

1 November 29, 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.

14

15

16 (10:25 a.m.)

17 THE COURT CLERK: In the case of  
18 the People of the State of New York  
19 against Jeffrey Deskovic, under  
20 Indictment 192 of 90.

21 Are the People ready?

22 MR. BOLEN: The People are ready,  
23 your Honor.

24 THE COURT CLERK: Is the Defendant

**FILED**

APR 22 1991

ANDREW J. SPANO  
COUNTY CLERK  
COUNTY OF WESTCHESTER

1 Peekskill Police Department, Nelson  
2 Avenue, Peekskill, New York.

3 THE COURT CLERK: Thank you.

4 THE COURT: As I've told the  
5 jurors, I have a lot of difficulty. I  
6 do a lot of standing. Any juror or  
7 witness who wishes to stand or stretch,  
8 particularly this witness who I  
9 understand has those problems, can do  
10 likewise.

11 MR. BOLEN: Thank you, Judge.

12 DIRECT EXAMINATION

13 BY MR. BOLEN:

14 Q Good afternoon, Detective.

15 A Good afternoon.

16 Q I would like to direct your attention,  
17 sir, to January 10th of 1990. On that particular  
18 evening approximately between the hours of nine  
19 and ten o'clock do you recall being in what would  
20 be called the training room or muster room inside  
21 Peekskill Police Headquarters?

22 A Yes, sir, I do.

23 Q At that time in your presence was there  
24 an individual known to you as Jeffrey Deskovic?

1 A Yes.

2 Q And further, sir, at some point during  
3 that approximate hour period, perhaps towards the  
4 middle, between the middle and the end, were  
5 there one or more individuals seated somewhere in  
6 the muster room some distance from you?

7 A Yes, sir, there was.

8 Q Who would that have been?

9 A Lieutenant Tumolo and Detective  
10 Astrologo.

11 Q With respect to that training room or  
12 muster room, is it a fairly small room or large  
13 room?

14 A It's a large room.

15 Q As you first walk into the room through  
16 the door, directly ahead of you would there be a  
17 fairly long table?

18 A Yes, there is.

19 Q Several chairs?

20 A Yes.

21 Q Would that have been --

22 THE COURT: One moment. May we  
23 have a brief side bar.

24 (Whereupon, the attorneys approach

1           the bench for a discussion off the  
2           record.)

3           Q       Detective, would it having been in that  
4   general area where you were and Jeffrey was?

5           A       Yes.

6           Q       Where else in the room again would  
7   Lieutenant Tumolo and Detective Astrologo have  
8   been?

9           A       They were on the other end of the table  
10   lengthwise.

11          Q       While you were in there with Jeffrey  
12   did you have there in your person a micro  
13   cassette recording device?

14          A       Yes.

15          Q       Where specifically?

16          A       It was in my left shirt pocket.

17          Q       At that time were you dressed in a  
18   similar fashion as you are dressed now, wearing a  
19   suit jacket and pants or a sports jacket and  
20   pants?

21          A       I believe I had a leather jacket on  
22   over my shirt.

23          Q       Now, while you and Jeffrey were in the  
24   muster room between those two hours when you had

1 the recording device on your person, did you  
2 record any conversations that transpired between  
3 the two of you?

4 A Yes, I did.

5 Q And during that approximate hour time  
6 while the recording device was on did you, sir,  
7 at any point have occasion to manually turn the  
8 recording device off?

9 A Yes.

10 Q How many times?

11 A Twice.

12 Q The first time can you give us the  
13 reason?

14 A I stopped the recorder to check with  
15 Lieutenant Tumolo to see if the food we had  
16 ordered had arrived yet.

17 Q And then to do that you exited the  
18 room?

19 A Yes.

20 Q And after exiting the room, is that  
21 when you turned the tape off?

22 A Yes.

23 Q Upon returning to the room did you turn  
24 the tape back on, so to speak?

1           A       Just prior to entering the room, yes.

2           Q       Now, there was a second time thereafter  
3 that you had occasion to turn the tape off, is  
4 that correct?

5           A       Yes.

6           Q       Could you tell us the circumstances of  
7 how that occurred?

8           A       Detective Brovarski had come to the  
9 entranceway of the room and leaned in. He didn't  
10 realize what was going on at that point. And I  
11 walked out to tell him. I stopped the recorder  
12 at that time.

13          Q       Did you then reenter the room?

14          A       Yes.

15          Q       Before reentering the room, did you  
16 turn on the device again?

17          A       Yes.

18          Q       Now, with respect to the tape, in  
19 addition to your voice and that of Jeffrey's,  
20 were there one or more other voices that could be  
21 heard on the tape?

22          A       Yes.

23          Q       Would that have included Detective  
24 Brovarski?

1 A Yes.

2 Q What about Lieutenant Tumolo?

3 A Yes.

4 Q Do you recall specifically whether or  
5 not Detective Astrologo's voice could be heard?

6 A I believe you could hear a conversation  
7 between Lieutenant Tumolo and Detective Astrologo  
8 at one point.

9 Q Now, at this time, sir, I would like  
10 you to take a look at what has previously been  
11 deemed marked for identification as People's  
12 Exhibit 45 A. I ask you if you can tell us if  
13 you recognize that particular exhibit?

14 (Witness examines.)

15 A Yes, I do.

16 Q What is that?

17 A This is the cassette tape that I made  
18 at that time.

19 Q The original?

20 A Yes.

21 Q And between January 10th and today have  
22 you had occasion to listen to that on more than  
23 one occasion?

24 A Yes.

1           Q       Having done so, could you tell us  
2 whether that micro cassette recording fairly and  
3 accurately recorded those conversations that you  
4 recorded during the period of time that you were  
5 within that muster room within the presence of  
6 Jeffrey Deskovic?

7           A       Yes.

8           Q       Would you please take a look at what  
9 has been deemed marked for identification  
10 People's Exhibit 45 B.

11                   (Witness examines.)

12          A       Yes.

13          Q       Do you recognize that?

14          A       Yes.

15          Q       What is that?

16          A       This is a copy of the original micro  
17 cassette recording.

18                   MR. BOLEN: The witness is  
19 referring to Exhibit 45 A.

20          Q       In the interim between January 10th and  
21 today have you had occasion to listen to that  
22 particular copy?

23          A       Yes.

24          Q       Is that a fair and accurate copy or

1 rerecording of the original micro cassette  
2 recording?

3 A Yes.

4 MR. BOLEN: May I have both of  
5 those back, please?

6 Your Honor, at this time I would  
7 ask that People's Exhibit 45 A and 45 B  
8 be deemed in evidence.

9 (Whereupon, Mr. Insero examines  
10 said exhibits.)

11 MR. INSERO: I have no objection,  
12 your Honor.

13 THE COURT: All right. People's  
14 Exhibit 45 A and 45 B are now People's  
15 Exhibits in evidence.

16 (Marked.)

17 Q Detective, prior to your session, if  
18 you will, with Jeffrey between the approximate  
19 hours of nine o'clock and ten o'clock that  
20 particular evening on the 10th of January of this  
21 year, had you and Jeffrey and perhaps one or more  
22 others been anywhere else outside headquarters  
23 within the City of Peekskill that previous  
24 evening?

1 A Yes.

2 Q Where had that been?

3 A That was the crime scene area of  
4 Griffins Pond.

5 MR. BOLEN: Your Honor, at this  
6 time the People would ask, subject to  
7 your permission, to play what has been  
8 deemed into evidence as People's  
9 Exhibit 45 B, the tape that we have  
10 previously discussed. It runs  
11 approximately for an hour.

12 THE COURT: Okay, set it up.

13 MR. BOLEN: Your Honor, I have the  
14 assistance of someone else here who  
15 will help with the head phones.

16 THE COURT: Can I see counsel here  
17 at the side bar, please.

18 (Whereupon, the attorneys approach  
19 the bench for a discussion off the  
20 record.)

21 THE COURT: We're going to forget  
22 the tape recordings for tonight,  
23 because they're having problems with  
24 it. We'll work on something else until

1 five. Then we'll stop and come back  
2 tomorrow with this. So, you can turn  
3 your head sets off.

4 MR. BOLEN: Can I have a moment,  
5 please, Judge?

6 THE COURT: Yes.

7 (A brief pause.)

8 Q Detective, what we're going to now do  
9 is take you back to last year, the fall of 1989.  
10 Before that day, sir, how long had you been  
11 employed by the Peekskill Police Department?

12 A Approximately twelve years.

13 Q Without telling us specifically where  
14 you might have lived, were you also a resident of  
15 the City of Peekskill for the better part of  
16 those twelve years?

17 A Yes.

18 Q Would it be true, as with all police  
19 officers who start with any department, you  
20 started off as a patrolman?

21 A Yes, I did.

22 Q When was it that you became a  
23 detective?

24 A Approximately five years ago.

1           Q       And you have been a detective with that  
2 particular department since that time, is that  
3 correct?

4           A       Yes.

5           Q       Just one or two questions:  Would it be  
6 fair to say that while you were there within the  
7 detective ranks, the only rank is that of a  
8 detective?

9           A       That's right.

10          Q       Whoever is in charge of the detectives  
11 has a lieutenancy rank?

12          A       Yes.

13          Q       There are no sergeants of detectives?

14          A       They recently modified the Detective  
15 Bureau.  This was done several months ago, to  
16 have gradings as a grade three, grade two and  
17 grade one.  But at this particular time there  
18 wasn't.

19          Q       Could you lean forward and speak into  
20 the microphone.

21                   THE COURT:  Whatever is easier for  
22 you.

23          Q       Now, Detective, prior to November 15th,  
24 1989 did you personally know a young man -- did

1 you know a young by the name of Jeffrey Deskovic?

2 A No, I did not.

3 Q Now, at some point, sir, on November  
4 17th, 1989, sometime before noon, within an hour,  
5 did you, sir, alone or with other officers, go to  
6 the Griffins Pond area within the City of  
7 Peekskill?

8 A Yes.

9 Q Would it be fair to say that after you  
10 got there with an occasional departure to do  
11 other things, that upon your return you spent the  
12 balance of the day into the late afternoon in  
13 that general area?

14 A Yes.

15 Q By the way, at some point late that  
16 morning or early afternoon did you, in the  
17 company of someone else from the State Police,  
18 have occasion to take a helicopter ride?

19 A Yes.

20 Q Would that have been over the general  
21 area over the Griffins Pond area?

22 A Yes.

23 Q With whom would you have taken that  
24 hellicoter ride?

1           A       Senior Investigate George Johansen of  
2       the State Police and his State Police pilot.

3           Q       And there came a point in time when the  
4       hellicopter landed wherever it landed, and you  
5       returned to the Griffins Pond area where you were  
6       there on foot, is that correct?

7           A       Yes.

8           Q       Now, at some point that afternoon, sir,  
9       while you were in the general area of one or more  
10      macadam pathways that perhaps intersected with  
11      each other in that area, do you recall at some  
12      point, among others, seeing a young child, a  
13      young girl?

14          A       Yes.

15          Q       Did there come a point in time where  
16      that young child was identified to you as one  
17      Jessica Salch?

18          A       Yes.

19          Q       And at that point was there any member  
20      of the New York State Police with you, other than  
21      Senior Investigator George Johansen that you've  
22      already told us about?

