

STATE OF MAINE
KNaXg ss

SUPERIOR COURT
CRIMINAL ACTION
LAW DOCKET NO KNO-89-126

STATE OF MAINEg

Plaintiff

JURY TRIAL
(VOLUME I)

AI , DECH

Defendant

BEFORE THE HONORABLE JUDGE JOHN W. BORD, JUSTICE

Rockland, Main;

March 618, 1989

APPEALERS AND COUNSELS

On behalf of the State

Eric E, Wright, Esqg
Asst. Attorney General

On behalf of the Defendant

Thomas J. Connolly, Esqg
George Me Carlton Jr., Esqg

Report by Philip Magalic Official Court Reporter

I N D E X

	DIRECT	CROSS	RE-DIRECT	FURTHER CROSS EXAMINATIO1
<i>(March 0 1989)</i>				
	33	45	55	57
<i>(March 90 1989)</i>				
SC ANDERSON- ROBERT WEST SHARON GGILLEYO DEBRA C O M JOHN 3_:: L ~. ROSE MARY KNOTD -JENNIFER H ARTHUR SPA ING - HELEN B r y RICK LEO SCOPINO	60 65 85 98 116 159 165 204 213	63 75 85 98 135 163 182 208 226	--- --- --- 114 155 --- --- --- 212 242	115 --- --- --- --- 243
<i>(March 10, 1989)</i>				
DANIEL REED HOLLY JOHNSOU WE UM DAVID HAGSETT JAMES CLANCY BUR4AU	255 335 354 392 397 406	265 343 372 402 421	315 350 391 425	325 35 391 427
<i>(March 13 0 1989)</i>				
JOHN JUDITH I M " HENSBEE M t M	643 702 793 826	675 740 811 834	697 789 823	792 825

(March 11)

*(cal1)
cec 11)*

*John's Uncle
Sean
Gadins
Wink
Honkat
Resident on Road River
Don's
Dep. Sheriff*

428- Dwayne Tobey - tow truck operator

429) Alfred Hennaka MSP - Detective

440 } 3

461) William Allen Sargent Maine Warden Serv
506 } 3

506 } Barry Woodward Dist. Game Warden - Maine
520 } Warden Serv.

521 } James Mc Gee - Supervisor - Naval Air Station
528 } 3

529) Joseph Roy Gallant firearms examiner MSP.
546 } Crime Lab

547 } Ronald Roy - medical
612 } examiner

612 } Ronald Richards - fingerprint examiner
642 } 3

(March 14, 1989)

D YL MAXCY	850	858	867	
BRENDA DERMODY	869	873		
SUSAN NR E	883	892		
JUSTINE DENNISON	895	912	919	
BRIAN D: 1 N	920	929		
JASPER	940	950	955	
LOIS GE ELL	956	962	964	
KENT WOMACK	965	980	988	98\$
RICE BRUNO	990	1005		
JOAN ECONOMEAU	1010	1024	-----	
ERIC D TMETER	1025	1031		
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(March 15, 1989)

NANCY DECD NE	1043	1115	1130	1132
ROGER GINN	1134	1144	1150	1151
MICHAEL RITE	1157	1167		
ELIZAB . SITE	1169	1174		
D IS E NE	1175			

arch 16, 1989)

DENNIS DECHIANE 1301

arch 17, 1989)

Closing arg cult:	
State	1407
Defendant	1.2E
butt 1	1482
Jury Charge	1492

1 (March 7, 1989)

2
3 (Whereupon a jury was duly seated)
4 (chambers conference)

5
6 MR. WRIGHT: Before we begin with any instructions
7 to the jury that the Court may have and then opening
8 statements from both of us, I had two requests. The first is
9 that the Court impose a rule on witnesses to sequester
10 themselves from the courtroom during opening statements and
11 the taking of evidence. It would apply to all witnesses with
12 the one exception - that is my second request - that
13 Detective Hendsbee, who is the primary investigating officer,
14 be permitted, in accordance with the Rule, to be present at
15 counsel table. I don't know if he'll need to be there at all
16 times but it's a help for me for keeping track of witnesses.
17 I^o11 try to have him there to minimize his coming and goings
18 so not to disrupt the flow of testimony.

19 MR. CONNOLLY: As to the first, I'm in accord on
20 the sequestering except that I would request that it only go
21 to the giving of evidence and not to the opening and closing
22 argument. My client's family has come a long way. I don't
23 think it would make a difference as to the testimony. I
24 think it's important for them to be allowed to participate.
25 It was my understanding that the Rule only applied to

1 evidentiary portions of the case; although I have been wrong
2 before.

3 THE COURT: The rule is covered in 615 of the Maine
4 Rules of evidence. Rule 615 provides: At the request of a
5 party the Court may order witnesses excluded so that they
6 cannot hear the testimony of other witnesses. It may make
7 the order of its own motion. This rule does not authorize
8 the exclusion of, number one, a party to who is a natural
9 person or, two, an officer or employee of a party who is not
10 a natural person designated as a representative by its
11 attorney or, three, a person whose presence is shown by a
12 party to be essential to the presentation of his cause.

13 It sites under the adviser's notes State versus Miller,
14 1969, a Maine Supreme Court case. Under the commentary it
15 provides that the exclusion of sequestration of witnesses is
16 wholly discretionary in Maine, although the Law Court has
17 said that the trial judge's exercise of discretion is
18 reversible for abuse. There has never *been a* reversal on
19 *this ground.* *The purpose of* sequestration is to prevent the
20 possibility that one witness will shape his testimony to
21 match that of other witnesses either deliberately or as an
22 unconscious reaction to what he has heard. Request for
23 exclusion is routinely granted.

24 Your investigating officer by the commentary is
25 allowed under the exception. There are three stated

1 limitations to the exclusion of witnesses. First, the party
2 who is a natural party is entitled to be present. This is
3 required in criminal cases to satisfy the defendant's right
4 of confrontation. Is called for by elementary fairness in
5 civil actions. Second, as the equivalent of the natural
6 person's right to be present and a party not *a natural person*
7 is entitled to have a designated representative present.
8 This would allow a police officer who has been in charge of
9 the investigation to remain in court although he to be a
10 witness. Third, a person whose presence is shown to be a
11 party to be essential to the presentation of his case cannot
12 be excluded. This takes away judicial discretion. Actually,
13 however, the judge may still exercise discretion in
14 determining whether the given witness is essential. They go
15 *on to say an obvious example of* a witness who is essential is
16 an expert witness. Under rule 703 he's permitted to base an
17 *opinion upon the* testimony that he's heard at trial.

1.8 The rule specifically does not address presence *during*
19 opening and closing. Well, closing it doesn't matter; the
20 testimony is in by that time. The rule is it would appear to
21 be limited to hearing the sworn testimony subject to the
22 exceptions that have been mentioned.

23 So I will impose a sequestration order only as it
24 relates to testimony of witnesses. And so it's fair game for
25 either side so that if the State's witnesses wish to be

1 present during opening statements they as well as the defense
2 witnesses may be present during opening statements. The Rule
3 answers the question of the presence of Trooper Hendsbee.

4 Is there anything further?

5 MR. CONNOLLY: No. I have been through this
before. The officer has a right to be there as far as I can
tell. The second request was what?

MR. WRIGHT: There were two interrelated requests.
We can deal at the time we get to it with the presence of
10 experts.

11 THE COURT: As far as I'm concerned, if this
12 applies to both sides it cuts both ways. Defense counsel is
13 entitled, the State is entitled to have any psychological
14 witness or psychiatric witness present during the
15 presentation of any such testimony by the defense and vice
16 versa.

17 Other than that we have not stated on the record the
18 problem with Mrs. Clark, juror number three. After court was
19 recessed for lunch, I was informed that Mrs. Clark told the
20 jury officer that her leg hurt and she would not be able to
21 sit through this trial. This lady has only *been* present for
22 the last day and a half. A note was sent to me this morning
23 *saying that she was* finding it uncomfortable. She did not
24 indicate at that time that she wanted to be excused. In any
25 event, I have suggested, and I want counsel to confirm it on

1 the record, that it was agreeable the third alternate, Hrs.
2 Gamage, take her place.

3 MR. CONNOLLY: Yes.

4 THE COURT: If she could be contacted that she
5 would be substituted for Mrs. Clark and that we would place
6 her in seat number three as her replacement. So if that is
7 the case, I would like for counsel for the State and counsel
8 for the defense to indicate their acceptance or objection to
9 this procedure.

10 MR, WRIGHT: I think that is fine.

11 MR. CONNOLLY: There is no objection by the
12 defense. In fact, we thank the clerk's office for being so
13 speedy. This all occurred since the jury was dismissed for
14 lunch. There is no impact on the case at all.

15 THE COURT: If you will tell the jury officer that
16 she is excused and Hrs. Gamage will sit in seat number three.

17
18 (The chambers conference concluded and
19 the jury returned to the courtroom at 2:24)

20
21 THE CLERK: Members of the Jury, please raise your
22 right hand. You swear that in all causes committed to you
23 you will give a true verdict therein according to the law and
24 evidence given you so help you God?

25 THE JURY: Yes, we do.

1 THE CLERK: Members of the Jury, harken to an
2 indictment against Dennis Dechaine, the defendant. Count one
3 charges on or about July 6th, 1988 in the County of
4 Sagadahoc, State of Maine, Dennis John Dechaine did
5 intentionally or knowingly cause the death of Sarah Cherry.
6 Count two, on or about July 6th, 1988, in the County of
7 Sagadahoc, State of Maine, Dennis John Dechaine did engage in
8 conduct which manifested a depraved indifference to the value
9 of human life, in which did in fact cause the death of Sarah
10 Cherry. Count three, on or about July 6th, 1988, in the
11 County of Sagadahoc, State of Maine, Dennis John Dechaine did
12 knowingly *restrain Sarah Cherry with the intent to inflict*
13 *bodily injury upon Sarah Cherry or to subject Sarah Cherry*
14 *conduct constituting the crime of gross sexual misconduct.*
15 Count four, on or about July 6th, 1988, in the County of
16 Sagadahoc, State of Maine, Dennis John Dechaine did engage in
17 a sexual act with Sarah Cherry, who was not his spouse, and
18 who had not in fact attained her 14 birthday. And that
19 *Dennis* John Dechaine did manipulate an instrument or device
20 in direct physical contact with the genitals of Sarah Cherry
21 for the purpose of arousing or gratifying the sexual desire
22 of Dennis John Dechaine or for the purpose of causing bodily
23 injury or offensive physical contact to Sarah Cherry.
24 Count five, on or about July 6th, 1988, in the County of
25 Sagadahoc, State of Maine, Dennis John Dechaine did engage in

1 a sexual act with Sarah Cherry, who was not his spouse, and
2 who had not in fact attained her 14th birthday, and that
3 Dennis John Dechaine did manipulate an instrument or device
4 in direct physical contact request *with the anus of Sarah*
5 *Cherry* for the purpose of arousing or gratifying sexual
6 desire of Dennis John Dechaine. All for the purpose of
7 causing bodily injury or offensive physical *contact to Sarah*
8 *Cherry*.

9 To this indictment, Members of the Jury, the defendant
10 has been arraigned and for plea says that he's not guilty.
11 And for trial has put himself on his country, which country
12 you are. You are sworn to well and truly try the issue. If
13 you find him guilty you will say so, if you find him not
14 guilty you will say so and nothing more. Members of the
15 Jury, harken to your evidence.

16 THE COURT: Thank you. Bradly Hunter, I'm
17 appointing you foreman of this panel. You will be the
18 official spokesperson, if there should be any communication
19 between any member of the jury panel and the Court. Any
20 communication between any member of the jury and the Court
21 should always be in the form of a written note. I don't care
22 who writes out the note as long as you sign it as the
23 foreman.

24 By now you probably have a grasp of the mechanics of a
25 trial. That the first phase of this trial has commenced with

1 you taking the oath as the jury for this case. Followed by
2 the reading to you of the indictment in this case against
3 Dennis John Dechaine. Again, you are reminded that the
indictment has no evidentiary significance whatsoever. It is
just the formal written means whereby this matter comes
before you for your consideration.

The next phase of this trial will be the opening
8 statements of counsel. I'm informed that after opening
9 statement that we may hear the testimony of one witness this
10 afternoon. With that brief overview we are ready to proceed
11 with opening statement. Mr. Wright.

12 MR. WRIGHT: May it please the Court, Mr. Connolly,
13 Mr. Carlton, Mr. Foreman and Ladies and Gentlemen of the
14 Jury. Again, my name is Eric Wright I'm *an Assistant*
Attorney General with the department of the Attorney General.
My office is in Augusta. One of the duties given by law to
the department of the Attorney General and specifically to
the criminal **division** within that department is the
prosecution of homicide cases in the various communities in
which we all live in the State of Maine. It is my privilege,
given that duty imposed upon us by law, to be able to
represent the State in this criminal prosecution of the State
23 of Maine versus Dennis John Dechaine.

24 From time to time during this case - and you see him now
25 present at counsel table with me is Detective Alfred Hendsbee

1 of the Maine State Police who was the primary investigating
2 officer in this case, and with permission of the Court has
3 been allowed to be present in order to assist me in the
4 keeping track of witnesses as they will be brought before you
5 to testify. His help will be not just as to me but in a
6 sense to you in keeping track of all of those people.

7 The defendant is represented, as you know, by Tom
8 Connolly, an attorney in Portland and George Carlton whose
9 office is in Bath. Mr. Connolly will have an opportunity to
10 speak to you just as I am now, if either should chose to do
so.

Speaking for myself anyway, I will attempt to try to
move the case along as best I can. We have been through
quite a long process of selecting you as the final group who
will hear and decide this case. And while we'll try to move
the case along as best we can, recognize that this is a
murder case. And, therefore, we'll be here a few days with
you. We have an obligation to present to you as fully as we
19 can all the evidence that we have in keeping with the rules
20 that govern us here in this courtroom. I fully expect from
21 experience that this case will not conclude by the end of
22 this week but will carry over into some part of next week.

23 The State's evidence will consist in this case of up
24 to perhaps some 30 witnesses, who will come before you as you
25 know one by one sworn to their testimony. It will consist as

1 well of several tangible items what lawyers call physical
2 *evidence. This may be in various forms.* There will be a
3 number of photographs which we'll be offering to help explain
4 to you what happened; to give you prospective of what
5 happened. I anticipate that there will be several maps and
6 diagrams and the like again to give you prospective and an
7 understanding of what happened. And there may be from time
8 to time stipulations entered into between the defense and the
9 State with respect to certain pieces of evidence. In essence
10 a stipulation is an agreement as to that evidence and is
11 offered in a shorthand way so as to save everybody time.
12 Your consideration of all of these forms of evidence, all
13 this evidence will require your constant attention and great
14 discipline beginning with the very first witness from whom
15 you will hear this afternoon.

16 Many things of importance in this case you may well here
17 only once. A question is asked and an answer is given and
18 then we move on. **So** I urge you to pay just as best you can,
19 very careful attention at all times to all the testimony. Ue
20 ask much of you in fulfilling this role to sit and to listen,
21 to watch day after day to testimony, which, perhaps, may be
22 at times very tedious and at other *times very compelling to*
23 you. We must ask it of you in order that you return for us
24 what everybody wants, and that is a fair verdict.

25 As you listen to the evidence you may find your job

2 simpler if you focus on primarily two questions throughout
3 the whole case. The first question is what happened? And
4 the second question *is who did it?* And with regard to some
of the charges, and I will elaborate on this in a moment,
there is a third question that may arise as well. That is
what was the defendant's state of mind at the time as the
evidence will show you he committed the crimes charged?

Now, an opening statement, such as I now have an
opportunity to make, will not tell you everything about the
evidence, and I don't intend to try. But perhaps it will be
useful for you to understand that Sarah Cherry had just
turned 12-years-old last summer, when, under circumstances
that you shall hear out in painful detail, this defendant,
Dennis Dechaine, took her life. Nobody else saw him do it.
How then will we prove his guilt? We'll do it through the
combined effect of physical evidence, the defendant's own
words and conduct and a relentless pursuit for the truth.

Sarah Cherry would have been in 7th grade this past
fall. She had been in a gifted-students program at her
school and **was** active in scouting and church activities. She
lived in Bowdoin with her family. Wednesday, July the 6th,
was to be one of her first opportunities to baby-sit outside
of her own family and she was nervous and eager about the
chance. Arrangements had been made for her to sit for the
infant daughter of a couple that lived some miles away in

1 Bowdoin by the name of Henkel. The Henkels lived some miles
2 from where Sarah lived off the **Lewis Hill** Road. That area
3 and the area for miles around the Henkels is quite rural;
4 there are houses scattered about and it **is**, except for roads,
5 mostly dirt roads and streams and small brooks which
6 crisscross the area, densely wooded.

7 On the morning of July 6th, Mr. Henkel picked Sarah up
8 and drove her to his house where after arriving there he then
9 left for the day to Freeport where he worked. His wife,
10 Jennifer Henkel went over things *with Sarah about* tending for
11 the baby. Mrs. Henkel, who works for the State in Augusta,
12 had a meeting to attend that day at that time her office.
13 And her plans were to be home by three or shortly thereafter
14 that afternoon. When she left after nine o'clock in the
15 morning to go to Augusta to her meeting she left the doors
16 unlocked so that if Sarah wanted to she could take the baby
17 out for a walk or **a stroll in** the baby carriage.

18 At noon Mrs. Henkel called home at *noon* to see how
19 things were going and found that everything was fine with
20 **Sarah and the** baby. Mrs. Henkel then arrived home as planned
21 sometime after three o'clock. Only later would she learn
22 that her neighbor across the road, Holly Johnson, whom you
23 will meet, had earlier in the afternoon at about 1:30 been
24 alerted by the Henkels dog barking to hearing and seeing a
25 red Toyota pickup truck in the vicinity of the Henkel

1 residence on the Lewis Hill Road.

2 Even before going inside when Mrs. Henkel arrived home
3 she noticed within a few feet of her house a notebook and
4 also a receipt from an autobody shop with the name of Dennis
5 Dechaine on it. His was a name that was unfamiliar to Mrs.
6 Henkel. When she went inside finding both entry doors ajar
7 she found her baby asleep. Mrs. Henkel found Sarah's
8 eyeglasses, socks, shoes, jacket, in the living room. Sarah
9 Cherry however, was gone.

10 After frantically looking about for some few minutes
11 Mrs. Henkel called her husband at his place of employment in
12 Freeport, called Sarah's mother, and ultimately called the
13 sheriff's office. Sheriffs deputies soon arrived and not
14 only began to look for Sarah in the area, but also went to
15 the defendant's residence in Bowdoinham which is the next
16 town over from Bowdoinham. They did not find him at home.
17 In fact, as the evidence will indicate to you, by that time a
18 few hours after eating lunch Sarah Cherry was already or was
19 soon to be dead. Two days later on Friday the 8th of July,
20 her body was found in the woods about three and half miles
21 from where the Henkels lived. Her body had been nearly
22 completely hidden under several lawyers of debris, dirt,
23 sticks, twigs, brush and the like gathered from the forest
24 floor. Her wrists *had been* bound with yellow rope. She had
25 been stabbed repeatedly in the chest, puncturing her lung.

1 She had been stabbed repeatedly in the neck, lacerating her
2 jugular vein, which would have killed her except that a gag
3 had been placed in her mouth and one end of a scarf had been
4 tied around the lower portion of her head **covering** her mouth.
5 The other end of that scarf had been drawn tightly around her
6 neck. Sarah Cherry ultimately was strangled to death.

7 That is not all. Her jeans were pulled *down* around her
8 ankles, she had been left without underwear on, underwear
9 which was never recovered in the woods. Then, finally, while
10 still alive, she was sexually assaulted in a manner that is
11 *best left for the* medical examiner to describe to you later
12 this week when you hear from him. The crimes of gross sexual
13 misconduct in this case require the use of an instrument or
14 object in direct contact with the vagina or anus of Sarah
15 Cherry. Suffice it to say when you hear the evidence in this
16 **case no one** of you will question the slightest that those
17 acts were inflicted upon this child, and inflicted while she
18 **was still alive.**

19 Later that evening, Wednesday the 6th that is, the day
20 that Sarah was killed, the defendant, Dennis Dechaine,
21 emerged from the woods where Sarah's body was to be found two
22 days later. He was then seen just up the road by a couple,
23 the Buttricks, who were *just arriving* home. Among other
24 things the defendant told the Buttricks is that he had been
25 fishing or had been looking for a place to fish, he had

1 gotten lost in the woods and couldn't find his truck. Ur.
2 Buttrick offered him to drive him around to look for his
3 missing lost truck.

4 The defendant told the Buttrick he was originally
5 from Oregon, although he is not. He told them he was from
6 Yarmouth, although he is not. He told them that he was
7 visiting friends in Bowdoinham, which is where he lived.
8 Then he said softly, I should have stayed there. The
9 defendant during this time was polite to the Buttricks
10 offering at one point to helping them to carry the groceries
11 in their house. Mr. Buttrick helped to look for his pickup,
12 a red Toyota. They couldn't locate it, although they tried
13 for some time.

14 Eventually Mr. *Buttrick that evening came upon one of*
15 the sheriffs who **was in** the area having been called by the
16 Henkels and turned the defendant over to the sheriff. Later
17 that evening one **of** deputies with whom the defendant was in
18 contact showed to the defendant the papers that Mrs. Henkel
19 had found in her **driveway** just up by her house. The
20 defendant initially denied they were his. Then acknowledged
21 they were his. He offered various explanations for the
22 papers and their presence at the Henkel residence saying,
23 finally, that somebody must be trying to set him up.

24 Well, the evening wore on. Among other things, the
25 sheriff's department went with the defendant to look for his

1 truck unsuccessfully, but they did find under the seat of the
2 cruiser in which the defendant had been seated his truck
3 keys.

4 Around midnight the defendant's truck was found;
5 just off of a road which ran next to where Sarah Cherry's
6 body two days later-would be found. Within a few hundred
7 yards of that very spot.

8 You will remember that Sarah's wrists had been bound
9 with yellow rope. Later police examining the defendant's
10 truck found yellow rope in his truck. Rope which laboratory
11 analysis revealed was the same kind of rope. At the barn at
12 the defendant's farm the police also later found more of the
13 same kind of rope as they had found in his truck and was on
Sarah's wrists.

 Finally, after the discovery on Friday the 8th of dully
of Sarah's body the police found in the the woods in a spot
between Sarah's body *and* where the defendant's truck was
located a fourth **piece of rope.** This was a piece of rope
with a slipknot **tied in** *it forming at one* end of the rope a
noose. This rope, **too,** was the same as the piece on Sarah's
wrists, the rope in the defendant's truck and the rope in the
defendant's barn. But more than that, upon painstaking
examination later at the State Police crime laboratory this
24 last piece of rope found in the woods between Sarah's body
25 and the truck was found to have been cut from the rope found

1 in the defendant's truck. Those two pieces of rope were once
2 one.

3 The defendant was arrested later in the *afternoon after*
4 Sarah's body's had been found on July 8th, and thereafter
5 under circumstances the defendant in a variety of
6 circumstances to several different law enforcement officers
7 admitted to having killed Sarah Cherry.

8 Now, Ladies and Gentlemen of the Jury, all that may
9 appear to be much to digest and indeed there is a great deal
10 of evidence against this defendant. But if you keep focused
11 on what happened and who did it you will find it all comes
12 clear to you and you will find that the third point that 1
13 mentioned, the defendant's state of mind insofar as it is
14 relevant to some of the charges, also will become clear to
15 you.

16 Now, a word about the charges. At the conclusion of
17 all of the evidence its the Court's function to instruct you
18 on the law. It is that law which must guide you in your
19 deliberations. I may say now I think however, that my
20 understanding of that law is that with respect to count one
21 of the indictment, the State must prove to you that a death
22 occurred intentionally or knowingly. Those terms will later
23 be defined for you by the Court. In essence, however, the
24 word intentionally means that one had a specific purpose in
25 mind at the time he acted. The word knowingly means *that he*

was practically certain that a result would be accomplished
2 by his actions or that he was aware of the surrounding
3 circumstances. Count two charges the crime of depraved
4 indifferences murder. Here the focus is not as the first
5 *count as upon the* defendant's subjective state of mind but
6 upon your objective analysis or view of what happened. The
7 result that was accomplished. It is not required even that
8 the defendant have been himself indifferent to human life but
9 only by the nature of the death itself the crime is so
10 heinous to be considered that of depraved indifference
11 murder, and the Court will define that term for you in great
12 detail.

13 The third count charges the defendant with the offense
14 of kidnapping. It charges him having knowingly restrained
15 Sarah Cherry with the intent of subjecting her to conduct
16 constituting the crime of gross sexual misconduct.

17 You will note there that the State must prove again that
18 the defendant acted knowingly and with a certain intent. The
19 fourth and fifth charges are charges of gross sexual
20 misconduct. With respect to these two charges the
21 defendant's state of mind is absolutely irrelevant. You look
22 here simply did the act occur and who did it. Period.

23 Now, the State's job is to have you understand this case
24 just as clearly as you possibly can. Your focus should be on
25 *what the* evidence is and not what it is not. Your job is to

1 return a verdict based fairly upon that evidence and logical
2 inferences you may draw from it. I will tell you that not
3 + every question that may occur to you will be answered in this
4 case. I have never tried a case in which every theoretical
5 question that one may have is answerable. You will learn
6 among other things, for example, that no fingerprints of
7 Sarah Cherry's were recovered from the defendant's truck, and
8 *none of the* defendant's fingerprints were recovered from the
9 Henkel residence.

10 You will perhaps understand why that was, and such
11 things do not create real doubts for you. So the State's
12 evidence, Ladies and *Gentlemen of* the Jury, will answer what
13 must be answered to prove the crimes and the defendant's
14 guilt.

15 Now, the defendant is presumed to be innocent. Still,
16 Ladies and Gentlemen of the Jury, there are two parties to
17 this case. The State and the defense. We stand equally
18 before you entitled to a fair verdict based upon your
19 considered judgment of all the evidence you will hear over
20 the course of the next several days. Just as the State has
21 an obligation to prove its case beyond a reasonable doubt,
22 not beyond all doubt but to the exclusion of reasonable
23 doubt, you too have an obligation. That is to return a
24 verdict based fairly upon the facts as you shall determine
25 them to be, and then to apply the law as Justice Bradford

1 shall give it to you at the conclusion of the case on the
2 facts. Then your final obligation is simply to return your
3 verdict consistent with what the evidence tells you it is. It
4 must be a verdict which shall necessarily follow from the
5 evidence. In reaching that fair verdict I *ask only that you*
6 *listen most carefully to all of the evidence and that you use*
7 *your common sense, as* I know you will. Thank you so much.

8 THE COURT: Thank you, fir. Wright. Mr. Connolly,
9 do you care to open?

10 MR. CONNOLLY: Thank you, Your Honor.

11 Justice Bradford, Mr. Foreman and Members of the Jury,
12 Mr. Wright, Mr. Carlton, family members, friends and members
of the press. This is a very difficult thing that we are
asking you to go through for the next couple of weeks here.
It probably will be more than this week and *run into next*
week. I have an awful lot to get out to you *folks in* the
next couple days. I won't pretend to get it all done right
now; we lawyers scratch things out on paper and when we come
up here they don't make any sense to us when we get up here.

Listening to Mr. Wright's argument as he put it
forward, listening to what he says the evidence will tell
you, I'm duty bound to tell you that there is an enormous
23 distinction as to *how that* evidence is viewed, interpreted,
24 analyzed and what creditability is placed upon so-called
25 statements made by the defendant. This defendant starts this

1 trial with a presumption of innocence. We went over that a
2 gnaws sum overrule over the last couple of days. The reason
3 we did that, and the judge was so concerned about that, is
4 because its a basic component of our system of criminal
5 justice. That despite the allegations, despite the
6 indictment read to you by the judge, no proof at this point
7 has been offered as to his guilt. Even as we speak he's
8 presumed not guilty. That is fundamental. That presumption
9 stays with the defendant *not only at the* beginning of the
10 trial but in the middle of the trial: at the end of the
11 trial, and it goes with you into the jury room later on. It
12 *stays with the* defendant up to and until that time that you
13 are convinced beyond a reasonable doubt that he committed the
14 deeds charged in that indictment. *So it is very important*
15 for you to understand that the indictment itself is not
16 proof.

17 Secondly, the burden of **proof** requires the State and the
18 **State alone to prove its case beyond** a doubt based upon
19 reason. The defense has **no** obligation to give an opening
20 statement or to present any **evidence** or to provide any cross
21 examination. We are allowed to do that, and I assure you
22 we'll do that. But even without the defense lifting a
23 finger, the State always has the obligation of proving the
24 case beyond a reasonable doubt. That burden never shifts to
25 the defendant. That is a constitutional requirement of

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1 enormous proportions. Those things I *wish to bring forward*
2 to you at the outset you've heard them before. You have must
3 act upon them in the operation of law as the judge will give
4 it to you during the course of this trial. Your duty as
5 jurors under the oath that you have taken and the answer to
6 voir dire that you have provided is to be fair and impartial.
7 And to apply the law as the judge gives it to you; whether
8 you like it or not.

