

1 November 28, 1990

2 SUPREME COURT WESTCHESTER COUNTY

3 PART NC

4 THE PEOPLE OF THE STATE OF NEW YORK

5 against

6 JEFFREY DESKOVIC, Defendant

7 INDICTMENT NUMBER: 192-90

8 CHARGE: MURDER 2nd

9 CONTINUED: TRIAL

10 BEFORE: HON. NICHOLAS COLABELLA,
11 Justice of the Supreme Court.

12

13 APPEARANCES: Same as previously noted.

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(11:10 a.m.)

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THE COURT CLERK: In the case of
the People of the State of New York
against Jeffrey desk, under Indictment
192 of 90.

21

Are the People ready?

22

MR. BOLEN: The People are ready.

23

24

THE COURT CLERK: Is the Defendant
and counsel ready?

1 MR. INSERO: The Defendant is
2 ready, Judge.

3 (Whereupon, the witness David
4 Levine returns to the witness stand.)

5 THE COURT: All right, bring the
6 jury in, please.

7 (Whereupon, the jury enters the
8 courtroom.)

9 THE COURT: All right, are you
10 ready to proceed?

11 MR. BOLEN: Yes.

12 MR. INSERO: Yes.

13 DIRECT EXAMINATION

14 BY MR. BOLEN: (Continued)

15 Q Detective, going back to that point in
16 time when you had occasion to retrieve certain
17 items from [REDACTED] school locker, do you
18 recall that?

19 A Yes.

20 Q In addition to the item which was shown
21 to you yesterday, introduced into evidence as
22 People's Exhibit 50 in evidence, were there other
23 items that you retrieved from the locker?

24 A Yes.

1 Q Including various looseleaf type
2 things?

3 A Yes.

4 Q Now, once you retrieved all those items
5 where did you bring them?

6 A To Police Headquarters.

7 Q Would it be fair to say that you
8 examined them all?

9 A Yes.

10 Q And if you can answer that question
11 with respect to the various -- were there
12 textbooks, as well?

13 A Not that I recall, no.

14 Q With respect to the various looseleaf
15 folders or binders, could you tell us this,
16 Detective: The paper that you observed, what
17 color was it?

18 A White.

19 Q And of the white paper that you saw,
20 was it all the same or different or what?

21 A It was different.

22 Q How was it different?

23 A Different type of paper. One was
24 bounded on the looseleaf. Others were spiral

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1 type, the lines, and the spacing of the lines
2 were different also.

3 Q Now, directing your attention to
4 Exhibit 38 A in evidence, in addition to
5 observing the writing on the piece of paper, did
6 you have occasion to observe the type of paper,
7 the lines, the distance between lines and the
8 perpendicular red lines?

9 A Yes.

10 Q And that would have been done during
11 the course of the investigation?

12 A Yes.

13 Q Having done that, did you make any
14 effort to compare that piece of paper on Exhibit
15 38 A to see whether or not it correlated in any
16 way to any of the pieces of paper that were
17 retrieved from [REDACTED] locker?

18 A Yes.

19 Q Did it in any way correlate in terms of
20 lines, distance between lines or things like
21 that?

22 A Yes.

23 Q What type of paper would that have
24 been?

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1 A Looseleaf type paper.

2 Q In what type folder, do you recall?

3 A A bounded looseleaf type folder.

4 Q Do you know what it related to, that
5 folder, where that paper would have been?

6 A In a photography notebook.

7 Q Would the folder that you're just
8 talking about now be different from -- and let me
9 show you this again, People's Exhibit 50 in
10 evidence.

11 (Witness examines.)

12 A Yes, it would.

13 Q And as a follow-up to that, the paper
14 that you're referring to that was in the
15 photography folder, that was different from the
16 paper that's contained within People's Exhibit 50
17 in evidence, is that correct?

18 A Yes.

19 MR. BOLEN: May I have that back,
20 please. May I also have Exhibit 38 A
21 in evidence back, please.

22 Your Honor, at this time I'd like
23 to have marked for identification as
24 People's Exhibit 167 what I'll refer to

1 as a folder with papers.

2 (Marked.)

3 Q Detective, would you now take a look at
4 Exhibit 167, and if you can peruse it for
5 purposes of telling us whether you recognize it,
6 and if so, how?

7 (Witness examines.)

8 A Yes.

9 Q Specifically, can you look through it
10 and come to any looseleaf white papers?

11 A Yes, I do.

12 Q Without any writing on it?

13 A Yes.

14 Q Do you recognize that exhibit?

15 A Yes.

16 Q How do you recognize it?

17 A This is the looseleaf notebook that I
18 retrieved from her locker, which is the
19 photography notebook.

20 Q And within that exhibit, Detective,
21 could you tell us whether it contains, for want
22 of a better word and using virgin in the sense of
23 nothing on it, pieces of paper that would
24 correspond to the piece of note contained in

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1 Exhibit 38 A?

2 A Yes.

3 MR. BOLEN: May I have that
4 exhibit back, please.

5 Your Honor, may I confer with
6 counsel for a second?

7 THE COURT: Yes.

8 (Whereupon, Mr. Bolen confers with
9 Mr. Insero in a discussion off the
10 record.)

11 MR. BOLEN: Your Honor, at this
12 time I would like to have separately
13 marked as People's Exhibit 167 A what
14 is a white piece of paper from Exhibit
15 167.

16 (Marked.)

17 MR. BOLEN: Your Honor, I would
18 offer People's Exhibit 167 A in
19 evidence.

20 MR. INSERO: Side bar, please,
21 your Honor?

22 THE COURT: Okay.

23 (At the side bar.)

24 THE COURT: What is it?

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1 MR. BOLEN: I'm submitting this
2 note on this piece of paper is similar
3 to this, because it lines up, the
4 lines. If you line them up you can see
5 the lines.

6 THE COURT: To show the similarity
7 of the paper?

8 MR. BOLEN: Yes, in tying it into

9 

10 MR. INSERO: Other than that, I'm
11 befuddled as to the blank piece of
12 paper.

13 THE COURT: To show that it came
14 from that notebook or a similar type
15 piece of paper?

16 MR. BOLEN: Yes, that's the reason
17 for the offer.

18 MR. INSERO: I'll object to that,
19 Judge.

20 THE COURT: All right.

21 (Back before the jury.)

22 THE COURT: There was an objection
23 to the introduction or the offer of the
24 exhibit, which is overruled by the

1 Court. The exhibit will be marked in
2 as People's Exhibit 167 A in evidence.

3 (Marked.)

4 Q Now, Detective, I'd like to go back to
5 where I left off yesterday evening, January 10th
6 of 1990. In the latter part of the afternoon,
7 between -- let me see if I have my bearings
8 correct here. When you had left the room where
9 Jeffrey was, and you had turned off the tape, and
10 during the intervening period --

11 MR. BOLEN: I'll withdraw that.

12 Q When you returned to the room with the
13 two cups of coffee-- I'm now at that point, all
14 right?

15 A Yes.

16 Q I'm not sure whether you testified to
17 this yesterday, but you said upon your return
18 with the two cups of coffee, you said on that
19 desk in addition to the two cups of coffee there
20 were those typed documents?

21 A Yes.

22 Q It's coming back to me now. The first
23 diagram that is in evidence, it was at that point
24 that it was drawn?

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1 A Yes.

2 Q I'm referring to People's Exhibit 160

3 A. Now, with respect to the words, the words
4 that appear on the diagram, whose words were
5 those?

6 A Jeffrey's.

7 Q And referring to Exhibit 160 A, which I
8 understand is now in evidence, and specifically
9 with respect to the following words which I'm
10 reading from the exhibit which is in evidence,
11 and I will put them in quotation marks,
12 "Struggle," "Path," "Raped there," "Body found,"
13 "Leaves," and "School", whose specific words were
14 those?

15 A Jeffrey's.

16 Q Did you at any time before any of those
17 words appeared on that diagram suggest to Jeffrey
18 those words and tell him to -- did you suggest to
19 him those words?

20 A No, I didn't.

21 Q Would it be fair to say that with
22 respect to the actual drawing of that diagram and
23 the affixing of the various words that appear on
24 that, that that took some period of time?

1 A Yes.

2 Q Do you have any idea how long that
3 took?

4 A Not exactly, no.

5 Q And, again, the paper on which it was
6 drawn, it was on a pad which was in the room, is
7 that correct?

8 A Yes.

9 Q Now, at some point during the drawing
10 of that diagram or at the end of it, did anything
11 happen within the room with respect to one of
12 both of the coffee cups?

13 A Yes.

14 Q Could you tell us about that?

15 A I was moving my arm, and I knocked over
16 my cup of coffee, which coffee wound up on the
17 desk.

18 Q And what did you do with respect to the
19 liquid contents that were on the desk?

20 A I took some napkins that were on the
21 desk and cleaned up the coffee.

22 Q Did any of it fall on any part of you
23 or on Jeffrey?

24 A Yes, it spilled on my shirt. Nothing

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1 landed on Jeffrey.

2 Q Now, with respect to the diagram that
3 was then being worked on, so to speak, did any
4 coffee get on any of that diagram?

5 A No.

6 Q What about any of the papers that might
7 have been on the desk?

8 A Yes, the two typewritten pieces of
9 paper Jeffrey gave me earlier.

10 Q There was some liquid coffee that went
11 on that?

12 A Yes.

13 Q What, if anything, did you or Jeffrey
14 do with respect to trying to dry that off?

15 A I took a napkin and I just touched it.

16 Q The liquid coffee that might have
17 spilled on those notes, did it in any way
18 obliterate what might have been typewritten or
19 handwritten on it?

20 A No.

21 Q Now, whenever you concluded that
22 process of wiping up, was it at some point after
23 that, that what has now been introduced into
24 evidence as Exhibit 160 B was prepared?

1 A Yes.

2 Q And with respect to that, since it's in
3 evidence I will read in pertinent part certain
4 words that appear on it, and again like I did
5 before I will put them in quotes: "High ST," and
6 "RI," with a "V" underneath it.

7 Detective, who put those words or
8 letters there?

9 A Jeffrey did.

10 Q The "RIV", what did that relate to?

11 A That related to the River House, which
12 is the apartment complex off Constant Avenue.

13 Q Now --

14 MR. BOLEN: Again, if any of the
15 jurors want to come closer, I guess
16 they should.

17 THE COURT: Yes.

18 Q If you would step down here, Detective,
19 please. With this ruler, and directing your
20 attention to the top part of this exhibit which
21 is Exhibit 5 A in evidence, would you point that
22 out to the jury?

23 A Over here.

24 (Indicating.)

1 Q Would that have been the first or
2 second diagram that was drawn?

3 A That was the first.

4 Q Would you please point out on the
5 diagram where the following words appear:

6 "School"?

7 A Here.

8 (Indicating.)

9 Q "Struggle"?

10 A Here.

11 (Indicating.)

12 Q "Path, raped"?

13 A Here.

14 (Indicating.)

15 Q And "Body found in leaves."

16 A Here.

17 (Indicating.)

18 Q Jumping ahead in time, on the lower
19 right-hand portion of that particular diagram
20 there appears a signature and a date. Do you
21 recall --

22 MR. BOLEN: Withdrawn.

23 Q Could you tell us who wrote that, and
24 was the tape on or off when that was done?

1 A Jeffrey wrote it, and the tape was on.

2 Q Now, directing your attention to the
3 lower half of the item that we have been talking
4 about, specifically Exhibit 5 B in evidence, will
5 you point out to the jury where the words "HIGH
6 ST" appears?

7 A Here.

8 (Indicating.)

9 Q Would you point out where the words
10 "RIV" appears?

11 A Here.

12 (Indicating.)

13 Q Now, again that particular diagram was
14 drawn by Jeffrey?

15 A Yes.

16 Q As I did with the Exhibit 5 A in
17 evidence, 5 B in evidence in the lower right-hand
18 corner contains what appears to be a signature
19 and a date. Who put that on there?

20 A Jeffrey signed it.

21 Q Again, was the tape on or off when that
22 was done?

23 A The tape was on.

24 Q Now, with respect to the affixing of

1 the signatures to both exhibits, was that done
2 after you had left the room and conferred with
3 certain superiors?

4 A Yes.

5 Q Now, with respect to Exhibit 5 A,
6 during that period of time that you and Jeffrey
7 were in the room during the process of the
8 drawing of that diagram, and up to the
9 completion, were there conversations had between
10 the two of you, and principally by Jeffrey with
11 respect to what those various items were, other
12 than the words, as they were being drawn?

13 A Yes.

14 Q Would your answer be the same or
15 different with respect to the second diagram,
16 People's Exhibit 5 B in evidence?

17 A It would be the same.

18 Q With respect to Exhibit 5 A, utilizing
19 what you recall Jeffrey telling you, can you
20 just, other than the words you've already
21 indicated, Detective, indicate what the other
22 areas of the diagram purport to be, according to
23 Jeffrey?

24 A According to Jeffrey, this would be the

1 macadam path here. According to Jeffrey, this
2 would be another macadam path. This would be the
3 school. These two figures would be the Hillcrest
4 Condominiums. This oval shape would be Griffins
5 Pond, and this smaller shape here being a mound
6 of dirt.

7 (Indicating.)

8 Q There is some kind of line intersecting
9 one of the things that you called a path. What
10 was that?

11 A This line here indicates the dirt path
12 coming from the macadam path to the pond.

13 (Indicating.)

14 Q Now, when this was done, while it was
15 done, was this done according to scale?

16 A No, it wasn't.

17 Q Now, directing your attention to
18 Exhibit 5 B, as I asked you with respect to
19 Exhibit 5 A, again based upon what Jeffrey said,
20 can you describe to the ladies and gentlemen of
21 the jury what, other than the words, what Exhibit
22 5 B purports to represent?

23 A This horizontal line is Main Street.
24 This would be Angela's house. This would be

1 another house. This figure and also this figure
2 would be the two dividers. Between the two
3 dividers would be the driveway from which you
4 would gain access to High Street.

5 This vertical line, approximately three
6 or four lines, indicate, according to Jeffrey,
7 the side street of High Street, the west side of
8 the sidewalk. The very small line with an arrow
9 indicated a fence.

10 Q A fence?

11 A Yes, a gate, a wrought iron gate. The
12 other squiggly line between the houses would
13 indicate the way [REDACTED] walked.

14 In the upper right-hand corner we have
15 a squiggly line, also diagonal. This indicated,
16 according to Jeffrey, a steel guard rail which
17 was located on Constant Avenue.

18 This figure, which is more or less at a
19 right angle, that indicated the two macadam
20 paths.

21 Up on the upper right-hand corner is an
22 arrow. This indicated, according to Jeffrey,
23 Overlook Avenue, which intersects with Constant
24 Avenue.

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1 (Indicating.)

2 Q Now, earlier that afternoon, Detective,
3 you've already indicated to us that Jeffrey at
4 some point furnished you with two typewritten
5 pages?

6 A Yes.

7 Q Both those pages are now in evidence as
8 Exhibit 42 A and Exhibit 42 B. At some point
9 while the tape recorder was on did either you
10 and/or Jeffrey have occasion to read from
11 portions of Exhibit 42 B in evidence, a series of
12 questions?

13 A Yes.

14 Q I did not listen to the tape that was
15 played yesterday. I noted that you did. To the
16 best of your recollection, did either -- who read
17 first?

18 A I did.

19 Q And then Jeffrey took over?

20 A Yes.

21 Q Were all the questions read that were
22 on the tape?

23 A Yes.

24 MR. BOLEN: Judge, may I read in

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1 pertinent part verbatim from portions
2 of this exhibit?

3 THE COURT: Which exhibit?

4 MR. BOLEN: Exhibit 42 B in
5 evidence.

6 THE COURT: If it's in evidence
7 you can read from it.

8 MR. BOLEN: I realize the tape
9 speaks for itself, but I want to --

10 THE COURT: You can read from it
11 or you can ask him questions from it.
12 You can't comment on it.

13 MR. BOLEN: Fine.

14 THE COURT: Not until summation.
15 Then you can comment on it.

16 MR. BOLEN: May I have just one
17 moment?

18 THE COURT: Yes.

19 (A brief pause.)

20 MR. BOLEN: I'll withdraw that,
21 your Honor.

22 THE COURT: Okay.

23 Q Now, when the two diagrams were
24 completed there came a point when you left the

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1 room, is that correct?

2 A Yes.

3 Q Where did you go?

4 A I went to my superior's office,
5 Lieutenant Tumolo.

6 Q And in the process of going from the
7 interview room to wherever Lieutenant Tumolo was,
8 did you happen to see or pass anyone whom you
9 knew?

10 A Yes.

11 Q Who would that have been?

12 A Dr. John McGurty, Jr..

13 Q Without telling us what was said, did
14 you have occasion to discuss one or both diagrams
15 with Lieutenant Tumolo?

16 A Both.

17 Q And would that have occurred, and then
18 was it around that time or shortly thereafter
19 that in the company of Dr. McGurty and perhaps
20 somebody else you had occasion to return to the
21 interview room?

22 A Yes.

23 Q Upon returning to the interview room
24 was Jeffrey there?

1 A Yes.

2 Q Was anybody else in the room?

3 A Yes.

4 Q Who?

5 A Detective Astrologo.

6 MR. INSERO: What's the last name,
7 please?

8 MR. BOLEN: Detective Astrologo.

9 Q So, Detective Astrologo preceded you
10 into the room, or he came after you?

11 A He was there.

12 Q Let's step back. While you were in the
13 room conferring with Lieutenant Tumolo, and when
14 you came back, who accompanied you?

15 A Nobody accompanied me. I was by myself
16 then.

17 Q When you walked back into the room
18 where was Dr. McGurty?

19 A He was in headquarters, coming into the
20 room.

21 Q Coming into what room?

22 A The interview room.

23 Q Okay. You leave the room with the
24 diagrams, discuss it with Lieutenant Tumolo, and

1 then you come back and you and Jeffrey are in the
2 room?

3 A Yes.

4 Q When did Detective Astrologo come into
5 the room?

6 A Maybe moments afterwards.

7 Q Maybe I misunderstood what you said.
8 Upon your return to the room was Detective
9 Astrologo in the room with Jeffrey or he came
10 in after?

11 A He came after.

12 Q What about Dr. McGurty?

13 A He also came after.

14 Q Let's make this clear. Who was in the
15 room at that point?

16 A Myself, Jeffrey, Dr. McGurty, Jr. and
17 Detective Astrologo.

18 Q Would it be fair to say that it was
19 during that period of time that Dr. McGurty drew
20 two tubes of blood from Jeffrey?

21 A Yes.

22 Q And that was done in the presence of
23 who?

24 A Myself and Dr. McGurty and Detective

1 Astrologo.

2 Q Then what happened with the two tubes
3 of place blood?

4 A I placed them in an evidence box,
5 sealed it and gave it to Detective Astrologo who
6 sealed it and vouchered it.

7 Q Where did it go then?

8 A He placed in a refrigerator in
9 headquarters.

10 Q What then happened to Dr. McGurty?

11 A He left.

12 Q So, that would leave who in the room at
13 this time?

14 A Myself and Jeffrey.

15 Q Where were those two handwritten
16 diagrams on the yellow piece of paper?

17 A On the desk.

18 Q Now, at this point in time where was
19 the tape recorder and what, if anything, was
20 going on with it?

21 A The tape recorder was in my breast
22 shirt pocket and it was on.

23 Q And it was around that time that you
24 had occasion to do something with the card, is

1 that correct?