23          A       He wasn't present at that specific  
24      time. Investigator Bart Johnson was.

1           Q       And, as you sit here now, do you recall  
2 specifically where you might have been when you  
3 saw the young Salch child on that particular  
4 afternoon?

5           A       Yes, I do. We were approximately  
6 mid-way on the path that runs north and south  
7 from Hillcrest Park over to the main macadam path  
8 which runs to the Hillcrest School.

9           Q       And without telling us what was said,  
10 was there a conversation with the Salch girl in  
11 your presence?

12          A       Yes.

13          Q       And shortly thereafter was there any  
14 particular point along that macadam path that you  
15 previously described where you, in the company of  
16 the Salch child, went?

17          A       Yes.

18          Q       I know you wear glasses, Detective  
19 McIntyre, but can you see that diagram from where  
20 you are?

21          A       Most of it. Not clear enough to  
22 identify it.

23          Q       You don't move. I'll come over to you.  
24 It's in evidence. I wonder if you would take

1 this -- I want you to take a look at People's  
2 Exhibit 2 in evidence. The Court Officer will  
3 take it up to you, and taking this blue felt  
4 tipped marker, I want you to place a JS  
5 specifically in the area of where you and  
6 Investigator Johnson and the Salch child came to  
7 a stop, if you ever did, along that path.

8 (The witness so indicates.)

9 MR. BOLEN: Would the Court  
10 Officer pass this along to show the  
11 members of the jury.

12 (Whereupon, the jury examines said  
13 exhibit.)

14 MR. BOLEN: Your Honor, with  
15 respect to People's Exhibit 2 in  
16 evidence, perhaps the record will  
17 reflect that the witness has placed the  
18 initials JS at that portion of the  
19 macadam path running between the  
20 condominium complex and the other  
21 macadam path running from Constant  
22 Avenue to Hillcrest, more specifically  
23 some point between or along that  
24 highlighted area in yellow.

1                   THE COURT: Can't we just say that  
2                   JS was placed on that exhibit by this  
3                   witness?

4                   MR. BOLEN: We certainly can, and  
5                   I would adopt that, your Honor, yes.

6                   Q       Now, after you and the Salch child and  
7                   Investigator Johnson were there, did the three of  
8                   you have occasion to go anywhere?

9                   A       Yes.

10                  Q       Where did you go?

11                  A       We went to the child's home at  
12                  Hillcrest Park.

13                  Q       About how long a period of time did you  
14                  stay there?

15                  A       Maybe about fifteen minutes.

16                  Q       When you left did you or Investigator  
17                  Johnson have anything with you that you did not  
18                  have with you before you got there?

19                  A       Yes.

20                  Q       Specifically what did you have?

21                  A       A plastic bag which contained a camera,  
22                  with a telephoto lens on it, an additional lens  
23                  and a plastic cassette holder.

24                  Q       And did you have those items?

1 A Yes.

2 Q Did there come a point in time, sir,  
3 when you left that general area, and by that I  
4 mean the Griffins Pond area that afternoon, to go  
5 back to headquarters?

6 A Yes.

7 Q Upon your return to headquarters were  
8 the various items that you retrieved from the  
9 Salch evidence vouchered as evidence at Police  
10 Headquarters?

11 A Yes.

12 Q Detective, I now want you to take a  
13 look at what has been previously been deemed  
14 marked for identification as People's Exhibit 26  
15 A.

16 (Witness examines.)

17 Q Could you tell us, Detective, whether  
18 you recognize that?

19 A Yes.

20 Q Is that the camera you recovered?

21 A Yes.

22 Q Would you take a look at what has been  
23 previously been deemed marked for identification  
24 as People's Exhibit 26 D.

1 (Witness examines.)

2 Q Do you recognize that?

3 A Yes.

4 Q What is that?

5 A This is the cassette case holder that  
6 was in the bag.

7 Q Lastly, will you take a look at what  
8 has previously been deemed marked for  
9 identification as People's Exhibit 26 E.

10 (Witness examines.)

11 A Okay.

12 Q Do you recognize?

13 A Yes.

14 Q What is that?

15 A This is the plastic bag that contained  
16 these items.

17 MR. BOLEN: With respect to those  
18 three exhibits, your Honor, I would ask  
19 that each be deemed marked into  
20 evidence at this time.

21 THE COURT: What are the numbers.

22 MR. BOLEN: That would be 26 A, 26  
23 D and 26 E.

24 (Whereupon, Mr. Insero examines

1                   said exhibits.)

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

4                   THE COURT: All right, 26 A, 26 D  
5                   and 26 E will be marked as People's  
6                   exhibits in evidence.

7                   (Marked.)

8                   Q       Detective McIntyre, upon your return to  
9                   headquarters with that particular camera,  
10                  without --

11                  MR. BOLEN: May I have a moment,  
12                  please, Judge.

13                  (A brief pause.)

14                  Q       Were you able to in any way  
15                  independently determine whether there was any  
16                  unexposed film inside the camera?

17                  A       Yes.

18                  Q       Upon ascertaining that do you recall  
19                  whether or not or what, if any, efforts you made  
20                  to have you or somebody else in your department  
21                  develop whatever film there might have been in  
22                  the camera?

23                  A       I asked Officer Rooney, who is our  
24                  photo technician, to develop any film in the

1 camera.

2 Q Let me ask you this, sir: Specifically  
3 with respect to your for the first time observing  
4 the plastic bag, and more particularly the camera  
5 with the lens attached to it, coupled with the  
6 location where you and Officer Johnson and the  
7 Salch child were on that macadam path, with  
8 respect to those things, at any time between  
9 November 17th, 1989 and January 25th, 1989, did  
10 you, sir, ever relate to any members of the media  
11 your observations of those particular items?

12 A No, I did not.

13 Q And as a follow-up to that, Detective  
14 McIntyre, did you ever in any way with respect to  
15 those same items and activities ever relate them  
16 to Jeffrey Deskovic on or about December 12th of  
17 1989?

18 A No, sir, I did not.

19 Q Or January 10th of 1989?

20 A No, I did not.

21 Q Or January 23rd, 1989?

22 A No, I did not.

23 Q Or January 25th, 1989?

24 A No, I did not.

1           Q       Now, Detective, you were still in the  
2       general area of the Griffins Pond area that  
3       afternoon, is that correct?

4           A       Yes.

5           Q       And specifically at some point were you  
6       in the general area of where the body of Angela  
7       Correa was?

8           A       Yes.

9           Q       Were you in that general area when, to  
10      your eyesight or to your view, Detective, one or  
11      more representatives of the Westchester County  
12      Medical Examiner's Office arrived?

13          A       Yes.

14          Q       Thereafter, sir, did you have occasion  
15      to see any one or more of those representatives  
16      do anything with respect to the body of [REDACTED]  
17      [REDACTED]?

18          A       Yes.

19          Q       Could you tell us about that?

20          A       Dr. Roh conducted his on-the-scene  
21      examination, and upon the completion of that Dr.  
22      Roh and his assistant, and I don't know his name,  
23      and I believe they requested the help of a couple  
24      of officers, they picked the body up and placed

1 it in the body bag to take away.

2 Q The assistant with Dr. Roh, do you know  
3 the name?

4 A No, sir, I do not.

5 Q Can you describe that individual for  
6 us, please?

7 A He's a black male, appears to be in his  
8 fifties, I believe.

9 Q Now, when you say a request was made  
10 from officers at the scene to assist him in  
11 removing, would these be detectives or patrolmen  
12 or both?

13 A Patrolmen, I believe.

14 Q Do you know while you were viewing this  
15 whether or not Dr. Roh participated in the  
16 removal of the body?

17 A I saw him walking towards the head of  
18 the body, but I do think he helped lift. I  
19 started to walk away at that point.

20 Q And just before you walked away can you  
21 tell us where in relation to the body you might  
22 have seen Dr. Roh's assistant, the older black  
23 individual?

24 A He was in the pit area by her feet.

1           Q       Now, once the body was actually removed  
2           and, as you said, placed in some kind of thing,  
3           it was then taken away from the area?

4           A       Yes.

5           Q       Was your attention at that point drawn  
6           to anything that might have been underneath the  
7           body?

8           A       I was not there at that point.

9           Q       Okay. Directing your attention now to  
10          the following day, which would have been November  
11          18th, 1990 at around twelve noon, do you remember  
12          having some contact with a fellow, though junior  
13          officer, by the name of Officer Ubben?

14          A       Yes.

15          Q       At that time do you recall him turning  
16          over something to you?

17          A       Yes.

18          Q       What would that have been?

19          A       He turned over what appeared to be a  
20          torn piece of looseleaf paper. It was balled up  
21          and saturated.

22          Q       Detective McIntyre, at some point --

23                   THE COURT: All right, let's stop  
24                   here.

1           I have been advised that we could  
2           very well finish the People's case  
3           tomorrow. As I've told you before,  
4           then the Defendant has the opportunity  
5           to either rest or present a case or  
6           whatever. That's the Defendant's  
7           option. So, I think we're right on  
8           schedule.

9           I have still not made up my mind  
10          whether or not we will go to the scene.  
11          I'll tell you tomorrow.

12          So, please don't discuss the case,  
13          don't read about it, hear about it.  
14          Have a good evening, and I'll see you  
15          tomorrow at 10:15. Thank you.

16          (Whereupon, the jury is excused  
17          for the day.)

18          THE COURT: Is there anything for  
19          us to talk about now?

20          MR. BOLEN: I don't think so.

21          MR. INSERO: No, I don't think so.

22          THE COURT: Let me see the  
23          attorneys at the side bar.

24          (Whereupon, the attorneys approach

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the bench for a discussion off the  
record.)

THE COURT: All right, the Court  
stands in recess.

(Whereupon, the Court adjourns for  
the day at five o'clock p.m.)

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1 November 30, 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 2d

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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(10:30 a.m.)

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THE COURT: Let the record show  
that it's ten-thirty already, and we're  
in my Robing Room on Friday, November  
30th with respect to charges.

Do I understand that the defense  
seeks no downcharges?

MR. INSERO: That's correct, your  
Honor.

1 THE COURT: Do I understand  
2 further that the defense would oppose  
3 any downcharges if requested by the  
4 People?

5 MR. INSERO: That's also correct,  
6 your Honor.

7 THE COURT: What downcharges are  
8 the People requesting?

9 MR. BOLEN: Under the first count,  
10 intentional manslaughter one, attempt  
11 to cause serious physical injury; under  
12 manslaughter two, substantial and  
13 unjustifiable risk that his conduct as  
14 he indirectly and directly stated by  
15 placing the hand over the mouth and  
16 perhaps leaving it too long caused the  
17 death of [REDACTED] without  
18 specifically or intentionally  
19 necessarily intending to do that.

20 THE COURT: What else?

21 MR. BOLEN: Under the indifference  
22 murder, manslaughter two is the lesser  
23 charge.

24 THE COURT: You oppose that, Mr.

1           Insero?

2                   MR. INSERO:    Yes.

3                   THE COURT:   Any other requests to  
4 charge?

5                   MR. BOLEN:    You mean lesser  
6 included?

7                   THE COURT:   No, are there any  
8 requests.

9                   MR. BOLEN:    Yes, I have them  
10 enumerated on paper.

11                   THE COURT:   Mark them as Court's  
12 Exhibit 1.

13                           (Marked.)