9 This will be a very difficult case because what was
10 done to that little girl *was abominable*. You will see no
11 justification for that little girl's murder, for the killing
12 of that little girl, For the assault which took place upon
13 her. She was blameless and this defense will not in any way
attempt to soil her reputation. She was an innocent. She
has been subjected to terrible crimes. We'll not defend the
crimes themselves. What we'll do is point out during the
course of this trial what the evidence shows, what it did
doesn't show, and bring forward our only evidence as to what
was going on in **Bowdoin**, Maine, on July 6, 1988.

As a preliminary matter I want to give *you an idea that*
has been with you with me since first getting involved in
this case, It's a quotation from Albert Einstein. Einstein
once wrote in a letter to Harry S. Truman, that every problem
24 has a solution that is simple, and easy and wrong. The State
25 will have you believe that throughout an incredible series of

possibilities and probabilities that the defendant, *Dennis* Dechaine, who had never had any contact with either the Henkels or with Sarah Cherry, randomly happened upon her driveway where she was baby-sitting, randomly went into the house, seized her, and committed the acts which are complained of. The possibility of that occurring is an enormous number. But that alone does not prove the course that the defendant did *not do it*.

The State has referred to you a number of different pieces of evidence that they intend to offer. I will discuss some of those in a few moments. I wanted you to understand that what they rely on primarily is as follows: First, a notebook is found in the driveway. Secondly, the little girl is missing. Thirdly, the defendant appears from the woods and he couldn't find his truck. Fourthly, when they finally **recover** the body her hands are bound with a rope that came from the truck. We are *not going to* dispute that the rope came from the truck. At some point its fairly clear that based upon the forensic analysis that the *State has done that* the rope did indeed come from the truck. That instrumentalities, items, pieces of evidence came from the truck and were used in the homicide. That is the essence of the State's case as to the physical evidence.

The State will also attempt to offer to you a series of so-called witnesses. I use that term very controlled right

1 now, perhaps much less controlled later on, as to who will
2 claim, for a variety of reasons that we'll discuss, that this
3 defendant admitted to doing the deed, and the admissions are
4 not straightforward *confessions* people. What we are talking
5 about are things that are removed from context; some of which
6 are accurate, some of which are fabricated and some of which
7 are out-and-out lies. The individuals that they intend to
8 call range from police officers to other individuals of less
significant character and reputation. I ask you very
carefully to look at those statements that were made
so-called.

Because there will be a lot of discussion of those. I
assure you that during the course of this case you will
determine that the character and the person that is Dennis
Dechaine did not make those statements. George Orwell in
writing in 1984 says that freedom is the freedom to say that
two plus two makes four. If that is granted all else
follows. During the course of this *argument and during the*
course of my presentation through cross examination and
direct evidence I will try and show how the evidence in this
case does not add up. It is my obligation, it is the beauty
of this system that I'm allowed to stand here and tell you
23 that two plus two makes four. That the State's case does not
24 add up on critical grounds. And that if that is so this
25 defendant is not guilty according to go the evidence.

1 Let's look at some specifics. Mr. Wright asked you to
2 **look** at some questions. What happened and who did it. I ask
3 *you to look at those exact same questions.* I think that is a
4 reasonable format *for analyzing the facts that will be*
5 presented here. What the facts show and what the facts fail
6 to show is of profound consequences to this defendant. I
trust will be of profound consequences and troubling to you
during the course of these next weeks. Because what the
State doesn't tell you, what the State doesn't have for
evidence is extremely important. What the State doesn't tell
you is that there is conflicting evidence as to a pickup
trucks in the area of the Lewis Hill Road on July 6, 1988.
13 What the State doesn't tell you is that there are a number of
other red pickup trucks that are seen in the area. That
there are a number of conflicting sightings; that there are
different individuals that place a different individual
behind a different Toyota.

How I think it **will be** become clear during the course
of this case that there was something going on on the Lewis
Hill Road that **doesn't add up. You will see** that during the
course of the testimony that the Lewis Hill Road is a
reasonably rural areas, but there are houses, and people
heard and saw things *and will testify to things on July 6th,*
24 **1988** that are of extreme difficulty if the State's theory of
25 the case is true. The location of the pickup truck, for

1 example. When the defendant comes out of the woods at
2 approximately quartered of *nine in* the evening he's looking
3 for his pickup truck. Harry Buttrick, who you will hear
4 I testify, talks about the defendant's demeanor, how he
5 approached him, what he talked about, what was his attitude.
6 I ask you to look at that critically to see if at the time if
7 Dennis Dechaine is a homicidal maniac.

8 And here is the dark secret of this case. Here is the
9 part that causes defense attorneys and defendants to have
10 numerous difficulty. I will be blunt. The explanation for
11 the defendant's behavior on July 6th, 1988 in response to the
12 questioning of police officers as to the explanation of why
13 he was in the woods is not favorable. It's not something
14 that we are proud of. It's not something that he's proud o
15 It's something that he's ashamed of. What he did he went
16 into the **woods** in the morning of July 6th, 1988 and he used
17 drugs. He went in the woods and got high. Now that is out.
18 , That **does** not mean that he committed this murder. What it
19 **does** mean is that he's **in the woods** at the time in the
20 **general area on** the date in question. He's an easy set.
21 That's what it means.

22 *Mr. Wright tells* you that when the notebook is found
23 in the driveway at approximately 3:30 that the police focus
24 on Dennis Dechainer and that will tell you an enormous amount
25 out where this defense is going to go. From 3:30 until

1 today they have focused exclusively on Dennis Dechaine as the
2 person who committed this offense. They have looked
3 virtually nowhere else and they have ignored enormous
4 evidence. That evidence will be brought directly to each and
5 every one of you. The fact that he is the primary, and in
6 fact the only suspect is *something that should scream to you*
7 as troubling and should scream to you as not a relentless
8 search for the truth as the prosecution would have you
9 believe, but the opposite, a shortcut, a quick-hand way of
10 solving a problem when it seems to fit. When other items
11 don't fit, well, that's because eye-witnesses are sometimes
12 mistaken or because there have sought other explanation for
13 it. Or that's because some things we can never understand.

14 For example, there are no *fingerprints in the truck*.
15 The Prosecution tells you that is not to be concerned with
16 because sometimes you aren't going to have fingerprints in a
17 truck. That may very well be true. There is no hair in the
18 truck. There is no blood in the truck. There is no
19 indication in the truck that that little girl was ever there.
20 At the house, the Henkel residence, where she was abducted
21 between 12:00 and 3:30 there is not a hint of a struggle
22 inside of the house. There is not a hint that Dennis
23 Dechaine was there physically. There is not a fingerprint,
24 not a hair, not a fiber, not a footprint, no witnesses that
25 will place him there. What is there is a notebook with a

1 receipt in it that was found there. The State will tell you
2 that they didn't bother to *fingerprint* the notebook because
3 it was handled by too many people. I submit to you based
4 upon your own experience you know that items can be taken
5 from a vehicle and placed elsewhere. If *that is the*
6 situation, then the notebook is not only not conclusive have
7 of the defendant's involvement in this crime but the
8 contrary; it can be used to show that he was in fact set up.
9 And you will hear lots of evidence during the course of this
10 trial indicating that that scinerio is likely.

11 The truck itself has no indication that Sarah Cherry has
12 ever been in it. The defendant himself, when he's arrested,
13 has no indication that he has been near Sarah Cherry. There
14 *is not any* of her hair on him. There are not any of the
15 fibers from her clothing on him. There is no blood on him.
16 And the prosecution, in rather agonizing detail, which is
17 **minimal, he did not go into gory detail** as to the stabbing
18 **part of this case. You will** hear testimony as to the
19 stabbings. During the course of those stabbings the State
20 **would have you believe** that no blood is transferred to Dennis
21 *Dechaine's* clothes or **or** to his person.

22 During the course of *the* struggle which occurred between
23 Sarah Cherry and her captor the State would have you believe
24 that no transference occurred, no fibers, no hairs, no blood
25 ever transferred. I submit to you why do you bind a young

1 girl? Why do you have gag her? The answer is because she is
2 putting up a struggle. It makes sense. You tie her up. You
3 put something in her mouth so she doesn't scream. If that is
4 the case what is on Sarah Cherry that tells you that Dennis
5 Dechaine committed this crime of murder? She has blood under
6 her fingernails. Type A blood. What type is Dennis
7 Dechaine? Type O blood.

8 Sarah Cherry has other items found on her person in the
9 crude brutally dug grave where she is found. That
10 information will be coming forward to you during the trial.
11 You will see that not a scintilla, not a hint of that relates
12 one way what so ever to Dennis Dechaine. None of it. The
13 State would have you believe if you remember that he parked
his truck on the opposite side of the roadway where her body
is found and brought her across the roadway in plain view of
anyone passing by. In order to do *his* fiendishness. That is
the theory that the State has. Then the State will have you
believe that continuing until now, Dennis Dechaine will lie
about his involvement in the crime. That *he's not to be*
believed, that on the night he was questioned by police
21 officers that he was telling the truth as to his involvement.
22 The so-called admissions are not confessions by any sense of
23 the imagination. He was held in custody from 9 o'clock in
24 the evening and released on July 7th at 4 am. If he
25 confessed to *this, as they would* have you believe, why did

1 they cut him loose that day?

2 MR. WRIGHT: I would object to argument.

3 THE COURT: Objection is sustained.

4 MR. CONNOLLY: We have some problems in the case.
5 The notebook is found. It's Dennis Dechaine's notebook. The
6 rope was taken from his truck. He doesn't have a very good
7 explanation as to where he was that day. But that does not
8 make any him guilty of murder.

9 Mr. Wright talks about common sense, and I want to
10 appeal to your common sense during the course of this trial.
11 Using your life experiences, your own sense of how things in
12 this world happen, does it make sense to you, ask yourself,
13 for a total random act such as this to occur, or is it more
14 likely that someone who knew Sarah Cherry is involved; that
15 somebody who had access to her was involved.

16 Mr. Wright during the course of his discussion
17 describes how Mrs. Henkel, when she left Sarah at nine
18 o'clock in the morning at the Lewis Hill Road gave her her
19 duties, *went over* her duties as to what to do. I want you to
20 listen very carefully when that evidence comes in as to what
21 she was told her duties are and what instructions she was
22 *given on what, how* to act, and ask yourselves why she was
23 given such detailed instructions.

24 I have just a little bit more of the opening argument.
25 The elements of the offense of murder, of depraved



1 indifference murder, of kidnapping and gross sexual
2 misconduct were accurately described by the prosecutor. They
3 will be given to you exactly by the Judge. This defendant
4 has pled not guilty to these charges. As the clerk
5 instructed you, he's placed himself upon his country, which
6 country you are. The presumption of innocence applies as we
7 speak, and continues. There are some difficulties with the
8 case. There are some things that if you ignore and you just
9 look at the nature of the crime and you look at the easy way
10 out, the notebook *and* the rope, then you will find the
11 defendant guilty and I'm wasting my time from day one. But I
12 believe you people are going to work hard. That you will
13 take your responsibility seriously. That you are not going
14 to accept the easy thing during the course of this case.
15 That you will understand that merely because some evidence
16 points to the defendant does not mean that he did the deed.

In trying to determine how to explain what to do with
the notebook and what to do with the rope and the truck I was
led to a story that Abraham Lincoln once told during the
Civil War to James Fry. Fry was concerned about how Lincoln
was going to deal with the wartime governor of Missouri, which
was causing him difficulties. The governor was going to see
Lincoln in the afternoon. While he was going over to see him
he was furious, the governor was. Mr. Fry later on saw the
governor and the governor was content. He asked Lincoln what

1 he asked; he must have conceded everything. He said, no. I
2 didn't concede a thing. He said you know how that Illinois
3 farmer managed the big log that laid in his field to the
4 inquiries of his neighbors. He announced that he got rid of
5 the big log, got rid of it. How did you do it? It was too
6 big to haul out, too knotty to split and too wet and soggy to
7 burn. What did you do? *Well, now, boys,* replied the farmer,
8 if you wouldn't devolve the secret I'll tell you how I got
9 rid of it. I plowed around it. If you, as jurors, look at
10 the physical evidence that the State has offered to you and
11 try to figure out how to deal with it, if you plow around it
12 I'm convinced you will find that this defendant is not
13 guilty.

14 So I wish to thank you in advance for your concern
15 during the course of this trial. I ask you to remember that
16 the evidence that you are going to be shown requires careful
17 scrutiny. If you scrutinize that evidence, that if you ask
18 questions you will be left at the end with a doubt based upon
19 reason that this defendant committed these acts. That if
20 **you're** left with that doubt you will be duty bound to find
21 this defendant not guilty. I'm convinced and I think you
22 will be convinced that the evidence shows that he is not
23 guilty. Thank you.

24 THE COURT: Thank you Mr. Connolly. Mr. Wright.

25

ARTHUR ALBIN, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q Would you give the jury your name again and spell your last name?

A Arthur Albin. A-L-B-I*N.

Q Your occupation?

A I'm an engineering technician with the Department of Transportation.

Q How long have you been with the Department of Transportation?

A 24 years.

Q This is the State Department of Transportation?

A **Yes.**

Q What do you do for the Department of Transportation?

A I do graphics for courtrooms, that sort of thing.

Q *Could you tell us what kind of training and experience you have had in the field, that is doing graphics and so on for courtroom presentations?*

A From a litigation standpoint I have been probably doing this for the last 20 years exclusively.

Q What kind of training have you had to do it?

1 A I'm a high school graduate. I'm a graduate of J. M.
2 Wright. I have been to the University of Maine, Dartmouth,
3 and Tufts taking courses for the State.

4 Q All in the field of *designing graphics of* one sort of
5 another?

6 A **Yes.**

7 Q You from time to time in the course of your work use,
8 rely upon various maps that are used by the Department of
9 Transportation and others in the State?

10 A Yes.

11 Q What kinds of maps in a general way do you use?

12 A I think for purposes of what we'll use here today I have
13 used a lot of the U.S. geographical maps that -- of course we
14 conducted a field survey. I personally viewed all of the
15 points of significance that will be shown on these and
16 whatever highway maps I deemed applicable that were in our
17 own files.

18 Q With respect to your work particularly in this case, I
19 take it that you first of all went to a source and gathered a
20 map to begin work with?

21 A That's correct.

22 Q What source did you go to and what map did you retrieve
23 in order to start your work?

24 A We have a section within the Department of
25 Transportation called Special Services which primarily does

1 all of our atlas maps and things of that nature which, by the
2 way the base of those atlas maps should be known are the
3 geographic survey maps, which are a controlled survey.
4 That's what I started with so I would be familiar with the
5 general overall area.

6 Q Are these maps typically used by various branches or
7 sections within the Department of Transportation?

8 A Yes.

9 Q Have you on prior occasions testified in court as to the
10 work you've done such as you did in this case with regard to
11 preparation of maps and designs?

12 A Yes.

13 Q And testified as to their preparation and accuracy?

14 A That's correct.

15 I Q Let me here, if I might, ask you in this case, I know
you brought with you certain items, to describe what maps or
diagrams you had prepared for the jury's benefit in this
case?

A I've actually done four maps. Correction. Two maps and
a couple of diagrams of body forms.

Q Let's concentrate on the maps.

A The two maps consist one of a blowup of our atlas map
23 and the other one is an enlargement of that area showing the
24 victim, the Hallowell Road and where the truck was found.

25 You mentioned earlier that in this case you actually

went out and looked at the different locations which you have spotted on the maps; is that correct?

A Yes.

Q *With whom did* you do that? How was that done?

A My coworker and I, he's actually my boss, Mr. Mitchell and I conducted a survey in which Mr. Hendsbee assisted us by showing a specific location that I previously mentioned and
8 *we tied them in.*

9 Detective Hendsbee pointed out to you by location and
10 name certain spots such as who lived there, what happened
11 here, that kind of thing?

12 A That's correct.

13 What in *conjunction with your* examination of various
14 sites in this case, what efforts did you make to ascertaining
15 precisely where on the larger map that you were using these
16 **spots** were located?

17 A I physically **visited** each site beyond the enlarged area,
18 using our car, using my car's odometer. After I did that I
19 sat down with the map and I also scaled it out to affirm
20 those locations.

21 Now, did you in addition to using a large map - I think
22 you said you drew a diagram showing more on a larger scale
23 and a more limited area where Sarah Cherry's body was found
24 and where the truck was located?

25 A Yes.

1 Q How did you go about ascertaining those points?

2 A Given Mr. Mitchell and Mr. Hendsbee and I visited those,
3 and I physically notated those specific points by going out
4 into the field and with the appropriate instrumentation or
5 survey instruments did tie those points in.

6 Q I've tried to arrange this so that counsel can see this.
7 I've marked this larger exhibit here as State's Exhibit
8 Number 1-A for your identification. There seems to be
9 attached to it a plastic sheet which I've marked that as 1-B.
10 Would you tell the jury what each of those items are, what
11 1-A and what 1-B are?

A 1-A is the US geodetic blown up about 175 percent. That
is the overall map. 1-B, which is that which I just handled,
is a device *which* I just created if they wished to scale I
could do it with that map. It was blown.

So the scale is simply for the jury to be able to use if
they wished to by placing it down on the map?

A Yes.

And taking measurements of their own?

A Yes. Its basically just a ruler.

There seems to be several orange or fluorescent red dots
and some fluorescent green dots. What are those?

23 A Those are areas that I was specifically designated by
24 yourself to highlight for various whatever purpose you had.

25 Q I know the jury will have an opportunity at length later

1 to view this, but its a few feet from them. Can you tell
2 us, run through each of the dots so the jury can get some
3 prospective of the series of orange and series of green dots?

4 A Working our way from left to right at the top of this
5 map we have a small house which is basically at the
6 intersection of what is known as the Dead River Road and the
7 Old Litchfield Road. Going to our right we have the first
8 lime reen area *which is* called the Buttrick. Then moving on
9 over we have another one that is also lime-green. That is
10 labeled *with the name of* Spaulding. Then moving over again a
11 little to our right well come on the first fluorescent
12 orange color; that's where the victim was found.

13 Almost very close thereto on the other side of the road,
14 of the Hallowell Road, is where the truck was found. And,
15 again, that is indicated in fluorescent orange. Moving now
16 down the map

17 Q Excuse me. That is along what road? There seems to be
18 *a road that runs* north and **south** through those last two
19 places where the body was found and where the truck was
20 found?

21 A That is what is known as the Hallowell Road.

22 Q Go ahead.

23 A Then we'll move down what is *known as* the Lewis Hill
24 Road, which is off the *Dead River* Road. The first point we
25 come to is this lime-green color. Its a home known to me as

1 the West house. Moving again in a southerly direction along
2 the Lewis Hill Road is another lime-green house, an
3 indication point known as the Johnson house. *Then we* come on
4 to the next one going southerly; its again in this
5 flourescent orange. This is the Henkel house. Taking you
6 down the Lewis Hill Road to the intersection of Route 125
7 then traveling in a northwesterly direction along Route 125
8 to the intersection of the Meadow Road we'll travel southerly
9 along the Meadow Road to the next green point which I'm now
10 indicating to you. This would be on the lowest point of this
11 map, its called the Cherry house, where the victim lived.

12 We then travel back up the Meadow Road, take a right
13 and travel southeasterly along 125 with the intersection of
14 138. We continue westerly along 125 and 138 until the
15 intersection with 138 and traverse *northeasterly* and northly
16 to the Dechaine house, which I'm now indicating to you, which
17 is in the orange color. Those were the *points that* were
18 specifically highlighted.

19 Q If I could ask you to describe some distances between
20 **some points. First of all, from** the Dechaine residence,
23 which is the lower right-hand corner; that is on State Route
22 138?

23 A Yes.

24 To the Henkel residence, how far is it? I know you will
25 have to go one or two directions to get there.

far?

A I got about .3 miles.

3 Q Just over three tenths of a mile?

4 A Yes.

5 Q So from the Henkel residence to that spot that is where
6 the truck was found, was the sum total of 1.95, and 1.3
7 miles?

8 A Yes.

9 Q Which gives us about three and a quarter miles?

10 A Just about.

11 Q Now, let's go to the intersection again of the Hallowell
12 Road and the Dead River Road and west along the Dead River
13 Road when you first come to the first green dot, which you
14 identified as the Spaulding residence. How far west of the
15 intersection of the Hallowell Road is that?

16 A I got about almost four tenths of a mile.

17 Q From the Spaulding residence to the Buttrick residence,
which is further west along the Dead River Road?

A I'll scale that. Approximately half a mile.

Q So the Buttricks would live about nine tenths of a mile
west of the intersection of the Hallowell Road and the Dead
River Road; is that correct?

A Say that again.

25 Sure. Mr. Spaulding lives four-tenths of a mile west of
the intersection and its another five-tenths of a mile to

1 the Buttricks, so it's about nine-tenths of .a mile?

2 A That's correct.

3 I don't know whether you took any measurements down from
4 the Henkel residence to the Cherry residence which is in the
5 lower left hand corner?

6 A No, I did not.

7 Q Let me here next show you who I've marked for
8 identification as State's Exhibit Number two. Can you tell
9 us what that is?

10 A This is an enlargement of that area I indicated earlier
11 on the overall map showing the victim and the truck and the
12 Hallowell Road.

13 Q *You've marked in* between with what appears to be an
14 orange dot in the upper center of the chart. What does that
15 represent?

16 A That was a piece of rope.

17 Q All these points were pointed out to you in conjunction
18 with your work with Detective Hendsbee?

19 A That's correct.

20 Q You've also drawn a flowing from the lower left upwards
21 to the center of the page a sqwiggly line. Can you tell us
22 what that is?

23 A That is what I've indicated as an intermittent stream.

24 Q How was it you came to place that on your diagram as you
25 did?

1 A Well, we had to go back and forth across it in our
2 survey from point A, which is a point on the Hallowell Road
3 out to where the victim was found, and because it's a
4 significant, what we call a significant piece of topography I
5 plotted it. It's an approximate center line as it ran
6 through that area as depicted.

7 Q Let me here ask you a few questions with respect to that
8 exhibit. First of all, did you take a measurement or can you
9 plot for us the distance in from the Hallowell Road where the
10 truck was located? How far up the road was the truck?

11 A *The truck was around 74 feet.*

12 And in from the Hallowell Road to the point where Sarah
13 Cherry's body, as you understand it, was found was how far?
14 And in answering that tell us how you went about taking that
15 measurement?

16 A There are two ways to look at this. The first is in a
direct line; that is as the crow flies, which would be about
450 feet. The other is along our path of survey which we
tried to go by the path of less resistance, what appeared to
be a break in the shrubbery there. That other distance I
will have to add all those points together and give it to you
in a second. That was 497 feet.

And did you plot as well how far in from the Hallowell
24 Road the piece of rope that you marked was located?

25 A Yes. We *used that point by the way as* one of our points

1 of survey, and that is 184 feet.

2 Q The rope is 184 feet in off the road?

3 A Yes.

4 Q **Now**, you've also marked in small, with small letters all
5 around the chart it looks like the letter woods. I take that
6 to mean we take that at face value?

7 A Yes. The area was covered with dense foliage, by dense
8 woods.

9 Q Where, as you understand it was Sarah Cherry's body was,
10 what kind of area and how far from the intermittent stream
11 bed or brook?

A It was very close. Approximately 14 feet to the back of
the stream. And its in the lower left-hand corner of this
diagram as I'm now so indicating.

MR. WRIGHT: That's all I have.

THE COURT: Mr. Connolly.

MR. WRIGHT: I would **move** the admission --

MR. CONNOLLY: He may not want to.

THE COURT: Do you wish to offer them?

MR. WRIGHT: I **do** offer them.

MR. CONNOLLY: No objection, Sir.

THE COURT: State's Exhibit Number one and two are
23 admitted without objection.

24

25

CROSS EXAMINATION

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BY MR. CONNOLLY:

4

Q Good afternoon. You are an experienced testifier in court?

5

6

A Yes.

7

Q How many of these charts have you made up over the years; hundreds and hundreds?

8

9

A You've got it.

Q Are you familiar with the Maine Gaziter?

A I know of it. I have one.

Q Sure. You have used it yourself sometimes?

A I have one in my briefcase for general information purposes.

Q Its fairly accurate?

A Yes, sir. Its made-up from our State's space map.

Q *If we want to use that later on for comparison purposes its a pretty reliable piece of information?*

A Its reasonable.

Q *These points you placed on map you did not place them from your personal information?*

A That's correct,

Q You are relying upon somebody else as far as that goes?

A Yes.

Q I want to ask you several questions about the first map,

1 which is State's Exhibit Number number one. This is
2 Bowdoinham; is that **correct**?

3 **A Yes.**

4 **Q How** far away is Bowdoinham from Bath?

5 A I don't know right off the top. I can **look** it up on a
6 map.

7 *Offhand you don't have a knowledge from* Bowdoinham
8 to Bath to Bowdoinham would you say its approximately ten
9 miles, thereabout?

10 A I wouldn't want to hazard a guess without a map.

11 Q This map doesn't cover the whole *general* area, only that
12 area in which you were instructed was of consequence?

13 A That's correct.

14 Q If somebody else felt there were other areas of
15 consequence this map wouldn't be instructive?

16 A Not to those other points.

17 Q You indicate, sir, that you traveled from the
18 defendant's residence either going north or going south to
19 the location where the Henkels are located; is that correct?

20 A Yes.

21 Q Now, during that procedure you did that yourself in your
22 own automobile?

23 A No, I did not.

24 Q How did you it?

25 A I went with Detective Hendsbee and Mr. Mitchell in his

1 car and we locked it on his speedometer.

2 Q You were there yourself however?

3 A Yes.

4 Q While you traveled from the defendant's house to the
5 Henkels going north that 10.7 miles how many houses did you
6 pass?

7 A A number.

8 Q What number?

9 A I don't know.

10 Q Hundreds?

11 A I don't know.

12 Q Would you say it's more than 20?

13 A It's possible. I wasn't paying attention. I wasn't
14 paying attention to the number of houses as specific point to
15 specific point.

16 Q There were quite a few, it's fair to say?

17 A Correct.

18 Q If we go south from the defendant's to the Henkel
19 residence, that 8.1 miles, there are *a large number of houses*
20 between the defendant's and Henkels?

21 A There is a significant number.

22 Q Now, going from the Henkel residence to where the truck
23 is located that is about 3.2 miles?

24 A That's about right.

25 Again, you traveled that yourself; is that correct?

A With the company I previously indicated.

Q While you were doing that you made notations about the road conditions. What time of year did you travel it?

A I did it at two different times.

5 Q Which one was first and which was second?

6 A I will refer to my survey book.

7 Q Go ahead.

8 A I did it once the first time would have been August the
9 22nd and the last time was March first of this year.

10 Q When you traveled that, sir, what, based upon your
11 experience working for the Department of Transportation, what
12 kind of roadway are we talking about here? Let's first talk
13 out the Lewis Hill Road. Is it paved or unpaved?

14 A its a mixed bag. Basically from the area up in here
15 its not paved. It breaks about here.

16 Q Would it be fair to say about half way traveling down
17 the Lewis Hill Road that it turns from pavement to what would
18 you call it, gravel, dirt?

19 A Specifically that point, and I would say yes.

20 Q And so the area of the Henkel and the *Johnson* and the
21 West residences, that is not paved?

22 A Yes, sir.

23 Q Continuing *down* the roadway that is continuous non-
24 pavement?

25 A Yes.

As we take our vehicle on to the Dead River Road, also known as the Sandy Hill Road, is that paved or not paved?

A Unpaved.

4 The whole thing?

5 A From the intersection, as I can remember, the Litchfield
6 Road through to where it intersects 197 its basically a
7 gravel road.

8 Its fair to say traveling from the Henkel residence and
9 *taking a left down the Dead River* Road the whole distance we
10 just traversed to the corner of the Hallowell Road is all
11 unpaved?

12 A Yes.

13 Q Would you say it is unpaved well or is it a bad road or
how would the Department of *Transportation* describe that
road?

A It's a rural country road. Reasonable.

Q Kind of beat though, isn't it?

A (no response)

□ In August let's say as opposed to - in March it's
frozen, isn't it?

A I'm trying to remember last March. I've driven over so
many gravel roads since then I can't tell you I remember that
road.

24 Q You can't speed down this roadway as you can on a tar
25 *road, can you? It's tough on* the vehicle, isn't it?

1 A It would be tough on a vehicle.

2 • It would also be tough on people in the vehicle. You
3 would get jostled around quite a bit, wouldn't you?

4 A That is an area I'm not -- I would presume one would be
5 jostled around.

6 Q *Now, continuing on down the **Hallowell** Road, that road is*
7 *much less of quality than is either the Dead River Road or*
8 *the Lewis Hill Road, isn't that right?*

9 A Yes.

10 Q And is there a scale of roads at the Department of
11 Transportation people use or is it just a worse road?

12 A That's a very nebulous road. I would say its a gravel
road. I would like to say it in those terms.

Q Is it a better gravel road or a worse gravel road?