2 A Yes.

3 Q Now, thereafter for a period of time,
4 whatever was said by you or Jeffrey, that was
5 recorded, is that correct?

6 A Yes.

7 Q There came a point in time when for the
8 third time you turned the recorder off, is that
9 correct?

10 A Yes.

11 Q Could you tell us how that came about,
12 the events leading right up to it?

13 A The tape recorder was placed on the
14 desk. Jeffrey knew it was recording.

15 Q Let me interrupt there. When after you
16 went back in and after you gave the Miranda
17 warnings, when did you pull the tape out and put
18 it on the desk?

19 A As soon as the Miranda warnings were
20 read.

21 Q Now, you placed it on the desk at that
22 time, correct?

23 A Yes.

24 Q Whatever was said, if anything, by you,

1 it would be on the tape at that point, is that
2 correct?

3 A Yes.

4 Q And thereafter conversations took
5 place?

6 A Yes.

7 Q Now, going ahead in time, how did it
8 come about that you turned the tape off?

9 A Jeffrey paused for approximately ten or
10 fifteen seconds. He looked puzzled on his face.
11 He looked down towards the tape recorder. At
12 that point I turned the recorder off.

13 Q Well, did you do that in front of him?

14 A Yes.

15 Q Then what, if anything, happened?

16 A I asked Jeffrey, "Do you feel better
17 that the recorder is off?" And he said yes.

18 Q Then what, if anything, occurred?

19 A The recorder was turned off.

20 Q Then what, if anything, happened?

21 A Then I confronted Jeffrey.

22 MR. INSERO: I'm sorry. You did
23 what?

24 THE WITNESS: I confronted

1 Jeffrey.

2 Q What do you mean when you say you
3 confronted him?

4 A I stated to Jeffrey that I believed he
5 was responsible for the death of [REDACTED]

6 Q And what, if any, reply was there by
7 Jeffrey?

8 A He stated he wasn't.

9 Q If you recall, were there any further
10 conversations had by or between you and Jeffrey
11 thereafter?

12 A Yes.

13 Q With respect to anything that you had
14 previously discussed, or other things?

15 A What was previously discussed.

16 Q Now, was any of that recorded?

17 A No, it wasn't.

18 Q Now, did there come a point in time
19 later on that someone joined you in that room?

20 A Yes.

21 Q And that would have been whom?

22 A Lieutenant Tumolo.

23 Q Detective, do you recall whether
24 anybody else thereafter had occasion to join you

1 in the room?

2 A Nobody.

3 Q Now, with respect to the interview room
4 that you were in, would it be fair to say that
5 that was off a fairly long hallway?

6 A Yes.

7 Q At the end of which if you proceeded to
8 the end of the building the muster room would be
9 on the right?

10 A Yes.

11 Q Anywhere along that hallway would there
12 have been a bathroom? And if so, where would it
13 have been in relation to the interview room you
14 were in, and on what side of the hallway?

15 A It was when you exit the interview room
16 you make a left. It's approximately five feet on
17 the same side, on the left-hand side of the
18 hallway.

19 Q Do you know, do you have a specific
20 recollection whether at any time during that
21 afternoon or early evening if you ever had
22 occasion to use those facilities, the bathroom?

23 A Yes, we did.

24 Q Not we, but you?

1 A Yes, I did.

2 Q Do you recall whether Jeffrey did?

3 A Yes, he did.

4 Q Now, Detective Thomas McIntyre was in
5 headquarters sometime later that afternoon or
6 early evening?

7 A Yes.

8 Q From your vantage point, Detective, and
9 I'm concerned with what you saw and did, did
10 there come a time when you went somewhere within
11 the City of Peekskill?

12 A Yes.

13 Q Approximately what time did you leave
14 headquarters, and with whom, if anyone, did you
15 go, and where did you go?

16 A Approximately at eight p.m. I
17 accompanied Detective McIntyre to the Griffins
18 Pond area.

19 Q Just the two of you?

20 A Also Jeffrey Deskovic.

21 Q In the same vehicle?

22 A No.

23 Q Let me rephrase the question. Please
24 listen to my question. Again, we already know

1 what time you left and where you went. Who, if
2 anyone, accompanied you, that is you and nobody
3 else, if you know?

4 A Detective Astrologo was with me.

5 Q You made mention of Jeffrey and
6 Detective McIntyre. At some point when you
7 arrived at your destination, did you see either
8 or both of them?

9 A Yes.

10 Q Did you have any personal knowledge as
11 to how either of them got to where you got?

12 A No.

13 Q When you got there, where did you all
14 sort of first meet?

15 A We all met on Constant Avenue.

16 Q Near where?

17 A Near the macadam path.

18 Q Now, Detective, when you say we, who
19 was there?

20 A Myself, Detective McIntyre, Detective
21 Astrologo, Jeffrey Deskovic and Lieutenant
22 Tumolo.

23 Q Anybody else?

24 A I don't recall offhand.

1 Q How about Sergeant O'Buck?

2 A Sergeant O'Buck was there also, yes.

3 Q This is January 10th at eight o'clock.

4 A Yes.

5 Q It's cold out?

6 A Yes.

7 Q Do you recall whether or not there was
8 any snow on the ground?

9 A I don't recall.

10 Q Now, in that general area that we
11 previously have been discussing, the macadam path
12 that intersects with the other macadam path
13 heading towards the condominium complex, in that
14 area is there any artificial lighting heading in
15 that area?

16 A No.

17 Q To the best of your recollection -- by
18 the way, how long would you say you were in that
19 area upon arriving there sometime after eight
20 o'clock?

21 A Approximately forty, forty-five
22 minutes.

23 Q During that period of time with respect
24 to wherever you might have gone, do you recall

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1 whether any type of artificial lighting was used
2 to lighten up areas?

3 A No.

4 Q You don't recall one way or the other?

5 A There were none used.

6 Q Now, I'm only concerned with where you
7 went. Where did you go during that particular
8 evening when you got there?

9 A I walked down the macadam path leading
10 from -- could I use the diagram?

11 Q Well, why don't we use another diagram
12 here. I'm now going to refer your attention to
13 what's been marked in evidence as People's
14 Exhibit 2. Would you step down again.

15 Now, again would you indicate where you
16 went on the diagram. Would you please indicate
17 to the ladies and gentlemen of the jury where you
18 went?

19 A Following this yellow line, I walked
20 down the macadam path which runs parallel to
21 Constant Avenue, intersecting another macadam
22 path which is yellow. I stopped at the squiggly
23 line, which is a dirt path or trail. I walked
24 down the dirt trail and stopped at this point

1 indicated on the map.

2 (Indicating.)

3 Q Detective, while you're still standing
4 there, you made mention of a number of people who
5 were doing this. Were you walking on this path
6 alone?

7 A No, I wasn't.

8 Q Could you give us the order of people
9 traversing these various pathways?

10 A Detective McIntyre, Jeffrey Deskovic
11 were in front. Lieutenant Tumolo, Sergeant
12 O'Buck were next. Myself and Detective Astrologo
13 were in the back.

14 Q Now, were there any points in time when
15 you were walking along with Detective McIntyre
16 and Jeffrey at the lead where stops were made?

17 A Yes.

18 Q Directing your attention to that
19 particular point on the macadam path, the macadam
20 path running to the condominium complex,
21 specifically where it intersected with the dirt
22 path running to the right, did there come a point
23 in time as you were following Detective McIntyre
24 and Jeffrey that you walked down that path?

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1 A Yes.

2 Q As you're walking down that path what,
3 if anything, did you observe with respect any of
4 the people who were ahead of you?

5 A Detective McIntyre and Jeffrey stopped
6 right at this point, number two.

7 (Indicating.)

8 Q Now, you were three rows back or two
9 rows back?

10 A There were two people in front of me.

11 Q Would it be fair to say that from your
12 vantage point you had some difficulty observing
13 what, if anything, might have been taking place
14 two rows ahead of you?

15 A I'd have to move my position. I'd have
16 to look.

17 MR. BOLEN: May I have the marker
18 back.

19 Q About how long a period of time did you
20 sort of stop at that location?

21 A Approximately three or four minutes.

22 Q Then what, if anything, happened?

23 A We continued walking down the path, and
24 we stopped again.

1 Q Where?

2 A At number three.

3 (Indicating.)

4 Q Now, let me ask you this, Detective
5 Levine: You have indicated to us -- I think you
6 indicated to us yesterday that at some point on
7 November 17th, 1989, in the late morning or
8 afternoon with respect to that stretch of dirt
9 path, that you had occasion to observe and take a
10 picture of what you determined to be a torn bra,
11 is that correct?

12 A Yes.

13 Q Now, Detective, at any time on or about
14 December 12th --

15 MR. BOLEN: Withdrawn.

16 Q At any time on or about and between
17 December 12th of 1989, up to and including
18 January 25th of 1989, up to ten o'clock that
19 evening -- excuse me, January 25th, 1990.

20 MR. BOLEN: Let me withdraw the
21 question and reframe it.

22 Q At any time between December 12th of
23 1989, commencing at approximately eight a.m., up
24 to and including January 25th, 1990, up to eight

1 p.m., during any of those intervening days when
2 you had any contact with Jeffrey either in person
3 or over the telephone, did you, sir, ever
4 affirmatively apprise him or state to him in any
5 fashion whatsoever anything with respect to the
6 retrieval or recovery of a torn bra at that
7 section of that dirt path?

8 A No, I didn't.

9 Q Now, you've already indicated that you
10 remained there approximately forty-five minutes.
11 Would that be true of the other personnel at the
12 scene?

13 A Yes.

14 Q Then where did you go?

15 A Back to Police Headquarters.

16 Q Then, to your knowledge, where did the
17 other people go?

18 A They also went back to Police
19 Headquarters.

20 Q Arriving there approximately when?

21 A Approximately four or five minutes
22 afterwards.

23 Q After your return to headquarters did
24 there come a point in time when you had occasion

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1 again to be in the presence of Jeffrey?

2 A Yes.

3 Q Approximately when was that?

4 A Right away. Approximately nine
5 o'clock, momentarily after we got back to
6 headquarters.

7 Q Thereafter, did you yourself have any
8 conversations with him?

9 A No.

10 Q Did you have any personal knowledge,
11 did you see with your own eyes, and not what
12 anybody might have told you, Detective, as to
13 where Jeffrey might have been in headquarters
14 upon your return?

15 A Yes.

16 Q Where?

17 A In the muster room.

18 Q Which is separate and apart from the
19 interrogation room?

20 A Yes.

21 Q Who, if anyone else, was in there,
22 besides Jeffrey?

23 A Detective McIntyre.

24 Q Do you recall whether anybody else

1 might have been in there at some point? If you
2 don't know, you can tell us.

3 A Yes, Detective Astrologo, Lieutenant
4 Tumolo.

5 Q Do you recall on that afternoon or
6 evening whether any pizza was provided to
7 anybody?

8 A Yes.

9 Q To whom?

10 A To Jeffrey.

11 Q Now, sometime around ten o'clock, give
12 or take fifteen minutes before or afterward, did
13 you see Jeffrey again?

14 A Yes.

15 Q For what purpose?

16 A To take him home.

17 Q Did you take him home?

18 A Yes.

19 Q To his front door?

20 A No.

21 Q Where did you take him?

22 A To a parking lot which is located in
23 the apartment complex which he lives in.

24 Q Did you record any conversations?

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1 A No.

2 Q What happened with Jeffrey when the car
3 parked?

4 A He opened the door. We said goodbye to
5 each other, and he left.

6 Q Do you have any idea where he went?

7 A No.

8 Q In terms of his physical appearance,
9 and particularly those portions of his body that
10 would be visible to you, could you tell us
11 whether or not there were any changes when you
12 first saw him that afternoon shortly before he
13 got out of the car later that evening?

14 A No changes whatsoever.

15 Q By the way, during those periods of
16 time when you were in the company and the
17 presence of Jeffrey, when you heard him say
18 anything, did you have any difficulty
19 understanding what he was saying?

20 A No.

21 Q What language were you conversing in
22 during this period of time?

23 A English.

24 Q During any of the times when you were

1 with Jeffrey and you were saying things and he
2 was saying things, was there ever a point in time
3 when he stopped you and said, "I don't understand
4 the meaning of the word you're using"?

5 A No.

6 Q Did you have any personal knowledge how
7 Jeffrey arrived at headquarters that particular
8 afternoon?

9 A No, I don't.

10 Q Now, I now want to go ahead in time to
11 January 22nd, 1990, which would be some twelve
12 days later, if my calculations are correct. That
13 would have been on a Monday. Were you still
14 working on the case that day?

15 A Yes.

16 Q Were you working on any other cases?

17 A Others, yes.

18 Q Now, Detective, at some point that
19 evening do you remember getting a telephone call
20 from someone?

21 A Yes.

22 Q Who did you get the call from?

23 A Jeffrey Deskovic.

24 Q Approximately what time would that have

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1 been?

2 A Eight p.m.

3 Q Let's step back for a second. The
4 Peekskill Police Department has a central number?

5 A Yes.

6 Q Are there other telephone numbers that
7 the Peekskill Police Department has for internal
8 use only?

9 A Yes.

10 Q Now, the call that you got, what phone
11 did it come in on?

12 A The central number.

13 Q And it was referred to you?

14 A Yes.

15 Q Why referred to you?

16 A They had asked for me.

17 Q Okay. Now, before you picked up the
18 receiver did you know who was on the phone?

19 A No.

20 Q Upon picking up the phone, how long did
21 it take you to realize who was at the other end
22 of the phone?

23 A A second.

24 Q What did you then do, if anything?

1 A I took a micro cassette recorder,
2 turned it on, turned the telephone on speaker,
3 and I recorded the conversation.

4 Q Would this be the same micro cassette
5 recorder that you had used on the 10th of
6 January?

7 A Yes.

8 Q And the phone, you said, had a speaker
9 capability?

10 A Yes.

11 Q Did you thereafter record the
12 conversations, if any, that occurred between you
13 and Jeffrey?

14 A Yes.

15 Q Was there anybody else in the room at
16 this time, besides you?

17 A No.

18 Q Were there any other participants in
19 the conversation, other than the two of you?

20 A No.

21 Q Do you have any idea how long this call
22 lasted?

23 A Five minutes.

24 Q Did you record it --

1 MR. BOLEN: Withdrawn.

2 Q Was there some gap between the time you
3 started speaking to the person at the other end
4 until you hooked up the recorder?

5 A A second or two.

6 Q So, would it be fair to say there would
7 be a portion of the conversation initially that
8 might not have been recorded?

9 A Yes.

10 Q Now, I take it that you recorded it on
11 a micro cassette?

12 A Yes.

13 Q Would this have been the same or a
14 different micro cassette tape that you had
15 utilized on January 10th?

16 A The same.

17 Q You had used the same tape on January
18 10th?

19 A It's a different tape, but the same
20 kind of cassette.

21 Q Would you now take a look at what has
22 previously been deemed marked for identification
23 as People's Exhibit 46 A.

24 (Witness examines.)

1 Q Do you recognize that as being the
2 original of the micro cassette that you utilized
3 that particular evening on January 22nd?

4 A Yes.

5 Q And subsequent to taping that call and
6 between that day and today have you on more than
7 one occasion reviewed it, listened to it?

8 A Yes.

9 Q And the same condition during those
10 subsequent listenings as it was when you
11 subsequently heard those conversations?

12 A Yes.

13 Q Just hold onto that tape for a second.
14 Just put it in front of you, please.

15 Now, subsequent to the end of that
16 telephone conversation --

17 MR. BOLEN: Withdrawn.

18 Q By the way, that conversation, did it
19 relate to a particular item?

20 A Yes.

21 Q What item was that?

22 A A key.

23 Q A key?

24 A A key.

1 Q A key belonging to anybody?

2 A Yes.

3 Q Who?

4 A Angela Correa.

5 Q Now, subsequent to that telephone call,
6 and later that evening, Detective, did you have
7 occasion to leave headquarters and go someplace?

8 A Yes.

9 Q Approximately when did you leave and
10 where did you go?

11 A Approximately 8:20 I went to the
12 residence of Martin Burrett.

13 Q For how long a period of time did you
14 remain at the residence of Martin Burrett?

15 A Approximately forty-five minutes.

16 Q Were you inside the Burrett residence?

17 A Yes, I was.

18 Q Without telling us what, if anything,
19 was said while you were inside the Burrett
20 residence, Detective, while in there were you in
21 the presence of, among others, Martin Burrett?

22 A Yes.

23 Q When you say Martin Burrett, I forget
24 exactly what date it was, but on a prior date and

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1 in prior testimony you gave yesterday did you
2 indicate to the ladies and gentlemen of the jury
3 that someone by the name of Martin Burrett had
4 come to headquarters?

5 A Yes.

6 Q Is this the same or a different Martin
7 Burrett?

8 A The same.

9 Q Now, going back to the Burrett
10 residence on the evening of January 22nd, you're
11 in the house. As you sit here now do you recall
12 at any point whether you had occasion to see
13 Martin Burrett with a phone in his hand at that
14 time?

15 A Yes, I did.

16 Q Speaking to anybody?

17 A Yes.

18 Q Now, would it be fair to say that you
19 had no personal knowledge who was on the other
20 end of the phone?

21 A Yes.

22 Q Now, did there come a point in time
23 when you left the Burrett residence?

24 A Yes.

1 Q And did you do that through the rear,
2 the front, the side or what?

3 A The front door.

4 Q Tell the ladies and gentlemen of the
5 jury what, if anything, occurred upon your
6 exiting the Burrett residence?

7 A I exited the residence walking to my
8 car which was parked across the street. And then
9 I observed to my left behind a tree a young man.

10 Q Could you see that person right away,
11 who it was right away?

12 A Not initially, no.

13 Q Then what, if anything, did you do?

14 A I walked again towards my car, and the
15 person walked down the sidewalk, he's on Orchard
16 Street.

17 Q Away from you or towards you?

18 A Away from me.

19 Q What did you then do?

20 A I entered my vehicle and drove again
21 east on Orchard Street.

22 Q Up until this point in time were you
23 able to ascertain who this person was?

24 A Yes, I did.

1 Q Who was the person?

2 A Jeffrey Deskovic.

3 Q What, if anything, then occurred?

4 A I turned my recorder on, which was
5 located in my breast pocket, and I drove east on
6 Orchard Street towards Jeffrey.

7 Q Please continue. Tell us what
8 happened, Detective.

9 A I approached Jeffrey and said, "Hello,
10 Jeffrey." Jeffrey responded with a very unusual
11 laugh. I stopped my vehicle. Jeffrey walked in
12 front of the vehicle and entered the passenger
13 front seat of the car.

14 Q On his own or at your request?

15 A On his own.

16 Q Now, let's stop at that point. The
17 recorder is on, is that correct?

18 A Yes.

19 Q Thereafter, is the car put in motion?

20 A Yes.

21 Q Who is driving?

22 A I am.

23 Q Where is Jeffrey situated in the
24 vehicle?

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1 A The passenger front seat.

2 Q Was anybody else in the car?

3 A No.

4 Q I've got to ask you this question,
5 Detective: Do you usually walk around with micro
6 cassette recorders in your pocket?