14                   THE COURT:   Any requests to charge  
15 by the defense at this point?

16                   MR. INSERO:   Not at this time.  I  
17 understand, from speaking to Mr.  
18 Powers, that great reliance is had on  
19 the CJI charges?

20                   THE COURT:   Yes, but not  
21 exclusively.

22                   MR. INSERO:   Therefore, I would at  
23 this time have no requested charges.

24                   THE COURT:   I'm going to give some

1 thought to the People's request. I  
2 won't make a decision now.

3 Let me just run through the  
4 scenario again. You have Detective  
5 McIntyre this morning, and then Dr. Roh  
6 this afternoon, stopping thereafter,  
7 and then I assume the People would  
8 rest.

9 Then the defense -- I told Mr.  
10 Insero he didn't have to do anything  
11 today. He could determine what he  
12 wanted to do, but he didn't have to do  
13 anything today.

14 My thinking is that we're going to  
15 go to the scene on Monday.

16 MR. INSERO: Has anybody heard  
17 anything about the weather forecast for  
18 tomorrow?

19 THE COURT: What difference does  
20 it make? If it's snowing we'll still  
21 go.

22 I would like you to get together  
23 for me a simple map so I can walk the  
24 jurors through this area. I can't do

1           it based on the evidence I've heard.  
2           So, I'll just walk with the jurors  
3           through the area we're talking about.  
4           Maybe the two of you can agree on what  
5           that should be.

6           MR. BOLEN: Assuming we do go  
7           there and we all meet --

8           THE COURT: We'll meet here. I'm  
9           going to get the time frame set up,  
10          too.

11          MR. BOLEN: Do you want us to meet  
12          here or for some of us to meet up  
13          there?

14          THE COURT: The attorneys can get  
15          there any way they want to get there.  
16          And also the Defendant. I've got to  
17          stay with the jury, so I was thinking  
18          we would meet there -- I thought maybe  
19          we could do a visit to the scene and  
20          then the summations, but I don't think  
21          we can do it. With breaks and all, the  
22          summations will take two to two and a  
23          half hours. I hate to have you come  
24          back here at two o'clock and then work

1                   until five o'clock.

2                   MR. INSERO: I appreciate that,  
3                   your Honor.

4                   MR. BOLEN: Could I make a  
5                   suggestion. Perhaps if we got up there  
6                   while the jury was held together,  
7                   perhaps the three of us, in response to  
8                   your doing a diagram, the three of us  
9                   could walk the route so you would be  
10                  somewhat familiar with it before, and  
11                  then you can go with the jury.

12                  THE COURT: I don't think there's  
13                  anything in the law that precludes  
14                  the -- the defense counsel and the  
15                  prosecutor can be with me. So, you'll  
16                  just walk, and I'll follow you.

17                  MR. INSERO: With the jury?

18                  THE COURT: Yes, with the jury.  
19                  There can't be any talking to the jury,  
20                  though.

21                  MR. INSERO: Yes, of course not.

22                  MR. BOLEN: Okay.

23                  MR. INSERO: I think maybe a map  
24                  would be better, though.

1 MR. BOLEN: What I'm saying, if we  
2 get up with the three of us and your  
3 client, if the jury stays here with the  
4 deputies and nobody talks, we can do it  
5 and then come back so you know what the  
6 route is yourself.

7 MR. INSERO: That way we get to  
8 walk it twice.

9 THE COURT: Is there a lot of  
10 walking?

11 MR. BOLEN: No, there's not.  
12 There's a golf course right near there.

13 MR. INSERO: That sounds fine to  
14 me. Of course, I'm still objecting to  
15 this.

16 THE COURT: So, my plans were that  
17 I would have -- I thought maybe the  
18 jury and I would leave here at -- how  
19 long do you think the walking around  
20 would take, half an hour?

21 MR. INSERO: No.

22 MR. BOLEN: If they're just going  
23 to walk and can't talk, so literally it  
24 shouldn't take more than fifteen to

1 twenty minutes.

2 THE COURT: Then maybe we can do  
3 the summations on Monday.

4 MR. BOLEN: They're going to walk  
5 and stand around.

6 MR. INSERO: You're just going to  
7 take them on a tour, Judge?

8 THE COURT: Yes.

9 MR. INSERO: I think the walk  
10 would be no more than ten or fifteen  
11 minutes.

12 MR. BOLEN: That's right, assuming  
13 they don't stop for anything.

14 THE COURT: It's an hour to get  
15 there and back.

16 MR. INSERO: Yes.

17 THE COURT: So, it's conceivable  
18 if we left here at nine o'clock and got  
19 there at ten o'clock, and spent half an  
20 hour, and got back at twelve o'clock,  
21 and let them go to lunch until one  
22 o'clock, we could have summations.

23 (Discussion off the record.)

24 MR. INSERO: I don't have any

1 problem with summing up on Monday, but  
2 I would much prefer to be summing up on  
3 Tuesday.

4 THE COURT: I don't like to charge  
5 them at noontime, because they don't  
6 get the case really for consideration  
7 until two o'clock. I could charge them  
8 on Wednesday morning.

9 MR. INSERO: I wouldn't have any  
10 problem with that.

11 THE COURT: All right, I can do  
12 that. All right, I'll determine today  
13 what time we're going to make the trek  
14 from here.

15 MR. BOLEN: Should someone make a  
16 call to the school, and do you want  
17 police personnel to be there to keep  
18 people out?

19 MR. INSERO: I don't think that  
20 would be necessary, your Honor.

21 MR. BOLEN: I think the --

22 THE COURT: Will there be school  
23 children there?

24 MR. BOLEN: There shouldn't be if

1           it's mid-morning. I imagine they'll be  
2           in school.

3           THE COURT: If you had a Defendant  
4           in custody and you were going into a  
5           bad area, like I did in Orange County  
6           or in Yonkers, they may have an army  
7           there.

8           MR. INSERO: I've done that with  
9           Mr. Bolen, in fact.

10          MR. BOLEN: Whatever. I don't  
11          think there will be a problem.

12          MR. INSERO: Judge, I don't have  
13          any problem with the Peekskill Police  
14          Officers. I know it's the same  
15          jurisdiction, but I'm sure there are  
16          uniformed officers there.

17          THE COURT: I think we should have  
18          some police there. Call the Peekskill  
19          Police and tell them so --

20          MR. BOLEN: To send a patrolman or  
21          somebody?

22          THE COURT: Yes. Somebody should  
23          be around.

24          MR. BOLEN: Judge, if you want

1 to --

2 THE COURT: I think there should  
3 be some police personnel there. You  
4 never know what will happen. There  
5 could be people from the neighborhood,  
6 and you might have the news media  
7 there.

8 MR. INSERO: I don't object to any  
9 security.

10 THE COURT: It's for our  
11 own protection.

12 MR. INSERO: I know I can waive my  
13 client's presence at this trip, but I  
14 won't.

15 THE COURT: I don't think you  
16 should.

17 MR. INSERO: No, I won't. I want  
18 to have him there, Judge.

19 THE COURT: Raymond?

20 MR. POWERS: On the request to  
21 vary the CJI charge on the  
22 voluntariness of statements, are you  
23 saying you want to delete entirely the  
24 truthfulness as to what the People have

1 to prove? Are you saying you want that  
2 applied to every statement presented to  
3 the jury, or just certain statements?

4 MR. BOLEN: I guess what I'm  
5 saying, somewhere in the Court's charge  
6 it gives you a charge of the testimony  
7 of a witness. I don't see why the same  
8 thing can't be done with statements,  
9 because most of the statements here are  
10 not confessions.

11 I would have to concede, I  
12 imagine, with respect to the so-called  
13 admissions made to McIntyre. I'm  
14 relying on their truth.

15 MR. POWERS: The January 25th  
16 statement to McIntyre.

17 MR. BOLEN: I even allude to that  
18 in my memorandum.

19 THE COURT: How are you going to  
20 do that?

21 MR. BOLEN: If they find one word  
22 false, they have to disregard the whole  
23 thing. With a witness' testimony,  
24 they're told you can accept so much as

1           you believe and so much as false.  
2           That's what I think is duplicitous and  
3           what's so offensive in that.

4           MR. POWERS:  Are you saying as far  
5           as deleting the truthfulness, that  
6           particular request, you only want that  
7           done as far as the statements other  
8           than the January 25th statements to  
9           McIntyre, and as far as the January  
10          25th McIntyre statement you are  
11          submitting that as a confession?

12          MR. BOLEN:  It's not a confession,  
13          because it's not a full acknowledgment  
14          of guilt.  I don't think I'm straining  
15          hairs here, but I'm just wondering  
16          whether something can be done with  
17          respect to deleting this thing from the  
18          voluntariness portion, which I clearly  
19          have to prove.

20          Assuming you find it voluntary,  
21          then the jury is instructed with those  
22          statements, as with any other witness,  
23          you then decide the same thing you do  
24          with judging credibility of witnesses.

1 I don't know where they got this thing  
2 in the CJI.

3 THE COURT: I won't disregard the  
4 CJI charge, unless you have some  
5 authority for us.

6 MR. BOLEN: Well, the way the  
7 charges stand now, there are some  
8 things that he said which the jury  
9 could say were not truthful, and then  
10 just disregard it entirely.

11 THE COURT: I think it can be  
12 framed in the instructions so that they  
13 understand that some of the  
14 statements -- they have to determine if  
15 they're true, if they weren't true.

16 MR. POWERS: What I'm getting at,  
17 are you saying you want to leave it up  
18 to the jury to determine what purpose  
19 the statements are going in as? Do you  
20 want them to determine which are going  
21 in as consciousness of guilt as opposed  
22 to confessions, or do you want to  
23 segregate it out?

24 MR. BOLEN: I guess what I'm

1 asking is in request number five, which  
2 relates, in part, to what the Court is  
3 saying. I even include it to let the  
4 jury decide whether they were even made  
5 at all.

6 THE COURT: That's part of the  
7 fact-finding process, whether the  
8 statement was even made.

9 MR. INSERO: Your Honor, I'm  
10 sitting here quietly, but I don't want  
11 my silence to be construed as  
12 acquiescence of silence.

13 THE COURT: I can't do this now.  
14 I want to get started. I understand  
15 the problem.

16 The jury initially has to  
17 determine whether the statements were  
18 made, whether the statements were  
19 intended to be truthful or not intended  
20 to be truthful. If they weren't  
21 intended to be truthful, it's up to  
22 them to determine what was meant by  
23 that. If they weren't truthful, what  
24 that means. The jury has to do all of

Discussion 2  
Algebra

1           that.

2                   I realize the CJI is a little  
3           confusing and misleading. But in a  
4           common sense way the jury determines  
5           what, if anything, he said and what, if  
6           anything, was meant by what he said,  
7           and if he was intending to be truthful  
8           or not truthful. They don't to have  
9           disregard something that's not truthful  
10          because they determine that he intended  
11          it not to be truthful.

12                   So, that's what Mr. Bolen is  
13          saying. And I think he's right. But  
14          again we'll to have look at it.

15                   MR. POWERS: I have two quick  
16          questions: Do you want a consciousness  
17          of guilt instruction? You mention  
18          consciousness of guilt here in your  
19          first page.

20                   MR. BOLEN: No, I'm not going to  
21          ask for that.

22                   MR. POWERS: Are you still asking  
23          for acting in concert? It's not  
24          contained in the written request.

1 MR. BOLEN: I didn't submit a  
2 specific request. I was going to ask  
3 just for the straight Article 20,  
4 subject to the Court's ruling.