A I guess you might say its not of the caliber of the
other. Its less than.

Q It's a tougher road to travel in a vehicle?

A I think that would be a fair assumption.

Q As we proceed down the Dead River Road the quality of
the roadway decreases as we travel westward towards the
Litchfield Road, This area in here is even less quality than
it is out here where some of it is paved, right?

A I'm going to tell you I don't recall that. I don't want
to say. They all seem to be approximate. It's a gravel
25 road. I'm not traveling that at **50 miles** an hour. I'm

1 driving it at a speed that is appropriate. So I didn't
2 notice any great discernible difference.

3 Q Does the Department of Transportation have a building
4 located on or about that location?

5 A I don't recall.

6 Q You don't know whether there is a Department of
7 Transportation building up around here?

8 A No, sir, I don't.

9 Q You weren't asked to look for it?

10 A No.

Q You weren't instructed that it had any consequence or
significance in the case at all?

A Not to my knowledge.

Q Turning your attention back to your exhibit, I think
it's 1-B,, the ruler. I want to ask you if you could do a
little calculation for me. Turning your attention to the
area in between the Litchfield Road to the Hallowell Road and
then from the Dead River Road up to 1-95 there appears to be
a square right there from the Litchfield Road to the
intersection of the Hallowell Road then up from the Dead
River Road to 1-95?

A Yes.

Q *See that square area?*

A Yes. I would say rectangular.

Q Its a rectangle?

1 A Basically.

2 Q You can reasonably calculate the square area of woods in
3 there, can't you? Let's assume it is a rectangle. Plus or
4 minus would be?

5 A No, sir. There is a lot of swampy area in there because
6 I did envision that. I don't know. You can say it's all
7 straight woods.

8 Q Let's say some of it - how big is that area?

9 A I could give you an approximation.

10 Q Fine.

11 A It's, roughly speaking, I'm averaging it, about a mile
12 and half long and eight-tenths of a mile wide. This would be
13 in miles or tenths of miles. It's about two square miles.

14 Q It's pretty dense woods in some places, isn't it?

15 A Yes.

16 Q We'll look at number two now, which is the blowup of the
17 area I just had you look at?

18 **A Yes.**

19 Q *Turning your attention to* State's Exhibit Number two,
20 you have been informed that this is, the marks that are in
21 fluorescent orange are the locations of a number of different
22 points of reference; is that correct?

23 A Yes, sir.

24 Now, the truck is located approximately on the
25 right-hand side looking at the map of the Hallowell Road; is

J
1 that correct?

2 A Yes, sir.

3 Q So in order to get from the truck to where the body was
4 found you've got to cross the open roadway?

5 A Yes.

6 Q You also have to cross a stream?

7 A Yes, sir.

8 Q And that would be down to the neck of the bend in the
9 stream there?

10 A Yes, sir.

11 Q You were there in August; is that correct?

12 A Yes.

13 Q You traveled it at two separate ways to take two
14 different measurements or did you just travel it one way?

A One way.

Q The other way you did on the map?

A **Yes.**

Q **Assuming, sir, we are following from** the truck to the
rope and then down to the location of where the body was
found, that total distance is what?

A From the truck?

Q Yes. To the rope then from the rope to where the victim
was found?

A From the truck to the rope was 258 feet and going from
the rope to a point, this would have been point C in my

1 survey, would be 145 feet, so then roughly 400 feet.

2 That's from the truck. The only thing I want to specify that
3 is not a distance I gave earlier so you don't misunderstand.

4 I thought you were eluding to another figure that I had
5 given.

6 • Now, there is a second stream in that area, isn't there?

7 A Yes.

8 Where is that located approximately?

9 A That would be northly of this one.

10 • Northly. That would run about how far, any idea?

11 A No, sir.

12 That is a real -- in order to call it a stream what
13 criteria do you have to have? It's got to have water?

A Yes, water. It has to have a flow that is over a
reasonable period of time. I think to be intermittent it has
to be say three or four months of the year. I can't recall.

Q Does it have to have *a certain* depth?

A No. It's the flow.

• It's the amount of time that there is water there?

A Yes.

21 Q Do you recall when you visited in August in 1988 how
22 much water was there?

23 A Well, I came at it in two different ways, which leads me
24 to believe that there are two areas beyond this, way came in
25 *from from point A right here on* the Hallowell Road on its

1 westerly road. We came across a bog area which had small
2 fingers that fed into the stream there. Those were dry at
3 that point. The stream itself though then had water in it.

4 **Q** How much water was in it? Half a foot?

5 A It was running.

6 **Q** Could you yourself jump across it?

7 A I waded across it.

8 **Q** Now, sir, on the map again on the other side where the
9 victim's body is located, the map *ends right* there. What is
10 on the other side of that? Say if the map were to continue
11 what would be on the other side of it? Where would we
12 *connect up?*

13 A If we went due west you would come out on the Litchfield
14 Road towards the judge.

15 **Q** So around where the judge is would be where the
16 **Litchfield Road would be?**

17 **A** Yes.

18 **MR. CONNOLLY:** I **have no further** questions.

19 **THE COURT:** *Anything further?*

20

21

RE-DIRECT EXAMINATION

22

23 **BY MR. WRIGHT:**

24 **Q** At the time last summer when you were in the area that
25 is depicted on State's *Exhibit* Number two, was that

intermittent stream crossable only by wading through out its
2 entire course or were there places where there was a dry bed?

3 A I have arthritis and I can't jump any stream.

4 Therefore, yes, if somebody - I don't *think any* person who is
5 who is more able would have had no problem.

6 4 The question I was trying to ask is whether there were
7 points where there was perhaps water from side to side in its
8 brook bed and other points where there was very little water,
9 a bed essentially dry depending upon the topography of the
10 land throughout its course?

11 A That's correct.

12 Your recollection is that the Lewis Hill Road is a dirt
road from below or southerly of the Henkel residence?

A I don't remember for sure if its dirt road or not.
Remember when I went to verify all of these recently there
was snow and ice cover and I just happened to know from vague
memory back generally when we drove over this; so I would
have a familiarization with the area. It was dirt and
pavement and I would be making a guess to tell you that.

Q By the way, if you can recall either from last summer or
more recently when you were on the Lewis Hill Road this year,
22 how densely settled an area is that?

23 A Its fairly sparse.

24 Q How about the Dead River Road and the Hallowell Road?

25 A Those areas again are sparse, particularly the Hallowell

1 Road. There were no houses in that vicinity.

2 Q On the Hallowell Road no houses at all?

3 A Yes, sir.

4 Q Up to the point where you went?

5 A Yes.

6 Q I understand you didn't go further up?

7 A That's correct.

8 Q The Dead River Road west of the Hallowell Road west of
9 the Buttricks, how densely settled was that?

10 A Again fairly sparse.

11 MR. WRIGHT: Thank you. That's all.

12 THE COURT: Anything further?

13

14

FURTHER CROSS EXAMINATION

BY MR. CONNOLLY:

Q When **you** had **to cross** the stream did **you** follow the ^Path
of least resistance from the road?

A I did.

MR. CONNOLLY: No further questions.

THE COURT: Thank you. You may step down.

MR. WRIGHT: I have no other witnesses this

23 afternoon.

24 THE COURT: Mr. Foreman and Ladies and Gentlemen of
25 the Jury, it is now a couple of minutes past four. they

1 sometimes say in the school system you will get an early
2 release today. The most important ingredient that you have
3 carried into this jury box and into this courtroom is an open
4 mind. Your commitment to us is that you will keep *an* open
5 mind until after you've heard all of the testimony and the
6 evidence in this case.

7 As I told all of you yesterday, by the time we get
8 through working together I'm going to sound like a broken
9 record to you. But on any recess and any adjournment for the
10 day I want you to put this case entirely out of your mind.
11 Don't discuss it amongst yourself. Don't allow anybody to
12 engage you in any conversation about this case. Please, in
13 fairness to the State and in fairness to the defendant and in
14 fairness to yourselves, please, avoid any radio broadcasts,
15 any television news casts, any newspaper or printed articles
16 about this case. If you are curious about what is being
17 written about this case have somebody set those newspaper
18 articles aside and save them for you. But, please, do not
19 read them and do *not pay any* attention to any newscasts
20 because remember what I told you yesterday, the newscasts and
21 the newspaper articles consists solely of what someone else
22 believes was said in this courtroom.

23 You are the judges of the facts. You must ultimately
24 decide the facts in this case based upon what is said and
25 what you've seen in this courtroom. So when you get home and

1 they ask you what the case is all about, and I'm sure it's
2 ! natural they are going to say what went on today, just say
3 I'm sorry; Judge Bradford said I'm not supposed to talk about
4 it until after the case is all over. Then I would be glad to
5 tell you what it was all about. That way you are being fair
6 to everybody, including yourselves.

7 Have a good evening. We'll be in recess at this time
8 until *nine o'clock tomorrow morning*.

9

10

11

12 (The proceedings for the day concluded at 4:07)

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1 (March 8, 1989)

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THE COURT: Good morning. I believe we are ready to get started. You may call your first witness.

SCOTT ANDERSON, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q Speaking now to the jury, would you state your name to the jury?

A Scott Anderson.

Q Where do you live?

A Lisbon Falls.

Q Are you employed?

A I'm a self-employed contractor.

Q Do what kinds of works?

A *Painting*, wallpapering, related work.

Q Did you know a Sarah Cherry?

A Yes.

How did you know her?

A She is my niece. She is my wife's niece.

Q You are uncle by marriage?

A Yes.

Q Let me here show you a photograph which I've marked as State's Exhibit Number three and ask if you can identify this?

5

A Yes. This is Sarah Cherry.

6

Q A photograph of Sarah?

7

A Yes.

3

Q As she would have appeared last summer?

9

A Yes.

10

MR. WRIGHT: I would offer State's Exhibit Number three.

11

12

MR. CONNOLLY: No objection.

THE COURT: State's Exhibit Number three is admitted without objection.

BY MR. WRIGHT:

Q Mr. Anderson, did you have occasion on the eighth of July last summer to attend an autopsy?

A Yes. At the Kennebec Valley Medical Center.

Do you remember when it was that day that you went to Augusta for that autopsy?

A It was approximately late afternoon, 4:30.

24

Q Briefly, can you have tell us the circumstances under which you came to attend the *autopsy that afternoon?*

25

1 A *After Sarah's body* had been found in the afternoon a
2 state police officer had asked, I don't remember his name,
3 but he asked the family if somebody could identify Sarah.
4 And without being directly asked I volunteered, and my other
5 brother-in-law came up with me.

6 Q When you went up to the Kennebec Valley Medical Center
7 tell us where you went?

8 A First we went to the State Police office up there and a
9 gentlemen up there directed us to the back of the medical
10 facility and there was a gentleman there who directed us to
11 the morgue.

12 Q When you went into the morgue did it appear as though
13 there was a body there; that an autopsy was to be performed?

14 A Yes.

15 Did you recognize whose body that was?

A Yes.

Who did you recognize as the person whose body was there
that day?

A Sarah Cherry.

MR. WRIGHT: I would like to pass this photograph
to the jury.

THE COURT: You may circulate that.

(Whereupon the photograph was circulated to the jury)

MR. **WRIGHT:** That's all I have.

CROSS EXAMINATION

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BY MR. CONNOLLY:

4

Q Good morning. I don't understand your relationship,
5 sir. Could you explain that?

5

6

A My wife is Beth Cherry, formerly Beth Cherry, and her
7 sister Debbie Cherry is Sarah's mother.

7

Q Does your wife have other sisters?

A Yes.

Q What are their names?

A Allison, Kathy, and there was Hillary and Melissa.

Q Is Allison married?

A No.

Q And Kathy?

A Yes.

Q What is her husband's name?

A Jim Strobball.

Q Do they have children?

A Yes.

Q **How** many?

A Two.

Q How old are they?

23

A Four and two, something like that.

24

Q Did Hillary have a husband?

25

A No,

1 Q **Would** you characterize the family as close?

2 A **Very close.**

3 Q Met together and did things together on a personal
4 basis?

5 A **Yes.**

6 Q Did you attend the funeral?

7 A Yes.

8 Q Most of the family members as well?
Yes.

MR. CONNOLLY: No further questions.

MR. WRIGHT: Nothing further.

THE COURT: Thank you. You may step down.

MR. WRIGHT: Mr. Anderson had ex^Pressed some
interest in staying. I think both counsel have no problem
with that. **He's finally excused.**

THE COURT: Is that agreeable?

MR. CONNOLLY: Yes.

**THE COURT: He may remain if he desires. He's no
longer subject to the sequestration order.**

21

22

23

24

25

1 ROBERT WEST, being first duly sworn, was examined and
2 testified as follows:

3

4

DIRECT EXAMINATION

5

6

7 BY MR. WRIGHT:

8 Q Would you state your name to the jury?

A Robert West.

10 Q Your occupation, sir?

11 A I'm a receiver at L.L. Bean in Freeport.

12 Where do you live?

13 A In Bowdoinham.

14 Q Where?

15 A On the Lewis Hill Road in Bowdoinham,

16 Q How long have you lived on the Lewis Hill Road.

17 A 36 years. All my life.

18 Q Where were you born?

19 A I was born in Lewiston but I always lived there.

20 Q On the Lewis Hill Road?

21 A Yes,

22 Q In addition to the work you do at L.L. Bean do you also
23 do some work around the property you own on the Lewis Hill
24 Road?

25 A Yes, I cut firewood also there and we grow vegetables.

1 Q Could you describe the area surrounding your house on
2 the Lewis Hill Road in a general kind of way?

3 A Right around the house where I live is field and behind
4 it it's quite heavily wooded.

5 Do you have any neighbors close by and if so where?

6 A Yes. There are neighbors on either side of us. It's
7 like a few hundred yards either side, so *it's not real close*
8 but we can see the houses.

9 Are there any houses just adjacent to yours across the
road?

A Yes. My folks live across the road.

Apart from your folk's house across the road and your
own house the nearest other house is a couple hundred yards
away?

A Yes.

On either or both sides?

A Yes. North and south.

Q To your south who is your closest neighbor?

A To our south on our side of the road are the Johnsons.
Their names?

A Douglas and Holly *Johnson*.

Now, we've got up *behind you a map which is State's*
Exhibit Number 1. If you would, turn and take a look at it
24 and tell us if you recognize what it depicts and if so if you
25 can recognize on there where you live?

1 A Yes. I live right there.

2 Q Its marked with the name West?

3 A Yes.

4 Q You recognize that as being the location of your house?

5 A Yes.

6 Q There is another green dot on the house just below that
7 which would be southbound which is marked with the name of
8 *Johnson; is that correct?*

9 A Yes.

10 Q You recognize that as being the location of Doug and
11 Holly Johnson's house?

12 A Yes.

13 Do you know the folks across the road from there on the
other side of the Lewis Hill Road from them?

A The Henkels.

Q Is that marked on the map as well?

A Yes. That is the correct location also.

Q Can you see either the *Henkel* residence or the Johnson
residence from your own house?

A *We can just see* the Johnson's garage from our house.

Q Why is that?

A Because the woods between where we live and they live is
heavy.

Q Now, Mr. West, let me here ask you if you recall a day
25 last summer when, as you later learned, a young girl by the

1 name of Sarah Cherry came to be missing. Do you recall that
2 day?

3 **A** Yes.

4 **Q** How did you first learn of it? You don't need to go
5 into great detail but how did you learn of it?

6 **A** I believe Mrs. Johnson called and said something
happened over there that Wednesday afternoon.

Q When was it that you learned about anything?

A When officially learned it was that Thursday morning
when the police came around asking people if they knew
anything.

You then recall a police officer coming by your house?

A Yes.

Q Did he bring anything with him?

A He brought photographs.

Q Do you recall the purpose for which he was bringing
photographs around? Did he **show** them to you for a particular
purpose?

A To identify a truck that had been found up above us the
night before.

This was on Thursday morning when the police officer
came by with the photographs?

A That's correct.

Q I'm showing you two photographs which I've marked for
identification State's Exhibit Number four and five. I would

r-t

1 like you to take a look at those if you would and tell me if
2 you recognize them?

3 A Yes. Those are the same photographs that he brought
4 that day.

5 Q **Now**, did you recognize when the officer showed you those
6 photographs what was shown in them?

7 A I recognized - it was the same truck that I had seen go
8 by the day before.

9 Q That is do you recognize both of those photographs as a
10 truck that you had seen or either one of the photographs?

11 A The one with the front of the truck is the one that I
12 remember the most.

13 Q Tell us what happened the day before that made you
recognize or caused you to recognize the photograph when the
officer brought it by? He brought it by **on** Thursday?

A Yes.

Q Tell us what had happened and when it had happened that
caused you to recognize the photograph?

A I had **seen** that truck **go** by Tuesday **afternoon** where I
liven . . . fe I . . . Madawaska - St. Agatha on this day July 5

Q ^{ASF:} How was it y'du were able to recognize the photograph
that the officer then showed you?

A By the front of the truck. I remember by the headlight.
It was banged up.

25 Q **When on** Tuesday afternoon was it that you saw that truck

*Dennis + Nancy
it takes all
the time to
to find*

1 go by your house?

2 A It was sometime ^sust befo ive o'clock ,

3 Q Can you tell us anymore fully the circumstances under
4 which you had seen it on that Tuesday afternoon?

5 A I was just out on the lawn with the children; we were
6 out getting ready to go for a walk when the truck went by,

7 Q Going which way?

8 A He went north up the Lewis Hill Road.

Q You say he[®] Could you recognize how many people were in
the truck?

A No. I didn't really see the driver.

You could not recognize the driver?

No.

Do you recall how many people you saw in the truck?

I can just remember one.

16 Q Was there anything about the driver at all that you do
17 recall?

18 A The only thing I could remember is a green T-shirt;
19 other than that there was nothing that I could remember[®]

*had a
blue T-shirt*

20 Q Was it a male or female?

21 A I would say it was a male[®]

22 Q Any idea about the approximate age for instance of the
23 person who was driving or his appearance?

24 A I never really saw the face but I would say he was in
25 his 20s or 30s.

1 Q Do you recall any facial hair or glasses?

2 A No.

3 Q You mentioned an article of clothing that you did
4 notice?

5 A Yes.

6 Q That was what?

7 A A green T-shirt. The light was you couldn't see the
8 face but I noticed the shirt. That was all.

9 Q How fast if you could estimate for us did the truck go
10 by?

11 A He was going fairly slow, I would say 15 to 20 miles per
hour.

Q Was that the only time on Tuesday afternoon that you saw
the truck?

A The same truck came back by within five to ten minutes.

Q On that occasion which direction was the truck going?

A He was going south at that time.

Q Were you at that time able to see so as to describe the
driver any better than you did the first time?

A No. I just noticed it was the same truck. I didn't pay
any attention that time.

23 Q On that occasion how fast would you say the truck was
going?

24 A out the same speed, 15 to 20 miles an hour.

25 Q Did you make any observations about the behavior or

1 mannerism of the driver when he came back down southbound?

2 A No.

3 Q Had you ever seen that struck before to your knowledge?

4 A No, I never had. Not to my knowledge.

5 Q Are you familiar with or acquainted with most of the
6 folks that live in your neighborhood on the Lewis Hill Road?

7 A Most of them.

8 Q And their vehicles or *CARS* or trucks as such that they
9 might own?

10 A Most of them we get to learn t yes.

Q Did this truck appear to be one of anybody who lived
right there in the neighborhood whom you would recognize?

A No.

Q By the way, when the truck went by you say you were on
the lawn with your children. How far away from the road were
you?

A Probably no more than 30, 35 feet or so.

Q And did you pay any further attention to the truck to
see where it went?

A No, I didn't.

Q Could you tell us what the condition of the roadway is
at that point on the Lewis Hill Road, that is as it goes by
your house?

A Its a tar road by our house. At that time it wasn't
hot topped but it was hot topped later in the fall but it was

1 Still a black road so it was quite smooth.

2 Q Is it, the Lewis Hill Road, in part not paved or I
3 should put it in terms of last summer in July of last summer,
4 was it paved throughout its length or was part of it not
5 paved?

6 A It was all paved last summer; they just resurfaced it
7 again

8 In terms of the speed of this truck as it went by going
15 or 20 *miles an hour*, was that unusual in any way given the
10 traffic you would normally see?

11 A Usually they would go a little faster than that, 25, 30.
12 They *move right along*.

13 Now, Mr. West, let me here direct your attention to one
14 last area. The events you described were on Tuesday
15 afternoon?

16 A That's correct.

17 Q The following day did you also have occasion to be home
18 in the afternoon?

19 A Yes, I was home but I was over working in a garden most
20 of the afternoon.

21 You've indicated before that you do know where the
22 Henkels live?

23 A Yes.

24 Q With respect to the Henkel residence, did you make any
25 observations at all on Wednesday day afternoon?

a_

1 A The dogs barked a lot there in the afternoon and
2 normally they don't bark. That was the only thing we noticed
3 different that day.

4 Q Could **you** tell us on Wednesday afternoon when you heard
5 the dogs barking?

6 A Somewheres around two to three · early to mid-afternoon.

7 Q I don't know if you do have any recollection of the
8 dates that we are talking about, the Tuesday and Wednesday,
Tuesday when you saw the truck Wednesday when you heard the
dogs barking?

A I don't know which day was which: I couldn't tell. I
can't remeer exactly which day.

MR. WRIGHT: I would offer State's Exhibit Number
four and five.

MR. CONNOLLY: No objection, sir.

THE COURT: State's Exhibits Number four and five
are admitted at this time.

**MR. WRIGHT: May I circulate these to the jury as
well?**

THE COURT: Yes.

**(Whereupon State's Exhibit Number four
and five were circulated to the jury)**

MR. WRIGHT: Thank you.

1 THE COURT: Mr. Connolly.

2
3 CROSS EXAMINATION

4
5
6 BY MR. CONNOLLYm

7 Q Good morning, Mr. West. Mr. West, would you say that
8 the area you were living is a rural area?

9 A Yes.

10 Q Would you say there are a large number of pickups that
11 go back and forth in that area?

12 A Yes.

13 Q The only one you have ever been questioned about was the
14 one in the photograph?

15 A Yes.

16 Q But it would be fair to say that you've seen other
17 **pickup trucks on** that road?

18 A Yes.

19 Q **Lots of times it's not unusual at all?**

20 A **No.**

21 Q In fact, if you go down the roadway sprinkled throughout
22 all of the houses there are pickup trucks everywhere you
23 look?

24 A Yes,

25 In fact there are some abandoned pickup trucks on the

1 corner of the Lewis Hill Road and - do you know where I'm
2 talking about?

3 **A Yes.**

4 Q That's a red pickup; it has snow on the back of it now?

5 A At the corner -

6 Q Down a little bit from the corner of the *Lewis Hill Road*
7 and the Dead River Road maybe more if you are going up to the
8 Litchfield Road you would go by it on the right-hand side?

A No.

Q You are not familiar with it?

A I don't remember it.

Q It wouldn't be unusual to see an abandoned pickup?

A No.

Q On the day in question, on the 6th, did you see any
other pickup trucks?

A I'm sure there were, yes.

Q You didn't make a notation about them because you
weren't asked about them, is that a fair statement?

A Yes.

Q Did you see other red pickup trucks that day?

A I can't remember any.

Q You could have?

A Yes.

Q When you saw this pickup truck that you identified, the
driver was alone; is that correct?

1 A That's correct.

2 Q When the police brought you the photographs which have
3 been marked as *State's Exhibit* Number three and four - -
first of all you knew the truck had been found in reference
5 to this case · isn't that right?

6 A Yes.

7 Q And you wanted to be cooperative. You wanted to help
8 the police in their investigations. You were a concerned
9 citizen?

10 A I was asked about it.

11 Q But you were asked about this particular truck?

12 A Or anything else, but that was the only thing I
13 remember.

Q That was the only thing that you were asked
specifically?

A *That was the only* thing that stood out in this incident.

Q They came out and asked you specifically *about this truck*
and not about anything else except in a general sense what
else you may have seen?

A They came back twice that day they came out once if I
remembered anything. Then they brought the pictures later on
that day.

Q You identified the picture at that time?

24 A Yes.

25 Q But at the time you identified it you knew it had been

1 found and they indicated they felt it was involved in this
2 case?

3 A They found that truck, yes.

4 Now, sir, it's my understanding you saw the truck you
5 believe at **five going** north and at 5:10 going south?

6 A It was around five.

7 Q Plus or minus **if we** use **five o'clock?**

8 A It was a few minutes between the time they went north
and came back south.

Q *When you say you saw it going north and south there was
only one individual in that truck?*

A *True.*

Q It was driving fairly slow for that area?

A Fairly slow.

• It went by your residence and therefore it also went by
the Henkel residence at five o'clock?

A Yes. They live below us. So I assume he came by there,
too.

Q **You didn't see** it stop?

A **No.**

Q You can't identify the person who was driving the
vehicle at that time?

A No.

Q It would be fair to say it could be anybody, you don't
know?

A Yes.

2 Q What kind of dogs do the Henkels have?

3 A One is a black Lab and one is like a Shepard mix.

4 Q Big dogs?

5 A Yes.

6 Q Are they secured or free roaming?

7 A I believe they are tied now. When they first carne they
8 used to be free roaming.

9 Q On July 6th were they free roaming or tied?

10 A I don't know. I didn't see the dogs that day.

11 Q On the 6th you heard them?

12 A I heard them.

Q You heard them more than one time?

A I heard them most of the afternoon.

Q They don't bark as a rule; is that correct?

A They bark sometimes, we hear theme, but it went on so
long that day it was out of the ordinary.

Q *Was it a continuous stream of barking or was it more
than one incident?*

A It just seemed as to keep on. They never stopped
21 barking.

22 Q To the best of your recollection its two to three in
23 the afternoon?

24 A Yes.

25 Q Could it have been that they stopped and started up

1 again?

2 A They could have. I was doing something and I would hear
3 *them again later on.*

4 Q You don't know whether they were tied?

5 A No. Not that day. I know where their houses are now.

6 MR. CONNOLLY: Thank you.

7 THE COURT: Any re-direct examination?

8 MR. WRIGHT: Nothing further.

9 THE COURT: Thank you. You may step down.

10 Mr. Foreman and Ladies and Gentlemen of the
11 Jury, I'm going to read to you a stipulation that counsel
12 have entered into. And a stipulation is an agreement between
13 the parties that if a certain witness were to appear and
14 testify he would testify *in a certain way. Thus saves the*
15 *parties the necessity of bringing that witness in.*

16 The parties stipulate that Detective Patrick
17 Lehan of the Maine State Police showed two photographs to Mr.
18 Robert West on July 7th, 1988. And asked Mr. West if he
19 *could recognize what appeared in* the photographs. These
20 photographs are State's Exhibit Number four and five and are
21 photographs of the same vehicle, a red Toyota pickup truck,.
22 Maine registration 39676-V as in victor. That's the end of
23 the stipulation. Thus its not necessary for the parties to
24 produce Detective Patrick Lehan to testify to that effect.

25 MR. WRIGHT: I would offer State's Exhibit Number

1 six of Maine motor vehicle records.

2 MR. CONNOLLY: No objection.

3 THE COURT: Those are what?

4 MR. WRIGHT: These are, for the record, the
5 registration in the name of Dennis or Nancy Dechaine, RFD box
6 120 AB, Bowdoinham, Maine for a 1981 Toyota with Maine
7 registration **39676-V**.

8 THE COURT: That is the one exhibit, State's
9 Exhibit Number six; is that correct?

10 MR. WRIGHT: That's correct.

11 THE COURT: State's Exhibit Number 6 may be
12 admitted and is admitted without *objection*.

13

SHARON GILLEY, being first duly sworn, was examined and
testified as follows:

DIRECT **EXAMINATION**

BY MR. WRIGHT:

Q Would you state your name once again for the jury?

22 A Sharon Gilley.

23 Q Are you employed?

24 A Yes. Self-employed.

25 Q What do you do?

1 A We slaughter animals and process.

2 Q Do you have a family-owned business?

3 A Yes.

4 Q Where is the business located?

5 A West Gardiner.

6 Q What is the name of the business?

A West Gardiner Beef,

Q How long have you been in business?

A 13 years.

Q During the course of the time that you have run your *business have you come to know an individual* by the name of Dennis Dechaine?

A Yes.

Q Do you see him here in court today?

A Yes.

Q Could you indicate for the jury's benefit where it is you see him in the courtroom today and what he is today wearing?

A In the center to the right; he's wearing a gray suit with a striped tie.

Q There are at the table just to my left three individuals. He's as you look at him, which of the three?

A He's in the center.