7 A No.

8 Q But on this particular day you had one,
9 is that correct?

10 A Yes.

11 Q Now, Detective, during the period of
12 time that you and Jeffrey were in the car while
13 it was in motion, did the two of you have
14 conversations?

15 A Yes.

16 Q Were they recorded?

17 A Yes.

18 Q Were they -- was there ever a point in
19 time while you were talking that you turned off
20 the recorder?

21 A No.

22 Q Did there come a point in time when you
23 turned off the recorder?

24 A Yes.

1 Q Do you recall where the car might have
2 been and the two of you were at that point?

3 A It was parked in the parking lot of the
4 apartment complex where Jeffrey lives. Jeffrey
5 exited the vehicle already.

6 Q Now, as Jeffrey was in the process of
7 exiting this vehicle, do you recall what some of
8 his last words might have been to you?

9 A Yes.

10 Q What was that?

11 A "I hope you don't run out of tape with
12 that last conversation".

13 Q Let me ask you this, Detective:
14 During the period of time that you were in the
15 car recording the conversations did you take the
16 recorder out?

17 A No.

18 Q This is a winter evening?

19 A Yes.

20 Q Was it cold out?

21 A Yes.

22 Q Were you wearing an outer jacket?

23 A Yes.

24 Q Would Jeffrey be similarly clothed?

1 A Yes.

2 Q Now, directing your attention to what
3 has been previously deemed marked for
4 identification as People's Exhibit 46 A, would
5 that micro cassette, as well, be the micro
6 cassette that you utilized to record that
7 particular conversation?

8 A Yes.

9 Q And again, as I had asked you with
10 respect to the telephone call that you had tape
11 recorded earlier that evening, have you
12 subsequent to January 22nd today on one or more
13 than one occasion reviewed that conversation in
14 its entirety?

15 A Yes.

16 Q Did you fairly and accurately record
17 the conversations that you had with Jeffrey while
18 the two of you were in the car?

19 A Yes.

20 Q Now, Detective, I would like you to
21 take a look at what has previously been deemed
22 marked for identification as People's Exhibit 46

23 B.

24 (Witness examines.)

1 Q Please take a look at that. Please
2 examine it.

3 A Okay.

4 Q Do you recognize that?

5 A Yes.

6 Q What is that?

7 A This is a copy of the conversation that
8 I had with Jeffrey on January 22nd, 1990.

9 Q Both conversations?

10 A Yes.

11 Q And have you listened to that
12 particular Exhibit 46 B?

13 A Yes.

14 Q Since January of last year?

15 A Yes.

16 Q And could you tell us whether that
17 exhibit, 46 B, is a fair and accurate
18 reproduction or copy of the conversations that
19 are contained in Exhibit 46 A?

20 A Yes.

21 MR. BOLEN: May I have both those
22 exhibits back.

23 May I approach the side bar for a
24 second with the stenographer, please.

1 THE COURT: Yes.

2 (At the side bar.)

3 MR. BOLEN: Judge, I don't know
4 whether your recollection needs to be
5 refreshed, but with respect to Exhibits
6 46 A and 46 B, they contain, in fact,
7 three conversations. The first one was
8 the telephone call between the
9 detective and Jeffrey.

10 The second one sequentially would
11 have been conversations containing,
12 among others, Martin Burrett, possibly
13 his father and Detective Levine.

14 The third conversation would be
15 the one that the detective just
16 referred to, the conversations within
17 the vehicle. They're all on the same
18 tape.

19 Now, in the recording device that
20 I utilized, using the built-in marking
21 system, the marking system, the
22 telephone call comprises -- it starts
23 at zero and stops at 24. I gave myself
24 a deliberate factor of one or two

1 seconds after that.

2 The second conversation, the one I
3 do not seek to introduce because it's
4 hearsay, it starts at approximately 31,
5 and it concludes at approximately 380.

6 The third conversation which, as I
7 would with the first seek to introduce,
8 starts at approximately 383, and it
9 concludes at 463.

10 I'm using a tape cassette marker
11 with respect to Exhibit 46 B, the copy
12 of 46 A, which I would seek -- I'd like
13 to offer both 46 A and 46 B in
14 evidence, with the expressed proviso
15 that it only be limited to the first
16 and third conversation.

17 THE COURT: When you copy it, why
18 didn't you eliminate the second
19 conversation? It wasn't done?

20 MR. BOLEN: No.

21 THE COURT: Are you sure you're
22 not going to get to the second
23 conversation by accident?

24 MR. BOLEN: I'm going to be

1 listening to it with my finger on the
2 thing when it stops.

3 MR. INSERO: Your Honor, I can
4 understand the number system that he
5 just described. I have one concern.
6 If you put into evidence that original
7 micro cassette, the jury at some time
8 or other in deliberations may want it.

9 MR. BOLEN: With the same proviso.
10 It's only offered for a limited purpose
11 for the two conversations. They can't
12 have it --

13 THE COURT: What if they ask to
14 have it in the jury room?

15 MR. INSERO: That's what I mean.
16 What if they want it in the jury room,
17 which I think they're entitled to?

18 THE COURT: I think they can
19 listen to the recording in the
20 courtroom.

21 MR. BOLEN: I think we can be sure
22 that they don't have any recording
23 devices in the jury room itself to make
24 sure they don't play it.

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1 MR. INSERO: I won't object, but
2 please be very careful when you play
3 it.

4 THE COURT: Is this the same
5 conversation --

6 MR. BOLEN: The second one is
7 clearly hearsay. I couldn't offer
8 that.

9 THE COURT: Are you going to set
10 this up now?

11 MR. BOLEN: Yes. Could I have a
12 break to get my guy up here.

13 THE COURT:

14 (Back before the jury.)

15 THE COURT: All right, we're going
16 to have to take time to get this
17 recording device set up.

18 All right, you can step into the
19 jury room. Don't discuss the case.

20 (Whereupon, the Court declares a
21 recess at 12:15 p.m., and the trial
22 resumes at twelve-thirty p.m.)

23 THE COURT: All right, are you
24 ready to proceed?

1 MR. BOLEN: Yes.

2 THE COURT: Bring the jury in.

3 (Whereupon, the jury enters the
4 courtroom.)

5 MR. FARNEY: Again, if everybody
6 would turn the head phones on. If
7 there's any kind of static, look
8 towards the black box up there.

9 (Whereupon, said tape is played
10 for the jury.)

11 Q Detective, at the very outset of the
12 telephone call that you received from Jeffrey, at
13 the beginning you say words to the effect about
14 "the reason I called"?

15 A Yes.

16 Q You're saying that to whom?

17 A To Jeffrey.

18 Q With respect to when you say "the
19 reason I called," who are you now referring to?

20 A Martin Burrett.

21 Q Now, with respect to the conversations
22 in the car on the evening of January 22nd, at
23 some point while the two of you were in the car
24 did you make an observation of Jeffrey doing

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1 something with his mouth?

2 A Yes.

3 Q What was that again?

4 A He was chewing on a bottle cap.

5 Q How do you know that it was a bottle
6 cap?

7 A I saw it.

8 Q What kind of a bottle cap, could you
9 tell?

10 A It was an aluminum type bottle cap.

11 Q Now, when you first saw the person, and
12 more particularly when you saw Jeffrey and as he
13 got into the car, did you notice anything in his
14 hands?

15 A No.

16 Q While he was seated in the car and
17 while you were driving did you notice anything in
18 his hands?

19 A Yes.

20 Q What did you notice in his hand?

21 A The bottle cap he was chewing on.

22 Q Did you notice anything else other than
23 the bottle cap?

24 A No.

1 Q Now, let's go ahead in time now to
2 January 24th of 1990, which was a Wednesday. On
3 that particular evening around eight o'clock were
4 you at headquarters?

5 A Yes.

6 Q While at headquarters was your
7 attention in some fashion drawn to a particular
8 individual?

9 A Yes.

10 Q Who was that?

11 A Jeffrey Deskovic.

12 Q Where did you see him for the first
13 time?

14 A In the police lobby.

15 Q Did you then have -- did you then say
16 something to him?

17 A Yes.

18 Q Was he alone or in the company or
19 anybody else?

20 A He was by himself.

21 Q Was this a prearranged meeting between
22 the two of you?

23 A No.

24 Q So, you were expecting him or not

1 expecting him?

2 A I wasn't expecting him.

3 Q Now, who was the first one to say
4 anything when you drew near to Jeffrey at that
5 point?

6 A I did.

7 Q What did you say?

8 A "Hi, Jeffrey. What are you doing?"

9 Q Then what, if anything, took place?

10 A Jeffrey walked into the police lobby,
11 and then Jeffrey and I walked to the training
12 room.

13 Q At some point did you ask him why he
14 was there?

15 A Yes.

16 Q What was the reply, if any?

17 A He said he wanted to take a polygraph
18 test.

19 Q Were there then conversations about the
20 polygraph test?

21 A Yes.

22 Q What did you say to him with respect to
23 that?

24 A I said to him that, "Jeffrey, okay. I

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1 want you to know you're taking it under your own
2 free will. No one is forcing you to do so."
3 Then he said okay.

4 Q Then what occurred?

5 A I explained to him if he comes to
6 headquarters at nine-thirty we can have a
7 polygraph administered to him.

8 Q And then what happened, if anything, to
9 Jeffrey?

10 A Then Jeffrey left.

11 Q Now, you drove him home?

12 A No.

13 Q He left on his own?

14 A Yes.

15 Q Now, let me back up in time. I should
16 have done this before. On the evening of January
17 22nd when you left the Burrett residence and saw
18 what turned out to be Jeffrey behind the tree,
19 can you approximate for us what the distance, if
20 you know, it would be from the Burrett residence
21 to the complex where Jeffrey lived?

22 A Approximately a half mile,
23 three-quarters of a mile.

24 Q The following morning, Detective,

1 January 25th, 1990, on Thursday you came to work
2 that morning?

3 A Yes.

4 Q By the way, to your knowledge,
5 Detective, as of January 24th, 1990 was there
6 anyone in the employ of the Peekskill Police
7 Department equipped and had the expertise to
8 administer a polygraph examination?

9 A No.

10 Q Now, it's now the following morning,
11 January 25th. What, if anything, happened at
12 nine-thirty?

13 A Jeffrey arrived at headquarters.

14 Q To your knowledge, who, if anyone, was
15 the first one he had contact with?

16 A It was me.

17 Q Could you tell us about that?

18 A Jeffrey and I again walked to the
19 training room, and we sat down. I explained
20 to -- Jeffrey said he wanted to take the
21 polygraph test, and I explained to him again that
22 he's here of his own free will, and that nobody
23 is forcing him to take such test, and he said
24 yes. At that time I read Jeffrey his Miranda

1 warnings.

2 THE COURT: Let me interrupt here.
3 The testimony that you're hearing and
4 going to hear, ladies and gentlemen of
5 the jury, as to polygraph testing is
6 being admitted solely for the purpose
7 of determining whether the procedures
8 used induced an involuntary statement
9 by the Defendant.

10 The test results themselves are
11 inadmissible as a matter of law,
12 because such results are unreliable.
13 You're not to speculate as to what the
14 results were, nor should any inference
15 as to the Defendant's guilt or
16 innocence be drawn from the Defendant's
17 participation in the polygraph testing.

18 MR. INSERO: Thank you, your
19 Honor.

20 MR. BOLEN: Thank you, Judge.

21 Q Now, you said you read Miranda warnings
22 to Jeffrey?

23 A Yes.

24 Q From memory?

1 A No.

2 Q From what?

3 A A card.

4 Q After you read the warnings what, if
5 anything, did you then ask Jeffrey with respect
6 to the Miranda warnings?

7 A If he understood them.

8 Q And his reply was what?

9 A Yes.

10 Q What, if anything, did you then ask
11 him?

12 A I didn't ask him anything after that.

13 Q Now, stepping back in time, on a prior
14 date, specifically on January 10th of 1990
15 sometime in the afternoon while the recording
16 device was going on you had occasion to read
17 Miranda warnings, is that correct?

18 A Yes.

19 Q Now, Detective, the card that you
20 utilized that day, was it in any way similar to
21 the card that you utilized on the morning of
22 January 25th?

23 A Yes.

24 Q Was it different in any way at all?

1 A There was no writing on it.

2 Q When you say there was no writing on
3 it, what do you mean?

4 A There was no signature affixed to it.

5 Q I'll get to that. But in terms of the
6 card itself, with respect to any of the
7 preprinted material on one or both sides, was the
8 card that you utilized on the morning of January
9 25th the same or different from the one that you
10 utilized on January 10th?

11 A It was the same.

12 Q And at the end of reading the warnings
13 and asking Jeffrey if he understood and the reply
14 that he gave, at that time, Detective, did either
15 you or Jeffrey affix either of your signatures to
16 it?

17 A No.

18 Q Was it dated in any fashion?

19 A No.

20 Q The reason being?

21 A That I felt Jeffrey understood his
22 Miranda warnings.

23 Q Now, will you take a look at what has
24 been marked for identification as People's

1 Exhibit 48.

2 (Witness examines.)

3 Q Could you tell us, sir, whether looking
4 at that, whether that card would be similar in
5 all respects to the card that you utilized on the
6 morning of January 25th?

7 A Yes, it is.

8 Q As you indicated, without having marked
9 it in any fashion after using it, is there any
10 way for you to state with absolute certainty that
11 the card that you're holding is the same one you
12 used on that morning?

13 A No.

14 Q Let me repeat my question to you: The
15 card that you're holding again, without any
16 deviation whatsoever, is that similar in all
17 respects to the one that you utilized that
18 morning?

19 A Yes.

20 MR. BOLEN: May I have that card
21 back, please.

22 MR. BOLEN: Your Honor, I would
23 offer People's Exhibit 48 into
24 evidence.

1 (Whereupon, Mr. Insero examines
2 said document.)

3 MR. INSERO: I have no objection,
4 your Honor.

5 THE COURT: All right, People's
6 Exhibit 48 will be received into
7 evidence as People's Exhibit 48 in
8 evidence.

9 (Marked.)

10 THE COURT: Can I see counsel at
11 the side bar.

12 (Whereupon, the attorneys approach
13 the bench for a discussion off the
14 record.)

15 THE COURT: All right, we're going
16 to stop for lunch. I was just
17 consulting with counsel so as to make
18 sure that we had sufficient work to
19 keep us busy until close to five
20 o'clock, and I have been assured that
21 we do have.

22 So, we'll break for lunch now and
23 come back at two o'clock. Don't
24 discuss the case amongst yourselves or

1 with anybody else.

2 (Whereupon, the Court declares a
3 luncheon recess at one o'clock p.m.,
4 and the trial resumes at 2:10 p.m.)

5 MR. INSERO: I have an application
6 before we bring the jury in.

7 THE COURT: Yes?

8 MR. INSERO: We won't get to
9 Detective Stephens for a while, so I'll
10 hold off on that.

11 THE COURT: We have to finish up
12 with direct examination, and then your
13 cross-examination. Then we have to
14 have the mini-hearing. So, we'll be
15 awhile.

16 All right, bring the jury in.

17 (Whereupon, the jury enters the
18 courtroom.)

19 THE COURT: Okay, Mr. Bolen.

20 DIRECT EXAMINATION

21 BY MR. BOLEN: (Continued)

22 Q Detective, would you take Exhibit 48 in
23 evidence --

24 THE COURT: Before you start, I

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1 should tell the jury, and I'll explain
2 it in more detail again, that you have
3 been hearing testimony from this
4 witness that he tape recorded
5 conversations. I'll just tell you at
6 this point that there's nothing illegal
7 per se in taping a conversation that
8 way. I'll explain that to you more in
9 detail later on.

10 All right, go ahead.

11 Q Detective, would you take a look at
12 People's Exhibit 48 in evidence, please.

13 (Witness examines.)

14 Q And utilizing that card --

15 MR. BOLEN: Withdrawn.

16 Q Can you now relate to the ladies and
17 gentlemen of the jury the manner in which you
18 utilized that particular card with respect to
19 your conversations with Jeffrey on the morning of
20 January 25th, 1989?

21 A Yes, I read this card. "You have right
22 to remain silent and refuse to answer any
23 questions. Do you understand?"

24 Q Was there any reply to that?

1 A Yes, he replied yes.

2 "Anything you do say may be used
3 against you in a court of law. Do you
4 understand?" He replied yes.

5 "As we discuss this matter you have a
6 right to stop answering my questions at any time
7 that you desire. Do you understand?" He
8 answered yes.

9 "You have a right to a lawyer before
10 speaking to me, to remain silent until you can
11 talk to him and to have him present when you're
12 being questioned. Do you understand?" He
13 replied yes.

14 "If you desire a lawyer, but cannot
15 afford one, one will be provided to you without
16 cost? Do you understand." He replied yes.

17 "Do you understand each of these rights
18 that I have explained to you?" He replied yes.

19 "Now that I have advised you of your
20 rights, are you willing to answer my questions
21 without an attorney?" He replied yes.

22 Q After you did that, if anything was
23 said with respect to the polygraph examination,
24 what then was said with regard to that?

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1 A I asked him if he wanted to still take
2 the polygraph examination, and he replied yes.

3 MR. BOLEN: May I have that back,
4 please.

5 Q Again, which room were you in when this
6 occurred?

7 A The training room.

8 Q Is the training room the same as the
9 muster room?

10 A It's the same room.

11 Q Now, thereafter, did you leave
12 Peekskill and go someplace?

13 A Yes.

14 Q What time did you leave Peekskill, and
15 where did you go?

16 A We left Peekskill approximately 9:40,
17 and I drove to Brewster.

18 Q Brewster is where?

19 A New York.

20 Q Putnam County?

21 A Yes.

22 Q Who, if anyone, accompanied you?

23 A Lieutenant Tumolo.

24 Q Was anybody else in the car?

1 A No.

2 Q So, the we you're referring to is you
3 and Lieutenant Tumolo?

4 A Yes.

5 Q Up until that point in time did you
6 know a Dan Stephens?

7 A No.

8 Q Now, do you recall where in Brewster
9 you ultimately went to?

10 A Did I know before I left?

11 Q No. Eventually you got to Brewster?

12 A Yes.

13 Q Brewster is a city or town?

14 A Yes.

15 Q Where in Brewster did you eventually
16 arrive at?

17 A We arrived at an attorney's office.

18 Q Do you recall the specific street
19 address?

20 A Not offhand.

21 Q Now, what time did you arrive there?

22 A Approximately eleven a.m.

23 Q Now, from the time that you arrived at
24 that location-- was it a building?

1 A Yes.

2 Q From the time that you arrived at that
3 building up until five, six, six-thirty in the
4 evening, during that intervening period of time,
5 did you yourself have any personal contact with
6 Jeffrey Deskovic involving any type of
7 conversations between the two of you?

8 A No.

9 Q At some point after your arrival at
10 that building in Brewster did there come a point
11 in time when you saw and met an individual by the
12 name of Dan Stephens?

13 A Yes.

14 MR. BOLEN: Just a moment, please,
15 Judge.

16 (A brief pause.)

17 Q Now, where basically would you have
18 been from the time you entered the building up
19 until let's say five-thirty, six o'clock?

20 A I was in a room, some type of
21 conference room in the attorney's office.

22 Q Who else would have been in that room,
23 besides yourself?

24 A Lieutenant Tumolo and Detective

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1 McIntyre.