5 MR. INSERO: I'll oppose that  
6 naturally, your Honor.

7 THE COURT: I don't see any  
8 reasonable view of the evidence at this  
9 point that would show an acting in  
10 concert.

11 MR. BOLEN: Subject to the Court's  
12 ruling, I realize that.

13 THE COURT: I have a couple of  
14 notations that I made on the charges  
15 which are inside. One was talking to  
16 him about the taping, that it's not  
17 illegal.

18 All right, we'll come back again  
19 maybe after you look at that at a  
20 break.

21 MR. BOLEN: Judge, if you want to,  
22 I'll be glad to be further heard on my  
23 down charge request. I didn't specify  
24 what the reasonable view could be. So,

1 subject to your determination --

2 THE COURT: Well, you spelled it  
3 out --

4 MR. BOLEN: All right.

5 THE COURT: Let's get started. At  
6 some other point today we'll meet  
7 again.

8 (Discussion off the record.)

9 (In the courtroom at 10:50 a.m.)

10 THE COURT CLERK: In the case of  
11 the People of the State of New York  
12 against Jeffrey Deskovic, under  
13 Indictment 192 of 90.

14 Are the People ready?

15 MR. BOLEN: The People are ready,  
16 your Honor.

17 THE COURT CLERK: Is the Defendant  
18 and counsel ready?

19 MR. INSERO: The Defendant is  
20 ready.

21 THE COURT: All right, bring the  
22 jury in, please.

23 (Whereupon, the jury enters the  
24 courtroom.)

1                   THE COURT: Good morning, ladies  
2                   and gentlemen.

3                   We anticipate today probably  
4                   finishing before five o'clock. I am  
5                   going to have you go to the alleged  
6                   crime scene on Monday. You will come  
7                   in my van with me or a bus, and we'll  
8                   go to Peekskill. We won't do anything  
9                   else on Monday, except that.

10                  Then I anticipate, I think, that  
11                  Tuesday we'll have summations, and on  
12                  Wednesday morning I'll charge you. So,  
13                  I'll charge you early in the morning so  
14                  you'll have the case for your  
15                  deliberations by ten past ten on  
16                  Wednesday morning. That's my present  
17                  goal, unless something else happens.

18                  Mr. Bolen, you may proceed.

19                  MR. BOLEN: Thank you.

20                  DIRECT EXAMINATION

21                  BY MR. BOLEN: (Continued)

22                  Q        Detective McIntyre, I think I left off  
23                  with you yesterday afternoon when the following  
24                  day Officer Ubben gave you a wet piece of paper,

1 a piece of torn paper, is that correct?

2 A Yes.

3 Q Would you take a look at Exhibit 38 A  
4 deemed in evidence. Would you tell us what is  
5 the contents of that within the bag? Is that  
6 what you saw?

7 A Yes.

8 Q When you got the wet piece of paper  
9 what did you do with it?

10 A It was still crumpled up and wet, so I  
11 let it dry in my office. It dried approximately  
12 two days. Then I was able to open it up and hang  
13 it out to dry, and then I processed it with a  
14 process called ninhydrone to see if there were  
15 any prints.

16 Q With what result?

17 A Negative.

18 Q With respect to any written material  
19 that might have appeared on either side of that  
20 torn piece of paper, sir, did you attempt to with  
21 your eyes write out what, if anything, appeared  
22 on each of the lines, on each of the sides of  
23 paper?

24 A Yes, I did.

1           Q       And in doing that, sir, did you write  
2       out whatever it was on one side on one piece of  
3       paper?

4           A       Yes.

5           Q       And what, if anything, you observed on  
6       the opposite side of the torn piece of paper on a  
7       separate piece of paper?

8           A       Yes.

9           Q       Would you take a look at what has  
10      previously been marked for identification Exhibit  
11      38 B.

12                   (Witness examines.)

13          Q       Could you tell us if you recognize that  
14      exhibit which consists of two pages?

15          A       Yes, I do.

16          Q       What is that?

17          A       This is a copy of the notes that I made  
18      from this note here.

19          Q       I'm going to have to clarify something.  
20      What do you mean by notes you made?

21          A       I attempted to transcribe what I saw on  
22      the note recovered at the scene onto this piece  
23      of paper to see if I could put together what it  
24      might have said.

1           Q       Well, again for further clarification,  
2       Detective, did you add things to it or did you  
3       write on the piece of paper what you observed  
4       with your eyes?

5           A       I wrote just what I saw.

6           Q       You've indicated that what you're  
7       holding is a copy. Is that a fair and accurate  
8       reproduction of the original paper on which you  
9       wrote down what you observed on both sides of  
10      what has been deemed marked as People's Exhibit  
11      38 A?

12          A       Yes.

13                               MR. BOLEN: May I have both those  
14                               exhibits back, please.

15          Q       Now, I'll probably step up again close  
16      to you with what's been marked as People's  
17      Exhibit 2 in evidence. Before I do that,  
18      yesterday you had indicated on that macadam path  
19      that ran in a northerly direction to the  
20      condominium complex, that off it was a dirt path,  
21      is that correct?

22          A       Yes.

23          Q       That appears on this particular  
24      diagram?

1           A       Yes.

2           Q       Near of which would be the number two,  
3       and then the number three?

4           A       Yes.

5           Q       Now, before one would get to that  
6       particular dirt path that ran off the macadam  
7       path, to your knowledge, based upon your  
8       observations at the scene on November 17th, 1989,  
9       was there any other dirt path just before that  
10      dirt path running similarly to the right off the  
11      macadam path?

12          A       Yes.

13          Q       Somewhere below that?

14          A       It would be further south on the  
15      macadam path.

16          Q       Further south on the macadam path?

17          A       Yes.

18          Q       And of the two, the one you just  
19      described as opposed to the one that's delineated  
20      on the diagram, which one was the more observable  
21      or noticeable to you as you walked along the  
22      macadam path in a northerly direction, if you can  
23      recall?

24          A       You came to the other path first.  It

1 was noticeable, but not as highly noticeable as  
2 the second path.

3 Q Now, in connection with this particular  
4 case, during the initial stages of the  
5 investigation after the recovery of [REDACTED]  
6 [REDACTED] body did you, sir, ascertain that there  
7 were missing from her person a set of keys?

8 A Yes.

9 Q Were efforts made by you individually  
10 or with other officers during the following--  
11 during the days following November 17th to try to  
12 find those keys in the general area, the Griffins  
13 Pond area?

14 A Yes.

15 Q With what result, if any?

16 A There were no keys found.

17 Q Now, Detective, what I would like to do  
18 now is to go ahead in time to the month of  
19 December, 1989, specifically December 12th of  
20 1989, some time around eight o'clock in the  
21 morning in the company of Detective Levine.

22 Did you go someplace?

23 A Yes.

24 Q Where specifically, and for what

1 purpose?

2 A We went to the intersection of Freemont  
3 and South Division Streets in Peekskill for the  
4 purposes of meeting Jeffrey Deskovic.

5 Q Meeting him?

6 A To find him and talk to him.

7 Q At some point, with your own eyes, did  
8 you see Jeffrey Deskovic?

9 A Yes.

10 Q Now, from here on out would you please  
11 only tell us what you individually did. So,  
12 don't use the euphonistic we.

13 A Yes.

14 Q At some point you say you saw Jeffrey  
15 Deskovic?

16 A Yes.

17 Q Did there then come a time when you  
18 drew close in the immediate vicinity of Jeffrey  
19 Deskovic?

20 A Yes.

21 Q Upon doing that were you in a car or  
22 out in the street?

23 A At that time I was out on the street.

24 Q At this time would you tell the ladies

1 and gentlemen of the jury what, if anything, you  
2 might have individually said to Jeffrey and what,  
3 if anything, he might have said by way of  
4 response or in any ensuing conversation you might  
5 have had?

6 A I told Jeff that I'd like to speak to  
7 him regarding the death of [REDACTED], and I  
8 asked him if he would come to Police  
9 Headquarters.

10 Q Please continue.

11 A He said that he didn't know why we  
12 would want to talk to him, but that he would come  
13 to Police Headquarters. We got into our vehicle,  
14 and I advised him that he could call his mom and  
15 tell her what he was doing. And he said that he  
16 didn't want to call his mother, and he didn't  
17 want us to call her either.

18 We then drove straight to headquarters.

19 Q When you got there where did you and  
20 the others go?

21 A We went to my office in the Detective  
22 Division.

23 Q This is the one with the three desks in  
24 it?

1           A       Yes, sir.

2           Q       Now, before and thereafter, did you  
3 have occasion to say certain things to Jeffrey?

4           A       Yes.

5           Q       And thereafter did he have occasion to  
6 say things in your presence?

7           A       Yes.

8           Q       Now, before any of these various  
9 conversations took place within that detective  
10 room can you tell the ladies and gentlemen of the  
11 jury what, if anything, you had initially, and  
12 this is outside the presence of Jeffrey, done  
13 with respect to recording any of the  
14 conversations that might have occurred within  
15 that room?

16          A       I had placed a cassette recorder in my  
17 top desk right drawer, and ran a wire up which  
18 was placed alongside my desk.

19          Q       I realized yesterday when I started  
20 with you that I went directly to January 10th  
21 where you testified that you had in your breast  
22 pocket a micro cassette recorder. Do you recall  
23 that?

24          A       Yes.

1 Q Going back to December 12th that  
2 morning, is that the recording device you're  
3 talking about?

4 A No.

5 Q It was a different one?

6 A Yes.

7 Q So, the recording device is inside --

8 A A desk drawer.

9 Q Then what did you do with the desk  
10 drawer?

11 A Closed it.

12 Q And there was a wire coming out from  
13 where?

14 A Along the right-hand side of my desk  
15 onto the top to a microphone.

16 Q And at some point you pressed a button?

17 A Yes.

18 Q Which would supposedly activate the  
19 recording device, is that correct?

20 A It's a remote on and off switch on the  
21 microphone.

22 Q Before doing that did you in any way  
23 check the wire running to the remote device? Can  
24 you describe that to us?

1           A       It's a wire approximately eighteen  
2 inches long. It has two leads which go into the  
3 cassette recorder, one which controls the on and  
4 the off portion, and the other which records the  
5 audio.

6           Q       Is it a virgin, naked wire or is there  
7 any covering over it?

8           A       A standard household wire, two copper  
9 wires wrapped in black rubber.

10          Q       And thereafter for about how long a  
11 period of time in your presence --

12                   MR. BOLEN: Withdrawn.

13          Q       Thereafter, for about how long a period  
14 of time were you in the presence of Jeffrey  
15 Deskovic within that room when the two of you had  
16 conversations?

17          A       Approximately three hours.

18          Q       And did there come a time when Jeffrey  
19 left?

20          A       Yes.

21          Q       Did either you or, to your knowledge,  
22 any other officer provide transportation for him  
23 anywhere?

24          A       On that day, no.

1 Q After his departure did you then have  
2 occasion to check the recording device?

3 A Yes.

4 Q With what result, if any?

5 A It had not activated at all.

6 Q The reason being?

7 A It was determined one of the wires  
8 leading down to the microphone was broken and  
9 didn't turn the switch on.

10 Q Having ascertained that, could you tell  
11 us whether you --

12 MR. BOLEN: Withdrawn.

13 Q During the course of the time when you  
14 assumed the recording device was going did you  
15 yourself write down in any fashion and by way of  
16 notes things that were being said by either you  
17 or Jeffrey?