24 Q Center of the three individuals?

25 A Yes.

2 MR. CONNOLLY: We would be glad to stipulate that
3 *this man sitting* here is Dennis Dechaine for all purposes.

4 THE COURT: Thank you.

5 BY MR. WRIGHT:

6 Q How is it you got to know Mr. Dechaine?

7 A a customer.

8 Q How often would you see him?

9 A Wells maybe once every six months.

10 Q What kind of work would you have him do?

11 A We have slaughtered and processed lambs and chickens for
12 him.

13 Q Now, I would like to direct your attention, Ms. Gilley,
14 to a couple of days in July of last year. I *know the police*
15 have asked you about it?

16 A Yes.

17 Q Do you remember the dates that the police talked to you
18 about?

19 A July 5th was one of the days. I'm not sure exactly the
20 the exact day. I know it was on a Friday he brought his
21 birds. On the following Wednesday he picked them up.

22 Q He came in on a Friday.

23 A Yes.

24 Q Was that early in the month?

25 A Early in the *month*.

1 Q Then came back the **following** Wednesday?

2 A Yes.

3 Q If I were to suggest to you that Wednesday was the 6th
4 of July last year, would that seem to fit with your
5 recollection of the events?

6 A Yes.

7 Q You do recall however it was a Wednesday that he came
8 back?

9 A Yes.

10 Q He came back to that location to do what?

11 A To pick up his birds that we had slaughtered the week
12 before.

Q On Wednesday the sixth when Mr. Dechaine came back, can
you tell us at what time of day it was that you saw him at
your company in West Gardiner?

A It was approximately eleven o'clock.

Q **How** was it he **arrived at** your place of business?

A I don't understand.

Q Well, was he walking or in some kind of vehicle?

A He had a pickup truck.

21 Q Do you recall what kind of color?

22 A Orange-red.

23 And you gave him the birds that you had slaughtered for
24 him and packaged for him?

25 A Yes.

1 4 How long did he stay?

2 A Probably half an hour.

3 Q And during that half hour what transpired with him at
4 the business?

5 A Just casual conversation.

6 Q Do you recall - do you have any recollection of the
conversation at all?

A No. He discussed selling his home and moving u^P
country. Discussed the high taxes and you know what normal
people discuss.

Q Could you tell us anything about his behavior, his
attitude, his appearance, how he was acting that day when you
saw him from eleven o'clock to 11:30?

A Very normal.

MR. WRIGHT: Thank you. That's all I have.

THE COURT: Mr. Connolly.

CROSS EXAMINATION

BY MR. **CONNOLLY:**

Good morning, Ms. Gilley.

A Good morning.

Q Mr. Dechaine was sporadic, was a sporadic customer?

A Yes.

4 You were kind of friendly with him?

1 A No more than we are with most of our customers.

2 Q On the morning in question you talked to him for half
3 *hour just about* things in general?

4 A *Yes.*

5 Q Kind of around the **woodstove** except it was summer?

6 A Yes.

7 Q He was warm and friendly and regular?

8 A Yes.

9 Q Nothing odd about his behavior?

10 A No.

11 Q And he came in on that day to pick up about how many
12 chickens was it?

13 A Around 44.

14 Q You have a document that you reviewed before coming in
15 here today; is that how you remember it was 44?

16 A No. I looked back in the book to see how many there
17 were.

18 Q I'm handing you a document and ask: which has been
19 marked as Defendant's Exhibit Number one for identification
20 purposes and ask if you can identify what that is?

21 A *This is a bill that I* made out for the 44 birds and that
22 *he paid it.*

23 Q That is dated?

24 A July 6th, 1988.

25 Q *That is in your own hand?*

1 A Yes.

2 Q That is a receipt that you give?

3 A Yes.

4 MR. CONNOLLY: I would move into evidence
5 Defendant's Exhibit Number one.

6 MR. WRIGHT: No objection.

7 THE COURT: Defendant's Exhibit Number one is
8 admitted.

10 BY MR. CONNOLLY:

11 Q Other than Mr. Dechaine bringing in some chickens he
12 also brought in lambs on occasion?

13 A Yes.

14 Q Those would be brought in for purposes of slaughtering?

15 A Yes.

16 Q Would he also bring in rabbits on occasion?

17 A I can't remember. I don't remember.

18 Q **You indicate** that your recollection *is that he came in*
19 *about eleven o'clock?*

20 A **Yes.**

21 Q How do you remember that time?

22 A It was brought to my attention when it came on the news,
23 and I remembered the day before.

24 Q Could it have been earlier in the morning?

25 A No earlier than 10:30.

1 Q Your recollection is that he stayed by and you conversed
2 for about half an hour?

3 A Yes.

Q so that would be either 11:30 or 11 o'clock?

A Yes.

Q Your business is located in West Gardiner?

A Yes.

8 Q *Based upon your* experience how far is West Gardiner from
9 Bowdoinham, do you know?

A I don't know. Probably 15 miles at the most.
More or less, plus or minus?

A Yes.

Q How was he dressed, do you recall?

A I don't recall.

Q Nothing unusual?

A No.

Q You **gave** a statement to the police, do you recall doing
that?

A Yes.

Q **Have you** ever had an opportunity to review that?

A Yes.

Q When did you do that?

23 A When I was served with a subpoena last week.

24 Q And your recollection is that he brought the birds in
25 before July 4th weekend?

1 A He brought them in on Friday.

2 Q That was right before July 4th?

3 A Yes.

4 Q Did you talk to him at that time?

5 A *No, I didn't.*

6 Q So you didn't receive the birds yourself?

A No.

Q Is it unusual for people to bring in birds to be slaughtered?

A No.

Q That's your business?

A Yes.

Q And as you enter your store or the business part of your establishment that is *just a regular old business; it's not refrigerated?*

A **No.**

Q There is a back part that is?

A **Yes.**

Q And in the back part would it be fair to say it's not dissimilar to a meat **room** type of thing?

A No.

22 It's not?

23 A What do you mean?

24 Q It's like a meat room?

25 A Yes.

1 Q There are people that work in there all the time?

2 A Yes.

3 Q How many employees do you have?

4 A My husband, my son and myself.

5 Q It's refrigerated and they wear white coats and there is
6 a meat-cutting operation there as well as a slaughtering
7 operation?

8 A Yes.

9 Q You have somebody clean up day to day, but it's fair to
10 say that place is fairly - it gets messy *and bloody*?

11 A Yes.

12 MR* CONNOLLY: I have no further questions.

13 MR. WRIGHT: Nothing else.

14 THE COURT: You may step down.

15

16

17 DEBRA CROSSMAN, being first duly sworn, was examined and
18 testified as follows:

19

20 DIRECT EXAMINATION

21

22 BY MR* WRIGHT:

23 Q Would you state your name once again for the jury?

24 A Debra Cherry Crossman.

25 Q Are you employed?

1 **A Yes, I am.**

2 **Where do you work?**

3 **A Liberty Mutual Insurance** Company in Lewiston.

4 **Q What do you do?**

5 **A I'm a coverage coder.**

6 **Q Where do you live?**

7 **A In Bowdoinham.**

8 **Q We have behind you - State's Exhibit Number one is a**
9 **larger map. I would ask you to turn around. If you could**
10 **orient yourself to that. Do you recognize as its marked on**
11 **there the location of your residence?**

12 **A Around in here.**

13 **Q Do you see** down at the bottom of the map where it says
Meadow Road?

A Yes.

Q Is that the road that you live on?

A Yes. Meadow Road.

Q How long have you lived on the Meadow Road?

A About eight years.

Q And are you married or single?

A Married.

Q Your husband's name?

A Christopher.

Q Christopher Crossman?

A Yes.

1 Q You have been married to Christopher Crossman for how
2 long?

3 A A little over a year.

4 Q Were you previously married?

5 A No.

6 Q Does either you or your husband Christopher have any
7 children? Does he have any children by a previous marriage
8 or do you?

9 A Yes. He has two daughters and we have one daughter
10 together.

11 Q His daughter's names are what?

12 A Jacqueline and Jessica.

13 Q They are how old?

14 A Jacqueline is 17 and Jessica is 16.

15 Do either of them live with you?

16 A Yes. Jessica **does**.

17 Q **Jacqueline lives** with whom?

18 A **She is out on her own.**

19 4) **Now**, you have children yourself apart from the younger
20 child that **you have with** your husband?

21 A Just Billy is the only one I *have with my husband*.

22 Q Apart from that you, have other children?

23 A No.

24 Q No. Let me here try it this way. Have you had other
25 children before?

1 A Yes.

2 Q What children?

A Sarah.

4 Q **You** are Sarah Cherry's mother?

5 A Yes.

6 Q Sarah was born when?

7 A May 5th, 1976.

8 Q So in the summer of last year she would have just turned
9 12?

10 A Yes.

11 Q About two months earlier she would have turned 12?

12 A Yes.

13 Q Its going to sound like a stupid question but I have to
14 ask it for some technical reasons: I take it she was not
15 married?

16 A Right.

17 Q With whom did Sarah live last summer?

18 A She lived with me and my husband Chris.

19 Q At that time the summer of last year did anybody else
20 live with you?

21 A No.

22 Q Where did she go to school?

23 A *Bowdoin Central.*

24 Q At the completion of last year, that is whenever the
25 school year ended, June, what grade had she just finished?

27 on May 5 (96)
used to be Boudin etc.
was given 9th Mt. Area

1 A She finished the sixth grade.

2 Q She would have been in 7th grade this past fall?

3 A Yes.

4 Q Where would she have gone to *school this last fall*?

5 A Mount Ararat in Tophsam.

Q Did Sarah have any particular interests or hobbies?

7 A Yes. She was into baseball, basketball, soccer, she liked anything to do outdoors, cross-country skiing.

Q How was she as a student in school?

A She was a very smart student.

Q Had she been placed in some special programs in school?

A Yes. She was in the gifted and talented program and she was also in Brownies and Girl Scouts and she went to the YMCA summer camp. She belonged to the Youth Fellowship at her church, at our church.

Q **How** often, if at all, did you and your husband leave Sarah at the house by herself?

A *We had just* started probably after January of last year.

Q Under what kinds of circumstances might you have left her at her home by yourself?

A We would go to the store and come back just to see how she did. Plus also *in January* I started letting her go home after school because Jessica was there.

Q Before that time, before she was allowed to go home after school, where did she go?

1 A She went to a baby sister.

2 Q That was located where?

3 A In Bowdoinham.

4 Q The baby sister's name was what?

5 A Corkum.

6 Q Let me here ask you if you can recall the 6th of July of
7 last year?

8 A Yes. I got up in the morning to go to work. And
9 Hillary, my younger daughter, was already up. So I got her
10 ready to take to my mother's. Sarah was still in bed. As I
11 was getting ready to leave I went upstairs to kiss her goodbye
and make sure she was awake to make sure she would get ready
to baby-sit.

Tell us about that. What plans as you knew them had
been made for her day that *day; the sixth of July, what were*
her plans to be?

A **For** that day she was to be picked up between eight **or**
8:30 by Mrs. **Henkel**. They were going to take her to their
house to baby-sit their baby.

Q Did you know the Henkels?

Yes.

Q How did you know them?

A *I knew them from* running into them at Coleen Corkum's
24 because her daughter was being baby-sat there and we would
25 speak.

1 Q Did either Mr. or Mrs. Henkel come to you before you
2 left or did you leave for work first?

3 A I left for work. Sarah was still at home.

4 Q What happened when you last saw Sarah before leaving
5 that day?

6 A *She was still in* bed. And I went up and kissed her
goodby and told her don't worry; if anything happens don't be
afraid to call either me or her grandmother or Mrs. Henkel at
work.

Q Had you given her any other instruction about how she
should *perform her duties as a baby-sitter*?

A Not that morning, but the night before I had.

13 Q Tell us about that?

A It was the same thing. We always told the kids when we
leave don't let anybody in the house; if anybody calls don't
tell them that they are alone; don't be afraid to call
somebody if you need help.

Q **If you** can say, what was her kind of feelings or
attitude about the job she was about to undertake?

A **She** was excited and a little nervous because it was the
first time she baby-sat a baby.

Q An infant child?

A Yes.

Q Had she done any baby-sitting outside of your family?

25 A Just one other time.

1 Q If you know, who else knew of the plans for her to be
2 baby-sitting at the Henkels that day?

3 A Other than me and my husband and Hillary, my
4 grandmother, she called her. She called another girlfriend
of hers, a Julie Wagg who lived on the same road as the
Henkels.

Q That's a young friend?

A Yes.

Q Was your husband home when you left or had he gone as
well?

A That morning he was already gone for work.

Q You left approximately what time?

A Between 7 and 10; after 7.

Q You don't have any idea how she was dressed that day
when you left?

A No.

Q Do you know, Mrs. Crossman, whether Sarah had from time
to time wore as artifacts handkerchiefs or bandanas?

A Yes.

Q Can she describe how she wore them?

A Around her head. She wore them around her leg as a
belt.

23 Q Were those all bandanas her own or of other people as
24 well?

25 A Some of them were mine. And sometimes her friends they

1 would trade. If Sarah had a color on that somebody else
2 wanted to wear they would trade at school.

3 Q Try to wear colors that matched what she was wearing?

4 A Yes.

5 Q After you left that morning did you hear from Sarah
6 later that day at all?

7 A No.

8 Q Or ever see her again?

9 A No.

10 MR. WRIGHT: Thank you

11 THE COURT: Mr. Connolly.

12

13 CROSS EXAMINATION

14

15 BY MR. CONNOLLY:

Q Good morning, Mrs. Crossman. Mrs. Crossman, you have no
acquaintanship except after July 6th with Dennis Dechaine?

A Right.

Q As far as you know your family has had no contact?

A Right.

Q So its fair to say there is no known relationship
between you folks and him?

A *Not that I know of, no.*

Q How long have you lived on the Meadow Road?

A About eight years.

1 Q So Sarah grew up on Meadow Road?

2 A Just about, yes.

3 • Did you own the house previous to marrying Chris?

4 A I owned a trailer.

5 Q Did he *own the* house?

6 A Yes. He does own it.

7 Q So before you two got married he owned the house?

8 A Yes.

9 • So it would be fair to say you were living together for
10 a while before you married?

11 A Yes.

12 Q For about 7 years, thereabouts?

13 A Yes.

14 Q Before that for that eight year period from, that would
15 be 1980 more or less?

16 A Yes.

17 Q So 1980 you moved in together, right?

18 A I moved in with him, yes.

19 Q Who lived in the house when you first moved in?

20 A My husband and his two daughters.

21 Q That is Jacqueline and Jessica?

22 A Right.

23 Q And Sarah lived there as well?

24 A Yes.

25 Q As did Hillary when she was finally born?

1 • Yes.

2 Q She wasn't born until 1985?

3 A 1980 she was born.

4 Q She is eight now?

5 A Yes.

6 Q Now, Chris has two daughters from a previous marriage?

7 A Right.

8 Q One of them is Jacqueline and one is Jessica?

9 Yes.

10 Q Their dad as their mom's name is what?

11 A Maureen Senecal.

12 Q And Maureen Senecal is married to?

13 A Doug Senecal.

14 Q Do they have children together?

15 A Yes.

16 Q That child's name is what?

17 A They have two, Aaron and Issac,

18 Q They are nine and ten, in that area?

19 A Yes. I'm not too sure exactly.

20 Q Sarah's dad's name was what?

21 A Gilbert Austin.

22 Q You got along very well with Gilbert as far as
23 visitation and such, although he didn't see Sarah that often?

24 A Right.

25 Q But there was no difficulty?

1 **A No.**

2 4 Now, as far as the relationship between Chris and
3 Maureen, custody was primarily with Chris of the children?

4 **A Yes.**

5 What was visitation like?

6 A There was no visitation. It *was something they* did up
7 together.

8 Q An ad hoc type of basis?

9 A Yes.

10 Was it frequent?

A During the school year we had the *kids during* the week,
weekends they went to Maureen's. In the summer it was just
the opposite.

 Because they didn't have to go to *school and* there was
more time available?

A Yes.

Q There was a pretty free exchange between the Senecal
residence and the Crossman residence, for awhile?

A Yes.

Q Jacqueline Crossman lived with you folks until when?

A out a year and a half ago.

 She left the home when she was 16?

A She went to her mother's and she switched schools.

• She went to live with Maureen Senecal?

25 A Yes.

□ **She moved in about a year** and a half ago?

2 **A Yes. She still came to our house on the weekend.**

3 □ **And she finally left that residence and did not come**
4 **back to your house?**

5 A Yes.

6 • That was when?

Just about a year o.

□ Do you know approximately what month we are talking
about? Was it in the early sixties?

No. It was in the spring.

□ Where did she go to?

To our knowledge she went to New Hampshire.

• Then you are not sure where she is; is that a fair
statement?

A Yes, I better not say. We are not too sure.

□ *it's fair to say that she is missing?*

MR. WRIGHT: I would object. I don't know what
relevance this possibly has **with the** case **on** trial. **I**
haven't objected because I want the jury understanding the
names of the family **members**, and it may be - - I don't are
going with all of this.

MR. COLLYER: I do, I can assure the Court it *has*
relevance. I will be brief.

(Whereupon a sidebar conference as held)

1

THE COURT: Mr. Connolly.

2

3

MR. CONNOLLY: I won't ask her anything more right
4 now. I'll leave it for right now.

4

5

THE COURT: The objection is sustained. I fail to
6 see the relevance of it.

6

7

MR. CONNOLLY: I'll leave *it right that way for*

8

now

9

10

(Whereupon the sidebar ended)

11

12 BY MR. CONNOLLY:

13

Q Jessica sand Sarah were pretty close?

14

A Yes.

15

Q They were best friends?

16

Yes.

17

Q And in fact they saw each other on July second and

18

third, that Thursday and Friday, they were visiting each

19

other; do you recall that?

20

A I don't remember.

21

Q It wouldn't be unusual for them to be together?

22

A Yes,

23

It's a fair statement that there was pretty good size

24

phone bill between your house and theirs?

25

A Yes.

1 Q So they chatted all the time?

2 A Yes.

3 Q It would be fair to say that Sarah was delighted and
4 excited with the new baby-sitting job?

5 A Yes.

6 Q This was her first chance at responsibility and making
7 some money?

8 A She baby-sat before.

Q But this was a chance for her to get established in the
baby-sitting business?

A Yes.

Q She knew about two weeks in advance that she was going
to be baby-sitting at the Henkel residence?

A Yes.

Q Now, in reference to the instructions that were provided
to Sarah in reference to her baby-sitting, you yourself gave
her some instructions; is that correct?

A Right.

Q And one of the things that you had certainly discussed
with her was not to answer the door if a stranger was there?

A Yes,

Q Was there any particular reason for heightened sense of
concern or was it just general instruction?

24 A Just general.

25 Q Sarah was a very bright little girl?



1 A Yes.

2 Q She was an obedient child?

3 A Yes.

4 Q **She was concerned to follow your instructions?**

5 A **Yes.**

6 Q Based upon your experience with her she would have
followed the instructions, right?

A Yea.

Q And you had a suggestion or instructions to her to have
her tell people if they called, for ple, that she was not
alone?

A Yea.

Q And *similar kinds of things like how to* handle any
adversity, where the police number was?

A Right®

Q That kind of thing?

A Yes.

Q **Sarah was an athletic child?**

A **Yes***

Q **She** was a **good** athlete?

A **Yes,**

Q What position did she play in baseball?

A About every position there was,

Q She did basketball and cross-country skiing?

25 A Yes.

1 Q She was no wimp?

2 A No,

3 Q She was a little on the **tomboy** side?

4 A **Yes,**

5 Q When you started **to leave Sarah alone after I guess**
6 *January you said, thereabouts?*

7 A Yes,

Q *It was because Jessica was there with her usually?*

A *Yes, Plus Sarah, she wanted more responsibility. She wanted to prove to me she could do it.*

• *Jessica was not living with you folks at the time?*

A *Yes, she was.*

Q *When did she not live with you then?*

A *Jessica still lives with us,*

Q *She lived with you throughout the entire period we are talking about?*

A **the weekends, yes, This was the summer* In the summer she goes to her mother's during the week, We don't want to leave her there all alone,**

Q **During the week Jessica** w at the Senecals in the su er and home on the weekends?

A Yes, In the s er Sarah and Hillary went to s^py mother's.

She lives in Lisbon Falls?

A Rights

1 Q Do you have any brothers?

2 A No, I don't.

3 Q Does your husband have brothers?

4 A Yes.

5 Q What are their names?

6 A Clifford and Carlton.

7 Q where do they live?

A Clifford lives in Lisbon *and Carlton lives in Lisbo Falls.*

Q Do you see them on *and off?*

A Clifford I see quite often, Carlton, I don't.

Q Sarah didn't have a *boyfriend, did she?*

A No, not really.

Q *She wasn't getting* phone calls from a young guy all the time, was she?

A No.

Q You remember giving many statements but at least one to the police during this incident?

A Yes,

Q Do you ra er saying that Sarah was a super--protected child?

MR. WRIGHT: I would object *

(Whereupon a sidebar conference was held).

MR. WRIGHT : Its one thing to eha racterize

2 somebody on a given day *as acting, but its another thing to*
ask that calls for essentially testimony of character.

3 THE COURT: Well, we **have** a border line question of
4 **relevancy** here.

5 MR. CONNOLLY* I **can** offer the Court what that is
6 if she is a super-protected child, and what I'm getting to in
7 the report there is a notation that she was given
8 instructions even before that day on never answering the door
to strangers,

MR. WRIGHT* I've already established that.

MR. CONNOLLY* On that day. I want to establish
that its been a longstanding practice.

E COURT: Why don't you ask that then instead of
this super-protected.

MR. CONNOLLY: That's the word she used. 'That'
what is in the report,

MR. WRIGHT* The fact that the word is in the
report doesn't make it admissible by a question in the
courtroom.

MR. CONNOLLY* But if it's her own terminology?

MR. WRIGHT: That doesn't make it admissible
because a witness describes s y, something in a
statement as,

THE COURT: Why don't you get into the specific
instructions that she had given Sarah.

2 **(Whereupon the sidebar ended)**

3

4 **THE COURT:** *Ladies and Gentlemen of the Jury, twice*

5 *in about the last ten minute we've gone to side bar. You*

6 *will recall when I had my initial discussion with you about*
jury service I said there are going to be a number of times
throughout the course of this trial when we'll go to side bar
and we are not playing I've Got A Secret over there. We are
not trying to hide anything from. We are discussing points
of law and questions of admissibility of certain types of
evidence.

Its my duty as a judge to *see to it that you don't*
get caught in a legal crossfire between the arguments of the
lawyers and the *Court*. We are not hiding anything from you,
You'll hear all the evidence that you need to hear that is
admissible. **But** again **we are not** trying **to** hide *anything*
from you, Thank you.

BY MR. CC LLY:

Mrs. Crossman _t *do you recall giving a statement to the*
police?

A Yes.

Q And do you rcall *in that statement you indicated that*
you *told Sarah before the day of July 5th when you gave her*

1 the instructions about not answering the door that you told
2 her **not to ever** answer **the door when nobody** else is home?

3 A Yea.

4 Q *That was a longstanding instruction?*

5 A Yes.

6 *It wasn't just something on the fifth?*

7 A No.

Q *It w a situation where it was re-enforced to her continuously?*

A Yes,

Q *In addition, you indicated that at least earlier she wasn't allowed to ride her bike alone, for example?*

A We never left the kids ride their bikes on the street.

Q You also indicate for a *very long time* she was not allowed to be at the house alone herself?

A Right.

Q And that caused some **difficulties for you** and your husband coming and going to work?

A Yes.

Q Sarah had sensitive feet, I understood?

A Yes.

Q *That was more than just normal tender feet, it was a little bit more than a normal child's feet. They were sensitive noticeably: is that correct?*

A Not noticeably, Well, yes, they pained her, yes.

Q So it would be - would it be unusual for her to walk
2 **around barefoot?**

3 **A Just the few months before, right. Most of time she**
4 **kept shoes on,**

5 Q Sarah had pierced ears?

6 Yes.

Q *And two in one ear?*

A *Two in both.*

Q *In both?*

A Yes.

Did she routinely wear earrings?

MR. WRIGHT* I would object.

THE COURT: I will allow it.

BY MR. CONNOLLY*

Q She routinely wore earrings?

A Just about, Mostly in school. During the summer she
didn't wear them **that** often,

Q Do you recall giving the police a statement on 7-5-5?

A I **probably** did.

• *If I show you you a copy of the statement would it
refresh your recollection of the statement? Do you think it
would refresh your memory?*

A Yes,

I do remember discussing that, yes.

1 **Did you have a chance to read it?**

A **I remember it.**

3 **Q When they were looking for Sarah you were trying to give**
4 **the police things that would be individualistic about her and**
5 **to that extent you gave them a hairbrush; do you recall doing**
6 **that?**

7 A *One that she had in her jacket pocket.*

8 *So they could take a hair sample?*

A Yes.

Q *And do you rall your belief that on the day in*
question that she had gold-post earrings that she was
wearing?

A *She probably did.*

Q *You can't be entirely certain because you didn't see her*
leave that morning?

A *Right.*

Q **But** *when you **told the police on 7-8-88 your memory was***
better than it is now?

A **I** *don't know what **you are driving** at.*

Q I'm asking **the questions, You believed** *when you gave*
the police the statement in July that you believed she was
wearing earrings?

A Yes.

Q *Those were gold-post earrings?*

A *Probably.*

1 Q And you had discussions with Detective Hendsbee, sitting
2 here, **with** reference **to some other** items that **Sarah** was
3 wearing; is that correct? Her bracelet, for example?

4 A I don't **remember** talking **to** Hendsbee about that.

5 Q **Steven Drake, excuse me,**

6 A At the house, yes.

Q And would it be fair to say that Sarah was a neat child,
neat clothing wise?

A Sometimes,

Q Was she obsessive about it?

A No,

Q Did she wear make-up?

A No. I didn't allow her to wear makeup.

Q And based on your experience with her did she always
wear underwear?

A **Yes**

Q **Finally, at the time, the very difficult time at the
funeral, there were lots of family and friends there?**

A **Yes,**

Q **And you received strong support from family members?**

A Yes,

MR. C O Yt I have nothing further.

THE COURTS Mr. Wright*

RE-DIRECT EXAMINATION

1
2
3
4
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10
11

BY MR. WRIGHT:

Mrs. Crossman, you had been given a copy of a statement that the police had typed as a result of an interview they had done with you at a time when Sarah was missing; is that correct?

A Yes.

Q This is before Sarah's body was found?

A Yes.

• *And you did not know at that time whether she had, when you had last seen her, two days earlier on the 6th, whether or not she had earrings on or not for sure?*

A Right. I wouldn't have noticed.

Q In fact, the statement doesn't say that at all. It just says she had gold-post earrings?

A Right.

Q She had pierced ears. **You knew that** and you knew what kind of jewelry she had?

A Right.

But you don't know if she was wearing earrings *that day?*

A No, I do not.

• The statement doesn't even suggest *that she* was wearing earrings that day?

A Right.

1

MR. WRIGHT: Thank you.

2

3

FURTHER CROSS EXAMINATION

4

5

BY MR. CONNOLLY:

6

Mrs. Crossman, after Sarah's death you went through her

7

things in the house?

A Some of it, yes.

Q *Are those gold-post earrings in* the house?

A She had many pairs of gold-post earrings and so did I.

We exchanged earrings.

So we don't know; is that a fair statement?

A Yes.

Q When you gave the police the statement in July when she was missing you thought she might have been wearing them possibly?

A **Possibly, yes.**

MR. CONNOLLY: Thank you.

MR. WRIGHT: Nothing else.

THE COURT: Thank you. You may step down.

JOHN HENKEL, being first duly sworn, was examined and
2 testified as follows:

3

4

DIRECT EXAMINATION

5

6 BY MR. WRIGHT:

7 Q Would you state *your name once again for the* record and
8 to the jury?

9 A John Henkel.

10 Q Your occupation?

11 A IPm a jeweler.

12 Q For whom do you work?

A I work for myself.

Q Where?

A I work in Freeport.

Q Do you work with anybody else?

A I have a partner.

Q His and her name?

Her name is Rose Knodt.

Q How long have you been associated with Ms. Knodt in
Freeport?

A I met her three years ago, but it wasn't until recently
that we were working full-time together.

Q How long have you been working at Freeport at the shop
there?

1 A I would have to say three years.

2 Q Are you married or single?

3 A Yes.

4 Q Which is it?

5 A I'm married.

6 Q Your wife's name?

7 A Jennifer.

8 Q Do you have any children?

9 A Two.

10 Q For the jury's understanding their names and ages?

A My oldest daughter is Harris, she is five. And my youngest daughter is Monica, and I believe she is *18 months* now.

Q Where do you live?

A I live on the Lewis Hill Road in Bowdoin.

Q There is a map behind you that we've marked as State's *Exhibit* Number one. In the center of the map there is an **orange** mark with your name next to it. Do you recognize that as the **location of** your **house**?

A **Yes, it is.**

Q How long have you lived on Lewis Hill Road?

A out four and half years.

Q Can you describe your residence for us in a general way?