2 Q Now, to your knowledge, Detective,
3 you've already indicated to us that you and
4 Lieutenant Tumolo went up in one car. To your
5 knowledge, had anyone else left headquarters
6 around the same time that you and Tumolo would
7 have left?

8 A Yes.

9 Q Who would that have been, and what type
10 of car or cars?

11 A It was Detective McIntyre and Jeffrey
12 Deskovic driving in an unmarked police car.

13 Q Of the two vehicles, do you know which
14 one left first?

15 A Detective McIntyre's vehicle.

16 Q Of the two vehicles, do you know which
17 arrived at that building in Brewster first?

18 A Detective McIntyre's vehicle.

19 Q At any time en route, sir, did your
20 vehicle stop?

21 A No.

22 Q And at any time while you were en route
23 did you have -- were you able to see the other
24 vehicle ahead of you?

1 A Yes.

2 Q At any time did you see that vehicle
3 stop?

4 A No.

5 Q Now, at any time while the two vehicles
6 were en route, were both vehicles in
7 communication with each other through some kind
8 of radio equipment?

9 A Yes.

10 Q Now, at some point later that afternoon
11 on January 25th or the early evening, did you
12 have occasion to provide food to anyone?

13 A Yes.

14 Q To whom would that have been, and what
15 would the food have been?

16 A It was hamburgers, and it was Jeffrey
17 Deskovic.

18 Q Do you have any idea what time that day
19 after you had arrived at Brewster that you left
20 Brewster?

21 A Approximately seven p.m.

22 Q And when you left who, if anyone,
23 accompanied you in the vehicle?

24 A No one accompanied me in my vehicle.

1 Q You were alone?

2 A Yes.

3 Q To your knowledge, did another vehicle
4 leave Brewster at around the same time?

5 A Yes.

6 Q Who, if anyone, was in that vehicle?

7 A Detective McIntyre, Detective Tumulo
8 and Jeffrey Deskovic.

9 Q What time did you arrive back in
10 Peekskill that evening?

11 A Approximately eight p.m.

12 Q Now, at any time, from the time you
13 arrived at that building in Brewster until you
14 left around seven o'clock, did you yourself
15 personally engage in any interviews with Jeffrey
16 Deskovic?

17 A No.

18 Q And by an interview I mean
19 conversations, interrogation, questioning,
20 anything like that?

21 A No.

22 Q If you recall, at any time, from the
23 time you arrived at that building until five,
24 five-thirty or six o'clock, did you ever see

1 Jeffrey during that intervening period of time --
2 did you see him?

3 A Between what time?

4 Q Between the time you arrived at that
5 building in Brewster until around five,
6 five-thirty or six o'clock?

7 A No.

8 Q Now, in the room where you were, if you
9 recall, was there any kind of mechanical or
10 electronic device that would be considered to be
11 a monitoring device of things going on of any
12 other room in the building?

13 A Yes.

14 Q By the way, when you got up there that
15 day did you have any recording equipment with
16 you?

17 A No.

18 Q To your knowledge, do you know whether
19 either Lieutenant Tumolo or Detective McIntyre
20 had any recording equipment?

21 A No, they didn't.

22 Q Before you arrived at that building in
23 Brewster what, if any personal knowledge, did you
24 have as to any recording equipment that might

1 have been within those premises?

2 A No personal knowledge.

3 Q The specific arrangements for the
4 administration of the polygraph examination
5 involving Jeffrey, were you in any way involved
6 with that?

7 A No.

8 Q Now, getting back to that room where
9 you were where you said there was a monitoring
10 device, during the course of the afternoon were
11 you at all times within that room in which there
12 were monitoring devices?

13 A Yes.

14 Q Was there ever a time when you stepped
15 out of the room?

16 A There was an occasion.

17 Q During that period of time that you
18 were in that room was there any one voice that
19 you were able to hear which you recognized?

20 A Yes.

21 Q Whose voice would that have been?

22 A Jeffrey Deskovic's.

23 Q How many other voices or voice did you
24 hear from 11:15 a.m. up until around five o'clock

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1 that afternoon?

2 A One other voice.

3 Q At any point that day, either when you
4 arrived while you were there or shortly before
5 you left, did you ever have occasion to speak to
6 an individual by the name of Dan Stephens?

7 A Yes.

8 Q Without telling us what he might have
9 said, did Dan Stephens say things in your
10 presence?

11 A Yes.

12 Q Now, going back to that point in time
13 when you were in the monitoring room you've
14 already indicated you recognized one voice as
15 being Jeffrey Deskovic?

16 A Yes.

17 Q Between 11:15 in the morning to five
18 o'clock in the afternoon, were you able to
19 recognize the voice of the other person that was
20 in there?

21 A Yes.

22 Q Whose voice would that have been?

23 A Dan Stephens.

24 Q Now, at some point in time, sir, to

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1 your knowledge --

2 MR. BOLEN: Withdrawn.

3 Q Were there points in time when during
4 that time you were in the room from the time you
5 arrived until around five o'clock, that someone
6 came into the room where you were?

7 A Yes.

8 Q Who would that have been?

9 A Dan Stephens.

10 Q About once, more than once or what?

11 A More than once.

12 Q And with respect to those conversations
13 that you were able to hear in a monitoring
14 fashion, so to speak, in the adjacent room
15 involving Jeffrey Deskovic and Dan Stephens, were
16 the conversations continuous or otherwise?

17 A They were otherwise. There were
18 breaks.

19 Q Now, around five o'clock, give or take
20 five or ten minutes, were you in that room
21 nearby?

22 A Yes.

23 Q And do you recall whether a person came
24 in at that time, and at the same time a person in

1 your midst left?

2 A Yes.

3 Q Who came in and who left?

4 A Dan Stephens came in and Detective
5 McIntyre left.

6 Q Shortly thereafter did you remain in
7 that room?

8 A Yes.

9 Q Shortly thereafter did you have
10 occasion to hear through the monitoring device
11 any voices in that other room?

12 A Yes.

13 Q How many other voices, and whose were
14 they, assuming you recognized them?

15 A Two voices. One was Jeffrey Deskovic
16 and one was Detective McIntyre.

17 Q Were you able to hear what was taking
18 place at that time?

19 A Yes.

20 Q Were you able to hear any of the things
21 that Jeffrey Deskovic was staying?

22 A Yes.

23 Q During the period of time that you were
24 in that room listening to any of the voices that

1 you might have heard in the other room, whether
2 it be Jeffrey Deskovic, this Dan Stephens or
3 Detective McIntyre, did you write down or take
4 notes of anything you were hearing?

5 A No.

6 Q I think you've already indicated that
7 you had no recording device, so therefore you
8 couldn't record anything?

9 A That's right.

10 Q Some time around five o'clock, between
11 five and five-thirty that day while you were in
12 that room, Detective, and after Stephens had come
13 in and McIntyre left and gone into another room,
14 you've already indicated to us that you heard
15 some of the things that Jeffrey was saying, is
16 that correct?

17 A Yes.

18 Q As you sit here now, do you recall
19 whether or not there was one, any one particular
20 thing that you recall hearing Jeffrey Deskovic
21 say?

22 A Yes.

23 Q What was that?

24 A "I ripped her bra off."

1 Q Now, can you describe for us what tone
2 of voice it was when you heard that?

3 A His tone was sobbing, crying.

4 Q Did you hear other things?

5 A Yes.

6 Q Some time after that did there come a
7 time when you yourself was in that room?

8 A Yes.

9 Q For what purpose did you go into that
10 room?

11 A To bring a cup of coffee to Jeffrey.

12 Q Now, earlier on you made mention of
13 getting or providing hamburgers to someone. When
14 did that occur?

15 A Earlier.

16 Q Before the coffee?

17 A Yes.

18 Q Now, you have indicated to us that you
19 heard certain other things being said by Jeffrey,
20 is that correct?

21 A Yes.

22 Q Now, eventually you get back to
23 headquarters that night. Do you work the
24 following day, January 26th?

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1 A Yes, I do.

2 Q Was Detective Brovarski still on the
3 force then?

4 A Yes.

5 Q How about Detective Astrologo?

6 A Yes.

7 Q Some time later that next day, January
8 26th, which was a Friday, do you recall whether
9 either alone or in the company of any other
10 officers you had occasion to return to the
11 Griffins Pond area?

12 A Yes, we did.

13 Q With whom, if anyone?

14 A Detective Walter Brovarski.

15 Q Do you recall whether or not Detective
16 Astrologo was there?

17 A Yes, he was.

18 Q Now, I'm not concerned what the purpose
19 was of the other officers. What was your purpose
20 in going back to that area that day?

21 A My purpose was, I was instructed by my
22 superior to look for further evidence.

23 Q Anything in particular?

24 A Yes.

1 Q What?

2 A A Gatoraid bottle.

3 Q Now, when you had gotten to the area --
4 when you got to the general area, where
5 specifically -- and when you answer these
6 questions, say what you said and did, and not
7 anybody else. Where did you go?

8 A I walked down the macadam path which
9 runs parallel to Constant Avenue. I continued
10 and made a left, walked down the macadam path
11 which leads between the school and the
12 condominium complex.

13 Q Okay. About how long a period of time
14 did you remain there?

15 A Approximately fifteen, twenty minutes.

16 Q Where were you looking?

17 A I was looking on the ground.

18 Q Anywhere in particular?

19 A I was looking on the macadam path
20 alongside the macadam path which runs between the
21 school and the condominium complex.

22 Q Was your looking confined to that
23 macadam path, or did you look anywhere else?

24 A I looked in the woods, on the dirt and

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1 along the macadam path.

2 Q What about that dirt path that runs off
3 that macadam path heading toward the pond? Did
4 you look at all along there?

5 A Yes.

6 Q And did you yourself eventually see
7 something?

8 A Yes.

9 Q Were you alone at the time?

10 A Detective Brovarski was with me.

11 Q Do you know where Detective Astrologo
12 was?

13 A No.

14 Q What was it that you observed, and
15 where did you observe it?

16 A I observed a Gatoraid bottle cap, and I
17 observed it along -- it was in the dirt alongside
18 the macadam path between the condos and the
19 school.

20 Q What was the condition of it?

21 A It was dirty, bent, with some pitted
22 marks on it.

23 Q What, if any, evidence of wear did you
24 observe about either the exterior or interior

1 surfaces of the cap?

2 A There was dirt on the outside and
3 underneath the cap.

4 Q Any rust, if you recall?

5 A There was some rust and some peeling of
6 the paint.

7 Q What did you do with that object?

8 A I placed it in an evidence envelope.

9 Q Now, did you find anything that would
10 have naturally gone along with that cap in that
11 area?

12 A No.

13 Q I'm going to ask you this question,
14 Detective: Did you see it there or did you first
15 place it there yourself and then retrieve it?

16 A I saw it there.

17 Q Now, will you take a look at what has
18 been previously been deemed marked for
19 identification as People's Exhibit 27.

20 (Witness examines.)

21 Q Do you recognize that, sir?

22 A Yes, I do.

23 Q How do you recognize it?

24 A This is the Gatoraid bottle cap that I

1 found on January 26th, 1990, which I placed my
2 initials on the bottom.

3 Q You initialed the exhibit?

4 A Yes.

5 Q Is the initial there?

6 A Yes.

7 Q What did you do with it that day?

8 A I placed it in the envelope, I
9 recovered it and brought it back to Police
10 Headquarters where it was vouchered.

11 Q Do you know of your own personal
12 knowledge whether any efforts were made in an
13 attempt to try to lift anything off it by way of
14 possible fingerprints?

15 A No, I don't.

16 MR. BOLEN: May I have that back,
17 please.

18 Q Detective, in connection with the
19 investigation of this case, on and about and
20 between November 17th, 1989 up until the
21 following Monday, during that intervening period
22 of time did you ever have occasion when in the
23 company of Detective McIntyre, to observe, among
24 other items, a white plastic bag within which

1 were certain items?

2 A Yes.

3 Q By the way, going back to November
4 17th, shortly before you left to go to the scene,
5 assistance was rendered in connection with this
6 case certainly on that day by members of the
7 State Police, is that correct?

8 A Yes.

9 Q Including a State Trooper with a
10 bloodhound?

11 A Yes.

12 Q Let me ask you this: Do you recall
13 whether or not other representatives of the State
14 Police in a more senior capacity than a trooper,
15 an investigator, assisted in the recovery of
16 certain evidence on or about November 17th or
17 November 18th?

18 A Yes.

19 Q Does the name Bart Johnson mean
20 anything to you?

21 A Yes.

22 Q Who is Bart Johnson?

23 A He's an investigator with the State
24 Police.

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1 Q And in connection with this case, have
2 you, sir, subsequent to the events of November
3 17th spent some time with a young girl by the
4 name of Jessica Salch?

5 A Yes.

6 Q With respect to your observations of
7 the scene on November 17th, 1989, particularly
8 with respect to scene number one, at some point
9 which you said you processed, was your
10 attention -- your attention was drawn to that
11 bush within which there was a cassette type
12 player?

13 A Yes.

14 Q On the ground of which was a cassette
15 tape, is that right?

16 A Yes.

17 Q Now, if you can, approximately how far
18 from that bush -- by the way, how far off the
19 macadam path would that bush have been?

20 A Two or three feet.

21 Q About how far from that bush would you
22 say the bottle cap was that you say you observed
23 and retrieved on January 26th?

24 A Five to ten feet.

1 Q And the cap that you observed, was it
2 on the macadam path?

3 A No.

4 Q Where exactly was it?

5 A It was lying in the dirt alongside the
6 macadam path.

7 Q Was it lying on top of the dirt, in the
8 dirt or what?

9 A On top of the dirt.

10 Q How was it positioned in the dirt, top
11 side up or top side down?

12 A Top side up.

13 Q Now, a few more questions and I'll
14 finish my direct examination.

15 You told us basically that the various
16 crime scenes that were secured that particular
17 day, and from which evidence was recovered, that
18 it comprised basically the better part of one
19 day?

20 A Yes.

21 Q The day being November 17th?

22 A Yes.

23 Q At any point that particular day when
24 you were in the vicinity of the body before it

1 was removed, Detective, did you ever get a
2 close-up look as to either side of the head of
3 [REDACTED]?

4 A No.

5 Q During that particular day what, if
6 any, knowledge did you have as to whether or not
7 [REDACTED] had sustained any injury to either
8 sides of her head?

9 A None.

10 Q Now, Detective, at any time on or about
11 and between November 17th, 1989 and January 25th,
12 1990, during those intervening periods of time
13 when you might have been in the presence of
14 Jeffrey Deskovic or spoke to him on the phone,
15 did you, sir, ever relate to him any of your
16 observations of the various scenes that you've
17 observed on November 17th?

18 A No.

19 Q Now, at some point in connection with
20 the case, without telling us what you might have
21 learned, did you become familiar with the results
22 of an autopsy that was performed upon the body of
23 [REDACTED]?

24 A Yes.

1 Q And would you have been familiar with
2 the results of that autopsy prior to December
3 12th of 1989?

4 A Yes.

5 Q In connection with your contacts with
6 Jeffrey Deskovic thereafter, did you ever relate
7 to him in any fashion whatsoever what, if any,
8 knowledge you might have had with respect to the
9 results of the autopsy?

10 A No.

11 Q And perhaps my last question: At any
12 time did you individually, sir, between November
13 17th and January 25th relate in any fashion
14 whatsoever to any member of the media your
15 observations of the scene or the results of any
16 autopsies?

17 A No.

18 MR. BOLEN: May I approach the
19 side bar for one second?

20 THE COURT: Yes.

21 (Whereupon, the attorneys approach
22 the bench for a discussion off the
23 record.)

24 MR. BOLEN: May I have just a

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1 moment, please, Judge.

2 (A brief pause.)

3 MR. BOLEN: Your Honor, at this
4 time I would like to have marked for
5 identification as People's Exhibit 168
6 A two pieces of paper.

7 (Marked.)

8 MR. BOLEN: And People's Exhibit
9 168 B, which is a diagram.

10 (Marked.)

11 Q Detective, would you take a look at
12 People's Exhibits 168 A, specifically the second
13 page.

14 (Witness examines.)

15 Q Do you recognize that?

16 A Yes.

17 Q Without telling us what it is, do you
18 recognize that as a diagram appearing in a news
19 article?

20 A Yes.

21 Q On or about November 18th, 1989?

22 A Yes.

23 Q Now, would you take a look at what has
24 been marked for identification as People's

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1 Exhibit 168 B.

2 (Witness examines.)

3 Q As you look at People's Exhibit 168 A,
4 could you tell us whether 168 B is a fair and
5 accurate copy of the diagram appearing in 168 A,
6 albeit in a blown-up fashion?

7 A Yes, it is.

8 Q And they correspond in all respects?

9 A Yes.

10 MR. BOLEN: May I have that back,
11 please.

12 MR. BOLEN: Judge, at this time I
13 would ask that People's Exhibit 27,
14 previously deemed marked for
15 identification, now be deemed marked in
16 evidence.

17 (Whereupon, Mr. Insero examines
18 said exhibit.)

19 MR. INSERO: Voir dire, your
20 Honor?

21 THE COURT: Yes.

22 VOIR DIRE EXAMINATION

23 BY MR. INSERO:

24 Q Good afternoon, Detective.

1 A Good afternoon.

2 Q I'll hand you People's Exhibit 27 and
3 ask you to take a look at it, sir.

4 (Witness examines.)

5 Q That article, Detective, that is the
6 article that was recovered by you on January
7 26th, 1990?

8 A Yes.

9 Q Some seventy days after [REDACTED] body
10 was discovered?

11 A Yes.

12 MR. INSERO: May I have it back,
13 please.

14 Q It's in substantially the same
15 condition as when you found it, sir?

16 A Yes.

17 MR. INSERO: I have no objection,
18 your Honor.

19 THE COURT: All right, it will be
20 deemed in evidence as People's Exhibit
21 27.

22 (Marked.)

23 MR. BOLEN: May I confer with
24 counsel for a second, please.

1 (Whereupon, Mr. Bolen confers with
2 Mr. Insero in a discussion off the
3 record.)

4 MR. BOLEN: May we approach the
5 side bar for a second?

6 THE COURT: Yes.

7 (Whereupon, the attorneys approach
8 the bench for a discussion off the
9 record.)

10 MR. BOLEN: I have nothing further
11 on direct, your Honor.

12 MR. INSERO: Your Honor, may I
13 cross-examine?

14 THE COURT: Yes.

15 CROSS EXAMINATION

16 BY MR. INSERO:

17 Q Detective Levine, on January 10th of
18 1990 Jeffrey Deskovic never admitted to you that
19 he raped [REDACTED], did he?

20 A No.

21 Q On January 10th, 1990, sir, [REDACTED]
22 [REDACTED] -- excuse me, Jeffrey Deskovic never
23 admitted to you that he killed [REDACTED], did
24 he?

1 A No.

2 Q In fact, sir, Jeffrey Deskovic never,
3 ever, ever admitted to you killing or raping
4 [REDACTED], did he?

5 A No.

6 MR. INSERO: Your Honor, I would
7 just like a moment to get this over
8 here and move this around.

9 (A brief pause.)

10 Q Detective, January 10th of 1990, your
11 conversation with Jeffrey that day began what,
12 about five minutes of four in the afternoon?

13 A Yes.

14 Q And there was a conversation with him
15 for some three hours, sir, before you departed
16 for Headquarters in Peekskill?

