were within an area of eight feet?

A. The overwhelming majority of these impressions would have been within an area of three feet.

Contradiction of Previous Page 2

Q. I am talking about all of them, I am trying to find out what the outside perimeter was whatever these impressions were, were they eight feet away?

A. They would be less than eight feet.

Q. You are the one that said four rows of corn?

A. What I am saying, if you look at the picture, for example, you will see this body lying in between two rows of corn, and just to the outside of those there were a couple ill-defined markings. Now, this would be within an area of two feet of that body.

Q. The extreme outside of the next row of corn which you have deduced to be the eight feet because of the judgment of the corn being two feet?

A. My judgment was less than that.

Q. Four rows of corn, two feet apart?

A. No, Sir.

Q. Let's forget it, let's go on, I want to know how many impressions you saw, good or bad?

A. I did not count all of the markings on the ground.

Doctor Miller.

Q. Give the Jury an idea, an estimate?

A. There perchance was maybe 10.

Q. What you did, of course, you and the Troopers, were you recovered the distinct impressions?

A. That is correct.

Q. You did not try to make a cast of what you call the ill-defined impressions?

A. That is correct.

Q. What did these ill-defined impressions look like?

A. Smooth, flattening surfaces of the ground.

Q. Smooth, flattening surfaces?

A. Yes.

Q. In what dimension, what size?

A. Oh, in dimensions maybe two, three inches in diameter, but the problem we had was measuring them because the edges were not definite, were not defined.

Q. How many impressions of foot prints were you able to see, defined well or otherwise?

A. Well, the ones that we, that was recognizable as footprints would be a total of seven.

Q. A total of seven? *only took 6 casts*

A. Yes.

Q. Of which you made how many casts?

A. Six.

Q. What about the 7th one?

A. In the cast, in the biggest cast there are two very good footprints.