A We have about 380 foot road frontage. The driveway goes
25 in perpendicular to the Lewis Hill Road. It goes back out

1 3 hundred feet and then if you take a left that's the
2 dooryard and that's another 75 to feet back to the house.
3 The house looks rather barnish. It's a cape built on top of
4 a garage.

5 Q Let me here show you two photographs which I've marked
6 for identification as State's Exhibit Number 7 and 8. Do you
7 recognize them?

8 A Yes. That's my house.

9 Q Both of them depict your house?

10 A Yes.

11 Q Do they fairly and accurately *show the appearance of*
12 *your house as it looked last summer when the events that*
13 *bring us to court here occurred?*

14 A Yes.

MR. WRIGHT: I would offer State's Exhibit Number 7
and 8.

MR. CONNOLLY: No objection.

THE COURT: State's Exhibit Number 7 and 8 are
admitted.

BY MR. WRIGHT:

Q If you would, Mr. Henkel, hold one of the photographs
up. Start with 7. For the jury's benefit describe the view
24 of the house that we have in that photograph?

25 A This facing the entrance. It's from the largest part of

1 the yard. The driveway comes in and then the dooryard front
2 area is in here. The street is out behind this. The house
3 is diagonally situated. *This corner* here is pointing south.

4 Q So that is a view of the back of the house as one would
5 approach it or the side of the house?

6 A You can't see this side of the house from the road.

7 Q At all?

8 A At all.

Q That is the backside of the house from the road?

A Yes.

Q One comes off the Lewis Hill Road up three hundred feet
then makes a left?

A Yes.

Q And continuing another 75 to one hundred feet to the
house?

A Yes.

Q State's Exhibit Number 8 depicts what?

A This is what you see as you come in the driveway as you
take a left at the end of the driveway.

Q After you come up the driveway and make a left-hand turn
that's what you would see?

A Yes

Q When did you complete the house?

A October. It's still not complete. But we moved in in
25 October before last, 1987.

1 Q Moved in by the fall of 1987?

2 A **Yes.**

3 **In** the summer of last year how well could one see your
4 house on the Lewis Hill Road?

5 A Not very *well*. The front three hundred feet of the yard
6 was well treed and with the leaves you couldn't see much.
7 You could see an outline of a house as you drove by, but you
8 couldn't see much.

9 Q How about from the head of the driveway?

10 A There was one area as you drive by that you could see
11 just up, you could **see** this part of the house just a little
12 *bit as you went by*.

13 Is that kind of a set up, houses set back that far,
typical of the houses along the Lewis Hill Road or unusual?

A I don't know. There are some that are set back that
I've never even seen and then there are some that are quite
close.

Q **Would** I be **correct in** saying that the trees that show in
State's Exhibit Number 7 in the background are trees that are
located between your house and the Lewis Hill Road?

A Yes.

Q So this picture is actually looking towards the Lewis
Hill Road?

A Yes. A little north.

25 Q How sharp of a curve or angle does the driveway make as

1 it turns most of the way up?

2 A About 90 degrees. You mean from the end where you turn
3 into the house?

4 • Yes. You come up a distance three hundred feet and then
5 **turn 90 degrees?**

6 **A Yes.**

7 Q Do you and your wife have pets?

8 A Yes.

9 Q What are they?

10 Two dogs and a cat.

11 Q And the dogs last summer were kept where?

12 A In the driveway just as you turn. We have dog houses at
13 the end of the three hundred foot driveway.

14 Are there particular circumstances which caused the dogs
15 to bark or are they *noisy all the time?*

16 A They are not generally noisy all the time. They bark
17 when a delivery person comes or perhaps if somebody is
18 driving very slow by the front and occasionally we get an ATV
19 that comes through.

20 Q What brings ATVs through your property?

21 A My driveway, at the end of my driveway there is a wood
22 *road that connects* all the way through, goes back to a creek,
23 then it goes back around to another woods road.

24 Q Is that passable by normal traffic?

25 A No. Not by normal traffic.

1 Q How close can the dogs get to the house? Are they
2 restrained?

3 A They are on cable. Their cables are about 25, 30 feet
4 but one of the dogs is anchored towards the end of the
5 driveway and one is anchored a little closer to the house,
6 but that dog could probably get **50** feet from the house.

7 Q That would be as close as the dog could get?

8 A Yes.

9 Q What vehicles do you and yOur wife wife have?

10 A *We have a 1987* Omni, a Dodge Omni and a 1985 Subaru
wagon.

12 Q One of them show in the photograph?

A Yes. That's the Omni.

Q Who normally drives the Omni?

A Jennifer drives the Omni. I drive the Subaru.

Q There is in the photographs, State's Exhibit Number
eight, a large, what appears to be a larger door here on the
lower-left of the house?

A Yes.

Q What is that?

A That's a barn door, garage door.

Was that being used last summer?

A Just when I was - not as a garage but I would bring
materials in or open it up to air it out.

25 • I take it you did not regularly use it to park your

1 cars?

2 A No,

3 Q Where did you park?

4 A We generally parked in front *of the house*.

5 Q Pulled right up in front of the house?

6 A Yes.

7 Q Let me here direct your attention to the fourth of July
8 weekend last year. Do you recall that weekend?

9 A Yes.

10 Q Do you recall whether you and your wife and children
11 were home or where you were?

12 A No. We were out of town.

Q Where had you been?

A We were in Chester, Connecticut at my wife's folk
house.

Q When had you gone and when had you returned?

A I can't remember if we left Friday or Saturday. But we
returned on Tuesday because Monday was the fourth, I believe.
It was the day off.

Q You came back the following day, Tuesday the fifth?

A Yes.

Q At about what time?

A It was still light. I'm not exactly sure the exact time
when we got home.

25 Q Morning?

Afternoon.

2 Q Do you recall whether over the fourth of July weekend
3 when you went down to Connecticut either of the cars you
4 owned had been left at the house?

5 A I believe we left a car at my partner's house.

6 Q And took the other car to Connecticut?

7 A Yes.

8 What were your plans for the following day, Wednesday
9 the sixth, after you got back from your in-laws in
10 Connecticut?

11 I had to go to work and Jennifer had to be at work. My
12 oldest daughter Marissa was staying with her grandmother for
a week and we brought our youngest daughter back home with
us.

Q *She was how old at that time?*

A Ten months.

Q **You** had to go to work that day and your wife had to go
to work. What was to **be done** with Monica, the younger
daughter?

20 A Our regular daycare person was on a vacation that week.
21 And we made arrangements to find a baby-sitter.

22 Q Had you known anything about the plans, that is who was
23 going to come to baby-sit?

24 A Yes.

25 Q For how long had it been arranged or had you known?

1 A It had been arranged a couple of days ahead of time.

2 Q Who was to come baby-sit?

3 A Sarah Cherry.

4 Q Had **you** met Sarah Cherry before?

5 A I met at Coleen's at the daycare center where we take
6 our kids.

Q Tell us what happened on the morning of the 6th with respect to Sarah's coming to baby sit?

A I left the house about a little after eight. Fiver ten after eight. We had made arrangements that she would start at 8:30. Jenny had to leave by nine so she wanted to go over things with Sarah before she left.

Q How was Sarah to get to your house?

A I picked her up.

Q You went down to her house and picked her up?

A Yes.

Q Took her back to your house?

A Yes.

Q What did you do after you brought her back?

A I went to work.

Q Leaving Sarah there with your wife and Monica?

22 A Yes.

23 For how long were you at work that day?

24 A Until my wife called at about - I left some time after
25 three.

1 Q How, without going into what your wife had to say to you
2 when she called, can you describe her voice as she sounded on
3 the phone to you when your wife called you some time after
4 three o'clock that afternoon?

5 A She was very concerned.

6 Q Is it fair to say the subject matter which she was
concerned with was Sarah Cherry?

A Yes.

Q What did you then *do in response to your wife's calling*?
What time would you say she called by the way?

A It was some time after three that she called and she was
concerned because she couldn't *find her*. And my first
13 response was that she may have friends on the street and I
14 suggested that she call our neighbor and find the names of
15 some of her friends that might be on the street and call
16 them.

17 Q What neighbor in particular did you suggest your wife
18 call?

19 A Holly Johnson, **across** the street.

20 Q What, if anything, next did you do after you talked to
21 your wife and made the suggestions you made?

22 A I told her to call me back if nothing showed up, if
23 nothing happened. And I worked for a little while longer.

24 Q Did your wife call you back?

25 A Yes, she did.

How much later?

2 I don't know. Maybe *half an hour*.

3 Q *In response to that call what, if anything, did you do?*
4 She, Sarah, could not be located, and I suggested to her
5 that she call the sheriff.

6 Q Did you remain at work?

7 A No. At that point I told her I was coming home.

8 Q Do you recall what time you got home?
9 out 3:30, quarter to four.

10 Q Was your wife's car there?

11 Yes, it was.

12 Q In relation to what is shown in State's Exhibit Number
13 *eight, which shows* the Omni that you say your wife drives,
14 where was the car parked?

A That's where it was parked, right there.

Q Do you recall where you parked when you came in?
I pulled in behind her.

Q **How close?**

A She was in the middle there. She usually parks a little
to the side, so I pulled in a little to the left of that, but
behind her not parallel. I mean it was parallel but behind.

Q Here this way?

A Yes.

Q How far up to or near her car did you park when you
25 parked?

1 A I didn't go in *front of her car. I* was behind her car.

2 Q How far towards her car? How much behind her car did
3 you park?

4 A **Six to** ten feet.

5 Q At that time or later after certain other events did
6 *anything in* the area of the driveway come to your attention?

7 A Yes. I looked at the driveway because I was looking for
8 tire tracks and I found some that were unusual.

9 Q In what sense?

A They didn't belong to our cars, the tread pattern.

Q Where were those located the tire impression or track
that you saw that didn't look to be of your own?

A Facing that photograph with the Omni they were to the
left of that car.

Q Did you do anything yourself to make some kind of
objective record of the tire impression that you saw?

A **Yes.** I put some rocks around so they wouldn't be
obscured or walked over.

Let me here show **you** what I've marked as State's Exhibit
Number nine. Do you recognize what shows in that photograph?

A Yes.

Q What is that?

A Those are the rocks that I put on the driveway.

Q Does that picture fairly and accurately depict that
portion of your driveway, which shows in the background your

2 house in the center of the picture, where your wife's car was
3 parked and the rocks where you placed them down on or near
4 the tire impression, that you found to be unusual?

4 A Yes.

5 MR. **WRIGHT:** I would offer State's *Exhibit Number*
6 9.

7 MR. CONNOLLY: No objection.

8 THE COURT: Exhibit nine is admitted.

9

10 *BY MR. WRIGHT:*

Q Holding this up for the jury, if you would, please,
where in relation - perhaps I would have the photograph
passed around, but where in relation to the rocks that are
shown was the tire impression that caught your eye?

A In between the two rocks.

Q Was that anywhere in the area where you yourself had
driven?

A No.

Q Or different from where you parked?

A I parked behind it.

Further back from that?

A Yes.

Q After you arrived home on Wednesday *afternoon* what was
going on?

A Well, shortly after I *got home* the sheriffs showed up.

1 But before the sheriff *showed up* I talked to ray wife. She
2 was very upset and nervous. And she showed me some papers
3 that she found in the driveway.

4 Q Let me here show you what I've marketed for purposes of
5 identification as State's Exhibit Number 10 and 11. I would
6 ask if you recognize what I've just handed you?

7 A Yes.

8 Q First, number ten.

9 A Yes, I do.

10 Q That appears to be what?

11 A It's an auto body statement.

12 Q More particularly, is that one of the items that your
13 wife showed you that afternoon when you arrived home?

14 A Yes.

15 Q *That has appears a name on the top of it?*

16 A **Yes.**

17 Q **The name is?**

18 A **Dennis Dechaine.**

19 Q **Did that name that day or had** it ever before that day
20 *meant anything to you?*

21 A No, it didn't.

22 Q State's Exhibit Number 11, you can take it out of the
23 plastic folder if you would like. Do you recognize that?

24 A Yes.

25 Q What is that item?

1 A This is what my wife showed me that was found with the
2 autobody paper.

3 Q After your wife showed you these two items, which are
4 marked for *identification purposes only at this point as*
5 State's Exhibit Number and 11, did you do anything,
6 keeping these items in mind?

7 A I obviously noticed that the autobody paper had a
8 description of a vehicle, a Toyota pickup with a year and
9 license plate number, and describing where the damage was on
10 it. And after we spoke to the sheriffs after they arrived
11 they saw this -- at one point some friends came over that
12 were interested in helping and we started driving around for
13 that truck.

14 Q For a truck described on the autobody receipt?

15 A Yes. A Toyota truck with that license plate number.

16 Q Is there a license plate number on there?

17 A No, I don't think **so**.

18 There is, however, a description of a truck, is there
19 not?

20 A Yes. An '81 Toyota. A pickup truck.

21 Q It further describes on the *receipt certain body damage?*

22 A Yes, it does.

23 Q You then as I understand it went to look for a truck
24 that might appear to match the truck that was described on
25 the receipt?

everybody was looking for a Toyota truck match w/ closing & closing argument

1 A Yes.

2 Q With whom did you do that?

3 A ,DdUi Johnson *

4 Q Who lives across the street?

5 A Yes *

6 Q Can you tell us when you left with Doug Johnson to look
7 for the truck that might match that truck that is on the
8 receipt?

9 A It was after we talked to the sheriffs. And by that
10 time there were other neighbors from other parts of town that
11 were there, too, and they wanted to drive around looking too,
12 so they went other places and we went down another street.

13 Q The question I want to ask you was it *dark out when you*
14 *left?*

15 A No. It was still light. I don't recall the exact time.
16 But that time it was around five. It was still quite light.

17 Q Where did **you** and **Doug Johnson** then go in search of the
18 truck that might match up with the truck that was described
19 on the receipt that your wife had shown you?

20 A We went north on the Lewis Hill Road *

21 Q You can use the map behind you.

22 A We went north on the Lewis Hill Road and we took a left
23 and went down the Dead River Road *and went up* the **Hallowell**
24 **Road all** the way to Litchfield Corner and turned around and
25 Caine back. We also went over to Bowdoinham and came back.

1 Q Did you at any time when you went up the Lewis Hill Road
2 and on to the roads that you described including going up the
3 Hallowell Road to Litchfield Corner --

4 A Yes.

5 Q -- which is north of the turnpike that runs at the top
6 of the map there?

7 A Yes.

8 Q Did you at any time in your travels with Mr. Johnson
that afternoon find the truck or see the truck that might
match that which was on the receipt?

A No, we didn't.

Q This all was being done while it was still daytime?

A Yes.

Q The tire impression, to go back to that for a moment,
that you had spotted in the driveway that you put the rocks
down next to, is there any way you could tell us whether that
tire impression had been there **before** the day of the 6th when
you came home that afternoon?

A Well, our driveway is dusty and I don't *know how long a*
tire track could last, but I don't think so.

Q *Do you take any particular care of your driveway?*

A Its a new driveway and the drainage isn't quite right
and I get out and rake it around so the drainage works
better.

25 Q You do not recall seeing that tire impression that the

1 you put the rocks down next to before that afternoon?

2 A No, I didn't.

3 Q Had you or your wife been expecting any servicemen or
4 delivery men to come to the house that day when Sarah was
5 there baby-sitting?

6 A No.

7 Q With respect to Sarah's coming to the house that day,
8 arrangements which you had known about for some days, had you
9 informed anybody else that she was going to be there
10 baby-sitting that day?

A No.

Q When you went out to look for the truck with the receipt
in mind, you went up the Hollowell Road to Litchfield Corners
and back down the Hollowell Road and circled around to the
Bowdoinham area further east?

A Yes.

MR. **WRIGHT:** Thank you.

THE COURT: We are going to take our morning recess
at this time. Mr. Foreman and Ladies and Gentlemen of the
Jury, you are again cautioned not to discuss this case. So
we'll have our recess before cross examination commences.

(A recess was had at 11:15 and the jury returned at 11:40)

25

THE COURT: You had concluded your direct, Mr.

1 Wright?

2 **MR. WRIGHT: Yes, Your Honor.**

3 THE COURT: Mr. **Connolly.**

4

5

CROSS EXAMINATION

6

BY MR. CONNOLLY:

Q Good morning, Mr. Henkel.

A Good mornin^g.

Q Mr. Henkel, you yourself prior *to being in court today*
have never met Dennis Dechaine have you?

A No.

Q He's never been to your home other than in the
allegations in this case?

A No.

Q As far as you know your wife didn't know him?

A That's correct.

Q **You** don't have his phone number in your house or
anything such as that?

A No.

It's fair to say he's a total stranger[?]

A Yes.

23 Q *Sir, turning your attention to your* house and the
24 frontage, the 380 foot frontage, I notice on the front of
25 your house there is a lot of surveyors tape on the trees.

I T

1 Have the woods been cleared out since this incident?

2 A Yes.

3 Q The house now has a clear view to the Lewis Hill Road?

4 A Partially clear. I can see better now.

5 Q And especially this time of year?

A Yes.

Q Are those maple trees out front?

A Some.

Q There are some mix wood as well?

A Yes.

Q It's fair to say on the date of July 6, 1988 that it was fairly dense and grown up in through there?

A Yes.

Q What is called secondary growth, brush and small samplings?

A Yes. It's mixed.

Q At the time in question it would be fair to say that an individual *could not see* clearly the house from the roadway?

A Yes. Just the outline.

Q Based upon your experience at living at that location you have to give instructions to your friends how to get to your house? You have to give pretty explicit instructions?

22 A I give them mileage from 125.

23 Q *Without that it would be easy for them to zip right past*
24 *it?*
25

1 A Yes.

2 Q What kind of dogs do you have?

3 A A golden Lab and a mixed Shepard.

4 Q **How** big is the Lab?

5 A She is lower weight. She is 90 pounds.

6 Q And the shepard is a mix of Shepard and what?

7 A I believe he has some Australian Shepard. Some other
8 mix.

9 Q How big is that dog?

10 A He's bigger than the Lab.

11 Q One hundred pounds?

12 A Yes.

Q So you have 190 pounds of dog tied up right by the
house?

A Yes,

Q How old are they? Are they old dogs or medium or young?

A The Shepard is probably ten or 11.

Q **An old dog?**

A Yes. The other one is probably 7 or 8.

Q Are they active dogs or are they - -

A When they are off the wirer yes.

22 Q Are they house dogs? You bring them in the house from
23 time to time?

24 A We don't let them upstairs they; live in the garage.

25 Q They are active dogs?

1 A Yes.

2 4 Friendly to strangers or unfriendly?

3 A They bark. They've never bitten anybody.

4 Q When you picked up *Sarah Cherry on the* morning at 8:30
5 do you recall how she was dressed?

6 A She had pants on.

7 Q Jeans?

8 A Yes. I would say they were jeans.

9 We don't want you to guess.

10 A Yes. I don't recall the exact outfit she was wearing.

11 Q Do you recall what kind of shirt she had on?

12 A No, I don't.

13 Q It would be fair to say you don't have a recollection of
how she was dressed or what she had on?

A No.

Q You had been away from the house for a couple of days
prior to July 6th?

A Yes,

Q And am I correct in understanding that a CMP meter
person had been by earlier?

A I'm not sure.

You aren't sure? There is no reason to believe that is
true?

A I'm sure if you check the CM? records you would know.

25 Q Do you recall giving a statement to the police that

1 A I said that was a possibility as to who comes in.

2 Q **You** don't *know who* had come and gone during that period
3 prior to - -

4 A No.

5 Q The same with the location of any track marks, you don't
6 know when they were placed there; is that correct?

7 A No, I don't know exactly when they were placed there.

8 Q Although you *knew* that something may be of consequence
and you wanted it to be preserved, hence the rocks?

A Yes.

Q Turning your *attention to* what has been marked as 10 and
11, the notebook and the receipt, you, yourself, did not find
those?

A No.

You, however, were concerned about preserving the tire
tracks. Why is it you were handling these things? Weren't
you concerned about preservation of these things?

A I don't understand.

Q Weren't you *concerned about* fingerprints on the notebook
and the receipt?

MR. WRIGHT: I would object. It assumes Mr. Henkel
has an expertise which by no means he's been shown to have.

THE COURT: Overruled.

24

25

1 BY MR. CONNALLY:

2 Q Did you consider that possibility at all?

3 A My wife had already handled it. She picked them up. I
4 looked at them.

5 Q Did you yourself give Sarah Cherry instructions on the
6 house itself, where things were located or was that your
7 wife? Did your wife do that?

A My wife did that.

Similarly with handling incoming phone calls or persons
coming to the house, did you talk to Sarah about that or did
your wife?

A My wife did.

Q You don't recall, yourself, discussing those kinds of
issues?

A No.

Q Mr. Henkel, I'm showing you something that is marked as
Defendant's Exhibit Number two for identification purposes.
Although it is not to scale, can you identify the photographs
that are attached to this? Can you identify those?

A Yes. That's the **door** to my house.

Q And the other side?

A The doorknob.

Q Although not to scale, is this diagram a fair depiction
of the front door to the Henkel residence on July 6r 1988?

25 A Yes.

1 Q *Turning your* attention to it, we'll place it up on the
2 **easle for discussion purposes.** The Henkel residence now and
3 at the time had no windows in the **door;** is that correct?

4 A That's correct.

5 Q **And** at the time in question it had a deadbolt lock,
6 correct?

A Yes.

Q And also a lock on the doorknob?

A Yes.

Q And did it have an inside chain lock?

A No.

Q *It has a portico or an overhang for rain purposes?*

A Yes.

Q It has a small porch where you have your barbecue grill?

A **Yes.**

Q **It has field stone** steps walking up to the door itself?

A **Yes.**

MR. CONNOLLY: I would move into evidence

Defendant's Exhibit Number two.

MR. WRIGHT: I have no objection.

THE COURT: Defendant's Exhibit Number two is
admitted.

BY MR. CONNOLLY:

Q Sir, turning your attention to the inside of your home.

1 As we open the doorway and walk inside, what room *does that*
2 open on to?

3 A The garage.

4 Q From the garage where does the garage lead to? Is there
5 a separate door in there into the home?

6 A There are stairs into the house.

7 Q *They go at an angle into what room?*

8 A You turn right and they go up and turn as they go up.

9 Q Where is the kitchen located in reference to that?

10 A *Well, it's on the opposite side of the* house.

11 Q Turning your attention to State's Exhibit Number 7 and
12 8, can you give us a ballpark idea of where the *kitchen part*
13 of the home would be located, and if you would try to point
14 it out to the jury approximately where that is located?

15 A The kitchen window is on the long side of the house
16 which is the opposite side of the house.

17 Q Its fair to say there is a window in the kitchen?

18 A Yes. There is a window **over** the sink.

19 THE COURT: For purposes of preserving an accurate
20 record, can you have Mr. Henkel identify those specific
21 reference to the Exhibit Number?

22 MR. CONNOLLY: Yes, Your Honor.

23

24 BY MR. CONNOLLY:

25 Q Re-asking you that question. Turning to the item you

1 pointed to the jury, that is State's Exhibit Number which--

2 A 7 and 8.

3 Q Now turning your attention to where you pointed to, that
4 is on State's Exhibit Number --

5 A The kitchen window is on the opposite wall shown in
6 picture number 7.

7 Q It would be fair to say then that a view of the driveway
8 can be obtained by looking out *the kitchen* window?

9 A No.

10 Q How would one *obtain a* view of the driveway?

11 A From the living room.

12 Q The living room is depicted in number 7 as well?

A No.

Q Number 8?

A Excuse me. There are two windows. Its visible from
two sides.

Q How would one look out at the driveway if a vehicle
approached?

A Looking at picture number eight of these, out these
three windows,

Is it a clutter or incumbered view or is it difficult?
Are they hidden from chairs so you couldn't take a quick
glance out?

A No.

Q It's fairly easy thing to do to look out the window?

1 A If you were sitting on the couch you would have to get
2 up and walk to the window because of a piece of furniture
3 that is in between two of the windows.

4 Q Where is the television set located?

5 A In a cabinet. It's the piece of furniture I was
6 speaking of.

- The television set abuts the window that abuts the window that looks out on to the driveway?

A Yes.

- One is looking above the

A There is one to either side of the television set.

- So light coming in from the outside where the driveway *is is on the other side of the TV set?*

A Yes.

- If the TV set was being viewed merely by standing up one could look out into the driveway?

A Yes.

Q Is there a separate door leading from the garage into the main home?

A No. There is just one stairway and entrance into the house.

Is the stairway an open stairway or

A It doesn't have a door.

- *The only door that is in question is* the one that is on the front, which is depicted in Defendant's Exhibit Number

1 two?

2 A There is a door at the top of the stairs.

3 Q That was my question. There is one there?

4 **A Yes.**

5 Q Does it have a lock on it as well?

6 A Yes.

7 Q And the kitchen is next directly, is adjacent right next to where the living room is located?

A Yes.

Q There is a kitchen table there?

A Yes.

And again, from the kitchen, one could can look out into the driveway?

A Yes.

Q is there another window that looks out to the back of the house or to the side?

A I don't understand.

Q **How many windows in** the kitchen?

A The kitchen, it's all one big room. The kitchen-dining--
living room area.

And it's fair to say that upon the approach of a vehicle or even if a vehicle was going by slowly the dogs get sometimes agitated and excited?

A Yes.

Q They are two hundreds pounds of dog so they make a good

1 bark together?

2 A Yes.

3 Q That would call your attention to what they were barking
4 **at or** unless you ignored them?

5 A Yes.

6 Q Now, is it my understanding that upon entering your
7 driveway it takes a 90 degree turn going up the driveway, a
8 90 degree turn to the face of the house?

A Yes.

Q There is a little turn around, is there not, on the
elbow of the 90 degrees?

A Yes. We use it as a turnaround.

Q So that if one were to go up into the driveway to the
front of the house driving forward, unless one backed out all
the way back down the roadway one would *turn around in that*
elbow and go out straight?

A You could do that.

Q Do you back out or is that your normal procedure?

A *I back out and* turn around there.

Q Your wife does as well?

A Yes.

So if one had a bigger vehicle than an Omni it would be
likely that that would be the procedure used in turning
around?

A Yes.

1 Q Now, sir, you recall that did you got called around
2 *three o'clock*. Now are you certain about that time or is
3 that an approximation in your memory?

4 A It was after lunch, and it was around three o'clock.

5 Q Now, if a police report indicates that your wife
6 returned at 3:20 would that be mistaken or would that be more
7 likely to be accurate?

8 A Well, they write down the times.

9 Q And you didn't?

10 A No,

11 Q You are relying upon your memory which is some time
12 after lunch in the area of three o'clock?

A Yes

Q 3:20 is not an unusual unreasonable assumption *when your*
wife returned home and you got the phone call?

A Correct.

Q Now, sir, when you arrived home had the sheriffs been
there at that point?

A I don't believe so.

Q Its possible they were though?

A I don't **know**.

Q What time do you first recall speaking to a sheriff?

A It was after I got home and after I spoke to my wife and
they showed up.

Q **How** long had you *been* home; for a short period of time?

1 **A** Yes. I would say 15, 20 minutes.

2 **Q** **Do** you recall which sheriff showed up?

3 **A** I don't recall their names, but it was Bowdoinham.

4 **Q** **Not** a sheriff. It was police officers then, *brown*
5 uniform or blue?

6 **A** I think it was county.

7 **Q** Do you recall brown uniform or blue?

8 **A** Brown.

9 **Q** Were there one or two of them?

10 **A** Two.

11 **Q** How many vehicles did they have?

12 **A** They came in one vehicle.

Q You showed them the documents, State's Exhibits Number
10 and 11?

A Yes.

Q And they took them from you and handled them?

A **Yes**, they did.

Q They went back to their police vehicle and made radio
contact as far as you know or did they use your phone?

A I believe they went back to their vehicle.

Q And made radio contact or whatever they were doing in
their vehicle?

A Yes.

24 **Q** When they came back to you you had a discussion with
25 reference to the discussion with the Toyota that is marked--

1 A Yes.

2 Q This indicates that the Toyota is a total lost?

3 A I don't think so.

4 Q Damage on right-front truck is totaled. Is that a fair
5 reading?

6 A I guess.

7 Q Number ten, would you read that for me, please?

8 A Damage on right-front truck, then, totaled.

9 Q Its fair to say that you dealt with estimates before;
10 is that correct?

11 A Well, I've had a few bent fenders.

12 Q That's very different from a totaled vehicle?

13 A I would assume.

14 Q You had discussions with the police officer in reference
15 to the truck; is that correct?

16 A Yes,

17 Q At that time you recall getting the license plate
18 number; is that correct?

19 A (no response)

20 You assumed you had gotten it off the document and would
21 it be fair to say you got it from the police officers?

22 A *What I was assuming, looking at it* here, was a driver's
23 license *and I* thought that said DL. I don't know.

24 Q At the time you didn't have a driver's license number
25 when you went looking?

1 A **NO.**

2 Q A plate number is what I meant to say. You had no plate
3 number when you went looking?

4 A **No.**

5 Q You were just **looking for** a Toyota truck?

6 i A Correct.