17 A Excuse me.

18 Q On January 10th of 1990 you began
19 speaking with Jeffrey at about five minutes of
20 four, is that correct?

21 A Yes.

22 Q In the afternoon?

23 A Yes.

24 Q At some time later that day

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1 approximately eight o'clock you, some brother
2 officers and Jeffrey left the headquarters and
3 proceeded to the Griffins Pond area, is that
4 correct?

5 A Yes.

6 Q Approximately a period of some four
7 hours?

8 A Yes.

9 Q And during that period of time you had
10 access to the recording equipment, did you not,
11 sir?

12 A Yes.

13 Q In fact, that recording equipment was
14 in your breast or chest pocket, sir?

15 MR. BOLEN: At which time is this?

16 Q At approximately January 10th at four
17 o'clock in the afternoon?

18 A Yes.

19 Q And it remained there for some hours?

20 A Yes.

21 Q During which time you recorded Jeffrey
22 on tape?

23 A Yes.

24 Q And we heard that tape yesterday

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1 afternoon, sir, did we not?

2 A Yes.

3 Q And that tape ran approximately some
4 thirty-five minutes, sir?

5 A Yes.

6 Q So, the period of time from four
7 o'clock in the afternoon approximately until
8 approximately eight o'clock in the evening on
9 January 10th of 1990 was a period of some four
10 hours, and we have a period of thirty-five
11 minutes of your questioning of Jeffrey?

12 A Yes.

13 Q We do not have a period of four hours
14 of your questioning?

15 A No.

16 Q We have an absence of tape recording of
17 some three and a half hours?

18 A Yes.

19 MR. INSERO: May I have that tape
20 recorder, please, Mr. Bolen, the micro
21 cassette. I forgot the number.

22 MR. BOLEN: It's Exhibit 166.

23 MR. INSERO: Thank you.

24 Q Now, Detective Levine, I'm going to

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1 hand you what is People's Exhibit 166, I believe
2 it's in evidence now. I would ask you to take a
3 look at it, sir.

4 (Witness examines.)

5 Q Detective, that is the micro cassette
6 recorder that you used on January 10th?

7 A Yes.

8 Q Is that yours personally or does the
9 belong to the Police Department?

10 A No, it belongs to the Police
11 Department.

12 Q Is that the only one in the Police
13 Department?

14 A That I know of, yes.

15 Q You've used that occasionally in your
16 work as a detective?

17 A Yes.

18 Q I mean occasionally you record
19 conversations? There's nothing wrong with that.

20 A When I have to.

21 Q You use it as an investigatory device?

22 A Yes.

23 Q As you do other devices?

24 A Yes.

1 Q Are you right-handed or left-handed,
2 sir?

3 A Ambidexterous.

4 Q Therefore, you can activate the record
5 button with either hand?

6 A Yes.

7 Q Where on January 10th of 1990 were you
8 carrying that recording device, in which -- the
9 right side or left side pocket?

10 A The left side pocket.

11 Q When you met Jeffrey on January 10th at
12 about four o'clock in the afternoon of January
13 10th of 1990, did you have a sports jacket on or
14 a suit jacket or anything like that?

15 A I had a jacket on.

16 Q Similar to the jacket you're wearing
17 now?

18 A Yes.

19 Q You work in civilian clothes, don't
20 you?

21 A Yes.

22 Q You're not a uniformed officer?

23 A No.

24 Q So, you had the jacket on and you had

1 the tape recorder in your chest pocket or --

2 A My shirt pocket.

3 Q It was very easy for you to activate
4 the tape recorder, the micro cassette recorder,
5 in order to actually begin taping the
6 conversation, am I right?

7 A It wasn't easy, though.

8 Q It was not easy?

9 A I'd have to remove my jacket, place my
10 hand in my jacket and then push it forward to
11 move it.

12 Q It was, however, something that you had
13 done numerous times in the past?

14 A I've done it before. Yes, I've done it
15 before.

16 Q If my memory serves me correct, the
17 micro cassette recorder that you have has a play
18 button and a record button immediately adjacent
19 to each other, am I correct?

20 A Yes.

21 Q And in order to activate the record
22 button on the tape recorder you have to press two
23 buttons at the same time?

24 A Yes.

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1 Q And that can easily be done with your
2 thumb or your forefinger?

3 A Yes.

4 Q You didn't have any problem --

5 MR. INSERO: Let me rephrase that
6 question.

7 Q That particular recording device was
8 familiar to you on January 10th?

9 A Yes.

10 Q You had used it before?

11 A Yes.

12 Q You had used it previously in recording
13 other conversations face to face with people, as
14 well as recording conversations over the
15 telephone?

16 A Yes.

17 Q I mean in other cases?

18 A Yes.

19 Q Now, Detective, let me ask you this:
20 In November of 1989, specifically November 17th
21 of 1989, you had been a detective for some three
22 months?

23 A Almost four months.

24 Q Four months?

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1 A Yes.

2 Q You were a member of a detective squad
3 that included four detectives?

4 A Four, plus myself.

5 Q I mean four, plus you?

6 A Yes.

7 Q A total of five?

8 A Yes.

9 Q Four men and one woman?

10 A Yes.

11 Q You were, so to speak, the new kid on
12 the block?

13 A Yes.

14 Q You were the rookie detective?

15 A Yes.

16 Q A couple of questions that I just have
17 from yesterday. Quite frankly, I don't know too
18 much about this term. Youth officer, what is
19 that? You mentioned it yesterday.

20 A A youth officer?

21 Q Yes.

22 A In the Peekskill Police Department his
23 or her responsibility is to deal with juveniles
24 under the age of sixteen years old and any

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1 criminal problem he may have been involved with
2 or any family problems.

3 Q In other words, you are involved with
4 what may have been called in my day or what was
5 perhaps called juvenile delinquents?

6 A On occasion.

7 Q Detective Doris Gist was also a youth
8 officer?

9 A Yes.

10 Q Now, Detective, let's just clarify a
11 couple of things that I have in my mind here.
12 With respect to the chain of command, Lieutenant
13 Tumolo was the immediate superior of all five
14 detectives?

15 A Yes.

16 Q The immediate superior, was the
17 sergeant the immediate superior?

18 A No, he's not the immediate superior.

19 Q Lieutenant Tumolo is?

20 A Yes.

21 Q And you detectives reported to
22 Lieutenant Tumolo?

23 A Yes.

24 Q And Lieutenant Tumolo reported to the

200

1 chief?

2 A Yes.

3 Q So, in essence, Lieutenant Tumolo is
4 the number two man?

5 A Correct.

6 Q And there are a couple of sergeants, as
7 well, including Sergeant O'Buck?

8 A Yes.

9 Q Now, this was brought up yesterday on
10 direct examination, and I just want to clarify it
11 for my own edification, sir: The Police
12 Headquarters itself, that's -- is that on the
13 ground level in Peekskill?

14 A Yes.

15 Q And above that Police Headquarters is a
16 City Court?

17 A Yes.

18 Q And I think you said something else
19 which I forgot.

20 A The Court Clerk.

21 Q But the Police Department itself was
22 downstairs?

23 A Yes.

24 Q And the other thing that's upstairs is

1 the youth office?

2 A Yes.

3 Q The youth officer's office?

4 A Yes.

5 Q So, on the ground level is really where
6 the police station is?

7 A Yes.

8 Q And the ground level, what I mean if
9 you're walking off the street you're walking
10 right into the police station?

11 A Yes.

12 Q You walk into the police station and
13 you open a door. Directly ahead a bit to your
14 left is a glass partition window?

15 A To the left, yes.

16 Q As you walk in?

17 A Yes.

18 Q And to the right of that glass type
19 partition window is a door, am I correct?

20 A Yes.

21 Q Which is a locked door?

22 A Yes.

23 Q In other words, I just couldn't walk in
24 the lobby and walk through that door?

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1 A That's correct.

2 Q Now, once we get through that door,
3 that's the locked door, and I'm trying to get
4 this clear in my own mind-- there's a corridor,
5 isn't there?

6 A Yes.

7 Q It's a corridor approximately forty
8 feet long?

9 A Perhaps.

10 Q And there are offices to the right and
11 to the left of that corridor?

12 A Yes.

13 Q And there's also on that ground level
14 floor a detective room where the detectives who
15 are on duty at any particular shift are doing
16 there in the inside room?

17 A Yes.

18 Q And inside are three desks?

19 A Yes.

20 Q One of which belonged to you, one of
21 which belonged to McIntyre and one which belonged
22 to Brovarski?

23 A Yes.

24 Q Now, you also mentioned, and correct me

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1 if I'm wrong, sir, interview rooms and
2 interrogation rooms?

3 A Yes.

4 Q What's the difference between an
5 interview room and an interrogation room?

6 A There is no difference. It's the same
7 room.

8 Q In other words, it's the same room?

9 A Yes.

10 Q Is there any reason why they would
11 sometimes be called interview rooms and sometimes
12 be called the interrogation rooms?

13 A No, there's no reason.

14 Q And there's also what you would call a
15 muster room. Is your muster room the same sort
16 of a muster room that they used to have in the
17 service?

18 A We call it a muster room. That's the
19 real name -- it's called a training room. We
20 call it a muster room, because we muster some of
21 our people for different events.

22 Q So, the muster room is the same thing
23 as a training room?

24 A Yes.

1 Q There's only one of those?

2 A Yes.

3 Q With respect to the interrogation room
4 or interrogation rooms, how many are there?

5 A Two.

6 Q And somewhere down the corridor is
7 Lieutenant Tumolo's office?

8 A Yes.

9 Q And the chief probably has an office in
10 the headquarters somewhere?

11 A Yes.

12 Q Now, getting back to November 17th and
13 William Harrison, Detective Levine, November 17th
14 was the first time that you had ever met Mr.
15 Harrison?

16 A Yes.

17 Q In fact, that was the only day at that
18 particular juncture that you ever saw him?

19 A Yes.

20 Q You never --

21 MR. INSERO: Withdrawn.

22 Q After you had a conversation with him
23 on November 17th he was out of this case with
24 respect to your investigation?

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1 A Correct.

2 Q Now, Detective, let's talk about
3 November 17th for a moment. You arrived in the
4 vicinity of the Hillcrest School area
5 approximately twenty after eleven in the morning,
6 am I correct?

7 A Yes.

8 Q When you arrived there, were you in the
9 company of anyone?

10 A Yes.

11 Q Who were you with?

12 A Detective McIntyre.

13 Q You two men had gone there together?

14 A Yes.

15 Q Let's clarify this right now: With
16 respect to the investigation of the death of
17 Angela Correa, Detective McIntyre was the lead
18 detective, was he not?

19 A He was the senior detective.

20 Q And you were reporting to him in this
21 matter?

22 A I could, and I did.

23 Q As did the other detectives, Astrologo
24 and Brovarski?

- 1 A Yes.
- 2 Q Detective Gist had nothing to do with
3 this matter, did she?
- 4 A No.
- 5 Q So, McIntyre is the lead detective, if
6 I can use that term?
- 7 A Yes.
- 8 Q He is the senior detective on this
9 case?
- 10 A Correct.
- 11 Q So, you drove to the Hillcrest School
12 area with McIntyre?
- 13 A Yes.
- 14 Q On November 17th?
- 15 A Yes.
- 16 Q Now, sir, it was you who I believe set
17 up part of the -- what I have been calling a
18 crime scene tape on November 17th?
- 19 A It's a police line tape.
- 20 Q I'm sorry?
- 21 A A police line tape.
- 22 Q A police line tape?
- 23 A Yes.
- 24 Q Now, you set up part of it, did you

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1 say?

2 A Yes, and I was assisted by other
3 officers.

4 Q Who were all the officers that
5 participated in the setting up of the police line
6 tape?

7 A I don't recall.

8 Q But they didn't necessarily have to be
9 detectives, did they?

10 A No.

11 Q They could have been uniformed police
12 officers?

13 A Yes.

14 Q You don't recall who they were?

15 A No.

16 Q Do you recall, sir, exactly where that
17 police line tape was?

18 A Yes.

19 Q With respect to People's Exhibit 2?

20 A Yes.

21 Q Could you come over here for a moment,
22 please. Detective Levine --

23 MR. INSERO: If anyone would like
24 to move down, please do.

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1 Q Detective Levine, would you show us
2 once again where that police line tape was in its
3 entirety?

4 A The line that I put up from this bend
5 in the macadam path, south of the macadam path,
6 around and to the right here.

7 (Indicating.)

8 Q In other words, Detective, the police
9 line tape did not completely encircle the entire
10 crime scene area?

11 A Not the tape that I put on, no.

12 Q I'm sorry?

13 A Not the tape that I placed up, no.

14 Q I believe you also testified that you
15 removed the tape later on November 17th at
16 approximately five o'clock p.m.?

17 A Approximately four p.m.

18 Q Four o'clock p.m.?

19 A Yes.

20 Q Now, you testified yesterday,
21 Detective, that you saw some beer bottles?

22 A Yes.

23 Q Let me ask you this, sir: With respect
24 to --

1 THE COURT: Would you just hold on
2 one second, please.

3 (A brief pause.)

4 THE COURT: Go ahead.

5 MR. INSERO: Thank you.

6 Q Detective Levine, with respect to those
7 beer bottles, just a general, verbal description,
8 where were they?

9 A They were west of the macadam path
10 between the condominiums and the school, opposite
11 the dirt path, going from the dirt path to the
12 pond.

13 Q You say they were in one of those
14 containers that you buy beer in?

15 A A six-pack, in a cardboard container,
16 yes.

17 Q Where were those beer bottles say in
18 relation to the body of the deceased? How far
19 away were they, sir?

20 A Approximately three hundred feet.

21 Q And they were also somewhere in the
22 vicinity of that area where the walkman was
23 ultimately found, that is the walkman cassette
24 recorder?

1 A It was approximately one hundred fifty
2 feet away from the walkman.

3 Q So, the beer bottles were in the
4 general area?

5 A Yes.

6 Q That we're talking about here?

7 A Yes.

8 Q I'll call it the general area, the
9 Hillcrest pond area.

10 A Okay.

11 Q Now, did you yourself retrieve those
12 beer bottles?

13 A Yes.

14 Q As best you can recall?

15 A Yes.

16 Q And you put them in some sort of an
17 evidence bag, I take it?

18 A Yes.

19 Q Now, I think you testified yesterday
20 that at least one, and maybe more of the bottles
21 had some quantity of liquid in them?

22 A Yes.

23 Q What, if anything, did you do with that
24 liquid?

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1 A It was poured out.

2 Q Right there at the scene?

3 A No, at headquarters.

4 Q At headquarters?

5 A Yes.

6 Q And the bottles and the cardboard
7 carton that the bottles were in were placed in
8 some sort of evidence bag and ultimately brought
9 to the police station?

10 A Yes.

11 Q By you or by a brother officer?

12 A Yes.

13 Q Now, you testified, sir, that there
14 were no -- I believe you testified that there
15 were no bottles found by the scene where the
16 young girl's body was actually found, is that
17 correct?

18 A Yes.

19 Q There was, however, broken glass there,
20 wasn't there?

21 A I could not say.

22 Q You, Detective Levine, personally
23 retrieved the walkman recorder?

24 A Yes.

1 Q On November 17th?

2 A Yes.

3 Q And that walkman recorder was
4 ultimately brought to the police station?

5 A Yes.

6 Q By you or a brother officer?

7 A That's correct.

8 Q Is it possible --

9 MR. INSERO: May I have that
10 walkman.

11 Q I have been erroneously referring to
12 this as a walkman. I guess I should call it a
13 walkman type. I'm going to hand it to you now
14 and ask you to look at it, please.

15 (Witness examines.)

16 Q Now, you personally retrieved that from
17 the ground, is that correct?

18 A Yes.

19 Q Now, when you first saw it, would you
20 please describe to the jury in what position it
21 was in?

22 A The walkman was suspended in a bush.

23 Q It was hanging from a bush?

24 A Correct.

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1 Q Was it hanging by anything or was it
2 just hanging in the bush?

3 A Hanging in the bush.

4 Q Was the level or the height of where it
5 was hanging above your head or below your head or
6 approximately where?

7 A Approximately at head level.

8 Q I'm sorry?

9 A Head level.

10 Q In other words, you didn't have any
11 difficulty physically reaching out and retrieving
12 it?

13 A No.

14 Q Would it be possible for you to
15 indicate to the jury how it is that you
16 physically retrieved that walkman type device
17 from the bush? Could you do that, perhaps?

18 A Well, I leaned into the bush, and with
19 my hand I grabbed the walkman type device as
20 such.

21 (Indicating.)

22 Q Your thumb, sir, being behind the front
23 loading mechanism or on the front loading
24 mechanism?

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1 A On the side.

2 Q On the side of the front loading
3 mechanism?

4 A Yes.

5 Q In other words, you retrieved it that
6 way from the bush?

7 A Yes.

8 Q What did you immediately do with it,
9 sir?

10 A I placed it --

11 MR. INSERO: May I have it back,
12 please.

13 A I looked at it, and I placed it in an
14 evidence envelope.

15 Q What's an evidence envelope, something
16 like a baggie?

17 A Yes.

18 Q A sandwich baggie?

19 A Yes.

20 Q You placed it in the envelope?

21 A Yes.

22 Q And it ultimately was returned to the
23 Police Department Headquarters?

24 A Yes.

1 Q By you or by a brother officer?

2 A Yes.

3 Q Now, you indicated that the --

4 THE COURT: Let's take a
5 ten-minute break.

6 MR. INSERO: Okay.

7 (Whereupon, the Court declares a
8 recess at 3:15 p.m., and the trial
9 resumes at 3:35 p.m.)

10 THE COURT: Are you ready?

11 MR. INSERO: Yes.

12 THE COURT: Okay, bring the jury
13 in, please.

14 (Whereupon, the jury enters the
15 courtroom.)

16 MR. INSERO: May I proceed, your
17 Honor?

18 THE COURT: Yes.

19 CROSS EXAMINATION

20 BY MR. INSERO: (Continued)

21 Q Detective Levine, in November and
22 December and January past, the five detectives
23 that you have named here yesterday and today were
24 responsible for all of the criminal

1 investigations in Peekskill, is that correct?

2 A Yes.

3 Q That would include all arsens,
4 burglaries, things of that nature?

5 A Yes.

6 Q And you had a pretty heavy case load,
7 did you not?

8 A Yes.

9 Q I mean, yours is not a nine to five
10 job?

11 A No.

12 Q You detectives often put in a good deal
13 of overtime in an attempt to solve these various
14 crimes?

15 A Yes.

16 Q So, simultaneous with your working on
17 the investigation of [REDACTED], you and the
18 other four detectives were also working on a
19 variety of other investigations, as well, were
20 you not?

21 A I had other investigations. However,
22 my main concern was the homicide.

23 Q The homicide was your main concern, but
24 you were assigned to other investigations, as

1 well?

2 A I had other cases, yes.

3 Q And Detective McIntyre had other cases?

4 A Yes.

5 Q As did the other three detectives have
6 other cases?

7 A Yes.

8 Q Now, am I correct, Detective, the very
9 first time you physically laid eyes on Jeffrey
10 was on December 12th of 1989?