18 A Yes, I did. A wrote a report.

19 Q I'm sorry. During the time that you  
20 were with Jeffrey were you taking notes in his  
21 presence?

22 A No, I did not.

23 Q I'm asking you, when you ascertained  
24 the recording device had not activated, did you

1 then have occasion, and answer this yes or no, to  
2 prepare a report with respect to what had  
3 transpired?

4 A Yes.

5 Q Now, Detective McIntyre, once you were  
6 in that Detective Division room with Jeffrey was  
7 there anybody else in there?

8 A Yes.

9 Q Who was that?

10 A Detective Levine.

11 Q Where would the three of you be  
12 situated?

13 A I was seated at my desk. Detective  
14 Levine was sitting at a desk to my left front.  
15 Jeff was sitting at a chair facing opposite my  
16 desk.

17 Q And the door leading to this Detective  
18 Division, was it opened or closed during this  
19 period?

20 A Closed.

21 Q Now, could you tell us initially what  
22 you did with respect to Jeffrey when the three of  
23 you were in the room?

24 A I advised -- I told him that I wanted

1 to advise him of his Miranda rights, which I then  
2 did by reading from a card.

3 Q Would you please take a look at what  
4 has previously been marked for identification as  
5 People's Exhibit 39.

6 (Witness examines.)

7 Q Do you recognize that, sir? If so,  
8 tell us how you recognize it.

9 A Yes, I recognize it by the time, the  
10 date, the signature, my signature which I placed  
11 there, and Jeff's signature, which he placed  
12 there.

13 Q Is that the original? Is that the  
14 original or a copy of the card he utilized that  
15 particular morning?

16 A This is the original.

17 Q Could you tell us as you're holding it  
18 now whether it's in the same condition now, in  
19 addition to the preprinted material, that things  
20 were written by you or Jeffrey as it was when  
21 those additions were made on the morning of  
22 December 12th?

23 A Yes, it is.

24 MR. BOLEN: May I have that back,

1 please.

2 Your Honor, at this time  
3 collectively I would offer into  
4 evidence what has been marked for  
5 identification People's Exhibit 38 B  
6 and just now People's Exhibit 39.

7 (Whereupon, Mr. Insero examines  
8 said exhibits.)

9 MR. INSERO: Judge, may I just  
10 confer here for a moment, please?

11 THE COURT: Yes.

12 (Whereupon, Mr. Insero confers  
13 with Mr. Bolen in a discussion off the  
14 record.)

15 MR. INSERO: I have no objection,  
16 your Honor.

17 THE COURT: All right, People's  
18 Exhibit 38 B and 39 will be received  
19 into evidence.

20 (Marked.)

21 Q Now, Detective, would you take what's  
22 now in evidence as People's Exhibit 39. As you  
23 did that morning, would you relate to the ladies  
24 and gentlemen of the jury what you did with that

1 card as far as Jeffrey is concerned?

2 A I read directly from there card. "You  
3 have a right to remain silent and refuse to  
4 answer any questions. Anything you do say may be  
5 used against you in a court of law. As we  
6 discuss this matter you have a right to stop  
7 answering my questions at any time that you  
8 desire. You have a right to a lawyer before  
9 speaking to me and to remain silent. You can  
10 talk to him and have him present when you are  
11 being questioned. If you desire a lawyer, but  
12 cannot afford one, one will be provided to you  
13 without cost.

14 "Do you understand each of these rights  
15 I have explained to you." He replied yes.

16 "Now that I have advised you of your  
17 rights, are you willing to answer my questions  
18 without an attorney?" He again replied yes.

19 Q Now, what was then --

20 MR. BOLEN: May I have the card  
21 back.

22 Q Essentially, who was the first one to  
23 sign a signature to that card?

24 A Jeff was.

1 Q And then you?

2 A Yes.

3 Q Your name appears above his, is that  
4 correct? Take a look at the card.

5 (Witness examines.)

6 A That's right.

7 Q But that was the sequence?

8 A Yes, I had placed an X on the card for  
9 him to sign next to.

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

12 Q Additionally, the time and date?

13 A I placed them on there.

14 Q By the way, are you familiar with  
15 military time?

16 A Yes.

17 Q In connection with that exhibit and  
18 other exhibits, when you put times down, do you  
19 use military time?

20 A Yes.

21 Q Working from zero zero zero to  
22 twenty-four hundred, is that correct?

23 A Yes.

24 Q So, when this card which is in

1 evidence, if it has the time 0808, what would  
2 that mean?

3 A Eight minutes after eight a.m.

4 Q Now, Detective, you've indicated to us  
5 that thereafter there were conversations that  
6 lasted over the better part of three hours, is  
7 that correct?

8 A Yes.

9 Q And during the period of time that you  
10 were in the room with Jeffrey and Detective  
11 Levine, and only during those periods of time, of  
12 the two officers in the room who principally  
13 either engaged Jeffrey in conversation or posed  
14 questions to him?

15 A I did.

16 Q Now, after reading him his Miranda  
17 warnings, sir, do you recall whether or not at  
18 some point initially you had the occasion to ask  
19 him how old he was and his date of birth?

20 A Yes.

21 Q What age did he give?

22 A He was sixteen years of age.

23 Q As you sit here now, do you have a  
24 specific recollection as to what his exact

1 birthday was?

2 A Not the exact day. I believe it was  
3 October of 1973.

4 Q You don't recall the specific day in  
5 October?

6 A No, I do not.

7 Q Would you take a look at what has  
8 previously been marked for identification as  
9 People's Exhibit 112. Please read it to see if  
10 it refreshes your recollection as to the  
11 particular month in October.

12 (Witness examines.)

13 Q Is there a ledge that you can put that  
14 on in front of you?

15 A Yes.

16 Q Having looked at that, does that  
17 refresh your recollection as to the specific  
18 date?

19 A Yes.

20 Q What was the date?

21 A The 27th.

22 Q Now, thereafter, sir, in a  
23 chronological fashion do you recall whether or  
24 not anything was broached by you with respect to

1 whether Jeffrey knew anything of or about Angela  
2 Correa?

3 A Yes.

4 Q What, if anything, was said?

5 A Initially, he said that, yes, he would  
6 answer my questions, but he didn't understand why  
7 I would want to talk to him. I said to him that  
8 a number of students had been spoken to during  
9 the investigation.

10 At that time he said he knew [REDACTED]  
11 [REDACTED] from school. They shared a couple of  
12 classes, I believe English and social studies.  
13 He knew her as a polite and quiet girl that  
14 dressed nicely. They spoke in the hallway or  
15 near their lockers, but it was mainly hello and  
16 goodbye, and nothing special.

17 Q At some point after that can you tell  
18 us whether anything came up with respect to  
19 [REDACTED] wake? If so, what was said by you or  
20 Jeffrey with respect to that?

21 A I asked Jeff why he, in fact, attended  
22 all four sessions of the wake, and he said that  
23 he hadn't, only three sessions, and that he had  
24 done so because he was upset and distraught at

1 what had happened.

2 Q Did he indicate in any fashion whether  
3 he had been to a funeral or a church service or  
4 anything like that for her, if you recall, at  
5 that time?

6 A Yes, he said that he had gone to the  
7 funeral.

8 Q And at some point around this time do  
9 you recall whether or not anything came up in the  
10 conversations with respect to Jeffrey's knowledge  
11 of the area of Griffins Pond or being there or  
12 anything like that?

13 A Yes. He said that he had gone there --  
14 that he used to go up there quite often, but he  
15 had gone there subsequent to the death of [REDACTED]  
16 on Saturday, November 18th, 1989. But prior to  
17 that he hadn't been there since the spring of  
18 1989.

19 Q Was there then any conversations had  
20 with respect to his knowledge of perhaps how  
21 [REDACTED] might have died?

22 A Yes. Jeff stated that she had died  
23 from strangulation and blunt force trauma to the  
24 head. He indicated that he had gotten that from

1 the newspaper.

2 Q Now, as a follow-up to that -- I'm  
3 sorry. Was there anything said about the head by  
4 him?

5 A A blunt force trauma to the head.

6 Q As a follow-up to that, what, if  
7 anything, did you ask of him as to how the injury  
8 to the head might have been sustained?

9 A I asked him if he thought it was  
10 possible [REDACTED] may have sustained the injury to  
11 her head by falling. He responded by saying he  
12 didn't buy that. It wasn't slippery up there.  
13 There weren't any puddles.

14 Q Now, at some point, sir, and again in  
15 some kind of chronological fashion, were there  
16 any conversations about anyone being late for  
17 school subsequent to let's say November 15th,  
18 1989?

19 MR. INSERO: Objection.

20 THE COURT: As to form?

21 MR. INSERO: Yes.

22 THE COURT: Sustained.

23 Q What, if anything, was said by Jeffrey  
24 with respect to school, attendance, things like

1 that?

2 A I asked Jeff why he had been late for  
3 school on Thursday, which was the 16th of  
4 November of 1989. He responded by saying that he  
5 had trouble getting to sleep the night before and  
6 hadn't fallen asleep until 5 a.m.

7 Q At some point thereafter, sir, did the  
8 word note or word notes come up, n-o-t-e or  
9 n-o-t-e-s? And if so, could you tell us how did  
10 that come up?

11 A I asked Jeff had he ever written any  
12 notes to [REDACTED], and he responded by saying no,  
13 that he hadn't. But I believe on two occasions  
14 he had taken notes from a friend, John Laurino,  
15 to [REDACTED].

16 Q Now, some time after that, Detective,  
17 did you have occasion to say anything to Jeffrey  
18 with respect to Jeff's relationship, if at all,  
19 with [REDACTED]?

20 A Yes, I did. I said to Jeffrey that I  
21 didn't understand why he appeared so emotionally  
22 distraught over a girl he claimed he barely knew.  
23 He went on to say that it had been the previous  
24 summer while swimming in the pool at his

1 apartment complex that he had observed [REDACTED],  
2 her sister Diana and another girl swimming. At  
3 that time is when he was first trying to decide  
4 whether he liked [REDACTED] as a girlfriend. And he  
5 liked the way she looked in a bikini.

6 Q Were there further conversations had  
7 between the two of you, sir?

8 A Yes.

9 Q And did there come a point in time,  
10 sir, toward the latter part of the morning where  
11 you had occasion to express to him what, if  
12 anything, you might have thought as to his  
13 knowledge and/or involvement in this case?

14 A Yes.

15 Q Could you tell us how that came about  
16 and what was said, if anything?

17 A I believe I said that I found it highly  
18 unusual for him to be so emotionally distraught  
19 over a girl that he claimed he barely knew. And  
20 he got agitated and he said he didn't know what I  
21 was getting at. I asked him if he had any  
22 involvement in the death of [REDACTED], and he  
23 said no, he did not.

24 I then asked him if he would submit to

1 a polygraph regarding the conversations that we  
2 had on that date, and he said no, he wouldn't.  
3 He didn't trust them.

4 I asked him would he think it over, and  
5 he said he would, and he'd get back to us.

6 Q Where would this have been in terms of  
7 the hours of eight up until around eleven o'clock  
8 when you broached the topic of taking a polygraph  
9 examination?