7 Q When you were looking for the truck on whose advice was
8 that? Was that what the police officer told you or was that
9 your own initiative?

10 A My own initiative.

11 Q At the time did you discuss with the sheriffs that that
12 was to be done that you were going to do that?

13 A I don't recall that.

14 Q And in order for your friends to come over they had to
15 have been contacted with reference to the missing girl; is
16 that correct?

17 A Yes.

18 Q **So you called them up yourself** and said you needed a
19 hand?

20 A I'm not exactly sure if we just called them. I believe
21 we called Coleen and told her what happened.

22 Q And maybe they offered to help, but in either event some
23 people came back to give you have a hand?

24 A Yes.

25 Q **At that point you were looking for a red Toyota truck?**

1 A Yes.

2 Q *Turning your* attention to State's Exhibit Number 1, the
3 map of the area. You drove around for how long, sir looking
4 for the vehicle in question?

5 A *Half an hour, 45 minutes.* Something like that.

6 What time did you go out to start your looking?

7 A It was still light. I don't recall the exact time.

8 Would you say -- we know at least *that you are* home by
3:30, maybe four o'clock; is that correct?

A I think it must have been later than four o'clock.

You were with the sheriffs for 15, 20 minutes?

A Yes.

Then you had to wait for your friends to come over; is
that correct?

A Yes,

Q And how long did it take before they showed up? About
half an hour?

A I don't recall exactly.

They didn't come over instantaneously?

A No.

21 Would it be fair to say you were on the road looking
22 between five and six?

23 A I would say that is a good estimate.

24 Q You proceeded down the Lewis Hill Road?

25 A **Yes.**

1 0 And why did you chose that direction rather than going
2 out the Lewis Hill Road?

3 A Other people were driving up that way, plus it was a
4 less traveled route.

5 Q *How many police officers* by the time you went out
6 looking had been to your home? Several? Many?

7 A I think it was just the sheriffs.

8 Q Those two?

9 A Yes.

10 Q Had a State Police cruiser arrived at that point?

11 A Mo.

12 Q Between five and six when you left your home were the
13 sheriffs still there?

A They were. They took off and came back.

Q They were in and out?

A Yes.

Q They were driving around on the Lewis Hill Road between
five and six?

A Yes.

Q You yourself didn't spot the read Toyota, did you?

A No.

22 0 And the police were in the area at that time but you
23 only know of one car at that time?

24 A Yes.

25 Q *Now, when you* were traveling down the Lewis Hill Road on

1 to the the Dead River Road until you got to the Hallowell
2 Road, you traveled approximately from where the red dot where
3 it says Henkel residence down to the intersection of the Dead
4 River Road and the Lewis Hill Road and then down to the
5 intersection of the Hallowell Road and the Dead River Road?

6 A Yes.

7 Q Then you proceeded up this way up the Hallowell Road
8 *going north?*

9 A Yes.

10 Q How far did you proceed past the Litchfield Road on the
11 map?

12 A Yes. I went all the way to Litchfield Corners to 197.

13 Q Litchfield Corners would be designated by the
14 intersection at the very top of the map?

15 A Yes.

16 Q Then you turned around and you were proceeding slowly
17 down this road looking right and left?

18 A Yes.

19 Q You had one or two friends with you?

20 A One.

21 Q Who was driving?

22 A I was driving.

23 Q And your friend was on the lookout as well?

24 A Yes.

25 Q You didn't see anything of any consequence?

1 A We didn't see a car®

2 Q During that travel did you pass any other pickup trucks
3 that you recall now, sir?

4 A Not that I recall, no

5 Q In reference to the amount of time that you knew that
6 Sarah was coming to your house to baby-sit, you knew that a
7 couple of days before. Was the period longer than that
8 perhaps more than a couple of days that you made arrangements
9 for Sarah to come over and baby-sit?

10 A I'm not certain® I remember I knew on the weekend.

11 Q You knew at least when you went away, you knew you must
12 have known, for example?

13 A Yes.

Q You left on a Friday; is that correct?

I don't recall if we left on Friday or Saturday.

Q You knew in the area of July 4th was on Monday?

A **Yes**®

Q Then you knew at least by July second and third?

A Yes.

Q If not earlier?

A Yes.

MR® CONNOLLY: No further questions.

THE COURT: **Mr. Wright.**

RE-DIRECT EXAMINATION

1

2

3 BY MR. WRIGHT:

4 **Q You cleared the woods out in front of your** house since
5 last summer?

6 A Yes.

7 Q Any reason in particular?

8 A Well, because of this incident and so we are more
9 visible and just to provide a better view.

10 Q So you said your wife had picked the items you have and
11 given them to you?

12 A Yes. They were inside.

13 Q I'm talking about the notebook and receipt?

A Yes.

Q Where were they when you saw them?

A They were in the kitchen.

So she had obviously brought them into the house from
what **you** understood?

A Yes.

Q Did you handle them as well?

A Yes. I looked at them.

Q In what regard did you look at say the notebook, which
23 is marked as State's Exhibit Number 11?

24 A I flipped through it.

25 Q Touching several of the pages would you say?

1 A Yes.

2 Q Doors at your house. This is Defendant's Exhibit Number
3 two, Mr. Connolly's door, your door. His exhibit.

4 **A Yes.**

5 Q Is your upper door the same style door as this?

6 A Yes. its a steel six panel. It's not a four panel
7 it's a six panel.

8 Q Mr. Connolly asked you about locks on the lower door.
9 You said there was a lock on the doorknob?

10 A Yes.

Q And a dead bolt that you put fee key in above and turn?

A Yes.

Q Is there a locking mechanism or different sort on the
door upstairs?

A Just the doorknob.

Q Where does your infant daughter Monica sleep, where is
her room?

18 A On the same floor as the kitchen and the living room.
19 It's behind the stairway.

20 Q In relation to the driveway, where is Monica's room?

21 A In the back of the house.

22 Q Can you see at all to the front of the house what is
23 called the driveway? Can you see the front of the house
24 where the driveway is from Monica's room?

25 A Not at all.

The turnaround area, the elbow of the driveway?

2 i A Yes.

3 Q Did you notice any tire impressions of any sort there?
4 Anything catch your eye in that area as it did near to the
5 house?

6 A No.

7 Q **Do** you recall seeing police vehicles and where they
8 turned around in their coming and goings?

9 A They used the turnaround. But they pulled up behind my
10 vehicle.

11 Q But to turn around

A They backed out.

To the corner of the driveway?

To the turnaround, yes.

Q You then turned over as I understand it to the sheriff
deputies that were there, the notebook and the autobody
receipt?

A Yes.

Q What did they do with them as you saw them as while they
were at your house?

A They looked at them and they left the driveway
remembering seeing a pickup truck.

Q They went off to look for a pickup truck?

24 A Yes.

25 Q After they went off to look for a pickup truck how

1 quickly did they return, if at all?

2 A It wasn't too long. It wasn't an hour. I'm guessing
3 when I say half an hour.

4 Q From Monica's room -^a if you are in the living room of
5 your house can you hear your dogs bark, outside?

6 A Yes.

7 (I) How about from Monica's room from the back of the house?
8 And if Monica, your child, is *crying* could *you hear* the dogs
9 outside?

10 A It depends if she is screaming or not. But I think you
11 could hear the dogs if it was quiet in the back you could
12 hear the dogs.

13 () If it's not quite?

14 A You probably couldn't.

15 MR. WRIGHT: Thank you.

16 THE COURT: Anything further?

17 MR. **CONNOLLY**: Nothing further.

18 THE COURT: Thank you. You may step down.

19 THE COURT: Mr. Foreman and Ladies and Gentlemen of
20 the Jury, we *are going to* recess for lunch at this time.
21 We'll resume at 1:15. Again you are cautioned not to discuss
22 this case. Thank you.

23

24 (A recess was *had at* 12:15 and the jury returned at 1:28)

25

THE COURT: Mr. Wright.

MR. WRIGHT: Rose Knodt.

ROSE MARY KNODT, *being first duly sworn, was* examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q Would you state your name once again for the jury?

A Rose Mary Knodt.

Q Spell your last name?

A K-N-O-D-T.

Q Are you employed?

A Yes.

Q Who are you employed?

A Self-employed in a partnership with John Henkel.

Q Doing jewelry work?

A Yes.

Q Your shop or office is where?

A In my home.

Q That is the located where?

A 12 Maple Avenue, in Freeport, Maine.

Q *How long* have you been associated with Mr. Henkel?

A We've been in partnership for three years. In march it will be three years.

Q Let me here simply direct your attention *back to a day*
4 last summer. I would ask you if you recall the day in which
5 Mr. Henkel was at the shop and got a phone call in the
6 afternoon?

7 A Yes.

8 Q Can you tell us your recollection of that day, put it in
9 some prospective with the events that bring us to court?

10 A We received a call from Jennifer, his wife, and she
11 stated to John that

12 MR, CONNOLLY: I would object.

13 THE COURT: Sustained as to the substance.

14

15 BY MR. WRIGHT:

16 Q There was a call?

17 A **Yes.** A call from Jennifer.

18 Q At what time?

19 A **3:30.**

20 Q Now, in relation to the events that have led to this
21 trial, can you put the date of this phone call in prospective
22 or do you independently recall the date?

23 A I think it was July 13th -- you mean the date?

24 Q The date that he received that call?

25 A I don't know the date. The 6th or the 7th.

1 i Q Let me here ask *it to you in this way. You became aware*
2 that the little girl named Sarah Cherry was missing?

3 A Yes.

4 Q In relation to that event do you know what day that
5 phone call **came in from Jennifer to** her husband?

6 A What day?

7 Q Was it the same day or a different day as you understood
8 it Sarah Cherry was missing from the Henkel residence?

9 A It was the same day. The cause for the phone call was
10 because the baby-sitting was missing.

11 Q The call was about 3:30?

12 A Yes.

What did Mr. Henkel do in response to the call?

A He tried, he was calming Jennifer down and to advice her
to proceed *in a calm manner*.

Q During that day, if you know from your own personal
observations, therefore your own knowledge where Mr. Henkel
had been?

A Yes * Where he had been?

Q Yes® During the day.

A During the day he arrived in the morning and --

(2 At what time?

23 A The latest would have been at ten. He is never later
24 than ten o'clock. During the day I remember I know we were
25 sitting down at the dining room table when the phone call

1 from Jennifer came. But we weren't eating lunch so I don't
2 know if he went out for lunch or - I'm not sure about that.

3 *But throughout the* whole day he was there.

4 Q Except if he went out for lunch?

5 A Yes.

6 Q Had he done that, if he had, how long would he have gone
7 out for lunch?

8 A The most would have been an hour.

9 Q *Do* you have any independent recollection that indeed he
10 *went out for an hour that day?*

11 A *No.*

12 Q Have you been to the Henkel residence?

13 A Yes.

14 Q How long does it take you to get from your shop in
15 Freeport up to their house?

16 A I would say the least amount of time would be 30
17 minutes. Maybe 45 minutes I would say.

18 Q **30** to 45 minutes?

19 A Yes.

20 Q And aside from a time when he may have been gone for
21 lunch he was with you for the entire day?

22 A Yes.

23 Q Let me here understand, is it your testimony that he
24 could have been with you all day but he might have been out
25 for that time period you described?

For lunch. Gone out for lunch.

2 Q **You aren't sure if he even did go out?**

3 **Right.**

4 MR. WRIGHT: Thank you.

5 THE COURT: Mr. Connolly,

6

7

CROSS EXAMINATION

8

9 BY MR. CONNOLLY:

10 Q Good afternoon, Mrs. Knodt, you don't know the
11 defendant, do you?

12 A No.

13 Q You've never seen him before except on TV?

14 A Right.

15 Q You never heard his name mentioned in connection with
your business, have you?

A **No.**

Q **Never** heard Mr. Henkel speak of him?

No.

Q *Mrs. Knodt, your testimony is that he may have gone out
for lunch for an hour or so?*

A Yes.

Q It might have been longer?

24 A No. Its very unusual. I would notice if it had been
25 longer.

1 Q You don't recall anything unusual?

2 A **No.**

3 Q Mrs. Knodt, do you recall that he got the phone call at
4 3:30?

5 A Yes.

6 Q The quickest he could have gotten home would have been
7 four o'clock or 4:15?

8 A He did not leave immediately after the phone call.

9 Q How long was it after he left?

10 A I remember he suggested that Jennifer call the neighbors
11 and so that she had to hang up and make another call. Maybe
12 45 minutes or an hour later he left.

13 Q So your recollection is that he didn't leave until 4:15
14 to 4:30 he left the office?

15 A Yes. I don't know when exactly he left. I just know he
16 didn't leave right away.

17 Q If he left between 4:15 and 4:30 it takes him at least a
18 half hour to 45 minutes so he's not arriving home until five
19 or 5:15; is that correct?

20 A Yes.

21 Q Did you attend the funeral?

22 A No.

23 MR. WRIGHT: Objection.

24 MR. CONNOLLY: No further questions.

25 THE COURT: Anything further?

1 MR. WRIGHT: Nothing further.

2 THE COURT: You may step down.

3

4

5 JENNIFER HENKEL, being first duly sworn, was examined and
6 testified as follows:

7

8

DIRECT EXAMINATION

9

10 BY MR. WRIGHT:

11 Q Again, state for the jury your full name?

12 A *Jennifer* Henkel.

13 Q You are John Henkel's wife?

14 A *Yes.*

15 Q You live on Lewis Hill Road and have for some few years?

16 A That's correct.

17 Q I'm **holding in my hand State's Exhibit** Number 8. Is
18 that **your house?**

19 A **Yes,**

20 Q Are you employed?

21 A Yes, I am.

22 • What is your occupation?

23 A *I'm a consultant for* the State Department of Education.

24 Q Where is your office?

25 A Augusta.

1 Q You have two children, Monica and Morissa?

2 A Yes.

3 Q Let me here, if I *might, get right to* the events of last
4 summer which bring us here now. And in particular the
5 arrangements that were made to have Sarah Cherry baby-sit at
6 your house. Can you tell us about those arrangements and how
7 it was that you came to have Sarah come to your house to
8 baby-sit?

9 A Yes. Normally both of our children are taken care of at
10 a familiar daycare home. That week was our care-givers week
11 off. She takes two each summer. I knew in advance she would
12 be taking that off. I planned to take that week off as well,
but that Wednesday I did have to go to work and I knew that
fairly well in advance. I was appointed to a legislative
commission. That **was** the first day that commission worked.

Q What day was that?

A July 6th.

Q **Now**, let me **here back** up with you. For how long had
arrangements been made with Sarah to baby-sit for you on that
20 day?

21 A Approximately a week.

22 Q Those arrangements were made through whom?

23 A I had a few other choices of young people to come stay
24 with Monica and Morissa. My older daughter was in
25 *Connecticut with my parents. I knew it* would only be a few

hours, so I had a few other young people who had baby--sat for
2 us before and I asked them. When all of them were busy and
3 since Coleen, our care-giver watches a lot of children and
4 **lot of** them were busy I asked Coleen for some recommendations
5 of people who she thought would be good. Sarah was one of
6 them.

7 Q Did you know Sarah before?

8 A Yes. *For a number of years.* Through our day care home.

9 Q Do you recall - you say you had been down to Connecticut
10 and left your older daughter Monica?

11 A Marissa.

12 With your folks in Connecticut?

13 , A Yes.

14 Q When did you return from Connecticut if you can recall?

15 A We returned Tuesday late afternoon, early evening about
16 five.

Q **Got** back to your house about that time?

A Roughly. Right before dinner.

Q And I take it you had driven one car down to Connecticut?

A Yes. I had gone from Augusta and dropped off our dogs
off at the kennel and picked up the kids *and went straight*
down to Freeport, picked up John and *kept going and* left one
car there.

Over the weekend when you had been down to Connecticut
where the dogs had been - -

1 A They were at a kennel where we would leave them if our
2 neighbors couldn't watch them.

3 Q Upon your return from the weekend away in Connecticut
4 when did you pick the dogs up?

5 A On the way home.

6 Q So they would have arrived back home with you at five or
7 so when you arrived back home?

8 A Yes.

9 Q Tell us, if you could, the events of July 6th.

10 A From when Sarah came?

11 Q Yes.

12 A Basically what happened was I stayed with the baby,
13 Monica, who was *11-months old at* the time, and John went and
14 picked up Sarah at her home and brought her over *and John*
15 then went to work. And I kind of showed Sarah the things
16 that you need to know if you are going to be staying in a
17 **house for a while; you know** how the lay of the house and
18 where things were, where the formula was for *the baby's*
19 bottle and the diapers. Those kind of things.

20 It was a very hot day also. So I thought she might
21 for a little break in the middle of the day want to take the
22 baby outside. **So we** went downstairs and I took the stroller
23 out and unfolded it and showed her how that worked. She
24 seemed to think that she might want to have a break in the
25 middle of the day. So we did that and went back inside and

1 kind of made sure that she was comfortable and knew what the
2 schedule was like and where the phone was and all of those
3 kinds of things. Then I left.

4 Q At what time?

5 A Shortly after nine o'clock.

6 Q Your meeting was scheduled for when?

7 A To begin at ten and it takes a half hour to get to
8 Augusta. I got there about ten minutes early. Dropped in at
9 my office and went to the State House.

10 Q Did it seem to you that Sarah was up to the task of
11 taking care of Monica?

12 A Yes. She seemed to be excited. She really loved babies
13 and children and I had seen her with the children for a long
14 time and had really admired how she was with them. She was
15 very kind and understanding and gentle and self-possessed. I
16 knew she hadn't done a lot of baby-sitting, but I knew the
17 **baby-sitting she had done** was fairly challenging. I knew the
18 babies that she watched, so I was comfortable. It seemed
19 like she was ready to **go for** it and I left her seemingly
20 *quite happy with Monica.*

21 Q Upon leaving did you lock the doors to your house or
22 leave them unlocked?

23 A I did not lock them.

24 Q y not?

25 A I left I stood there *thinking, and* the way that our

1 house is - I don't know if John described the house - our
2 **living** area is on the second-story. Our first story is a
3 garage and storage area. I left I was thinking she might
4 want to go outside and play **or sit** in the shade and get some
5 fresh air while the baby is sleeping. I didn't want *her to*
6 get locked out of the house. **So** I left the door unlocked. I
7 didn't want her to accidentally have the door slam and not be
8 able to get back in.

9 Q There was a door at the bottom of the house or just
10 around the corner from the driveway?

11 A Yes. That is the entry. At the top of the stairs there
12 there is another door. Both *when* I left were unlocked.

J Q How about open or shut?

A They were both shut.

Q You shut them behind you but left them unlocked?

A Yes.

Q During that day, the 6th, after you went up to Augusta
for your meeting, did you **have** any contact with Sarah?

A **Yes**, I did. We **broke** for lunch at noon, just almost
exactly at **noon**. I called her on the phone to make sure
everything was okay. I spoke with her and found out that
everything was indeed *under control*. She was feeding the
baby and about to fix herself some lunch.

Q Did you hear any sound from the baby?

A Some banging and gurgling and shreiking. Quiet baby

1 noises that they make when they, before they eat.

2 **Q** **You** had no concern at that time?

3 **A** *Just minimally. I knew I was going to be a half hour*
4 *later than I had thought. I told her I would be back at*
5 *three and when I called I said it would be be more like 3:30.*

6 **Q** You talked to her for how long at noon?

7 **A** Two minutes. Just enough to make sure everything was
8 okay.

9 **Q** You then continued *with the* meeting and then left
10 Augusta to return home out when?

11 **A** I left at about ten of three.

12 And arrived home when?

A 3:20.

Now, when you arrived home, first of all, were there any
vehicles at all in the driveway?

A No.

Q When you left had there been any vehicles left in the
driveway?

A No. There were none.

Q **Your** husband had gone off in his car and you had gone
off in yours?

22 **A** Yes.

23 Tell us, if you would, what if any particular
24 observations you made, things you noticed when you arrived at
25 home at 3:20 that afternoon?

1 A Well, I pulled into the driveway thinking that what I
2 *was going to do was get everybody altogether* and put them in
3 the car and go down to the grocery store because we had been
4 away all weekend and didn't have much for food.

5 Let me here interrupt you. State's Exhibit Number 8
6 shows your house with the car in front of it?

7 A That is where I parked that day.

8 Q The photograph shows the car as in the same place you
9 parked it when you pulled in?

10 A Yes. Normally when I pulled in if I'm not going
11 anywhere else I'll pull in further to the right and my
12 husband will park on the left. Side by side. I just drove
13 straight in. I was going to get everybody and put them in
14 the car and go *down* and drop Sarah off.

15 As I pulled into the driveway and came around the
16 bend I got pretty close to the house and noticed some papers
17 **or little book** lying on the **driveway**, which I thought was
18 *unusual but I* thought maybe the meter reader had been there.
19 I went over those *but didn't run my car over them; just*
20 enough to clear them. And I parked the car and got out and
21 picked them up. And I looked at them. It was a little
22 loose-leaf notebook and a slip of paper like *a car repair*
23 *bill. I thought that was unusual but* didn't think a lot
24 about it. Flipped through the notebook as I was walking into
25 the house.

1 Let me here *interrupt you*. *I want you to indicate on*
2 photograph marked as State's Exhibit Number 9. What I would
3 like you to do is, I think this pen will work on this glossy
4 picture. If you can, if this photograph shows the area where
5 you found the piece of paper and the spiral notebook that you
6 were looking through?

7 A All right.

8 THE COURT: Do you think for purposes of permanency
9 it might be best to use a ballpoint?

10 THE WITNESS: It may be in the shadow. It would be
11 right out here.

12

13 BY MR. WRIGHT:

14 Does the X show up?

A You would have to be pretty close.

Q Can you see it?

A It was right by the rear tire **on** the passenger side on
the driver's side.

Q Of your car?

A Yes,

Q To make it a little more *obvious why don't you draw an*
22 **arrow** up to where the X is and that will make it a little
23 more obvious to all of us. I'll put my finger on the spot.
24 In relation to - rather than side to side on the picture but
25 in relation to how close or far away from the back of your

1 car the papers were lying; can you help us on that?

2 A A foot or less.

3 Q Pretty much just at the rear of the corner of your car
4 that shows?

5 A Yes. Quite close.

6 MR. WRIGHT: I wonder if the jury could look at
7 this?

8 THE COURT: Certainly.
9

10 BY MR. WRIGHT:

11 Q How far a part were these two items, the notebook and
the piece of paper?

A Only a couple of inches. It was six inches. They were
quite close together.

Q Next, let me here show you what has been marked for
identification as State's Exhibit Number 10 and 11. Do you
recognize those?

A Yes. These are the items I saw. The notebook was open
but I closed it. It was turned over. The cover was hidden
and one page was exposed.

Q Why don't you take it out and show us how it was?

A I don't remember which page it was, but it was like
that. It might have been a blank page.

Q As you then leaped through the notebook as you walked
25 into the house did anything else come to your attention?

1 A No. Except I noticed that the stroller was where I had
2 left it.

3 Q The stroller had not been moved?

4 A As far as I could tell. I noticed *it was facing the*
5 *same direction which it was pointing out as if you would put*
6 *somebody in it and walk out.*

7 Q When you reached the outer door on the stoop around the
8 side of your house what did you find?

A It was ajar about an inch and a half ajar.
Did that strike you odd?

A It did strike me as odd, yes.

Q Tell us then what happened next?

A I went upstairs. And when I got to the top of the
stairs the upper door was open. And I thought that was
pretty odd, too.

Q How far open was that door?

A The same, *an inch and a half. Just slightly.*

Q What struck you odd about the fact that the doors were
slightly ajar?

A It was summertime and we don't have screens. We live in
the woods. You usually don't leave the doors open. It
struck me as strange. You try to keep as many mosquitoes
outside as we can.

24 Q You then I assume went into the house?

25 A Yes.

1 Q What did you find when you went in?

2 A When I went in I noticed right away that the TV was on.
3 Our living room/dining room and kitchen are all one big room.
4 The baby's room is right behind that door where you come in
5 and then there is a bathroom in the back. So as you walk in
6 you walk right into the **living room**.

7 I noticed of course that our cupboard where our TV
8 was open and the TV was on softly to a soap opera. Sarah's
9 eyeglasses were folded neatly on the rocking chair right next
10 to the door as you come in. There is a rocking chair right
11 there. And her clothes, her blue jean jacket and her
12 sneakers and her socks were sort of in a little neat pile
13 right next to the couch. And I called her. I said I'm home.
14 And I didn't hear anything. I thought that was kind of odd.
15 So I started looking for her. I thought gee gosh, it's so
16 hot maybe she went upstairs and fell asleep in one of the
17 bedrooms. We have two other bedrooms upstairs. So I went
18 *upstairs and* looked in our older daughter's room and in our
19 room. At the time we were still building our house; at the
20 time we had no doors on either of those rooms. When I got to
21 the top of the landing I could see both rooms. I looked and
22 called her name *and* didn't see *anything*. *I* thought this is
23 really weird.

24 I went downstairs then I was starting to get a
25 little angry, I think anybody who has been a mother

I understands that if you have somebody watching your baby and
2 they weren't there where is your baby? I went into the
3 baby's room and was relieved to see that she was asleep in
4 her crib; kind of bunched up and asleep. So I was relieved
5 to see that, but I was very, very mystified and very confused
6 and so I went downstairs again.

7 I thought maybe she was sitting outside and I didn't
8 see her. I went outside and called her name and walked
9 around the yard. We have a big open yard. I walked around
10 the yard calling her name. Then I thought maybe I missed
11 something. So I went back in the house and walked all the
12 way up to the bedrooms again, thinking she was asleep and I
13 didn't see her. There are bunkbeds in my daughter's room. I
14 looked very carefully and she wasn't there.

15 So by then I was getting real worried and I called my
16 neighbor across the way, Holly Johnson, to see if she had
17 seen anything. I said -- she knew I was going to be gone
18 that day ^{se-} and I said I'm back. And Monica is here but my
19 baby sitter isn't here. Have you seen *anybody* walking on the
20 road? She said no. She hadn't seen any young girls walking
21 along the road. SO I hung up. I wasn't sure what to do. I
22 didn't know what to do. I went upstairs and looked again.
23 kind of kept *thinking* that I missed her. Then I didn't know
24 what to do. So I called John, my husband, and said, told him
25 what happened, that I had gotten home and that the baby was

1 there but Sarah wasn't there.

2 And he was upset. He was alarmed, too. But he
3 said why don't you call these two other girls on our road
4 that were **kind of close to** her age and **see**, if the baby was
5 asleep maybe she *thought she* could *stroll over* there even
6 though they are aways away. I called those two girls and
7 they said no, we haven't seen her.

8 By then I was just about in a panic. I think it was
9 about at that *point, out ten of four* I had been looking for
10 about half an hour. I called John back and I said I better
11 call the police. He said yes you better. He said I'm coming
12 home. And I called the police. And I also tried at that
13 point I started to trying to call Sarah's mom Debbie. And I
14 got no answer there.

15 Q Did you notice in the house when you arrived home in
16 addition to the items that you've mentioned Sarah's belongs
17 **any indication of the remains of food?**

18 A **Yes.**

19 Q **Lunch?**

20 A **Yes.**

21 Q What might appear to have been lunch?

22 A Yes. In the kitchen there were some dirty dishes, a pot
23 that I could tell from the water that she *had hot dogs which*
24 was what we had. We had hot dogs and bread and cheese and I
25 could tell she had that. And there was the baby's bowl and

[Handwritten signature]
d

1 the spoon that she had used.

2 Q Then you called some law enforcement people?

3 A Yes.

4 Q Who did you call?

A I was pretty upset at this point. I took the phone book
down and to show you how upset I was I couldn't find the
police number. I know its right in the front of the phone
book. I was feeling some urgency, so I called the operator
and she connected me with the sheriff's office, which I think
10 is in Bath.

11 Q You reported things to them?

12 A Yes. I said that a child was missing and could they
13 please get there as soon as possible.

14 Did some officer officers then show up?

15 A Yes.

16 How much later?

17 A They arrived at 4:30.

18 Q Do you recall if your husband had arrived home by that
19 time?

20 A Yes. Be had. And Debbie Crossman and Jerry had also
21 arrived.

22 Q Sarah's mother and step mother and sister?

23 A Yes.

24 What did you do with the deputies that then arrived?

25 A They asked me some questions and I answered those the

*who contacted
Debbie
Crossman*

*who
he's*

1 best that I could. I told told them why they were there and
2 I showed them the things that I had found, *the paper and the*
3 *notebook, and* they looked at those. And they had seen a
4 truck similar to the one described in the repair order down
5 the street. So they ran out real quick and came back and
6 ascertained it wasn't the right truck.

7 Q What is your recollection, Mrs. Henkel, now, of what
8 Sarah was wearing that day?

9 A She was wearing a blue jean jacket, a purple T-shirt,
10 dark purple and dark blue jeans and she had on dark kind of
11 sneakers that kids wear now, and I just remember socks
12 because I remember giving those to her mom.