11 A Yes.

12 Q And that was while you were in the
13 company of Detective McIntyre?

14 A Yes.

15 Q And I believe you testified yesterday
16 that you initially saw him I believe on Freemont
17 Street?

18 A Yes.

19 Q And that was in the vicinity of
20 Peekskill High School?

21 A Yes.

22 Q Was that a school day, do you recall?

23 A Yes.

24 Q And you met him at about eight o'clock

1 in the morning?

2 A Yes.

3 Q And subsequent to your meeting him that
4 morning, you and McIntyre and Jeffrey all
5 returned to the Peekskill Police Headquarters,
6 did you not?

7 A Yes.

8 Q At which time the questioning of
9 Jeffrey took place?

10 A Yes.

11 Q Relative to the death of [REDACTED]?

12 A Yes.

13 Q And that questioning commenced
14 approximately five minutes after eight?

15 A Approximately.

16 Q Ten after, fifteen after, somewhere
17 around there, is that correct?

18 A Yes.

19 Q In the Police Headquarters?

20 A The Detective Bureau.

21 Q Excuse me. In the Detective Bureau?

22 A Yes.

23 Q The room with the three desks?

24 A Yes.

1 Q And that questioning continued until
2 approximately eleven-thirty or so?

3 A Yes.

4 Q You did not -- maybe I'm wrong.

5 MR. INSERO: Let me withdraw that.

6 Q You didn't actually do the questioning
7 of Jeffrey at that time?

8 A No, I didn't.

9 Q In fact, I believe you weren't even
10 present during the entire three and a half hour
11 period?

12 A I was in and out.

13 Q You were working on this and working on
14 that?

15 A I stepped out here and there.

16 Q Was it at that time that you first
17 discovered or first learned that Jeffrey was a
18 coffee drinker?

19 A Yes.

20 Q When you left the area of the high
21 school that morning on December 12th and
22 proceeded to the police station, Detective,
23 Detective McIntyre was driving the unmarked
24 police vehicle?

1 A Yes.

2 Q And you and Jeffrey were seated in the
3 rear of that vehicle, am I correct?

4 A Yes.

5 Q And I believe, if I'm correct, that
6 particular vehicle did not have door handles in
7 the back of it, did it?

8 A No, it didn't.

9 Q In other words, if, for example, you
10 were seated in the back, Detective, you couldn't
11 get out of that vehicle unless somebody opened
12 that vehicle from outside the vehicle?

13 A That's correct.

14 Q And Jeffrey was in that -- excuse me,
15 in the Detective Bureau for three and a half
16 hours that morning on December 12th?

17 A Yes.

18 Q Now, when he left, did he leave alone,
19 or did you drive him somewhere, or how did that
20 work?

21 A He left alone.

22 Q And that was about close to noon?

23 A Approximately eleven.

24 Q Eleven o'clock?

1 A Eleven o'clock, eleven-thirty.

2 Q And you never saw Jeffrey again until
3 some time later?

4 A Yes.

5 Q I believe January 9th?

6 A Yes.

7 Q 1990?

8 A Yes.

9 Q And that was very late in the evening,
10 close to midnight?

11 A Yes.

12 Q About eleven-thirty?

13 A Yes.

14 Q P.m.?

15 A P.m.

16 Q And it was at that time that you had a
17 conversation with Jeffrey outside the police
18 station and, in fact, across the street from the
19 police station?

20 A Yes.

21 Q What is that, Nelson Avenue, sir?

22 A Yes.

23 Q You left the police station and crossed
24 the street, correct?

1 A Yes.

2 Q And you noticed that Jeffrey was
3 standing there by a bus stop?

4 A Yes.

5 Q With respect to that conversation on
6 January 9th at eleven-thirty p.m. approximately,
7 Detective, you initiated that conversation, did
8 you not?

9 A Yes.

10 Q What did you say to Jeffrey, the first
11 words out of your mouth, sir, as best you can
12 recall them?

13 A "Jeffrey, hi. How are you doing?"

14 Q In other words, you exchanged
15 pleasantries with him?

16 A Yes.

17 Q And then he asked you something to the
18 effect of, "How is the investigation going?"

19 A Yes.

20 Q What was your response, sir, "Okay"?

21 A Yes.

22 Q Now, this was on January 9th, some
23 approximately seven weeks after [REDACTED] body was
24 discovered?

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1 A Yes.

2 Q And you had not made an arrest in the
3 case as yet, had you, sir?

4 A No.

5 Q And still you indicated to Jeffrey that
6 the investigation was going fine?

7 A Yes.

8 Q In other words, sir, at that time on
9 January 9th of 1990 you had a suspect or
10 suspects?

11 A I had suspects.

12 Q Plural?

13 A Plural.

14 Q I mean, you didn't discuss those
15 suspects with Jeffrey on January 9th at about
16 eleven-thirty by the bus stop, did you?

17 A No.

18 Q But you did, in fact, have some
19 suspects?

20 A Yes.

21 Q And Jeffrey initiated that portion of
22 the conversation in which he indicated that he
23 had some notes that he would perhaps like to
24 share with you?

8/14

1 A Yes.

2 Q Now, with respect to the extracting of
3 Jeffrey's blood, that was discussed, was it not,
4 sir, on January 9th of 1990?

5 A Yes.

6 Q By the bus stop?

7 A As we were walking away from the bus
8 stop.

9 Q As you were walking away from the bus
10 stop?

11 A Yes.

12 Q At that general time at that scene
13 there?

14 A Yes.

15 Q In fact, sir, you initiated the idea of
16 having Jeffrey give a blood sample, isn't that a
17 fact?

18 A Yes.

19 Q And, in fact, you told him something,
20 did you not?

21 A Yes.

22 Q With respect to the giving of his
23 blood?

24 A Yes.

1 Q In fact, sir, you told him that it
2 would clear him as a suspect, did you you, sir?

3 A I said it's a possible way of
4 determining if he was involved or not.

5 Q Now, you say you told him it was a way
6 of determining if he was what?

7 A Involved in the killing [REDACTED]
8 or not.

9 Q And what did you mean, sir, when you
10 said that to him? How would it have perhaps been
11 to his advantage?

12 A That through the analysis of blood it
13 could be determined if he was involved.

14 Q Did you explain that to him?

15 A Nothing further than that.

16 Q You did explain, however, that, what
17 you just said?

18 A Yes.

19 Q In other words, you told Jeffrey that
20 there was some sort of scientific method of
21 determining whether or not his blood tied him
22 into the crime?

23 A That a test could be performed to
24 determine whether he was involved.

1 Q Was there any response by Jeffrey when
2 you provided him with that information?

3 A He responded he would submit to a blood
4 sample.

5 Q And, in fact, sir, you believed, did
6 you not, that if upon proper and appropriate
7 analysis of his blood he was not connected with
8 Angela's death, that he would no longer be under
9 suspicion, am I correct, sir?

10 A No.

11 Q You did not?

12 A No.

13 Q You did, however, indicate to him that
14 he would no longer be a suspect?

15 A It's possible that he would not be a
16 suspect.

17 Q You indicated to him that it's possible
18 he would not be a suspect?

19 A Yes.

20 Q But you didn't believe that?

21 A As an investigator I always keep an
22 open mind, and I never look one way or the other.

23 Q But you did, however, tell him that it
24 could perhaps take him out of the suspect area?

1 A It could.

2 Q Now, that was a relatively brief
3 conversation that night, wasn't it?

4 A Yes.

5 Q A matter of what, ten or fifteen
6 minutes?

7 A The most, it was ten or fifteen
8 minutes.

9 Q Was it then that you determined that
10 Jeffrey would come into the police station on
11 January 10th, Detective, the next day at a
12 specific time?

13 A Yes.

14 Q Now, did you instruct Jeffrey to come
15 in at a specific time, or did you say what time
16 would it be convenient for him to come in?

17 A I had asked Jeffrey if it was possible
18 he could come in at three-thirty p.m. of the next
19 day, if it was okay with him, and he said it was.

20 Q And the next day, January 10th, that
21 was a school day, was it not, sir?

22 A Yes.

23 Q So, arrangements were made for Jeffrey
24 to come in at approximately three-thirty on the

1 afternoon of January 10th?

2 A After school, yes.

3 Q After school?

4 A Yes.

5 Q And he, in fact, did present himself at
6 the police station at approximately five minutes
7 of four the next day?

8 A Yes.

9 Q Now, when you and Jeffrey at that time,
10 at approximately four o'clock on January 10th,
11 when you were speaking with each other initially
12 at approximately four o'clock, that conversation
13 was had in the interrogation room, was it not?

14 A The interview room, yes.

15 Q The interview room or interrogation
16 room?

17 A Yes.

18 Q It was at that time that the first tape
19 recording was made?

20 A Yes.

21 Q The one that we heard yesterday?

22 A Yes.

23 Q Did you have a jacket on at that time,
24 sir?

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1 A Yes.

2 Q A sport coat or a suit coat or
3 whatever?

4 A Yes.

5 Q And in your pocket you had the tape
6 recording device?

7 A Yes.

8 Q I believe you testified earlier that
9 you sometimes use tape recordings in your
10 investigative work?

11 A Yes.

12 Q And there is a reason why you do that,
13 isn't there, sir?

14 A Yes.

15 Q And that reason is so that you can
16 memorialize, put down some element of permanence
17 as to what was said?

18 A Yes.

19 Q So that there could be no
20 misunderstanding some time later down the road,
21 is that right?

22 A Yes.

23 Q And with that in mind, you decided that
24 on January 10th at about four o'clock in the

1 afternoon, that what was about to be told to you
2 by Jeffrey was, if you will, important?

3 A I felt at that time that what I was
4 going to do --

5 Q Detective, your voice is dropping off.

6 A I felt at that particular time what I
7 was planning to do was very important. I wanted
8 it recorded.

9 Q You knew that Jeffrey was going to be
10 providing you with some information, and you
11 considered that information to be important, am I
12 correct?

13 A I knew Jeffrey was going to be read at
14 that time something very important, so I wanted
15 it recorded so he would know.

16 Q And so that there would be a permanent
17 record of it?

18 A Yes, for his own protection.

19 Q Now, in the period of time between four
20 o'clock on January 10th of 1990 and when you all
21 left to go to the Griffins Pond area I guess some
22 four hours later, Detective, the tape recorder
23 was turned on and off a couple of times, was it
24 not, sir?

1 A Three times.

2 Q Three times?

3 A Yes.

4 Q Now, to the best of your recollection,
5 at what time did you initially begin to record
6 the conversation?

7 A Five to four.

8 Q 4:05 p.m.?

9 A 3:55 p.m.

10 Q You started to record at 3:55 p.m.?

11 A Yes.

12 Q Now, to the best of your recollection,
13 sir, and in terms of time, when did you first
14 turn off the recorder? In other words, what time
15 was it?

16 A Approximately 4:15 p.m.

17 Q So, we've got a period of time there
18 from five minutes to four to fifteen minutes
19 after four approximately when there was a
20 recording being made?

21 A Yes.

22 Q Now, at approximately 4:15 p.m. the
23 recording device was turned off?

24 A Yes.

1 Q Now, at what time, to the best of your
2 recollection, was the recording device turned on
3 for the second time?

4 A 5:20 p.m.

5 Q So, we have a period of an hour plus?

6 A One hour and five minutes.

7 Q 65 minutes?

8 A Yes.

9 Q That the recording mechanism was not
10 on?

11 A Yes.

12 Q So, it was turned back on again at
13 twenty minutes after five?

14 A Yes.

15 Q So, to the best of your recollection,
16 sir, when was it then turned off again?

17 A Approximately 5:40 p.m.

18 Q So, we have a period of time from 5:20
19 p.m. to 5:40 p.m., about twenty minutes, when the
20 recording device was on again?

21 A Yes.

22 Q At approximately 5:40 p.m. it was
23 turned off again?

24 A Yes.

1 Q And did there come a time after 5:40
2 p.m. when it was turned on again, the recording
3 device?

4 A No.

5 Q That was the last of the recording for
6 that day?

7 A Yes.

8 Q Now, the conversation with Jeffrey took
9 place over a period of between approximately four
10 o'clock, five minutes of four in the afternoon
11 until you had left for the Griffins Pond area, is
12 that correct?

13 A Yes.

14 Q A period of some approximately four
15 hours?

16 A Yes.

17 Q And during that entire period of four
18 hours, sir, you were having conversations with
19 Jeffrey?

20 A Yes.

21 Q Were any other police officers during
22 that period of time that we're talking about,
23 that four hour large period of time, were any
24 other police officers having any conversation

1 with Jeffrey?

2 A Yes.

3 Q And those police officers would be who,
4 sir?

5 A Lieutenant Tumolo.

6 Q Anyone else?

7 A Lieutenant Tumolo.

8 Q Anybody else?

9 A And myself.

10 Q So, during that four hour period the
11 only people who have conversations with Jeffrey
12 were you and your lieutenant?

13 A Yes.

14 Q Now, were you present, sir, when
15 Lieutenant Tumolo had his conversation with
16 Jeffrey?

17 A Yes.

18 Q I'm not asking you what the lieutenant
19 said or anything like that, but approximately
20 what time did that conversation, the one between
21 the lieutenant and Jeffrey, take place, and how
22 long was it?

23 A Approximately 5:50 p.m.

24 Q 5:15?

1 A 5:50 p.m., and it lasted until eight
2 o'clock approximately, with breaks in between.

3 Q So, Lieutenant Tumulo was talking to
4 Jeffrey from about ten minutes to six to eight
5 o'clock?

6 A Yes, on and off.

7 Q On and off?

8 A Yes. I stopped to speak to him, Tumulo
9 spoke to him. We stopped for breaks. Jeffrey
10 used the rest room.

11 Q During that period of time from ten
12 minutes to six until about eight o'clock, were
13 the three of you, you, Tumulo and Jeffrey
14 together all the time?

15 A Not all the time, no.

16 Q There were periods of time, sir, were
17 there not, when you were absent and Jeffrey was
18 in the company strictly of Lieutenant Tumolo?

19 A Yes.

20 Q And there were periods of time, sir,
21 were there not, when Lieutenant Tumolo was absent
22 and you and Jeffrey were in each other's
23 exclusive company?

24 A No.

1 Q Never again?

2 A No.

3 Q So, Detective, from ten minutes to six
4 until eight o'clock you were never again on
5 January 10th of 1990, you were never again alone
6 with Jeffrey?

7 A No.

8 Q So, the only person who was alone with
9 Jeffrey from that period of time, ten of six to
10 eight o'clock, was the lieutenant?

11 A Yes.

12 Q Now, you say that you stopped for
13 breaks?

14 A Yes.

15 Q Bathroom breaks?

16 A Yes.

17 Q Maybe a food break or something?

18 A We asked Jeffrey if he wanted one,
19 something to eat, something to drink. Jeffrey
20 did not want anything.

21 Q He declined food and beverage?

22 A Yes.

23 Q Did he have any more coffee or
24 anything?

1 A No.

2 Q If you recall?

3 A No.

4 Q But there was a substantial period of
5 time when he was alone with the lieutenant?

6 A Yes.

7 Q And you weren't there?

8 A Not a substantial time.

9 Q How long was it?

10 A Enough to use the bathroom.

11 Q The only time he was alone with
12 Lieutenant Tumolo was when you went to the
13 bathroom?

14 A Yes.

15 Q At all other times you and the
16 lieutenant and Jeffrey were together?

17 A Yes.

18 Q And when I say all other times, I mean
19 from ten minutes of six until eight o'clock?

20 A Yes.

21 Q Now, did you --

22 MR. INSERO: Please bear with me
23 for a moment, your Honor.

24 (A brief pause.)

1 Q During that period of time from five
2 minutes to four in the afternoon and the time
3 when you left for the pond area certain items
4 were turned over to you by Jeffrey, am I correct,
5 sir?

6 A Yes.

7 Q Those items being a typewritten -- two
8 typewritten pages that we've seen here?

9 A Yes.

10 Q Now, when Jeffrey handed those two
11 typewritten pages to you, which are now in
12 evidence, Detective, from where did he retrieve
13 them?

14 A He said that these were the notes that
15 he typed up himself.

16 Q Let me ask you this: It's a bad
17 question on my part. Did he take them out of his
18 pocket, or what?

19 A Yes.

20 Q When he walked into headquarters that
21 afternoon, in other words, he didn't have them in
22 his hand?

23 A No.

24 Q He had them in his pocket?

1 A Yes.

2 Q And when he gave them to you, he
3 removed them from his pocket and handed them to
4 you?

5 A Yes.

6 MR. INSERO: May I have the
7 exhibit, please.

8 Q And these were the same two typewritten
9 pages that he had mentioned the evening before
10 that he wanted to share with you?

11 A Yes.

12 MR. INSERO: For the record,
13 they're 42 A and 42 B.

14 Q Now, let me hand you these, Detective
15 Levine. Please take a look at them again.

16 (Witness examines.)

17 Q Now, those two exhibits, Exhibit 42 A
18 and 42 B, those are the ones that are referred to
19 on the recording that we heard yesterday
20 afternoon?

21 A Yes.

22 Q And one of those particular documents
23 has some specific questions on them, does it not?

24 A Yes, it does.

1 Q Is that Exhibit 42 A or Exhibit 42 B?

2 A This is 42 B.

3 MR. INSERO: May I have both of
4 those back, please.

5 Q Now, with respect to Exhibit 42 A in
6 evidence, and that's the one with the blue cross
7 out or something, there is on top of that in
8 capital letters typing suspect name: Shariff
9 Goodson?

10 A Yes.

11 Q And he, Jeffrey, apparently lists
12 Shariff's school on that, doesn't he?

13 A Yes.

14 Q And then there are a whole collection
15 of different names which apparently are friends
16 of Shariff, am I correct?

17 A Yes.

18 Q When you looked at Exhibit 42 A with
19 that list of names and everything, what, if
20 anything, did you say to Jeffrey?

21 A I said, "These are friends of
22 Shariff's?" And he said yes. And then I read
23 them.

24 Q You read each one out?

1 A Yes.

2 Q Did you ask him, "Well, so what?"

3 A No.

4 Q Did you ask him, "What is the
5 importance of these names?"

6 A No.

7 Q Did you ask him, "What are these names
8 supposed to represent?"

9 A No.

10 Q You simply read the names out?

11 A Yes.

12 Q Now, Exhibit 42 B, which is a list of
13 questions, several questions, about thirteen of
14 them, apparently is a list of questions that
15 Jeffrey thought you should ask Shariff --

16 MR. BOLEN: Objection, your Honor,
17 as to what this witness thought Shariff
18 was thinking.

19 MR. INSERO: I'll rephrase it,
20 your Honor.

21 Q Let me hand you People's Exhibit 42 B,
22 which is in evidence.

23 (Witness examines.)

24 Q Would you just read the top portion of

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1 that to yourself, please.

2 A To myself?

3 Q Yes.

4 A Okay.

5 Q Now, Detective, having read that, and
6 with respect to the questions that are on Exhibit
7 42 B, did you discuss these questions with
8 Jeffrey?

9 A No.

10 Q In other words, one of these questions
11 is, "Since Shariff -- why since Shariff had sixth
12 period lunch and Angela fourth period lunch did
13 Shariff cut his fourth period a lot, particularly
14 in the months of October and November?"