10 A Right near eleven a.m.

11 Q Sometime after that do you know what,  
12 if anything, happened to Jeffrey?

13 A He left Police Headquarters at that  
14 time.

15 Q Detective, yesterday I inquired of you  
16 with respect to the events occurring in the  
17 muster room between the hours of nine and ten  
18 o'clock in the evening on January 10th of 1990.  
19 Do you recall that?

20 A Yes, sir.

21 Q Before I get to that again, I wonder if  
22 you could relate to the ladies and gentlemen of  
23 the jury how it came about, and about what time  
24 you, with Jeff and perhaps other Peekskill Police

1 personnel, went to the area of the Griffins Pond  
2 area?

3 A Detective Levine had showed me a map  
4 that Jeff had drawn of the crime scene. At about  
5 eight o'clock I went back with Detective Levine  
6 to the office where Jeff was, and I asked Jeff if  
7 he would come with us and physically show us the  
8 scene as he knew it based on the map he had given  
9 us. And he said he would.

10 Q Then what happened?

11 A We drove to the area, the crime scene  
12 area in separate police vehicles. And we arrived  
13 on Constant Avenue, which is on the westerly end  
14 of the macadam path running toward the Hillcrest  
15 School.

16 We got out of the car. It was myself,  
17 Lieutenant Tumolo, Detective Levine, Jeff and I  
18 believe Sergeant O'Buck was there.

19 We entered the path. Jeff was leading  
20 and I was right behind him. The others were  
21 behind me. We walked the Hillcrest School until  
22 we came to the intersection which runs north and  
23 south to the Hillcrest condominiums. At that  
24 point Jeff turned left. He had traveled just a

1 short distance, and he said that's where he  
2 believed the struggle and the argument had taken  
3 place.

4 He continued down the hill and down the  
5 path towards the condos. He walked around a  
6 little bit about the base of it. I asked him if  
7 he was having a little trouble or anything. He  
8 said he was just looking at the dirt pile. And  
9 at one point he said, "There it is."

10 Then we started walking down the path  
11 to Griffins Pond. Jeff was at my front. We  
12 reached a point shortly across the path, and Jeff  
13 then pointed in front of me to my left and said,  
14 "I believe that's where the rape took place."

15 We continued further down the Griffins  
16 Pond area, and he pointed off in his direction to  
17 the left front, and said, "I believe that's where  
18 the body may have been found, maybe covered up  
19 with leaves."

20 Q Now, going back to that dirt path where  
21 you said he stopped, he was to your right and  
22 pointed across your left front, where you were at  
23 that particular point, in what way, if at all,  
24 did that correlate to any particular areas that

1 you might have observed with your own eyes on  
2 November 17th, 1989?

3 A I recognized the area that he pointed  
4 to on that night to be the same area that I had  
5 observed on the initial crime scene investigation  
6 to have scuff marks and gouge marks in the dirt,  
7 compressed leaves and [REDACTED] torn bra.

8 Q Do you have any idea about how long you  
9 and Jeffrey and the other officers remained in  
10 that general area?

11 A We were up and back to headquarters  
12 within the hour.

13 Q Before returning to your police  
14 headquarters did you have occasion to say  
15 anything to Jeffrey?

16 A Yes, I did. I asked him if he wanted  
17 to go home at that point or if he wanted to  
18 return to headquarters and talk some more, and  
19 we'd get something to eat, some pizza.

20 Q What, if any, reply did you get?

21 A He said we could come back and get  
22 something to eat and talk.

23 Q After that do you recall whether, to  
24 your knowledge, somebody got pizza, and it was

1 provided to somebody? And if so, whom?

2 A Lieutenant Tumolo, I believe, sent one  
3 of the patrolmen out to get it. I don't recall  
4 specifically. Then it was sent back to the  
5 muster room where we were.

6 Q Thereafter, who, if anyone, ingested  
7 the pizza?

8 A Jeff, Lieutenant Tumolo and Detective  
9 Astrologo.

10 Q How about you?

11 A I was drinking coffee, that's all.

12 Q Now, at some point upon the return to  
13 headquarters when you were in the muster room,  
14 the tape recorder is on, is that correct?

15 A Yes.

16 Q As you sit here now, during the ensuing  
17 conversations that might have taken place  
18 involving you and Jeffrey and anybody else who  
19 might have been in the room, did there come a  
20 point in time when you had occasion to have  
21 readily available to you the diagram that you  
22 have previously described as the one that  
23 Detective Levine had shown you?

24 A Yes, sir, I did.

1           Q        Could you tell us what, if anything,  
2       you did with that diagram as far as Jeffrey was  
3       concerned?

4           A        We were going over the diagram, and  
5       Jeffrey told me that he believed this is the way  
6       the crime scene appeared, although he didn't draw  
7       it to scale. He indicated that the pond,  
8       Griffins Pond, had the paper been bigger, would  
9       have been higher up to the left top portion of  
10      the paper.

11          Q        I don't mean to interrupt you, but let  
12      me ask you this: With respect to that diagram,  
13      did there come a time when somebody in that room  
14      placed something on the diagram?

15          A        Yes, sir, I did.

16          Q        Tell us how that came about.

17          A        In the course of the conversation I  
18      asked Jeff if he knew where, in fact,            may  
19      have lost her camera on the day of the crime.  
20      And I originally put my finger on the map and  
21      asked if he could show me where. And then I took  
22      the pen and said, "Will you direct me where to  
23      put an X where you think the camera may have been  
24      found?"

1                   Then he directed me to the spot where  
2 the camera would have been.

3           Q       What did you do with respect to the  
4 diagram?

5           A       I placed an X on it.

6           Q       Having told us that you have listened  
7 to the tapes thereafter which are in evidence, is  
8 that conversation on the tape?

9           A       Yes.

10          Q       Would you take a look at what has  
11 previously been introduced into evidence as  
12 People's Exhibit 160 A.

13                   (Witness examines.)

14          Q       Do you see that X?

15          A       Yes.

16          Q       Is there any other X on the diagram,  
17 other than that one?

18          A       No, there is not.

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

21          Q       I don't know whether you remember the  
22 chronology here, but at some point while the  
23 recording device is on and you're having  
24 conversations with Jeffrey, Detective, was there

1 ever a point in time where someone in the room  
2 had occasion to start discussing or talking about  
3 any injury or injuries to [REDACTED] head?

4 A Yes.

5 Q Who brought that up, if you recall?

6 A I believe I did.

7 Q And thereafter on the tape were there  
8 conversations had with respect to that?

9 A Yes.

10 Q And specifically, Detective, at some  
11 point what, if anything, did you observe Jeffrey  
12 do --

13 MR. BOLEN: Withdrawn.

14 Q At some point with respect to  
15 discussions along those lines, Detective, what,  
16 if anything, did you have occasion to see Jeffrey  
17 do physically with respect to that topic?

18 A He spoke of the blow to [REDACTED] head,  
19 and he utilized his right hand. He said, "I  
20 believe she received a hard blow, maybe to the  
21 temple area," and put his hand to the right side  
22 of his head up here.

23 (Indicating.)

24 Q Now, at that point in time, sir, were

1 you, if you can answer this question with a yes  
2 or no, were you privy to the specific results of  
3 the autopsy performed upon the body of [REDACTED]  
4 Correa?

5 A Yes.

6 Q Specifically, to any, if at all, any  
7 injuries to her head area?

8 A Yes.

9 Q And you've already indicated to us that  
10 you had contact with Jeffrey on December 12th,  
11 and now it's January 10th. I guess I should ask  
12 you this: Had you had any personal or telephone  
13 contact with him during that intervening period  
14 of time, December 12th of 1989 to January 10th of  
15 1990?

16 A Any personal contact?

17 Q With Jeffrey Deskovic between December  
18 12th of 1989 and January 10th of 1990.

19 A Not that I know.

20 Q So, as of January 10th of 1990 had you  
21 in any way affirmatively related to Jeffrey the  
22 knowledge that you had gleaned from the results  
23 of the autopsy?

24 A No, I did not.

1           Q       Now, around ten o'clock was that when  
2 the conversations drew to a close?

3           A       Yes.

4           Q       Can you tell us how it came about that  
5 Jeffrey left police headquarters that particular  
6 evening?

7           A       He was given a ride home by Detective  
8 Levine.

9           Q       Who was it that requested Detective  
10 Levine to do that?

11          A       I did.

12                   MR. BOLEN: Your Honor, at this  
13 time, with the Court's permission, I  
14 would like to play for the ladies and  
15 gentlemen of the jury what has  
16 previously been deemed in evidence as  
17 People's Exhibit 45 B. I will endeavor  
18 to take care of any headphone problems.  
19 I don't have an investigator here.

20                   THE COURT: They should all be  
21 experts at it by now.

22                           (A brief pause.)

23                           (Whereupon, said tape recording is  
24 played for the jury.)

1 THE COURT: All right, let's take  
2 a short break.

3 (Whereupon, the Court declares a  
4 recess at twelve-thirty p.m., and the  
5 trial resumes at 12:55 p.m.)

6 THE COURT: All right, bring the  
7 jury back in.

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

10 THE COURT: I was wrong, it's not  
11 going to be a short day. Sorry. I  
12 think we should work until one-thirty,  
13 and then take a short break and come  
14 back at 2:15.

15 All right, let's work to  
16 one-thirty. You may proceed.

17 MR. BOLEN: Thank you.

18 Q Detective, I would now like to direct  
19 your attention to January 23rd, 1990, a Tuesday,  
20 some time shortly before five o'clock while you  
21 were at headquarters. Did someone come to  
22 headquarters and then speak to you?

23 A Yes.

24 Q Who was that?

1 A Jeffrey Deskovic.

2 Q Try to keep your voice up.

3 A Yes.

4 Q Thereafter, were conversations had  
5 between the two of you?

6 A Yes.

7 Q Relative to what?

8 A A key that he had found.

9 Q Now, before getting into that, can you  
10 tell us what, if anything, you did with respect  
11 to Jeffrey?

12 A I advised him of his Miranda rights one  
13 more time.

14 Q From what?

15 A From a card.

16 Q Would you take a look at what has  
17 previously been marked for identification as  
18 People's Exhibit 47.

19 (Witness examines.)

20 Q Would you tell us whether you recognize  
21 that particular exhibit?

22 A Yes, sir, I do.

23 Q What is that?

24 A This is the card that I utilized.

1 Q You read from that card?

2 A Yes.

3 Q When you then concluded reading from  
4 that card did anybody affix their signature to  
5 it?

6 A I did.

7 Q What else did you affix to it?

8 A The time and the date.

9 Q Did Jeffrey affix his signature to it?

10 A No, he did not.

11 Q Did you ask him to?

12 A No.

13 Q Is the card you're holding now in the  
14 same condition as it was when you utilized it  
15 that particular afternoon and after you had made  
16 the additions in writing that you just told us  
17 about?

18 A Yes, it is.

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

21 Your Honor, I would offer People's  
22 Exhibit 47 in evidence.

23 (Whereupon, Mr. Insero examines  
24 said exhibit.)

1                   MR. INSERO: I have no objection,  
2                   your Honor.

3                   THE COURT: All right, People's  
4                   Exhibit 47 is being received in  
5                   evidence.

6                   (Marked.)

7                   Q       Detective, would you take People's  
8                   Exhibit 47 in evidence, and as you had done  
9                   earlier this morning would you please tell the  
10                  ladies and gentlemen of the jury or demonstrate  
11                  to them today what you did with Jeffrey with  
12                  respect to that card on January 23rd?