13 Q I was going to ask you that. What did you do with her
14 belongings that you found when you came into the house?

15 A I wasn't sure what to do with them. The deputies that
16 arrived indicated that *probably Mrs. Crossman should* have
17 those, her jacket and her shoes and glasses.

18 Q **So** you gave them to Sarah's mother?

19 A Yes.

20 Q Did there appear to be anything out of place out of the
21 ordinary out of the house disturbed, misplaced or damaged?

22 A No. It looked exactly, except for the things in the
23 sink and the fact that the doors were open on the TV cabinet,
24 it looked the way it had when I left it. Everything was neat
25 and orderly except for a few baby toys that were there.

1 Q Do you have any recollection whether Sarah was wearing
2 any earrings that day?

3 A No.

4 Q Did you happen to see a handkerchief or bandana of any
5 sort?

6 A **No**, I don't think so.

7 MR. WRIGHT: Thank you. No further questions.

8

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1 (Sidebar conference)

2
3 THE COURT: State's Exhibit Number 10 and 11 have
4 not been offered.

5 MR. WRIGHT: There is a reason for that. With
6 respect to the notebook, one of the police officers wrote
7 Sarah Cherry's name in it. He needs to explain it so it
8 doesn't go to the jury with her name in the notebook
9 unexplained. I was waiting to offer until that was
10 explained.

11 THE COURT: The reason I bring it up is there has
12 been interrogation and testimony regarding both exhibits 10
13 and 11. They have not yet been admitted.

MR. CONNOLLY: I understand. Mr. Wright and I have
discussed it. It's for that reason - it's potentially
disasterous if it wasn't explained.

MR. WRIGHT: **Rather than doing one** at a time we
were going to **do it** at the same time

(Whereupon the sidebar ended).

22 CROSS EXAMINATION

23
24 BY MR. CONNOLLY:

25 Good afternoon.

1 A Good afternoon.

2 Q Prior to July sixth, 1988, had you ever heard the name
3 Dennis Dechaine before?

4 A No.

5 Q Other than the publicity after the incident in question
6 you had never seen him before either?

7 A That's correct.

8 Q Its fair to say based upon your knowledge your family
9 *has had no contact with him; is that correct?*

10 A Yes.

11 Q Ma'am, I was concerned about one thing that you had
12 mentioned. I want to go to that first. As you were
13 testifying on direct you described the telephone call at
14 noon. And did I hear you correctly or not when you said you
15 heard banging?

16 A It sounded - I asked Sarah what she was doing and she
17 said she was feeding Monica. And **Monica** sits in a high chair
18 and was really **into** her spoons. She was kind of squealing
19 and making baby **noises**.

20 Q She has a tin high chair?

21 A Its wooden high chair.

22 Q There is a top to it and it comes down?

23 A Yes. *With a tray.*

24 The noise would be consistant with a child?

25 A Yes

1 | Q The child is a spoon whacker?

2 | A Yes.

3 | Q Its fair to say that Sarah Cherry being at your house
4 | on the day of July 6, 1988 was a unique event; she had never
5 | been there before?

6 | A That's correct.

7 | Q It was a random event in that it was your fourth choice
8 | as a baby sitter and there was a list of three others that
9 | you had looked to previous?

10 | A Yes.

11 | Q The arrangements were made at least a week in advance?

12 | A A week. Roughly a week. I knew I was leaving on Friday
13 | so I had to do it before I came back.

14 | Q When you discussed with Sarah the care of the baby and
15 | you gave her the lay of the house, you gave her phone numbers
16 | where you could be reached?

17 | **A** Yes. My **office phone number.**

18 | Q And your husband's phone number as well?

19 | **A** I don't recollect.

20 | Q Where is the phone in relation to the living room where
21 | the **is?**

22 | A Its, as I said earlier, its all kind of one big room.
23 | The phone is ®® the kitchen, as you enter in the door the
24 | kitchen is to your right and **it's** a long counter and the
25 | phone hangs at the end of the counter kind of waist-high.

1 Q That was not out of position at any point?

2 A No.

3 Q Until you made the phone call yourself?

4 A Right.

5 Q And in discussing with Sarah her duties, was there any
6 discussion about how to deal with strangers or anything like
that?

A No, sir. I didn't expect any.

Q So it would be fair to say you gave her no
particularized instructions as to that?

A No.

Q You, yourself, when you left chose not to lock the
doors, but you are not aware whether or not she, herself,
locked them?

A No, I'm not.

Q Based on what you recall, she, Sarah, was feeding the
child right at noontime?

A Yes.

Q **When** you returned to the house and found items number 10
and 11, which is the notebook and piece of paper, they are
not on top of each other?

A No. They were slightly apart from one another.

Q *out 6 inches?*

A Yes.

As near as you can recall pretty accurately where X is

7-7

1 on the diagram of State's Exhibit Number nine?

2 A Yes. I made an effort not to run over them.

3 You are fairly certain that that is the spot?

4 **A Yes.**

5 *This photograph was* taken later when you re-parked your
6 *car?*

7 A I'm not sure when that photograph was taken. I believe
8 it was the next morning, and I had not moved my car.

9 Its fair to say the car hadn't been moved from the time
10 you got home until the next day or so?

A Yes. I didn't move it for several days.

Q I'm a little confused. The X spot on the photograph is
the spot where the notebook and paper was found by as you
drove by them?

A Yes.

• **So** you went past them as is indicated on this
photograph?

A Yes.

Q And you picked up the notebook and you don't recall what
page it was on?

A No,

But it is your recollection that it was open to a page?

23 A Yes.

24 • How heavy is your outside doors, the one that leads into
25 the house? Is it a heavy door?

1 A *A steel door. I don't handle those things too much.*

2 *Its a metal door.*

3 Q *It doesn't have an arm on it that closes it?*

4 A **No.**

Q *Does it take a little bit of effort to open and close it?*

A *Not to open it but to close it you have to pull on it a little bit.*

10 Q *Similarly the door at the top of the stairs, is that a heavy door?*

11 A *I think its the same kind of door. Its a metal door.*

12 Q *The television was on with volume down low softly?*

A *Yes.*

Q *The child's toys were in front of it, but the child was in the bedroom?*

A *Right. We keep a few of her toys in that same cabinet.*

Q *Now, as I understand your testimony, on the stairs it **has a door** that was open and next to it is a rocking chair. As the stairs go up into is the living room from the garage there was a rocking chair right next to it?*

22 A *Right *in front of* it as you open the door and step in if you wanted to hang your coat on something you would hang it*
23 *on the *rocking chair*.*

24 Q *What else is in that vicinity?*

25 A *A trunk, an old steamer trunk right next to the rocking*

1 chair.

2 Q Anything on top of that?

3 A No.

4 Q What else is right around there?

5 A Immediately to your left as you walk in the door is a
6 woodstove with a flat top.

7 Q As you proceed into the kitchen area were there dishes
8 on the table or were they all placed in the sink?

9 A All in the sink.

10 Q You saw these socks and sneakers and the jacket folded
11 neatly next to the couch on the rocking chair itself?

12 A They weren't folded, they were kind of in a neat heap.

13 1 Q They were right there?

14 A Yes, they were.

15 Q With the glasses on top of them?

16 A **No.** The glasses were folded up on the rocking chair on
17 the pad of the rocking chair.

18 Q **Going** out the **door, how likely** is it - what do you have
19 to do in order to **avoid** walking into the *rocking chair*?

20 A Its right there, but there is plenty of room.

21 Q As you were going out the door could it be easily
22 grabbed?

23 A *Yes, A man could reach in,* somebody with a long arm
24 could reach in and touch it. Its a good distance from the
25 door.

1 Q When you came home the dogs were not barking; is that
2 correct?

3 A No. 'ey barked.

4 Q They did?

5 A Yes.

6 Q Were they, at the time you got home at 3:20, were they
7 alarmed on were they *excited, unusually frisky* and panicky or
8 were they just parking?

9 A They always bark when we come home. And I didn't notice
10 any difference.

11 Q You were not tipped off *in any sense* by the dog's
12 reaction?

13 A No.

14 Q At 3:20 its fair to say that the dogs barked at you?

15 A Yes.

16 Q You called Holly Johnson right then?

17 A Yes.

18 Q She is a confidant?

19 A A neighbor and friend.

20 Q It's my understanding that you have given several
21 statements to the police?

22 A Yes.

23 Q Have you had an opportunity to review any of them?

24 A A little while ago.

25 Q The thing I'm referring to, it's true, is it not, that

1 while you were home and that when John came home that a car
2 turned around in your driveway, b,laes,ilver new car? te

3 Yes.

4 Q In addition a dark blue truck turned around in your
5 driveway; is that correct?

6 A Yes.

7 Q Did you see who was in there?

8 A No.

9 Q But that is an unusual occurrence, is it not?

10 A Its not unheard of.

11 Q Its fair to say in the house itself there was nothing
12 that would leave lead you to believe that there was a
struggle in the house?

A That's correct.

Q When Mr. Wright asked you about the earrings, is it your
testimony that she did not have them or you have no
recollection of the earrings?

A I have no recollection.

Q Do you recall whether she was wearing a bracelet or
anything?

A No, I don't. She had a jacket on and that would have
covered up her bracelet, I'm sure.

Q You called the sheriff's office at approximately what
24 time?

25 A Just about four.

1 Q Plus or minus?

2 A Yes.

3 Q About four?

4 A Yes.

5 Q Your recollection is that they arrived at 4:30?

6 A Yes.

7 Q John came home about the same time?

8 A Yes.

9 Q John came home slightly before the police arrived?

10 A That's correct.

11 Q And then Christopher Grossman came a short time
12 thereafter?

A Yes.

Q So that was at least three other vehicles that entered
your driveway, four or five if we count the two that turned
around?

A Right.

Q Ma'am, **do** you recall which officers arrived at the
initial response?

A I don't recall their names.

Q *They* were in brown uniforms?

A **Yes.**

And they informed you that a similar truck had been seen
and they went to investigate that?

25 A Yes.

1 Did you yourself see any such vehicle?

2 A No, I did not.

3 Q The baby was sound asleep when you got home?

4 A Yes.

5 Q She didn't appear to be unduly hungry or what have you?

6 A She did later on appear to be more clingy than normal.

7 MR. CONNOLLY: I have no further questions.

8

9

RE-DIRECT EXAMINATION

10

11 BY MR. WRIGHT:

12 Q The two vehicles that pulled into your driveway and turned aroundr where did they turn around?

A At the end of our driveway and where it intersects the road.

• At the head of your driveway where it meets the Lewis Hill Road?

A Yes.

Q **How** did it -- did you see those vehicles yourself?

A I recollect seeing the first one described, the sedan, and it just turned around.

This is while the sheriff's deputies were there?

A Let me here take it back. That one did not turn around; it just slowed down.

Q The question is where were you, what were you doing to

1 cause you to observe that?

2 A I was looking out the window. When the sheriffs arrived
3 we talked around the dining room table area where the table
4 was and I kept looking out the window thinking that Sarah was
5 *going to stroll out of the woods.*

6 MR. WRIGHT: Thank you.

7 MR. CONNOLLY: Nothing further.

8 THE COURT: Thank you. You may step down.

9

10

11 ARTHUR SPAULDING, being first duly sworn, was examined and
12 testified as follows:

13

14

DIRECT EXAMINATION

15

16 BY MR. WRIGHT:

17 Q Would you give us your full name again?

18 A Arthur Spaulding.

19 Q Where do you live?

20 A Bowdoin.

21 Q On what road do you live?

22 A Dead River Road.

23 Q The Dead River Road?

24 A Yes.

25 Q Do you know where the intersection nearby your house

1 called the Hallowell Road **is?**

2 **A** I *don't know* where that is.

3 You don't know?

4 **A** **No.**

5 • How far off the road do you live?

6 **A** Five, six hundred feet.

7 Back in the woods some distance?

8 **A** Yes.

9 If one were standing on the Dead River Road and wanted
10 to get up to your house what kind of a passageway or roadway,
11 path would you take?

12 **A** I have a driveway but it's very rough.

13 And is there anything in between the roadway and where
14 your house is five or six hundred feet into the woods?

15 **A** A couple of shacks there.

16 Any vehicles?

17 **A** A whole bunch of **old** used cars.

18 **Q** **Do you have electricity at your house?**

19 **A** **No.**

20 **Do you have** any method whereby you can generate
21 electricity?

22 **A** I generate electricity.

23 You don't have electrical wires coming to you?

24 **A** Just from the generator to the house.

25 • **You** have a generator?

1 A Yes.

2 Q But no wires coming in from the road?

3 A Yes.

4 Q Who do you live with at your residence?

5 A (inaudible)

6 Q A friend of yours?

7 A Yes.

8 Q I would like to ask you if you recall on the evening
9 last summer when something or somebody came to your attention
10 one evening outside of your house?

11 A Yes.

12 Q Can you tell us about that?

A I went outside to start the generator about eight
because he wanted to watch TV. There was nothing on that I
liked so I went and I sat down by the window. Sometime
between eight and 8:30, the exact time I don't know, a male
went by the window walking right by, and that's all I saw.

Q Did you get any kind of a **good look** at him to recognize?

A **All** I had was a profile look.

Q Can you describe the person whom you did see to the
extent you saw that person; can you describe him?

A Well, to me he looked like to be in his 20s. He had a
blue polo shirt. I looked and all I saw was from the chest
up. Outside of that it wasn't much.

Q at direction was this person walking?

1 A Towards the road.

2 Q Towards the Dead River Road?

3 A Yes,

4 Q In terms of sunset hour, when would this have occurred?

5 A Sunset was much later than that. It was still light.

6 Q *But moving on* toward dusk?

7 A *Yes.*

8 ! Q Between eight and 8:30?

9 A Yes.

10 MR. WRIGHT: Thank you. That's all I have.

11

12

CROSS EXAMINATION

BY MR. CONNOLLY:

Q How are you, Mr. Spaulding?

A Good.

Q You've been asked a lot about questions about something you saw for a few second?

A Yes.

Q You don't know what is important, do you?

21 A No.

22 Q Do you recall giving a statement to the police?

23 A Yes.

24 That was way back when this first started?

25 A The next morning.

1 Q On July 7th?

2 A Yes.

3 Q Let me here ask you, Mr. Spaulding, if we can turn your
4 attention to the map that is right behind you, marks as
5 State's Exhibit Number one. I will take you through this a
6 little bit. This right here is the Dead River Road, this
7 line that I'm following here. This right here is called the
8 **Hallowell Road; its also** known as the Millay Road. Do you
know that?

10 No.

11 Q Do you know where you live on the Dead River Road?

12 This is the main drag.

This is Richmond Corner. This is the main drag.

A Bowdoin Center is where?

Q This is Bowdoinham, so Bowdoin Center would be right
here?

A I want the **Bowdoin** Center Road

Q This is the Litchfield Road. **Where** do you live in
reference to that?

A Three miles down the Bowdoin Center Road down the Dead
21 River Road. I °m way before that. Right up in here.

22 Q If we mark with a blue pen, a marking pen and an X right
23 out here where there is a dot already there?

24 A Yes,

25 Q That looks about right to you?

- A Yes.
- 2 Q We have a green dot and that seems about right?
- 3 A Yes. Now I know where I'm at.
- 4 Q You start your generator at eight o'clock?
- 5 **A** Yes.
- 6 Q If the police report says that this happened just before dark, which is at about nine o'clock, that's off?
- A Before dusk.
- Q You know it was around eight o'clock because you remember the TV programs?
- A *Yes. Because he wanted to watch the TV at eight o'clock.*
- Q Do you recall the fellow wearing a blue shirt?
- A I know for sure it was a blue polo shirt.
- Q What is a polo shirt?
- A** Something like a T-shirt but on the outside shirt it's got stripes.
- Q And a collar?
- A A dark collar.
- Q** **So** stripes and a dark collar?
- A I mean a dark - it was darker blue on the collar than the sleeves.
- 23 Q Do you recall describing the fellow as about **6 foot**
- 24 tall?
- 25 A That's what I figured, yes.

1 Q Now, you have been shown photographs of a person named
2 Mr. Dechaine.

3 A Yes.

4 Q You see him today in court?

5 A Yes.

6 Q Do you know whether that is the person you saw?

7 A Not face on, no, I wouldn't. Not at all.

8 Q That wouldn't be him or you wouldn't be able to
9 remember?

10 A I never saw the man face on.

11 Q So all you know somebody was coming out of the woods at
12 about around eight o'clock on July 6th, the day before they
13 asked you questions?

14 A Yes. All I saw was a profile anyway.

15 Q You saw a blue shirt?

16 A Yes. From here up, but I only saw on the side.

17 MR. CONNOLLY: Thank **you very** much.

18 THE COURT: Mr. Wright.

19 MR. WRIGHT: Nothing further.

20 THE COURT: Thank you. You may ste^P down.

21

22

23

24

25

1 HELEN BUTTRICK, being first duly sworn, was examined and
testified as follows:

3

4

DIRECT EXAMINATION

5

6 BY MR. WRIGHT:

7 Q Give us your full name?

8 A Helen Small Buttrick.

9 Q Your residence?

10 A Bowdoin.

11 Q Where in Bowdoin?

12 A Dead River Road.

13 Q Small I take it is your maiden name?

14 A Yes.

15 Q Does your mother live nearby?

16 A **She does. She lives on** the hill above us.

17 Q **Does she live at** the intersection **of** a couple of roads
18 in the area?

19 A Yes. The Trail **Road** and the Dead River Road.

20 You live on the Dead River Road about how far from the
21 intersection where your mother lives?

22 A out 7 hundred feet.

23 Q Are you any good with maps?

24 A Not too good.

25 Q There is a large map behind your State's Exhibit Number

one. I would invite your attention to the upper part of the
2 *map and what* is labeled as the Dead River Road. We have
3 labeled on this northerly/southerly route the Litchfield
4 Road. Does that orient you to where you are?

5 A Yes.

6 Q There is a green dot on the map which is labeled with
7 your name?

8 A Yes.

9 Q Next to it is a dot named Small?

A Yes.

• Is that an accurate representation of where your house
is and where your mother's house is on the Dead River Road?

A Yes.

Q Let me here ask you to go back with us to a day last
summer, July sixth. Do you recall that day?

A Yes.

Q Do you recall where you had been that day?

A Yes. We had been to Falmouth to a little league
baseball game. My granddaughter had pitched.

Q When you say we went, who went with you?

A My husband and I.

Q Your husband name?

23 A Harry Buttrick.

24 Q If you can remember, Mrs. Buttrick, what time did you
25 arrive back in the vicinity of your residence?

I

1 A Around 8:45.

2 Q When you arrived I take it you were in the car coming
3 back from Falmouth?

4 A Yes.

5 Q Who was driving?

6 A My husband.

7 Q As you came to the intersection or approached the
8 intersection of the Litchfield Road and the Dead River Road
9 did anything or anybody come to your attention?

A Yes. There was a man walking across *my mother's lawn*
walking towards the house.

Q From which direction were you driving or coming on to
the Dead River Road?

A We were coming up the Litchfield Road.

Q Coming up or going north and turning right on to the
Dead River Road?

A That's correct.

Q The person you **saw** was just where?

A He was half way between the road and my mother's house.

Q What did this a man appear to be doing?

A Just walking; hurrying towards the house.

Q Hurrying towards which house?

23 A My mother's house.

24 Q Running?

25 A Noe Not running but walking right along.

1 Q What happened next after you saw this man walking
2 towards your mother's house at a decent clip?

3 A We stopped and asked what he wanted. We knew my mother
4 was not home.

5 Q Who spoke to him, you or your husband?

6 A My husband.

7 Q When your husband spoke to him what response in words or
8 actions did this man make?

9 A He turned and he said he had been fishing and he
10 couldn't find his truck, and he said he thought he came in
11 from Route 9, but that he couldn't find it and he had been
12 fishing.

13 Q Was there any hesitancy in his responding to your
14 husband when your husband spoke to him?

15 A Not really, no.

16 Q Do you recall at all how this person was dressed?

17 A He had dickey pants and a green plaid shirt, a dark
18 plaid shirt.

19 Q Any idea if he was wearing a watch?

20 A I thought he was wearing a watch. I remember a watch.

21 Q You came to have some contact with this individual for
22 some period of time that night?

23 A *My husband told him to get* in the car and that we would
24 go down and he would take him to see if he could find his
25 truck, but first we went to our house. My husband went to

1 get the dog to bring him in and the man stood at the deck at
2 the bottom of the deck and when my husband came back with the
3 door he asked if he could have a drink of water from the
4 faucet, from the hose.

5 Q The man asked for a drink of water?

6 A Yes. And my husband told him to come in the house and
7 have a drink of water.

8 Q By the way, since you had some contact and spent some
9 time with this man that evening would you recognize him again
10 if you saw him?

11 A Yes, I would.

12 Q *Do you see him here in court?*

13 A Yes.

14 Q Can you indicate where this man is in the courtroom
15 today?

16 A He's sitting right over there.

17 Q *Can you be anymore precise about where he is in the*
18 ***courtroom?***

19 A Right there. I'm not good. He's on my right. Right
20 there.

21 Q *The man who just stood up?*

22 A Yes.

23 Q Tell us what next then happened with the defendant after
24 he asked for a drink of water from the host?

25 A Before he asked for a drink of water I got out and my

1 husband got out and he offered to help me carry groceries
2 into the house. He held the door for me as we went into the
3 house. And he walked behind me to the deck and he came in
4 the house and I got the water container from the refrigerator
5 and he had a glass of water and then he said he would like to
6 have another one, so he poured himself another glass and then
7 he put the container back in the refrigerator. And I asked
8 him where he lived. He said he lived in Yarmouth, but he was
9 visiting in Bowdoinham, and sort of on the side he said I
10 should have stayed there.

11 Q Did it appear as though the defendant had any difficulty
12 in speaking to you or in coordination with his movements of
13 handling the glass of *water or putting it back in the*
refrigerator?

A No.

Q Nothing unusual about his behavior or was there?

A No. I noticed nothing unusual. We asked about his
fishing gear. He said that he had left his gear on the side
of the road.

Q Did he say where he had been? You said it was a truck
he was looking for?

22 A He said he had been in the woods for about two hours and
23 *he had heard a generator* and he followed the sound of the
24 *generator and came out there.*

25 Q *Do you recall anything -- you told us what your*

1 recollection is of what the defendant *was wearing that*
2 evening. Do you recall anything about the condition of his
3 clothing and his own physical condition?

4 A Nothing unusual. Like he had been walking in the woods.
5 It was a warm day.

6 Q I think you mentioned something about the defendant
7 having held a door open for you?

8 A Yes. He held the car door open and when he was ready to
9 leave he held the door and I said I wasn't going; I was
10 staying home. And they left.

11 • Had you brought anything *into the house from* the car?

12 A I, brought in a small bag and it had milk or orange juice
13 in it.

• Do you know if -- can you recall was anything said by
the defendant about anything that you had to bring *into the*
house?

A Yes. He asked if he could help me with my groceries,
but I only had the **small** bag.

Q It was during this time that you asked him where he was
from?

A He was *drinking* the water and I asked him where he was
from.

Q Did he appear in talking to him that he had any
24 difficulty understanding what you were saying?

25 A No. It *did not*.

1 Q *Or in making himself clear* in his own speech and manner?

2 A No. His speech was very clear.

3 Q What were the circumstances that he made the comment I
4 should have stayed there?

5 MR. CONNOLLY: I would object. Mr. Wright is
6 leading, and it's already in.

7 THE COURT: I will allow it.

8

9 BY MR. WRIGHT:

10 Q You may answer.

11 A What I asked him where he came from he said that he
12 lived in Yarmouth, he was visiting in Bowdoinham, and then he
13 said I should have stayed there.

14 Q Now, I guess the question I will ask you is was the last
15 remark, I should have stayed there, spoken in the same voice
16 level as previously or somehow different?

17 A **No.** I was a little **lower.** It was like an aside.

18 Q What then happened next after you told him you were ndt
19 going to be leaving?

20 A They left.

21 Q And how much later did you see your husband again?

22 A It was probably around an hour later that I saw my
23 husband.

24 Q At the time that your husband left with the defendant
25 what were the lighting conditions outside?

J

1 A It was light enough so that you could see well. But it
2 was getting dusk.

3 Q How about by the time your husband returned home?

4 A It was dark.

5 Q In an overall way, in the minutes you spent with the
6 defendant, can you describe his overall behavior and demeanor
7 for us?

8 A I would say it was normal.

9 MR. WRIGHT: That's all.

10 THE COURT: Mr. Connolly.

11

12 CROSS EXAMINATION

13

14 BY MR. CONNOLLY:

15 Q Good afternoon. How is your husband doing?

A He's doing quite *well, thank you.*

Q When you saw Mr. Dechaine, Mrs. Buttrick, he didn't
spook you at all?

A No. I was wondering what he was doing.

Q Did he appear to be lost?

A Not really.

Q In the sense when he was walking towards the house he
23 was going directly to the house, so you know why he was going
24 there?

25 A Yes.



1 Q He didn't scare you in any sense?

2 A No.

3 Q You would never have invited him into your house if he
4 was spooky or scary?

5 A That's correct.

6 Q You don't invite random strangers into your house as a
7 rule?

8 A No. We've had several.

9 Q Out of kindness, somebody who seems to be okay?

10 A Yes.

11 Q Without embarrassing you too much, how old are you?

12 A I'm 65.

13 Q You've seen a lot of people in your life?

A Yes.

Q He's the kind of person on that day that you invited
into your house?

A That's correct.

Q He acted like a gentlemen?

A **He** did.

Q He didn't appear to be anything unusual except coming
out of the woods; is that correct?

A That's correct.

Q *Ma'am, when you gave your original* statement to the
police on July 7, do you recall that?

A Yes.

1 At that time you don't mention anything about him saying
2 I should have stayed there, right?

3 A I don't recall.

4 MR. **WRIGHT:** May we come to side bar.

5

6 (Whereupon a sidebar conference was held).

7

8 MR. WRIGHT: I want to point out there is nothing
9 in the statement, but I don't want the impression left
10 through questioning that Mr. Connolly has been unaware of
11 this. I told him some weeks ago.

12 MR. CONNOLLY: That is not the issue. That's not
13 what I asked her.

14 MR. WRIGHT: I *don't know. It's going to be left.*

15 THE COURT: That's what redirect examination
16 is for.

17

18 (Whereupon the sidebar ended)

19

20 **BY MR. CONNOLLY:**

21 Do you **ever** get lost yourself?

22 A Yes, I have.

23 After you found you look back at being lost and you
24 think about it sometimes?

25 A I've never been that far lost.

1 Q **Would** it be natural for you to say after having been
2 lost you should have stayed where you were originally?

3 MR. WRIGHT: Objection.

4 THE COURT: Sustained.

5

6 BY MR. CONNOLLY:

7 Q Mrs. Buttrick, in your original statement that you gave
8 to the police you didn't include that statement in it because
9 you didn't remember it until later on or is it because you
10 only remembered recently?

11 A No. I have remembered it the next day shortly after I
12 gave my statement.

Q You didn't have a chance to talk them until they
followed up on it, is that the idea?

A The people I talked to I told them that I made that
statement to like my sister.

Q **You** talked a lot about things after the newspapers?

A **No.**

Q **No?**

A **No.**

MR. CONNOLLY: I have no further questions.

THE COURT: Mr. Wright.

1

RE-DIRECT EXAMINATION

2

3 BY MR. WRIGHT:

4 Q The remarks, I should have stayed there, that we talked
5 about some weeks ago, right?

6 A Right.

7 MR. CONNOLLY: I would object.

8 MR. WRIGHT: I have nothing further.

9 THE COURT: Thank you. You may step down.

10 It's now five minute to three. I gather we are going
11 to take a brief recess at this time. This will be our mid-
12 afternoon recess. The next testimony will be in the form of
13 video testimony. And is that Mr. Buttrick?

14 MR. WRIGHT: Yes.

15 THE COURT: I'm going to be coming down there and
16 join you folks. But, again, please don't *talk about the*
17 *case. And we'll consider this our* mid-afternoon recess.

18

19 (The jury was in recess at 2:58 and the jury
20 returned to the courtroom at 3:28)

21

22 THE COURT: We are now going to going to play the
23 video deposition of Harry Buttrick.

24 MR. WRIGHT: The record should reflect that I have
25 marked as State's. Exhibit Number 12 the videotape of the

L

1 **deposition testimony allowed** by the Court's order of February
2 17. I would offer State's Exhibit Number 12.

3 MR. CONNOLLY: No objection.

4 **THE COURT:** State's Exhibit Number 12 is admitted.

5
6 (Whereupon the video deposition of Harry
7 Buttrick was played to the jury)

8
9 MR. CONNOLLY: Your Honor, I would offer
10 Defendant's Exhibits Number 3 and number 4.

MR. WRIGHT: I would just have technical objections
only to it.

THE COURT: Defendant's Exhibits Number 3 and 4
will be admitted.