15 Did you read that question aloud to
16 Jeffrey?

17 A Yes.

18 Q And did you say to Jeffrey, "Jeffrey,
19 what does that mean?"

20 A We discussed it a little bit.

21 Q What did you discuss?

22 A Basically about any further information
23 that Jeffrey might have had regarding that
24 question.

1 Q Now, you say you discussed it with
2 Jeffrey?

3 A Yes.

4 Q What did you say with regard to that
5 question I just read aloud?

6 A Basically I said, "How do you know he
7 might have cut his fourth period class or lunch?"
8 He said he was there. That's basically -- we
9 stopped at that point and continued.

10 Q Now, did you go over with Jeffrey each
11 of the thirteen questions that are listed on
12 Exhibit 42 B?

13 A I believe so.

14 Q Did you, as a result of going over
15 these questions with Jeffrey, did you conclude in
16 your own mind that this kid was playing
17 detective?

18 A I felt that Jeffrey was conducting his
19 own investigation.

20 Q Now, detectives conduct investigations,
21 do they not, sir?

22 A Yes.

23 Q And having read these questions and
24 discussed these thirteen questions with Jeffrey,

1 and having read a multitude of names which are on
2 Exhibit 42 A in evidence with Jeffrey, you did
3 not conclude, sir, that this kid was conducting
4 his own independent investigation?

5 MR. BOLEN: Objection with respect
6 to what this witness concluded in his
7 own mind, unless it was articulated in
8 some fashion to the person present.

9 THE COURT: Overruled. I'll
10 permit it.

11 MR. INSERO: Thank you.

12 A I believed he was conducting his own
13 investigation.

14 Q Thank you.

15 Now, Detective, on the tape we heard
16 yesterday, that we all heard yesterday, Jeffrey
17 said, and I believe I'm quoting him, "It seems
18 like Diana is covering up for someone."

19 Do you recall him saying that?

20 A Yes.

21 Q Did you then inquire of him, "What does
22 that mean?"

23 A Yes.

24 Q What did he say?

1 A He said that he didn't trust Diana
2 anymore.

3 Q He didn't trust her?

4 A Yes.

5 Q And that was that?

6 A Yes.

7 Q He also said, I believe, and I'm
8 quoting, "Was Diana jealous that Angela was
9 pretty?"

10 Do you remember that on the tape
11 yesterday?

12 A No, I don't remember that.

13 Q Do you recall where he said on the tape
14 yesterday, "I'm pretty sure that Angela went up
15 there to meet someone other than take pictures"?

16 A I recall him saying that she probably
17 went up to meet someone, other than take
18 pictures.

19 Q In other words, he used the word
20 probably?

21 A That's my recollection, yes.

22 Q And also on that tape that we heard
23 yesterday afternoon on a couple of occasions
24 Jeffrey said, "I think such and such," correct?

1 A Yes.

2 Q And on that tape we heard yesterday
3 afternoon he also said on a couple of occasions,
4 "I'm guessing such and such," correct?

5 A I don't recall that.

6 Q He also said something on that tape
7 yesterday, did he not, sir, "People have told me
8 such and such," correct?

9 A He stated that a certain person told
10 him.

11 Q So, the tape that we heard yesterday
12 afternoon, Detective Levine, has a good deal of
13 speculation and conjecture in it, doesn't it?

14 MR. BOLEN: Objection to that,
15 your Honor.

16 THE COURT: Sustained. That is
17 a --

18 MR. INSERO: I'll withdraw it,
19 your Honor.

20 THE COURT: All right.

21 Q Now, correct me if I'm wrong,
22 Detective, but it wasn't until you were provided
23 by Jeffrey with People's Exhibit 42 A and
24 People's Exhibit 42 B on January 10th of 1990,

1 that you read him his so-called Miranda rights,
2 am I correct, sir?

3 A Yes.

4 Q And you read them to him from a card?

5 A Yes.

6 Q You signed the card and he signed the
7 card, correct?

8 A Yes.

9 THE COURT: Let me go back to that
10 objection which I sustained before.
11 It's for the jury to determine what
12 that tape says or doesn't say, and what
13 it means or doesn't mean.

14 MR. INSERO: Thank you, Judge.

15 Q Detective, so you read the contents of
16 the Miranda warnings from your card to Jeffrey
17 verbatim, right?

18 A Yes.

19 Q Did you ever at that time -- well,
20 let's get that time. The Miranda warnings were
21 given to him specifically at what time on January
22 10th?

23 A 5:20 p.m.

24 Q What's that?

1 A 5:20 p.m.

2 Q Jeff had been there approximately an
3 hour and a half, one hour and twenty-five
4 minutes?

5 A Yes.

6 Q And then you gave him his Miranda
7 warnings?

8 A Yes.

9 Q Did you ever then at that time or any
10 time that day tell him, "Hey, Jeff, you know, you
11 can leave right now if you want"?

12 A I did not say that to him.

13 Q Now, you did at some time or another
14 during that afternoon with Jeffrey on January
15 10th ask him how he knew all of this stuff that
16 he was conveying to you?

17 A Yes.

18 Q Not in those words, I'm sure, but how
19 did he find out all those things?

20 A Yes.

21 Q And he told you that it was his
22 opinion, that's what he had heard, and his common
23 sense, correct?

24 A No.

1 Q He did not, sir?

2 A No, he didn't.

3 Q What did he tell you?

4 A That he had his theories.

5 Q I'm sorry?

6 A That he had his theories.

7 MR. BOLEN: May the witness please
8 be allowed to finish answering the
9 question.

10 A Jeffrey stated to me that he had his
11 theories, and that a certain person told him.

12 Q And the combination of the theories and
13 the information allegedly conveyed to Jeffrey
14 constituted the basis for his preparation of
15 Exhibit 42 A and 42 B?

16 MR. BOLEN: Objection to that,
17 your Honor.

18 THE COURT: Sustained.

19 Q In any event, he told you that he had
20 theories?

21 A Yes.

22 Q And, in fact, sir, Detective Levine, he
23 also told you, did he not, that he had gone to
24 the area of Griffins Pond the night before?

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1 A Yes.

2 Q Now, with respect to your conversation
3 with Jeffrey, Detective, pertaining to the route
4 that [REDACTED] took on the day she died, he did, in
5 fact, indicate to you, did he not, that "I think
6 this is the route she took"?

7 A He stated to me that he believed this
8 is the way she took.

9 Q In other words, he did not
10 unequivocally say to you, sir, this is, in fact,
11 the route she took?

12 A No.

13 Q In fact, he said, and I believe I'm
14 quoting him, "I think she took High Street and
15 went out the front door," correct?

16 A Yes.

17 Q Now, Detective Levine, did you when he
18 was making these comments about what he thought
19 had happened, did you ask him, "Is this also part
20 of your theory, Jeffrey?"

21 MR. BOLEN: Objection to the form
22 of the question, his thoughts as to
23 what happened, the implication that
24 it's referring to everything he said.

1 THE COURT: No, I'll overrule it.

2 MR. INSERO: Thank you.

3 Q Can you answer the question?

4 A Can you repeat it.

5 MR. INSERO: Can I have it read
6 back?

7 (Whereupon, the prior question was
8 read back by the Court Reporter.)

9 Q Can you answer that?

10 A No, I didn't.

11 Q And you recall on that tape, Detective,
12 saying to Jeffrey, "So, she made a right-hand
13 turn?", and his response was, "I think"?

14 A Yes.

15 Q I believe you also asked him on that
16 tape, sir, "Did Angela Correa walk into the woods
17 that day", and his response was, "I think."

18 A I believe so.

19 Q In other words, during the taping of
20 that aspect of your conversation with Jeffrey
21 when he was discussing People's Exhibit 42 A and
22 42 B in evidence, he on numerous occasions said
23 to you, sir, did he not, "I'm not sure" and "I
24 think"?

1 A No.

2 Q He did not?

3 A Not on numerous occasions.

4 Q I'm sorry?

5 A He didn't say "I know".

6 Q He did say "I'm not sure"?

7 A It's possible.

8 Q And he did also say "I think such and
9 such," am I correct?

10 A Yes.

11 Q Now, let's talk a little bit,
12 Detective, about the blood consent form which I
13 think is People's Exhibit 49.

14 MR. INSERO: If I may have that,
15 please.

16 THE COURT: Can we have a sidebar,
17 please, without the Court Reporter.

18 (Whereupon, the attorneys approach
19 the bench for a discussion off the
20 record.)

21 MR. INSERO: May I proceed, your
22 Honor?

23 THE COURT: Yes.

24 Q There came a time, Detective Levine,

1 when Dr. McGurty actually appeared at Police
2 Headquarters?

3 A Yes.

4 Q On January 10th?

5 A Yes.

6 Q And that was some time after five
7 o'clock p.m.?

8 A Yes.

9 Q Approximately?

10 A 5:17, approximately.

11 Q A quarter after five, in that area?

12 A Yes.

13 Q And doing what he had come to
14 headquarters to do, it did not take a whole lot
15 of time, did it?

16 A No.

17 Q He was in and out of headquarters in a
18 matter of ten or fifteen minutes?

19 A He was in and out of the interview
20 room.

21 Q That's what I mean.

22 A Yes, very shortly.

23 Q And Jeffrey voluntarily gave his blood?

24 A Yes.

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1 Q And you, in fact, were present, I
2 believe?

3 A Yes.

4 Q And I can assume the blood was
5 extracted from the arm vein?

6 A Yes.

7 Q There came a time, Detective Levine,
8 when Jeffrey drew a couple of diagrams for you,
9 am I correct?

10 A Yes.

11 Q Exhibit 160 A and Exhibit 160 B. Let's
12 talk about 160 A first. Let me show it to you so
13 you know what I'm talking about. It's in
14 evidence.

15 (Witness examines.)

16 Q Would you look that over, please, sir.

17 A Yes.

18 Q You're familiar with that?

19 A Yes.

20 Q Let me give you Exhibit 160 B just to
21 familiarize yourself with it once again.

22 (Witness examines.)

23 MR. INSERO: I'd like them back,
24 please.

1 Q Let's talk about Exhibit 160 A in
2 evidence. Now, Detective Levine, Exhibit 160 A
3 in evidence purports to be the area around
4 Griffins Pond, am I correct?

5 A Yes.

6 Q Where there's a school and various
7 incidents which were set forth by Jeffrey, am I
8 correct?

9 A Yes.

10 Q And this document is in his own
11 handwriting?

12 A Yes.

13 Q I mean you didn't draw it; he draw it?

14 A Yes.

15 Q In your presence?

16 A Yes.

17 Q And this was drawn, I guess you would
18 call it, on legal pad that was provided to him by
19 you?

20 A Yes.

21 Q Legal paper, or whatever?

22 A Yes.

23 Q And he, in fact, signed it in your
24 presence?

1 A Yes.

2 Q You did not sign it, but he did?

3 A Yes.

4 Q And this particular exhibit in
5 evidence, Exhibit 160 A, Jeffrey told you it was
6 not to scale, am I right?

7 A That's right.

8 Q And the only thing on here that Jeffrey
9 did not put on here himself, this being Exhibit
10 160 A, is this X that we have talked about?

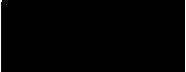
11 A Yes.

12 Q The rest of it is entirely in Jeffrey's
13 handwriting?

14 A Yes.

15 Q And again this is a diagram that was
16 drawn by him, but not to scale?

17 A Correct.

18 Q Now, the other article or exhibit,
19 Exhibit 160 B, is that the area where 
20 lived?

21 A Yes.

22 Q Her house, in other words?

23 A Yes.

24 Q And that, too, is drawn not to scale?

1 A Correct.

2 Q Let me ask you this before I forget:
3 Jeffrey, you knew where he lived in Peekskill?

4 A Yes.

5 Q On January 10th and on December 12th
6 and subsequent dates?

7 A Yes.

8 Q Now, that area is -- could that be
9 categorized as sort of the downtown section of
10 Peekskill?

11 A Yes.

12 Q In fact, it's Brown Street, am I
13 correct?

14 A Yes.

15 Q 1101 Brown Street?

16 A Yes.

17 Q That's where Jeffrey lived?

18 A Yes.

19 Q Now, [REDACTED] lived within walking
20 distance, didn't she?

21 A Yes.

22 Q Could I also characterize her residence
23 as being generally in the downtown area?

24 A Yes.

1 Q I mean, it would be perfectly possible
2 for Jeffrey to walk to the pond area?

3 A Yes.

4 Q It's not an extremely long walk?

5 A No.

6 Q In fact, how long do you think it would
7 take from Jeffrey's home to the pond area?

8 A Twenty minutes.

9 Q And [REDACTED], in fact, could walk from
10 her home to the pond area also?

11 A Yes.

12 Q In fact, that would take a relatively
13 short time, too?

14 A Around fifteen minutes.

15 Q Approximately the same place -- excuse
16 me, Jeffrey is just a little further away?

17 A Approximately four blocks.

18 Q But generically this is all in the
19 downtown area?

20 A It's all in the same vicinity.

21 Q In the downtown area is also the police
22 station?

23 A Yes.

24 Q So, we're all generally in the downtown

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1 area?

2 A Yes.

3 Q When Jeffrey drew that diagram for you
4 of [REDACTED] house, the area around her house,
5 Detective Levine, on January 10th, do you know if
6 he had ever been to that house?

7 A I have no personal knowledge, no.

8 Q Now, during the afternoon of January
9 10th, between the hours of approximately four
10 o'clock and approximately eight o'clock before
11 the trip to the pond area, you indicated
12 yesterday on direct examination that there came a
13 time, sir, that you confronted Jeffrey. Do you
14 recall that?

15 A Yes.

16 Q Now, your confrontation of Jeffrey on
17 that afternoon of January 10th had to do with the
18 fact that you did not believe that he had not
19 been involved in [REDACTED] death, am I right?

20 A Yes.

21 Q Now, sir, to the best of your
22 recollection -- well, this confrontation occurred
23 after the tape recorder was turned off, am I
24 right?

1 A Yes.

2 Q To the best of your recollection, sir,
3 what time was it that you initially confronted
4 Jeffrey with what we've just discussed?

5 A About 5:24 p.m.

6 Q 5:24?

7 A I'm sorry, 5:44 p.m.

8 Q And that would have been after Dr.
9 McGurty had extracted the blood sample from
10 Jeffrey?

11 A Yes.

12 Q And Dr. McGurty had also departed then?

13 A He left the interview room.

14 Q He left the interview room?

15 A Yes.

16 Q He wasn't in your presence and
17 Jeffrey's presence anymore?

18 A That's correct.

19 Q The confrontation, though, did occur
20 after the blood had been extracted?

21 A Yes.

22 Q And after the tape recorder had been
23 turned off?

24 A Yes.

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1 Q Now, let me ask you this, sir: You say
2 this confrontation initially occurred at 5:44
3 p.m.?

4 A Yes.

5 Q The tape recorder, as I -- well, I
6 don't recall, but when had the tape recorder
7 prior to 5:44 p.m. been turned off?

8 A Approximately 5:40 p.m.

9 Q So, there was a period of only four or
10 five minutes?

11 A Two or three or four minutes.

12 Q Two or three or four minutes when the
13 tape recorder was off?

14 A Yes.

15 Q And it was during that period of time
16 when you confronted Jeffrey?

17 A Correct.

18 Q Now, let me ask you this, sir: As best
19 you can recall, what specifically-- what
20 specifically did you say to Jeffrey at that time?

21 A When I confronted Jeffrey?

22 Q Yes.

23 A I said to Jeffrey, "Let's be honest
24 with each other. I believe you're responsible

1 for the death of [REDACTED], " and Jeffrey
2 stated, "No, I'm not."

3 Q Did you then say anything else to him?

4 A No.

5 Q Now, the tape recorder is off for maybe
6 four minutes. Nothing else was said between the
7 period of time by you or Jeffrey between the time
8 the tape recorder was turned off and the time
9 when it was turned back on after you had
10 confronted him?

11 MR. BOLEN: Can I have that
12 question again?

13 MR. INSERO: Let me rephrase it.

14 Q The tape recorder was turned off at
15 5:40?

16 A Approximately 5:40 p.m.

17 Q And the tape recorder was turned on
18 again about 5:44?

19 A No.

20 Q What time was the tape recorder turned
21 back on?

22 A The tape recorder was never turned back
23 on by me.

24 Q It was never turned back on?

1 A No.

2 Q In other words, it was turned off at
3 5:40, and that was it?

4 A Yes.

5 Q Now, you say it was at about 5:44 that
6 you confronted Jeffrey with your belief that he
7 was responsible for [REDACTED] death?

8 A Approximately a minute or two, here or
9 there.

10 Q A minute or two or three or four
11 minutes?

12 A Yes.

13 Q I mean, you weren't timing it?

14 A No.

15 Q It was a matter of a very few minutes
16 after the tape recorder was turned off that you
17 made your confrontation with Jeffrey?

18 A Yes.

19 Q Now, again, Detective, after you said
20 to him, "I think you're responsible," or words to
21 that effect, and I don't mean to put words in
22 your mouth, but after you said to him, "I think
23 you're responsible for [REDACTED] death," he denied
24 it?

1 A Yes.

2 Q In fact, he denied it vehemently,
3 didn't he?

4 A He stated to me that he was not
5 responsible.

6 Q Did you then pursue that line of
7 inquiry on your part?

8 A Not at that time, no.

9 Q In other words, you simply said to him,
10 as you just testified to, and I'm paraphrasing
11 it, and forgive me if I'm misquoting you, you
12 said, "I think you're responsible for [REDACTED]
13 death," and he said, "No, I'm not," and that's
14 it?

15 A Yes.

16 Q But the recorder was never turned on
17 again?

18 A Correct.

19 Q Now, Detective, the trip to the pond
20 area, that trip took what, about forty-five
21 minutes, sir?

22 A Yes.

23 Q All the way there, all the way back and
24 around?

1 A Approximately forty-five minutes to an
2 hour.

3 Q All right, forty-five minutes to an
4 hour. And you left the headquarters at about
5 eight o'clock?

6 A Yes.

7 Q Give or take -- or was it exactly eight
8 o'clock?

9 A Give or take a few minutes.

10 Q Around eight o'clock?

11 A Yes.

12 Q And a whole group of you went down
13 there?

14 A Several officers.

15 Q Detective McIntyre, Detective Levine,
16 you, Detective Astrologo, Sergeant O'Buck,
17 and Lieutenant Tumolo?

18 A Yes.

19 Q And Jeffrey?

20 A Correct.

21 Q Now, you didn't have any conversation
22 with him while you were touring the area, did
23 you?

24 A No.

1 Q I mean you personally?

2 A No, I didn't.

3 Q The conversation that was had while the
4 tour of the area was going on was between Jeffrey
5 and McIntyre?

6 A Yes.

7 Q And perhaps Tumulo?

8 A No.

9 Q Definitely not Tumulo?

10 A No.

11 Q Just definitely McIntyre?

12 A Yes.

13 THE COURT: Let's take a
14 five-minute break, please.

15 (Whereupon, the Court declares a
16 recess at 4:25 p.m., and the trial
17 resumes at 4:35 p.m.)

18 THE COURT: All right, get the
19 jury back in.

20 (Whereupon, the jury enters the
21 courtroom.)

22 MR. INSERO: May I proceed, your
23 Honor?

24 THE COURT: Yes.

1 CROSS EXAMINATION

2 BY MR. INSERO: (Continued)

3 Q Detective Levine, Jeffrey left
4 headquarters on the night of January 10th at
5 approximately ten o'clock p.m.?

6 A Yes.

7 Q So, he had been in the company of
8 police officers from approximately four o'clock
9 to approximately ten o'clock p.m. for some six
10 hours?