13                  A       I advised Jeff, "You have a right to  
14                  remain silent and refuse to answer any questions.  
15                  Anything you do say may be used against you in a  
16                  court of law. As we discuss this matter you have  
17                  a right to stop answering my questions at any  
18                  time that you desire. You have a right to a  
19                  lawyer before speaking to me, to remain silent  
20                  until you can talk to him and to have him present  
21                  when you are being questioned. If you desire a  
22                  lawyer, but cannot afford one, one will be  
23                  provided to you without cost.

24                  "Do you understand each of these rights

1 I have explained to you?" He said yes.

2 "Now that I have advised you of your  
3 rights, are you willing to answer my questions  
4 without an attorney?" Again he said yes.

5 Q Now, Detective, thereafter could you  
6 tell us what, if anything, you sedan what, if  
7 anything, Jeffrey said after your reading of  
8 those Miranda warnings?

9 A At that point Jeff produced a key that  
10 he said he had found on the blacktop or macadam  
11 path leading to Hillcrest Park. It was a quick  
12 set household lock type key apparently made, a  
13 reproduction key made at Hudson Glass in  
14 Peekskill. At this time he turned it over to me.  
15 He said he didn't think it had any value, because  
16 he had just found it there at the north end of  
17 the path.

18 At that point I asked Jeff if he would  
19 consent to taking a polygraph test, because he  
20 kept coming in with more and more information.  
21 He said he would. He'd get back to me.

22 Q Getting back to the key that was turned  
23 over to you, what physical observations did you  
24 make of the key?

1           A       The key was very new. It didn't appear  
2 to be weathered at all. It couldn't have been  
3 outside very long.

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

6           Q       At some point during the conversations  
7 that you had with Jeffrey, was Detective Levine  
8 there?

9           A       Yes.

10          Q       And about how long would you say you  
11 were in the company of Jeffrey that particular  
12 afternoon on the 23rd?

13          A       It was just for a short time, maybe  
14 fifteen minutes.

15          Q       Did either you or Detective Levine take  
16 him anywhere?

17          A       I didn't, no. I don't know if  
18 Detective Levine did or not.

19          Q       Now, Detective, I would like to direct  
20 your attention to January 25th, 1990, a Thursday.  
21 On that particular morning do you remember being  
22 in headquarters in the general vicinity of ten  
23 o'clock in the morning?

24          A       Yes, sir, I do.

1           Q       Around that time did you have occasion  
2 to see Jeffrey?

3           A       Yes.

4           Q       Where specifically?

5           A       I saw him in the lobby of Police  
6 Headquarters.

7           Q       Could you please tell us what, if  
8 anything, then transpired between you and Jeffrey  
9 after that?

10          A       We entered my detective vehicle for the  
11 purpose of going to Brewster for Jeff to take a  
12 polygraph test.

13                   Upon getting into the car I said to  
14 Jeff I wanted him to understand again that he was  
15 not obligated to take this polygraph test, that  
16 he would only do so if he wished to take it. If  
17 at any time during the test he wanted to stop or  
18 if he heard a question he didn't want to answer,  
19 he could do so.

20                   He said, "I want to take the test, I  
21 want to take the test. If there are any  
22 questions I don't like, I won't answer them." I  
23 said, "I want you to understand if you want to  
24 leave, to let me know, and I will bring you back

1 home." He replied, "Every time I know, you  
2 advise me of my rights, but I want to help."

3 I asked him if he had told his mother  
4 what he was doing that day, and he said no, he  
5 didn't want to tell her.

6 At that time we were headed up to  
7 Brewster.

8 Q In a car?

9 A Yes.

10 Q Occupied by whom?

11 A Jeff and I.

12 Q And Jeff was seated where?

13 A Jeff was in the right front passenger  
14 seat.

15 Q About what time did you arrive in  
16 Brewster?

17 A Approximately eleven a.m.

18 Q Did you make any stops en route?

19 A No.

20 Q And upon arriving in Brewster did you  
21 go inside a building?

22 A Yes.

23 Q Did you have occasion to meet anyone?

24 A Yes.

1 Q Who?

2 A Investigator Dan Stephens.

3 Q Prior to that day had you ever  
4 personally met or seen that individual?

5 A No, I had not.

6 Q By the way, was there another car that  
7 accompanied your vehicle up to Brewster?

8 A Yes.

9 Q Occupied by who, to your knowledge?

10 A That was Detective Tumolo and Detective  
11 Levine.

12 Q Did they arrive at or around the time  
13 same as you did?

14 A Yes.

15 Q At some point after you entered the  
16 building was there any particular place that you  
17 then went?

18 A Yes, I went to an office with Detective  
19 Levine and Lieutenant Tumolo.

20 Q What did you basically do for the  
21 remaining portion of the morning and the balance  
22 of the afternoon?

23 A I stayed in that office and listened in  
24 on a conversation over an intercom system.

1 Q Detective, did there come a time when  
2 you began approaching the vicinity of five  
3 o'clock?

4 A Yes, sir.

5 THE COURT: Could I see counsel at  
6 the side bar.

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

10 Q Around five o'clock, Detective, did you  
11 go anywhere?

12 A Yes.

13 Q Where did you go?

14 A I entered the room that was occupied by  
15 Jeff.

16 Q And before you left the room within  
17 which you were, had anyone come into the room  
18 where you were?

19 A Yes, Investigator Stephens.

20 Q Without telling us what, if anything,  
21 might have been said, did Investigator Stephens  
22 say something to you?

23 A Yes.

24 Q Was it after that that you left?

1           A       Yes.

2           Q       Now, what room did you then go into?

3           A       The room occupied by Jeffrey where he  
4 had taken the test.

5           Q       And when you entered in that room was  
6 there anybody else in there?

7           A       No.

8           Q       When you first entered the room was  
9 Jeffrey standing, sitting or what?

10          A       He was sitting.

11          Q       When you walked in there did you notice  
12 anything at all unusual about him?

13          A       No, I did not.

14          Q       When you walked in there were you able  
15 to see with your own eyes whether any part of the  
16 attachments to a machine were still hooked up to  
17 any portion of his body?

18          A       No, they weren't.

19          Q       And at some point after you entered the  
20 room could you tell us who was the first person  
21 to say anything?

22          A       As I entered the doorway I stopped  
23 momentary to tell Detective Levine to go get  
24 something for Jeff to eat. I then stepped

1 completely into the room, at which time Jeff  
2 spoke first.

3 Q What, if anything, did he say to you at  
4 that time?

5 A He said, "I didn't do well on the  
6 test".

7 Q What did you say?

8 A I responded by saying, "I know that."

9 Q Let me ask you this now, Detective:  
10 Are you standing at this point?

11 A No, I was seated in a chair also.

12 Q And was Jeffrey seated at this point?

13 A Yes.

14 Q Was there anything between the two of  
15 you by way of furniture?

16 A No.

17 Q How were you seated with respect to one  
18 another?

19 A We were sitting a few feet apart face  
20 to face.

21 Q And I take it, it was just one door to  
22 this room?

23 A Yes, the door was behind me.

24 Q I wonder if you would at this time --

1 THE COURT: Let me interrupt  
2 again. Let me instruct you once again  
3 on what I've done before.

4 Again, ladies and gentlemen, the  
5 testimony that has been presented as  
6 polygraph testing has been admitted  
7 solely for the purpose of determining  
8 whether the procedures used induced an  
9 involuntary statement by the Defendant.  
10 The test results themselves are  
11 inadmissible as a matter of law,  
12 because such results are unreliable.

13 Again, you're not to speculate as  
14 to what the results were, nor should  
15 any inference as to the Defendant's  
16 guilt or innocence be drawn from the  
17 Defendant's participation in the  
18 polygraph testing.

19 Q Detective, would you please tell the  
20 ladies and gentlemen of the jury what, if  
21 anything, was then said either by you or Jeffrey?

22 A I said to Jeff that it had become  
23 evident to me about several weeks before that he,  
24 in fact, was responsible for [REDACTED] death,

1 because he had begun telling me things that he  
2 could not possibly have known had he not, in  
3 fact, been the person responsible.

4 I said that what I didn't understand  
5 was why, in fact, he had continued to come in and  
6 to help us and to actually assist us in the  
7 investigation.

8 Jeff responded by saying that it had  
9 been about three weeks earlier, that he realized  
10 he may have been responsible.

11 Q All right, let me ask you this,  
12 Detective: Was there any further conversation at  
13 that point?

14 A Yes.

15 Q Involving you and who?

16 A Jeff.

17 Q And you said upon your entry into the  
18 room that you had asked who, to get what for  
19 whom?

20 A I asked Detective Levine to get supper  
21 for Jeff.

22 Q Do you recall whether or not, to your  
23 personal knowledge, any supper, as you described  
24 it, was provided?

1 A Yes, it was.

2 Q When would that have been?

3 A Right around that time in the very  
4 early portions of the conversation.

5 Q Did Jeff eat whatever it was?

6 A Yes, he was given a hamburger and  
7 coffee.

8 Q What about yourself?

9 A Again, I had coffee.

10 Q Do you know whether in your presence  
11 Jeffrey ate any of that hamburger?

12 A Yes, he ate as we talked.

13 Q As the conversation continued, could  
14 you tell us whether or not at any point you asked  
15 him anything -- what, if anything, did you ask  
16 him with respect to the events in school on  
17 November 15th?

18 A I asked Jeff if he would begin by  
19 telling me what had happened in school that day,  
20 and he said he didn't want to talk about that,  
21 just what had happened up there.

22 So, I told him to go ahead. He started  
23 out by saying another person again. He said the  
24 guy caught up to [REDACTED] on the path. She was

1 already up there taking pictures. The guy said  
2 hi -- excuse me, the guy said hello, and [REDACTED]  
3 said hi. The guy said, "Don't do this, don't see  
4 the other guy." He said [REDACTED] responded by  
5 saying, "Don't tell me what to do."

6 At that point Jeff switched and said,  
7 "I lost my temper. She started to walk away, so  
8 I hit her in the back of the head with a Gatoraid  
9 bottle that was lying on the path. I grabbed her  
10 around the head, but she broke loose and started  
11 running down the hill. She turned down the dirt  
12 path. I tackled her. She landed on her stomach.  
13 I rolled her over. She tried scratching me, so I  
14 started slapping her around, back-handing her.

15 He started to sob a little bit. I  
16 asked him to continue. He said he had put his  
17 hand over her mouth. He may have left it there a  
18 little too long. He also said that he ripped off  
19 her bra.

20 And then he started crying very  
21 heavily. He said, "Please don't make me say any  
22 more. I don't want to think about what else I  
23 did up there."

24 He said, "No one will understand. They

1     won't believe me like you do.  They won't  
2     understand that I didn't mean to do this.  I just  
3     couldn't stop it.  How can I face the kids in  
4     school?  They'll know that I sometimes do things  
5     that I can't control."

6                     He went on to say that when he first  
7     began coming in he thought he was helping to get  
8     the guy responsible.  He didn't realize that the  
9     guy was him, and that he just had to be sure  
10    before he told me.

11            Q       Was he still crying?

12            A       Yes, he was.

13            Q       What then happened?

14            A       I left the room, and I went in and  
15    spoke with Lieutenant Tumolo at that point.  And  
16    he and Investigator Stephens now went into the  
17    room where Jeff was.