**LEO SCOPINO, JUNIOR, being first duly sworn, was examined and
testified as follows:**

DIRECT EXAMINATION

BY MR. WRIGHT:

Give the jury your name again?

A Leo Scopino.

25 4 Your occupation?

J

1 A Deputy sheriff.

2 Q With whom are you a deputy sheriff?

3 A Sagadahoc County Sheriff's Department.

4 Q How long have you been with the Sagadahoc County
5 Sheriff's Department?

6 A Eight *months*.

7 Q Do you have any prior law enforcement experience?

8 A Yes. I was with the Sagadahoc Sheriff's Department five
9 years and with the Topsham Police Department for six years.

10 Q Then returned to the Sagadahoc County Sheriff's
11 Department?

12 A Yes.

Q Deputy Scopino, let me here ask you if you had an
occasion to be working in the afternoon of July 6th last
year?

A Yes.

Q Did you at **some time during** that afternoon receive a
call which caused **you to go to** to Henkel residence on the
Lewis Hill Road in Bowdoin?

20 A Yes.

21 Q At what time did you receive that call and then went Up
22 to the Henkel residence?

23 A Around 4:20 in the afternoon.

24 Q What was the nature of the call to which you were
25 responding?

1 A Missing baby sitter.

2 When you arrived at the Henkels °- did you go by
3 yourself or with any other officer?

4 A I responded with Deputy Reed, Dan Reed.

5 Q When you arrived at the Henkels what did you find?

6 A We were met by Mrs. Henkel who advised us that her baby
7 sitter was missing.

8 Q Did she at that time give you any items *which you* did
9 anything with?

A She first told us that when we got there that she had
called the baby sitter around 12:30 and she was okay then.
Yes, on the items she did.

- Let me here show you two items marked as State's Exhibit
Number 10 and 11. Do you recognize either of those?

A Yes. I recognize the the receipt and the book.

Q As the items Mrs. Henkel gave you?

A Yes.

Now, first, with respect to the receipt which I believe
is number ten, did you make any alterations in that from the
time you received it from Mrs. Henkel?

A No.

Q What did you ultimately do with it?

A This we held on to. I held on to it.

Q You turned it over to somebody?

A To officer Daniel Reed.

1 Q Does *it appear to be in* the same condition or
2 substantially the same condition it was in when you received
3 it from Mrs. Henkel that afternoon?

4 A Yes.

5 Q Do you see any alteration or changes to it at all?

6 A No, sir, I do not.

7 MR. WRIGHT: I would offer State's Exhibit Number
8 ten at this time.

9 MR. CONNOLLY: No objection.

10 THE COURT: Exhibit ten is admitted.

11

12 BY MR. WRIGHT:

Q Next, State's Exhibit Number 11, for identification
you've indicated was the other item that Mrs. Henkel gave
you.

A Yes,

Q What did you do with that after receiving it?

A I went through it.

Q Anything caught your eye going through it?

A **No.**

Q Did you come to do anything further than look through
it?

A Yes. Later on in the afternoon.

24 Q Tell us what you did with respect to that notebook?

25 A Prior to answering the complaint I had taken all my gear

2 out of the cruiser and Officer Reed had put his stuff in the
3 cruiser. When we got up there we were talking to Mrs.
4 Henkel. I was asking her a series of questions. I had
5 nothing to write on. I in turn used a page out of the book
6 to write I believe Sarah Cherry's name, her date of birth,
7 and her phone number.

8 Q So in that notebook we'll find that information, but it
9 was written by you?

10 A That's correct,

11 Q Apart from that did you make any written alterations,
12 changes to the notebook?

13 A None other than that.

Q Look at it today. You can take it out of the folder.

A Right here.

Q You've opened to the page you are writing?

A Yes.

Q That **notebook has** the name Sarah Cherry?

A Yes. And her date of birth and phone number.

Q Apart from that you've had a chance to look through it.
Does it appear to be in the same condition as it was when you
received it from Mrs. Henkel?

22 A That's correct.

23 Q What did you do with *that book*?

24 A I gave it to Deputy Reed?

25 Q Later in the afternoon?

1 A Yes.

2 **MR. WRIGHT: I would offer State's** Exhibit Number
3 11.

4 MR. CONNOLLY: No objection, Your Honor.

5 THE COURT: State's Exhibit Number 11 is admitted.

6 May I suggest to counsel for purposes of identification
7 on the record that you take another *Exhibit Number and* label
8 it State's Exhibit Number 11A and put it on the page that the
9 officer has just identified.

10 MR. CONNOLLY: I appreciate the suggestion very
11 much.

12

BY MR. WRIGHT:

Q Having received those items from Mrs. Henkel, did you
try to follow-up with respect to their contents in any way?

A Yes,.

Q What did you do?

A With the receipt we **looked** up the - -

Q That's State's Exhibit Number ten?

A Yes. From that we got Mr. Dechaine's name and address
out of Bowdoinham, and we proceeded to look him up at that
address.

Q Were you able to just with that receipt or by some other
24 means to locate at least what you thought to be his

25 residence?

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1, A Yes. We got that out of a phone book.

2 Q After you looked in the phone book what did you do?

3 A We responded to his residence.

4 Q At about what time was that that you went to his
5 residence?

6 A Somewhere between four and five o'clock. Probably a
little after five o'clock.

a Had you been anywhere else or did you at sometime with
regard to being at the Henkels go anywhere else that
afternoon as well?

A Yes, sir, we did.

Q Where was that?

A We spoke to Mrs. Johnson. We went to the Bowdoinham
Police Department to use the phone. We spoke to Officer
Reed, who is a constable at the Bowdoinham Police Department.

Q This is a different Reed than Dan Reed?

A Yes. He's a constable for the Bowdoinham Police
Department. We also searched the area.

Q Let's go back to Mr. Dechaine's residence. When you
went to his residence who, if anyone, did you find at home?

A We spoke to Mrs. Dechaine.

Q Did you find Mr. Dechaine home?

23 A He was not there, no.

24 Q His residence is located where?

25 A On the Old Post Road in Bowdoinham.

7
_a

1 4 There is a map behind you, State's Exhibit Number 1.
2 I'm sure you are familiar with maps. Can you orient yourself
3 to that?

4 A This is the Old Post Road right here.

5 Q There is an orange marker along the Old Post Road. Do
6 you recognize that as the location of Mr. Dechaine's house?

7 A Yes.

8 Q What Route did you take from the Henkels on the Lewis
9 Hill Road to firm *Deohaine*'s residence?

10 A After we went to the Henkel's residence we went across
11 125 into Bowdoinhwa.

12 How long did it take you to go down the Lewis Hill Road?

13 A It took us approximately 15 to 20 minutes to get there.

14 Q At what time would you say you were at the Dechaine
15 residence?

A Sometime after five o'clock.

Q After you were at the the Dechaine residence and didn't
find him there what did you do?

A I spoke to Mrs. Dechaine; from there we responded back
to the Henkel residence.

Q Do you remember at some point that afternoon, you tell
me before or after going to the Dechaine residence going off
23 to look for any vehicles in the immediate area around the
24 Henkel residence?

25 A Yes, we did.

1 Q Tell us about that?

2 A We went to **look** are you referring to Mr. Dechaine's
3 vehicle that we **were looking for**?

4 Q Any vehicles that you might have been looking for.

5 A After we left there we did look for a red pickup.

6 Q Did you find any red pickup?

7 A No.

8 Q Was there at some point in the afternoon while you were
9 around the Henkels had you seen a pickup truck that you went
10 to check for?

11 A Yes. That was down the road. That was a gentlemen
12 surveying at the telephone tower that we did stop and
13 question him.

Q That was after you had gone to the Henkels and left the
Henkels?

A **Yes.**

Q Then went back **to** the Henkels?

A **Yes.**

Q **What kind of truck was** that **or** what kind of vehicle was
that?

A I believe it was a Dodge Ram.

Q A red truck?

A It was. I believe a red and white truck.

Q Then you went back to the Henkels *and in* a general way
started to do what?

1 A Conduct an investigation. We returned back to the
2 Henkels. Mr. and Mrs. Crossman were there.

3 Q By the way, by that time had any other law enforcement
4 personnel arrived?

5 A At the time it was myself and Deputy Reed.

6 Q When you came in where did you park your car?

7 A If you go in the driveway as you go in the driveway it
8 goes to the left. We parked right at the beginning of where
it started to turn.

Q Tell us what you did in trying to look for Sarah Cherry
then that afternoon?

A at we did was we spoke to the parents. We got a
description, proceeded to just go around the roads and pits
and those kinds of things trying to locate her or locate the
vehicle.

Q Any success in locating her or the vehicle?

A No. None.

Q Did you happen to remember what roads or areas you
looked that afternoon?

A We started on the Lewis Hill Road. After the Lewis Hill
Road we went right, which was on the Dead River Road, and
22 then we turned around. We did the right side of the road
23 first then we turned around and came back towards the Lewis
24 Hill Road.

25 Q How long did that go on?

1 A Just about all night long.

2 Q Did there come a time later when you came to have
3 *contact with any* other person besides those with whom you had
4 already spoken, the Johnsons, the Henkels, and other law
5 enforcement *personnel*? Did anybody else come to your
6 attention?

7 A Later that night I was introduced to Mr. Dechaine.

8 Q The defendant in this case?

9 A Yes.

10 Q Where and when was that?

11 A That was later on in the evening. I cant give you an
12 exact time. That was at the corner of the Lewis Hill and the
13 Dead River Road.

14 Q The circumstances generally under which you met him were
15 what?

16 A Myself and Deputy Reed, Deputy Ackley and Detective
17 Westrum were discussing the case as to what we were looking
18 for. We were relaying information on to them. Detective
19 Westrum and Deputy Ackley responded to a call on the Dead
20 River Road at the Buttrick residence. Shortly after they
21 signed off they came back on the air and we were advised that
22 the subject we were *looking for they had located him.*

23 Q Tell us if you would after you met the defendant what
24 precisely, what your contact was with him that evening?

25 A I had no contact with him *in fact until after the*

1 sheriff arrived.

2 Q Sheriff Haggett?

3 A Yes. At some point shortly after he arrived he advised
4 me that he wanted me to search Mr. Dechaine. And I did that.

5 Q That was done how?

6 A I asked Mr. Dechaine to step out of the car and I
7 advised him that I was searching him. I padded him down.

8 Q Did you find anything of consequence?

9 A No weapons or anything like that. I observed some
10 abrasions and some scratches.

11 Q Tell us what you saw in way of abrasions and scratches?

12 A On the back of his left arm in this area up here.

Q On his bicep?

A Yes. He had a one inch to a two and half inch scratch on
the inner left arm in the area of the muscle, *around on the*
inner part in here he had a circular-type bruise and on his
right knuckle in center there was a circular-type scratch.

Q *On one of his right* knuckles?

A Right middle **knuckle**.

□ **Have** you from time to time in your work as a law
enforcement officer seen injuries on individuals before?

A Yes,

Q Could you make any assessment as to the freshness of any
24 of these abrasions?

25 A They appeared to be fresh and redish in color.

1 Q That would indicate what to you?

2 A That they were new.

3 Q **Do** you recall anything during the -- it was only a short
4 time you were with Mr. Dechaine?

5 A Maybe three minutes.

6 Q Anything about his behavior that caught your attention?

7 A He was trembling a lot.

8 Q Did you come to have any conversational remarks with Mr.
9 Dechaine about his trembling?

10 A I asked him why he was trembling. He told me that he
was not. I assured him that he was.

Q Did he have any response to that when you said, yes, you
are?

A No. He had no other response.

Q Does that pretty much sum-up your contact with him?

A Yes. After that I placed him back in the cruiser.

Q Apart from his trembling during the three minutes or so
that **you** had contact **with** him would **you** otherwise describe
the manner in which he was acting or behaving?

A He appeared to be upset.

Q at prompts you to say that?

A *Sow do I say this? The* trembling, his eyes were
extremely large.

24 Q As compared to his appearance today?

25 A *Much* bigger.

1 MR. WRIGHT: Thank you.

2

3

CROSS EXAMINATION

4

5 BY MR. CONNOLLY:

6 Q Deputy Scopino, how long have you been in law
7 enforcement?

8 A A little over ten years.

9 Q What is your background and training?

A I have a two years an associate's degree in criminal
justice.

Q From where?

A Miami Community College in Florida, and I'm a graduate
of the Maine Criminal Justice Academy. I've had numerous law
enforcement classes, sir.

Q How many cases of this nature have you been involved in?

A This is the first one.

Q Am I'm correct in assuming that part of your training is
19 to reduce things to *writing that are accurate at* the time you
20 reduce them to writing?

21 A That's correct.

22 Q That at the time you reduced them to writing they are
23 supposed to be as detailed and accurate as possible?

24 A That's correct.

25 Q How long is the Maine Criminal Justice Academy training?

1 A 12 years.

2 Q You've had field experience for 10 years?

3 A Yes.

4 **A** Yes.

5 Q How long had Mr. Dechaine been in police custody at the
6 time you searched him?

7 A It was long enough for Deputy Reed and Deputy Westrum to
8 talk to him.

9 Q How long is that, sir?

10 A I want to say probably 40 minutes. 40 minutes to an
11 hour.

12 Q Do you know that is the time or are you making a guess?

A I'm making a guess.

Q Is that not an important factor to know how long a
person was in custody at the time you are - -

MR. WRIGHT: I would object to the term of custody.

MR. CONNOLLY: He's being searched; this officer
should know - -

THE COURT: Objection is overruled.

BY MR. CONNOLLY:

Q Is that not important factor, yes or no?

A Yes, it is.

Q So you did not know how long he had been in custody at
the time you were searching him and made your observations?

1 A Yes.

2 Q Do you know what typed of interrogation he had undergone
3 at the time you saw him?

4 A No.

5 Q Is that not an important factor in determining the
6 person's state of mind by the time you are *questioning him?*

7 A That's correct.

8 Q You have to understand what happened *to him at the time*
9 *the police took him into custody and the time you questioned*
10 *him?*

11 A That's correct.

12 Q Is it true that a person with little experience with
13 police officers in your experience gets frightened when they
14 are in custody and getting searched?

15 MR. WRIGHT: Objection.

16 THE COURT: Overruled.

17 **THE WITNESS:** Correct.

18

19 **BY MR. CONNOLLY:**

20 Q Sometimes its *terrifying; is that not true?*

21 You've had people under your custody that wet themselves?

22 THE COURT: There are two questions pending.

23

24 BY MR. CONNOLLY:

25 Q People get terrified when they are in custody, isn't

1 **that true sometimes?**

2 **A** Not all the times, no.

3 **Q** Sometimes, sir?

4 **A** It's a possibility.

5 **Q** Especially if you are being accused of something very
6 serious, isn't that true?

7 **A** It could be.

8 **Q** Do you know what Mr. Dechaine at the time was being told
9 by the other officers?

10 **A** I have no idea.

11 **Q** *That would be an important* factor in understanding where
12 his mind was when you were questioning him?

13 **A** Yes.

14 If he was being accused of kidnapping a girl he would be
right to being terrified, wouldn't he?

MR. WRIGHT: I **would** object.

THE COURT: Sustained.

BY MR. CONNOLLY:

Q **His eyes were wide-open?**

A **Yes.**

Q Is that an indication of somebody being terrified?

MR. WRIGHT: Objection.

24 **THE COURT:** Overruled.

25 **THE WITNESS:** It exists.

1 BY MR. CONNOLLY:

2 Q He was not talking insanely, was he? He was
3 cooperative, wasn't he?

4 A He was okay for me.

5 Q How would you describe his trembling?

6 A Shaking. Would you like me to show you?
7 Demonstrate for me.

8 A Like this. He was like this.

9 Is that consistent with a person who is frightened?

A Could be.
You don't know?

A No, I don't.
How long did you question him for?

A Just long enough to pad him down. All I did was advise
him I was taking him out of the car to search him.

Q You found no knife on him?

A *I found nothing on him.*

Q **You** are trained officer to reduce things to writing that
you did find?

A Yes.

Q Did you see any blond on him?

22 A The part on back here which would be behind the left arm

23

24 Behind the left arm like around here?

25 A It was red.

1 Q Stand up, Dennis. Take off your shirt and show him the
2 scratch. Is this the same scratch, yes or no, once he shows
3 it to you? Is that the mark in question? Step forward.

4 A I would **like** to it. I don't **see** the scratch that was
5 there that night. I do not see it.

6 Q Do you **see** a scar there?

7 A Possibly right here. It *was in this general area right*
8 *in here.*

9 Q Consistent where there is a scar now where your thumb
10 is?

11 A **No.** If you can see right here it was in this general
12 area.

13 Q Half an inch down where your thumb was covering up?

A That's not the scar I was talking about.

Q Is it your testimony that he had another mark above
where that scar on his arm is currently?

A **Approximately** an inch and half from where that scar is.

Q Coincidentally where he has a scar?

A Yes.

Q I'm **showing** you something that has been marked as
Defendant's Exhibits Number five. I would ask if you can
identify it?

A I believe that's the

Q First can you have identify it?

A **Yes.**

1 Q Can you describe what that is?

2 A That's the circular bruise that I saw.

3 Q Is that a fair and accurate portrayal of the defendant's
4 arm?

5 A I believe so.

6 Q On the day or evening of July 6, 1988?

A Yes.

MR. CONNOLLY: I would offer Defendant's Exhibits
Number five into evidence.

MR. WRIGHT: No objection.

THE COURT: Defendant's Exhibit Number five is
admitted.

BY MR. CONNOLLY:

Q You saw no blood on his clothes, isn't that true?

A Correct.

Q You saw no other scratches except as described, isn't
that correct?

A That's correct.

Q You saw no other identifying marks of any kind other
than you described?

22 A That's correct.

23 Q The bruise, a mark on his right knuckle and one on his
24 arm?

25 A Yes, sir.

1 Q Nothing else?

2 A No.

3 Q You were at the Henkel residence at 4:30; is that
4 correct?

5 A We were at the Henkel residence at 4:35 that's the
6 approximately time, yes.

7 Q By five you were at the Dechaine residence; is that
8 correct?

That is a fair estimate.

Its fair to say also by the time five o'clock rolled a
around and you were at the Dechaine residence he was your
sole suspect in this case?

A All we did was follow-up on a lead, what we had in the
driveway.

Q It was a pretty obvious lead, wasn't it?

A Yes.

Q Let's talk about that obvious lead. You are trained,
are you have *not, sir, in* the continuity of evidence?

A **Yes.**

Q That's a very important concept because lawyers pick at
you about it, don't they?

A **Yes,** you do.

Q You have been *in court before?*

A Yes.

Q You know that this is a big situation involving a

1 notebook being found with a person's name on it when there is
2 a missing little girl?

3 A Yes, Not on the **notebook**, on the receipt.

4 Q The notebook was with the receipt, therefore it is of
5 importance?

6 A Yes.

7 Is it your habit, sir, to take significant evidence and
8 to mark on it?

9 A No, it is not.

10 Q In fact, that is bad police procedure, is it not?

11 A That's correct.

12 Q In fact, that could have contaminated that book?

13 A Yes.

14 Q You don't *include that fact that you* marked in the
15 notebook in your report, do you?

16 A **No**, I forgot about it. It was brought to my attention
17 **later on.**

18 Q **By somebody else, not yourself?**

19 A **Yes.**

20 Q **So you marked** up the evidence and you forgot about it
21 and you didn't report it to somebody else; somebody had to
22 bring it to your attention?

23 A Yes.

24 Q You handled the evidence, didn't you?

25 A Yes,

1 Q That's bad police procedure. You are supposed to
2 preserve it so if there are fingerprints on it?

3 A Yes.

4 Q **You** are supposed to put it in a bag or baggy so not to
5 handle it?

6 A It had been handled prior to me. I gave it -- it was
7 handed to me and I gave it to the officer doing the
8 investigation, sir.

9 Q You did more than that, you leaped through it?

10 A Yes, we did.

11 Q Row many times did you handle it and who did you hand it
12 to besides the investigating officer?

A The only one I handed it to was Officer Reed

Q *The same with* the receipt, you handled that?

A Yes, we did.

Q That's improper police procedure, isn't it?

A Could be, sir.

Q Is it proper police procedure to handle items that may
have fingerprint evidence on them?

21 A If it is of value. The notebook was a mistake. I admit
to that.

22 Q A pretty serious mistake?

23 A **Yes. I realized** that after I started writing in the
24 book and I did not write any further after I realized what I
25 was doing.

1 Q But handling is a mistake and you are now admitting it
2 was a mistake?

3 MR. WRIGHT: Objection.

4 THE COURT: Just a minite. May I have your
5 objection?

6 MR. WRIGHT: I objected on the grounds its
7 argumentative and its

8 THE COURT: The objection is sustained. The jury
9 will disregard the question.

10

11 BY MR. CONNOLLY:

12 Q Is it proper police procedure ^{ee} strike that.

It was very easy to look up in a phone book and find Mr®
Dechaine's address?

A It was in there.

Q But for the. appearance of the receipt and/or notebook
you would not have gotten that address, isn't that true?

A That's correct.

Q Or at least so easily?

A That's correct®

Q When you were at the Henkel residence the first time,
you drove up the driveway, is that not correct?

A We drove in the driveway; not completely all the way up.

Q Where did you park?

A I want to say we were probably a car length behind Mrs.

1 Henkel's car.

2 Q Turning your *attention to State's* Exhibit Number nine.
3 On that diagram that photograph with an X on it, where did
4 you park your vehicle?

5 A I want to say an area back in here, I believe.

6 Q For the record, you are pointing to the very bottom of
7 the photograph?

8 A Not at the bottom, somewhere in that area here.

9 Q Approximately an inch up towards the middle of the Omni?

10 A Yes,

11 • That's where you parked your vehicle?

12 A I believe that is correct.

13 • Were you the driver at the time?

A No.

Q You were the passenger?

A Yes.

Q Who was with you?

A Officer Reed.

Q Did he get out on the left side and you get out on the
right?

A Yes.

Q How far did you proceed to the house?

A She met us. She came out to us because her dogs were
loose.

25 Did she walk to the front of your vehicle?

1 A I don't recall which part of the vehicle she went to.

2 Q Its true, is it not, you were walking on the scene
3 where the notebook was found?

A We walked ® I guess it was, yes; we were on the
5 driveway.

6 Q Your vehicle was on the driveway as well?

7 A Yes.

Q With reference to the red Dodge Ram, where was that
located?

A Approximately two miles up the road.

Q On the Lewis Hill Road?

That's correct. You come out of the Henkel driveway you
would take a left and head back towards 125.

Q I would turn your attention to the map that is
immediately behind you, sir, State's Exhibit Number 1-A, and
ask you to mark with a blue X the location of where that red
Dodge Ram was located.

A I guess what I would **like to know is** where the area
there is some type of tower out there. I don't know where
that tower would be on the map.

Q Sir, turning your attention if this red dot indicates
the Henkel residence does that help clarify the location?

A I'm still ®-

Q Is it fair to say you aren't sure where?

A If I knew where the tower was I could give you an idea

where it was, but I don't see the tower listed on here
2 anywhere. He was right next to that tower.

3 Q How long had you been there? What was his name?

4 I don't know.

5 Q Did you not take that information down?

6 Officer Reed took that information.

7 Q You in your report don't indicate anywhere that you
8 found such a vehicle?

9 A Nor sir.

10 Q Why is that?

A We didn't feel it was important. We ran it was a 1028
on him and there was also a license check done on him. He
was in the woods. He was a soil tester. He was out there
with his whatever they do, screw something into the ground
and pull the plugs up; that's what he was doing.

Q He had a small red pickup?

It was a red and white pickup.

Q It's a small size **however?**

I believe it was a Ram 50.

Q Were any photographs taken of that and shown as to
people on the Lewis Hill Road area?

22 A To my knowledge, no.

23 Q You yourself searched for the Toyota in the area of the
24 Dead River Road; is that correct?

25 A That's correct.

And the Lewis Hill Road?

2 A That's correct.

3 Q And did you go up the Hallowell Road?

4 A No. We never went past - after we came out of Lewis
5 Hill and went right on the Dead River Road and came back the
6 Dead River Road we never went by the Lewis Hill Road. We had
7 spoken to John Jeffrey from the Maine State Police who was
8 already there.

9 Q Why didn't you go up the Hallowell Road?

10 A We were just there. We were searching the area. There
11 is another side road there, and I'm not sure the name of it.
12 *We hadn't gone up that road yet.*

*Q Did you set up a perimeter from the area around the
Henkel residence and cordon off for search purposes at that
time?*

A No, we had not

Q Had you at that time determined to take license plate
numbers of any vehicle passing any checkpoints?

A We were - if there were any trucks we were *running the*
plates, but I don't believe we ever saw another red truck.

Q You don't make any notation of running, making any
notation of running any trucks in your report?

23 A No, I believe it was Officer Reed that did the 1028.
24 It may have been me. We checked him out.

25 Q That's a red truck on the Lewis Hill road?

1 A A red and white Rana, a Dodge product.

2 It was on the Lewis Hill Road?

3 A Yes. If you are asking for an estimate I would say at
4 least maybe two miles from the Henkel residence.

5 Q When you received a call over the radio dispatch
6 indicating that the subject had been located it was the
7 defendant; is that a fair statement?

8 A Yes.

Q It's also fair to say he's the only person at that time
you were looking at?

A We were looking to speak to him, yes, sir with reference
to the items that were found in the driveway.

Q You weren't looking for any other person with reference
to a probable perpetrator; isn't that right?

A That would be a fair statement, yes.

Q Also in your report in the notations that you make
reference to Mr. Dechaine you don't note any other thing
except for the number five, *Defendant's* Exhibits Number five,
the bruise, the scratch on the back of his arm and one bruise
on his knuckle; is that correct?

A That's correct.

There *is nothing* else you are testifying to now of any
consequence on his person that you noticed or that you
remember *now independent?*

A I remember the scratch behind the left arm. I remember

1 the circular bruise here, and I remember the trembling.

2 Q You were trained a police officer that would have
3 noticed *anything else that was on* the person of consequence?

4 A Yes, I guess.

5 We are not asking you to guess, we are asking you to be
6 sure?

7 A Yes.

8 Q When Mr. Dechaine was asked to empty out his pockets was
9 her cooperative with you?

10 A I had no problems *with him*.

11 MR. CONNOLLY: Nothing further.

12 THE COURT: Any redirect examination?

13 MR. WRIGHT: Yes.

RE-DIRECT EXAMINATION

BY MR. WRIGHT:

Sir, let me here show you two photographs which are State's Exhibit Number four and five, which, for the jury's benefit, are photographs of the defendant's truck. Now, the *red and white* pickup that you saw, does it look anything like that truck?

A Well, *its similar. Its small in size like this.*

Except that the other one was red and white and it was new.

25 This one here, the truck that we were looking for was a red

1 pickup truck that had a fender replaced on the right side and
2 it was supposed to still have been in primer color.

3 Q Did the red and white pickup truck that you saw *with the*
4 soil tester near the tower have any body damage?

5 A No. It had none.

6 MR. WRIGHT: That's all I have.

7

8

FURTHER CROSS EXAMINATION

9

10 BY MR. CONNOLLY:

11 Q It's fair to say that the sole reason you were looking
12 for the red Toyota pickup truck was because of the items
13 found in the driveway, yes or no?

14 MR. WRIGHT: I Object. It's improper based upon
the re-direct examination. No such question was asked on
re-direct to allow that on re-cross.

THE COURT: Sustained.

BY MR. CONNOLLY:

Q Based upon the items found in the driveway you were not
looking for the red and white pickup truck, were you?

22 MR. WRIGHT: I asked nothing about items found in
23 the driveway.

24 MR. CONNOLLY: He was asking about the

25 ® THE COURT: You were.

1 THE COURT: The objection is overruled.

2

3 BY MR. CONNOLLY:

4 Q Answer the question.

5 A Would you repeat the question?

6 Q Based upon what was found in driveway you were not
7 looking for a red and white pickup truck, were you?

A We were looking for a red pickup truck.

MR. CONNOLLY: No further questions.

THE COURT: Mr. Wright.

MR. WRIGHT: Nothing further.

THE COURT: Thank you. You may step down.

Members of the Jury, thank you for your patience. Its
been a relatively long day. Its approximately 25 minutes
past five. We are going to adjourn for the evening.

16 Again, I put on my instant re-play tape and I ask you
17 again to please avoid all media coverage of this case.
18 Again, repeating to you that media coverage of what has taken
19 place in court today is somebody elses version of what they
20 heard. You are the judges of the facts and you are going to
21 judge this case based strictly upon what you have seen and
22 heard and will see and hear in this courtroom, not what
23 somebody else had written about it. If you have any interest
24 in the news coverage have somebody put it aside for you and
25 *save it for you until the case is all over. Thank you very*

1 much. We appreciate your time and patience with us. Have a
2 good evening. We'll resume at nine o'clock tomorrow morning.
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8 (The proceedings for the day concluded at 5:25)
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