11 A Yes.

12 Q Did you take him home that night?

13 A Yes.

14 Q Now, let's move up ahead, if we can,
15 Detective, to January 24th, your conversation
16 with Jeffrey that particular day. Do I
17 understand you correctly that Jeffrey just showed
18 up unexpectedly at at the Police Headquarters on
19 that particular day?

20 A Yes.

21 Q What time was that?

22 A Approximately eight p.m.

23 Q So, it's dark out, it's eight o'clock
24 at night?

1 A Yes.

2 Q And you were working some tour of duty,
3 and you were in headquarters?

4 A Yes.

5 Q And it was at that time that Jeffrey
6 said to you, "I want to take a polygraph"?

7 A That's correct.

8 Q Had you, sir, ever discussed with
9 Jeffrey before January 24th, 1990 the idea of
10 taking a polygraph, you personally, sir?

11 A No.

12 Q Do you of your own personal knowledge
13 have any knowledge as to whether any of your
14 brother officers, brother detectives have
15 discussed the idea of taking a polygraph with
16 Jeffrey?

17 MR. BOLEN: That calls for hearsay
18 implicitly.

19 MR. INSERO: I'll withdraw it,
20 Judge.

21 Q You personally, sir, had never
22 suggested it?

23 A No.

24 Q How long did that conversation take,

1 the one at about eight o'clock at night on
2 January 24th?

3 A Ten minutes.

4 Q A short conversation?

5 A Very short.

6 Q It was not taped?

7 A No.

8 Q By the way, on January 24th, 1990 you
9 did have available to you the micro cassette
10 recording device, did you not, sir?

11 A Yes.

12 Q I mean, that is available to you, is it
13 not?

14 A It's available.

15 Q In fact, that's available to all the
16 Peekskill detectives?

17 A Yes.

18 Q It's not your tape recorder?

19 A No.

20 Q It's a Police Department recorder
21 specifically for the purpose of recording
22 conversations?

23 A Yes.

24 Q And you, sir, are not the only

1 detective that uses that device, are you?

2 A No.

3 Q So, you instructed Jeffrey to come back
4 the next morning at about nine-thirty?

5 MR. BOLEN: Objection to the form
6 of the question.

7 MR. INSERO: Withdrawn. I'll
8 rephrase it.

9 Q As a result of your conversation with
10 Jeffrey on January 24th, at about eight o'clock
11 at night, arrangements were made for him to
12 return to the Police Headquarters the following
13 morning, is that correct, sir?

14 A It was agreed that Jeffrey-- Jeffrey
15 agreed to come back the next morning, January
16 25th at nine-thirty.

17 Q January 25th, to your knowledge,
18 Detective, is that a school day, by any chance?

19 A I don't recall.

20 Q Only if you recall?

21 A I don't recall.

22 Q Do you happen to know what day of the
23 week it was?

24 A Not offhand, no.

1 Q Anyway, we move up to January 25th at
2 about nine-thirty. Jeffrey does, in fact, arrive
3 at the police station?

4 A Yes.

5 Q Now, were you the first police officer
6 to speak with Jeffrey on the morning of January
7 25th?

8 A Yes.

9 Q And that conversation took place --
10 where did that conversation take place?

11 A In the training room.

12 Q The training room?

13 A Yes.

14 Q Also known as the muster room?

15 A Yes.

16 Q That room, sir, is bigger than the
17 detective room that we've been discussing, isn't
18 it?

19 A Yes.

20 Q It's considerably bigger?

21 A Yes.

22 Q I mean, your detective room only
23 encompasses an area large enough to fit three
24 desks in there and a couple of chairs?

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1 A Yes.

2 Q That's a small room?

3 A Yes.

4 Q How big is that room, by the way?

5 A It's a classroom type room.

6 Q Which is the size of about what?

7 A Approximately --

8 Q Yes, approximately.

9 A Thirty by fifty. I'm not too sure
10 really.

11 Q And the muster room is twice that size?

12 A That's the room I just described.

13 Q Oh, that's the muster room?

14 A Yes.

15 Q The detective room is even smaller than
16 that?

17 A Yes.

18 Q How small is that?

19 A Twelve by eighteen.

20 Q That's very small. You've got three
21 desks in there and chairs and other equipment and
22 telephones and other things?

23 A Yes.

24 Q So, your conversation on the morning of

1 January 25th was in the larger of the two rooms,
2 the muster room?

3 A Yes.

4 Q Now, you indicated on direct
5 examination I think this morning or this
6 afternoon, Detective, that at that time you again
7 read Jeffrey his Miranda warnings, am I correct?

8 A Yes.

9 Q From a card?

10 A Yes.

11 Q From a card similar to that type of
12 card that you had used on January 10th?

13 A Yes.

14 Q Not the same card, but a card -- a
15 duplicate of it?

16 A Yes.

17 Q But the same kind of a card?

18 A Yes.

19 Q Now, on January 25th when you gave him
20 his so-called rights, Detective, you didn't sign
21 that card, sir?

22 A No.

23 Q Jeffrey did not sign that card, sir?

24 A No, he didn't.

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1 Q And Jeffrey did not initial that card,
2 did he?

3 A No.

4 Q Unlike the time on January 10th when
5 you and he had both signed the card?

6 A Correct.

7 Q Okay. Now, you testified also that
8 there was a reason why you didn't have him sign
9 the card, the Miranda card on January 25th, is
10 that correct, sir?

11 A That's right.

12 Q And your reason was that at that time
13 you felt that he understood his so-called rights?

14 A Correct.

15 Q From that can I conclude, sir, that
16 since he did not sign the card on January 25th of
17 1990, because you thought he understood his
18 rights, that on January 10th of 1990 when he did
19 sign the card he didn't understand his rights?

20 A No, that's not true.

21 Q Well, you had him sign it on one time
22 and not on the other time, is that right?

23 A Yes.

24 Q The first time you signed it and he

1 signed.

2 A Yes.

3 Q That was January 10th?

4 A Yes.

5 Q On January 25th he didn't sign it and
6 you didn't sign it?

7 A Correct.

8 Q The reason being, that on January 25th,
9 according to your testimony, you felt he
10 understood his Miranda warnings?

11 A Correct.

12 Q That was on January 25th?

13 A Yes.

14 Q So, there came a time when a couple of
15 police cars left Peekskill and went to Brewster,
16 is that correct, sir?

17 A Yes.

18 Q And that trip took about an hour and
19 ten minutes or somewhere around there?

20 A Approximately.

21 Q An hour, at least?

22 A Approximately.

23 Q And you went up to Peekskill -- excuse
24 me. You went up to Brewster in the company of

1 Lieutenant Tumolo?

2 A Yes.

3 Q Was anybody else in that car?

4 A No.

5 Q Just the two of you officers?

6 A Yes.

7 Q Jeffrey went up with Detective

8 McIntyre?

9 A Yes.

10 Q In a separate car?

11 A Yes.

12 Q Just two of them in that car?

13 A Yes.

14 Q Did you actually physically see

15 McIntyre and Jeffrey depart the Peekskill Police

16 headquarters that day by car?

17 A Yes.

18 Q So, the two vehicles took off at

19 approximately the same time?

20 A Yes.

21 Q Did you follow each other up there, or

22 what?

23 A Yes, we did.

24 Q Were you the lead car or the back car?

1 A We were the back car.

2 Q So, McIntyre and Jeffrey were the lead
3 car, and you and Lieutenant Tumolo was the back
4 car?

5 A Yes.

6 Q Were you driving or was he driving?

7 A I was driving.

8 Q Now, these were both unmarked cars, is
9 that correct?

10 A Yes.

11 Q So that we understand, what is an
12 unmarked car?

13 A An unmarked car is a standard sized
14 sedan, a four-door sedan, with no police markings
15 on it.

16 Q No siren on top?

17 A No siren, no lights.

18 Q No gumball lights?

19 A No.

20 Q And you arrived in Brewster -- you
21 don't remember the address, do you?

22 A No, I don't.

23 Q You arrived in Brewster at about eleven
24 o'clock?

1 A Approximately.

2 Q And you, sir, after the arrival with
3 Lieutenant Tumolo didn't see Jeffrey again for
4 some hours, am I correct?

5 A Correct.

6 Q In fact, sir, you did not see Jeffrey
7 again until about five o'clock that day,
8 approximately?

9 A I don't recall exactly when.

10 Q Well, on January 25th of 1990 after you
11 and Lieutenant Tumolo and Detective McIntyre and
12 Jeffrey arrived in Brewster at approximately
13 eleven o'clock, what time was it that you then
14 again for the first time saw Jeffrey?

15 A It was anywhere between six and seven
16 p.m.

17 Q Between -- so, he was out of your
18 presence from approximately eleven o'clock to
19 approximately six o'clock or later?

20 A Correct.

21 Q Six o'clock or seven o'clock?

22 A Yes, with the exception of me bringing
23 food for him.

24 Q Other than the hamburgers?

1 A Yes.

2 Q And for that period of time you were in
3 a room other than the room in which Jeffrey and
4 the fellow named Stephens were?

5 A Yes.

6 Q Where was that room in relation to the
7 room that Jeffrey and Stephens were in?

8 A It was a larger room approximately
9 fifteen or twenty feet away from the room that
10 Jeffrey was in.

11 Q Now, the room that you were in, was it
12 in a corridor, for example?

13 A Yes, it was in a corridor.

14 Q Now, the room that Jeffrey was in with
15 Stephens, that was also off the corridor?

16 A Yes.

17 Q Was it on the same side of the corridor
18 as yours?

19 A It was opposite.

20 Q Directly opposite?

21 A No, diagonal.

22 Q At an angle?

23 A Yes.

24 Q Now, the room in which you were in,

1 Detective, was equipped with some sort of a
2 listening device?

3 A Yes.

4 Q Would you describe for me or for the
5 jury what that listening device was? What did
6 you have, just a speaker there?

7 A It was a small table top speaker.

8 Q Like a small stereo speaker?

9 A Yes.

10 Q And it was sitting on a table?

11 A Yes.

12 Q And you and whoever else was in that
13 room during the course of that day were seated
14 around the table or somewhere around there?

15 A We were in the room, yes.

16 Q You could hear the speaker and all
17 that?

18 A Yes.

19 Q Did you, by chance, happen to look into
20 at all any time that day --

21 MR. INSERO: Let me withdraw that
22 question.

23 Q There came a time when you entered the
24 room, did there not, that Jeffrey and Stephens

1 were in when you brought the hamburgers in?

2 A Yes.

3 Q I mean, you brought the hamburgers into
4 the very room in which Jeffrey was being spoken
5 to by Stephens?

6 A Yes.

7 Q A couple of hamburgers?

8 A Yes.

9 Q And he ate the hamburgers?

10 A Yes.

11 Q When you brought the hamburgers in, did
12 you notice any sort of a listening device in the
13 room Jeffrey was and Stephens?

14 A No, I didn't.

15 Q But there was some sort of a listening
16 device in there, was there not, sir?

17 A I don't know.

18 Q Well, you were in another room, and you
19 were able to hear what was happening in the room
20 in which Jeffrey and Stephens were in, is
21 that correct?

22 A Yes.

23 Q I mean, you couldn't look into the room
24 and read lips or anything, could you?

1 A No.

2 Q In that room in which Stephens and
3 Jeffrey were in was some sort of a microphone
4 somewhere or other, isn't that correct?

5 A It's possible.

6 Q But you didn't see it when you walked
7 in with the hamburgers?

8 A No, I didn't.

9 Q Could you describe the size of that
10 particular room for us, the one where Jeffrey and
11 Stephens were in? Just tell us as best you can,
12 sir?

13 A It was approximately twelve by six, and
14 perhaps an eight foot ceiling.

15 Q Twelve by six?

16 A Maybe a little larger, and an eight
17 foot ceiling.

18 Q In that room was a desk?

19 A Yes.

20 Q A couple of chairs?

21 A Yes.

22 Q And Jeffrey and Stephens?

23 A Correct.

24 Q Any windows in there, by the way,

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1 overlooking the street or anything?

2 A I don't know.

3 Q To the best of your knowledge, were
4 there any windows in the room in which you were
5 in?

6 A Yes.

7 Q And you were across the corridor from
8 the room in which Jeffrey and Stephens were in?

9 A Yes.

10 Q Now, you say that you saw Jeffrey in
11 Brewster sometime between six o'clock and seven
12 o'clock p.m. on January 25th, correct?

13 A Yes.

14 Q And this was immediately prior to your
15 return along with Tumulo and McIntyre and Jeffrey
16 to Peekskill?

17 A Yes.

18 Q You all grouped together for the return
19 trip? I mean, you didn't come back in the same
20 car, but you all grouped together?

21 A Yes, when we left the office.

22 Q The office in Peekskill, whatever
23 street that was in?

24 A The office in Brewster.

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1 Q Excuse me, the office in Brewster?

2 A Yes.

3 Q So, on January 25th, exclusive of or
4 excluding your conversation with Jeffrey in the
5 morning at the Peekskill Police Headquarters, you
6 really didn't have any conversation with Jeffrey
7 that day, did you?

8 A No.

9 Q I mean, you hadn't gone up there with
10 him in the same car, correct?

11 A Correct.

12 Q And you hadn't come back with him in
13 the same car, correct?

14 A Correct.

15 Q So, the only time you saw him there
16 after you left him with Stephens was when you
17 brought him in the hamburgers?

18 A And also he one time prior to us
19 leaving.

20 Q And prior to your leaving?

21 A Correct.

22 Q And that time prior to your leaving is
23 when you were all immediately getting ready to
24 leave, am I correct?

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1 A No.

2 Q Good. Explain it to me. You say it
3 was one time prior to leaving. When was that,
4 sir?

5 A It was a few minutes before we left.
6 Jeffrey wanted a cup of coffee.

7 Q So, you brought him a cup of coffee?

8 A Yes.

9 Q So, the only time you really saw him
10 that day, other than in the Peekskill Police
11 Station, was when you got him the hamburgers the
12 first time and when you got him the coffee the
13 second time?

14 A Yes.

15 Q Now, with respect to the monitoring
16 device that you were able to hear in the room in
17 which you were, you would naturally recognize
18 Jeffrey's voice immediately?

19 A Yes.

20 Q You previously had conversations with
21 him, and you knew his voice?

22 A Yes.

23 Q You didn't, I believe, know Stephens
24 before that day, January 25th?

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1 A No.

2 Q So, you weren't familiar with his
3 voice?

4 A Well, I had spoken with him before he
5 spoke with Jeffrey.

6 Q I'm sorry?

7 A I heard his voice prior to the
8 interview he had with Jeffrey.

9 Q But that was the only time that you
10 heard Stephens voice?

11 A Yes.

12 Q Ever?

13 A Yes.

14 Q I mean before January 25th?

15 A Yes.

16 Q You did, however -- were you able to
17 recognize Stephens' voice when you were listening
18 on the monitoring device?

19 A Yes.

20 Q Sir, I forgot to ask you this, I think:
21 Did you have a micro cassette recorder with you
22 that day on January 25th?

23 A No, I didn't.

24 Q That was, however, still available to

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1 you, was it not?

2 A Yes.

3 MR. INSERO: Judge, maybe I can
4 you have a couple of minutes, please?

5 THE COURT: Yes.

6 (A brief pause.)

7 Q Detective Levine, let's get back to
8 January 9th of 1990, the conversation that you
9 had with Jeffrey outside the police station
10 across the street by the bus stop.

11 A Yes.

12 Q Let me ask you this, sir: Isn't it a
13 fact that on January 9th of 1990 when you had
14 that conversation with Jeffrey he was then
15 already a suspect?

16 A Yes.

17 Q He was, sir?

18 A Yes.

19 Q He had, in fact, become a suspect some
20 time before, had he not, sir?

21 A Yes.

22 Q Now, you first met him, I believe you
23 said, December 12th of 1989?

24 A Yes.

1 Q And you spoke with him that day
2 briefly?

3 A Yes.

4 Q And then you didn't speak with him
5 again until after the new year began on January
6 9th?

7 A Correct.

8 Q So, there's a hiatus us there of some
9 three weeks plus where there was no conversation
10 between you and Jeffrey?

11 A Correct.

12 Q Now, at the time of your conversation
13 on January 9th outside the police station by the
14 bus stop, he was, in fact, a suspect, as you just
15 said?

16 A Yes.

17 Q So that he had, therefore, become a
18 suspect sometime between December 12th and
19 January 9th?

20 A Yes.

21 Q Would you, by chance, happen to know
22 when it was exactly that he had become a suspect?

23 A No, I don't.

24 Q Now, let me ask you this, sir: Was he

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1 a suspect simply in your mind, or was he a
2 suspect in the mind of the detectives in the City
3 of Peekskill?

4 MR. BOLEN: Objection, your Honor.

5 MR. INSERO: I'll withdraw that,
6 Judge. I'm sorry.

7 Q Now, in your investigation of the
8 homicide, Detective Levine, you spoke with a good
9 number of students, did you not, sir?

10 A Yes.

11 Q In the Peekskill High School?

12 A Yes.

13 Q And a good number of adults in the
14 community?

15 A Yes.

16 Q You were conducting the investigation
17 of a homicide?

18 A Yes.

19 Q And, to your personal knowledge, did
20 Detective McIntyre also speak with students?

21 A Yes.

22 Q And adults?

23 A Yes.

24 Q Detective Astrologo, the same thing?

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1 A Yes.

2 Q Detective Walter Brovarski, the same
3 thing?

4 A Yes.

5 Q All four of you spoke with a good
6 number of students?

7 A Yes.

8 Q And sometime or other between -- well,
9 let me ask you this, sir: On December 12th of
10 1990 --

11 MR. INSERO: Withdrawn.

12 Q On December 12th of 1989 was Jeffrey
13 then a suspect?

14 A He was a person I had wanted to speak
15 with.

16 Q I'm sorry?

17 A He was a person that I wanted to speak
18 with.

19 Q That was on December 12th of 1989?

20 A Yes.

21 Q He was a person who you wanted to speak
22 with in reference to your general investigation
23 of the homicide?

24 A Yes.

1 Q And there were a lot of people you
2 wanted to speak with?

3 A Correct.

4 Q And there were, in fact, a lot of
5 people you did speak with?

6 A Yes.

7 Q But at some time before January 9th he,
8 in fact, became a suspect, right?

9 A Yes.

10 Q In other words, he was more than
11 somebody you wanted to speak with?

12 A Yes.

13 Q When you spoke with him on I guess it
14 was January 9th, Detective, he, Jeffrey, was
15 unsure of the date of [REDACTED] disappearance,
16 wasn't he, sir?

17 MR. BOLEN: January 9th?

18 MR. INSERO: I'm sorry.

19 THE COURT: Can I have a sidebar?

20 (Whereupon, the attorneys approach
21 the bench for a discussion off the
22 record.)

23 THE COURT: Okay, we'll stop for
24 tonight. Tomorrow my schedule in the

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morning is lighter than today. So,
would you please be here at 10:15.

Please don't discuss the case
amongst yourselves or with anybody else
or read about it.

Have a good evening, and we'll see
you tomorrow at 10:15.

(Whereupon, the Court adjourns for
the day at five o'clock p.m.)