18            Q       Where did you remain?

19            A       In the first room that I was in, in the  
20    room with the monitor.

21            Q       Were you able to hear anything?

22            A       Yes.

23            Q       Please continue.

24            A       Lieutenant Tumolo asked Jeff to

1 repeat --

2 MR. INSERO: Objection, your  
3 Honor.

4 THE COURT: Sustained.

5 Q Were you able to hear certain things  
6 going on?

7 A Yes.

8 Q Were you able to hear Jeff say certain  
9 things?

10 A Yes.

11 Q Were you able to recognize his voice?

12 A Yes, sir, I did.

13 Q And of the things that you heard, were  
14 they in any way different than what he had  
15 mentioned to you earlier before you were leaving  
16 the room?

17 A No.

18 Q At some point did you hear something  
19 take place?

20 A Yes.

21 Q Would you tell us about that, without  
22 telling us what anybody else said, other than  
23 Jeff?

24 MR. INSERO: Objection as to form,

1 your Honor.

2 MR. BOLEN: I'll withdraw the  
3 question.

4 Q Just tell us what you heard.

5 A I heard Jeff started to cry very loudly  
6 and saying, "Please, I don't want to say any  
7 more."

8 Then I heard a noise, at which time I  
9 heard a noise, and Jeff was on the floor.

10 Q What do you mean he was on the floor?

11 A He was curled up on the floor by his  
12 chair.

13 Q How was he curled up?

14 A He was on his left side. His head was  
15 toward the desk in a fetal type position where he  
16 had his hands up in front of his chest, his legs  
17 tucked up and he was crying.

18 Q As you entered where, if any place, was  
19 Tumolo or Stephens?

20 A They were still seated in the chairs  
21 near the door as I came in.

22 Q What did you do then?

23 A I told them to leave. I went over and  
24 got down on the floor. Jeff had his head on my

1 lap, and I told him to calm down. I was rubbing  
2 his back. He started to calm down. I said, "Let  
3 me help you up."

4 So, I picked him up, and he sat back in  
5 that chair that he had been seated in before.

6 Q Then what happened?

7 A I stayed there for a few minutes, and I  
8 asked Detective Levine to get Jeff a cup of  
9 coffee, which he did. He came back with the  
10 coffee, and I asked Dave to please stay in there  
11 for a few minutes, and I walked out.

12 Q Some time after that did you leave?

13 A Yes.

14 Q What time was this around?

15 A We left shortly after seven o'clock  
16 from Brewster to come back to Peekskill.

17 Q Who went in which cars?

18 A Detective Levine now drove the other  
19 car, and I continued to drive my car with  
20 Lieutenant Tumolo and Jeff.

21 Q Who was in the back?

22 A Jeff was.

23 Q Upon leaving that building in Brewster  
24 can you describe to us how the physical or

1 emotional state of Jeff was as he left?

2 A He had calmed down, and he appeared  
3 normal again.

4 Q You left at that point?

5 A Yes.

6 Q Arriving back in Peekskill at  
7 approximately what time?

8 A It was after eight p.m.

9 MR. BOLEN: I have nothing further  
10 of the witness.

11 THE COURT: All right, this is a  
12 good time to stop before we go to  
13 cross-examination. It's 1:20. Let's  
14 come back at two o'clock.

15 Please don't discuss the case  
16 among yourselves or with anybody else.  
17 Be back here at two o'clock.

18 (Whereupon, the Court declares a  
19 luncheon recess at 1:20 p.m., and the  
20 trial resumes at 2:10 p.m.)

21 THE COURT: Are you ready to  
22 proceed?

23 MR. BOLEN: Yes.

24 MR. INSERO: Yes.

1 THE COURT: All right, bring the  
2 jury in.

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

5 MR. INSERO: May I proceed, your  
6 Honor?

7 THE COURT: Yes.

8 MR. INSERO: Thank you.

9 CROSS EXAMINATION

10 BY MR. INSERO:

11 Q Good afternoon, Detective McIntyre.  
12 I'll try to keep my voice up. The acoustics in  
13 the Courtroom here are bad. Please try to keep  
14 your voice up, as well, so we can make some fast  
15 progress here.

16 Prior to today you've spoken to Mr.  
17 Bolen?

18 A Yes.

19 Q The last time you spoke to him was  
20 yesterday?

21 A Yes.

22 Q And since November 17th, 1989 you have  
23 spoken with Mr. Bolen approximately how many  
24 times, as best you can estimate it?

1           A       Quite a number of times. I don't know  
2 the number.

3           Q       A pretty good number of times?

4           A       Yes.

5           Q       Detective McIntyre, let me ask you  
6 this: With respect to this polygraph examination  
7 that was administered on January 25th of this  
8 year, you have been a detective for how long?

9           A       Now approximately six years.

10          Q       You have been with the force for  
11 fifteen or fourteen years?

12          A       Almost thirteen years.

13          Q       Have you in the past ever had occasion  
14 to utilize the services of a polygraph examiner?

15          A       Not until this case.

16          Q       This is the first one?

17          A       Yes.

18          Q       Are you aware, Detective, that there is  
19 a polygraph examiner that works for the State  
20 Police right in the Peekskill area in Annsville  
21 Circle?

22                   MR. BOLEN: May we approach the  
23 side bar on that, please?

24                   THE COURT: Yes.

1 (At the side bar.)

2 MR. BOLEN: I know you went into  
3 this yesterday. I know for a fact  
4 there's only one polygraph examiner  
5 that works for the State Police and he  
6 works out of Poughkeepsie. His name is  
7 Salmon. He doesn't work out of the  
8 Annsville Barracks. There is a  
9 barracks there. So, I would object to  
10 this, and I object to the question,  
11 unless you have different information.

12 MR. INSERO: My information is  
13 that the examiner in the Peekskill  
14 Annsville Barracks has been utilized by  
15 the --

16 THE COURT: Listen, this is  
17 cross-examination.

18 MR. BOLEN: All right, fine.

19 MR. INSERO: Thank you.

20 (Whereupon, the Court and counsel  
21 return to the presence of the jury.)

22 MR. BOLEN: I'll withdraw my  
23 request for a sidebar.

24 THE COURT: That's denied. We

1           have had it already.

2                   MR. BOLEN: True.

3           Q       Detective, do you recall my last  
4 question, sir?

5           A       Yes.

6           Q       Were you aware, sir, that there was a  
7 polygraph examiner right in your home town of  
8 Peekskill?

9           A       No, sir, there is not.

10          Q       You were not aware of that?

11          A       I'm aware of a State Police polygraph  
12 examiner that works for the State Police in the  
13 City of Peekskill, but he operates out of  
14 Poughkeepsie.

15          Q       He does not do any examinations in the  
16 Peekskill area?

17          A       No. You have to go to Poughkeepsie.

18          Q       Let me ask you this, sir: What I'm  
19 going to try to do is to sort of be chronological  
20 here. The first conversation that you had with  
21 Jeffrey was on December 12th of 1989, is that a  
22 fact?

23          A       Yes.

24          Q       You had come upon his name some time

1 prior to that, had you not?

2 A Yes.

3 Q As a result of your investigation as a  
4 detective?

5 A Yes.

6 Q And you were aware on December 12th --

7 MR. INSERO: Withdrawn.

8 Q On December 12th of 1989 you  
9 specifically drove to the area of I think  
10 Freemont Street with the intention of finding  
11 Jeffrey?

12 A That's correct.

13 Q You and Detective Levine?

14 A Yes.

15 Q And you were aware, were you not, sir,  
16 at that time that Jeffrey had been described to  
17 you as being somewhat of a loner type person, is  
18 that correct?

19 A Yes.

20 Q And you had had that knowledge of his  
21 being a loner for some time prior to December  
22 12th of 1989, sir?

23 A Yes.

24 Q And that knowledge was shared by

1 Detective Levine?

2 A Yes, sir.

3 Q And it was shared by Detective  
4 Brovarski, to the best of your knowledge?

5 A I don't know if he knew or not.

6 Q Brovarski was working on this case,  
7 though?

8 A He came into the case later on. He  
9 wasn't working initially.

10 Q Initially he wasn't working on the  
11 case?

12 A No.

13 Q This information about Jeffrey being a  
14 loner was known by Detective Astrologo, was it  
15 not?

16 A It may have been.

17 Q Now, when you first encountered Jeffrey  
18 on the morning of December 12th of 1989, that was  
19 at about eight o'clock in the morning?

20 A Yes.

21 Q That was a school day?

22 A Yes.

23 Q And you were in the vicinity of the  
24 Peekskill High School?

1 A Yes.

2 Q Which is where you encountered Jeffrey  
3 the first time?

4 A Yes.

5 Q Now, did you speak initially to Jeffrey  
6 first, or did Detective Levine?

7 A Detective Levine.

8 Q Then there came a time, sir, when you  
9 spoke with him?

10 A Yes.

11 Q You said to him what?

12 A I told him that I'd like to speak to  
13 him with regard to [REDACTED] death, and I  
14 asked him if he would come to the Police  
15 Headquarters.

16 Q You say you asked him would he come to  
17 Police Headquarters?

18 A Yes.

19 Q To the best of your recollection, sir,  
20 what did you specifically say to Jeff?

21 A I asked him if he would come to  
22 headquarters, just that.

23 Q And he readily agreed?

24 A At first he was apprehensive. He asked

1 me how did he know we were cops. I showed him  
2 our identification. We walked over by the  
3 unmarked police car. He then looked in, and he  
4 saw the radio and so on. And then he said he  
5 would go.

6 Q So, then you all got in the car and  
7 went to the police station?

8 A Yes.

9 Q Which is about a two or three minute  
10 drive from the area where you had picked him up,  
11 is that right?

12 A Yes.

13 Q When you walked into the police  
14 station, you, Jeffrey and Detective Levine, you  
15 immediately went to the detective room, is that a  
16 fact, sir?

17 A Yes.

18 Q And that's the room that contains three  
19 desks and chairs, et cetera?

20 A Yes.

21 Q And that room, as --

22 MR. INSERO: Withdrawn.

23 Q That room has a door on it?

24 A Yes.

1           Q       When you were conversing with Jeffrey,  
2 was that door opened or closed?

3           A       Closed.

4           Q       It was you, Levine and Jeffrey in the  
5 room?

6           A       Yes.

7           Q       Now, that conversation with Jeffrey on  
8 December 12th of 1989 lasted some three hours,  
9 did it not?

10          A       Yes.

11          Q       Now, the recording mechanism that you  
12 attempted to utilize that morning somehow or  
13 other malfunctioned?

14          A       Correct.

15          Q       I was a bit unclear with respect to a  
16 description of that particular device. It was in  
17 a drawer?

18          A       Yes.

19          Q       Was it a regular micro cassette  
20 recorder?

21          A       No. It was a standard cassette  
22 recorder.

23          Q       Which was somehow or another plugged  
24 into an electrical outlet?

1 A Yes.

2 Q And there was also a microphone and a  
3 cord running from the recorder itself?

4 A Yes.

5 Q Where was that microphone located?

6 A On the right-hand side of my desk.

7 Q It was on the desk?

8 A Yes.

9 Q But that recording didn't work?

10 A No.

11 Q Now, that recording device that you  
12 attempted to utilize on December 12th of 1989 was  
13 different, in fact, sir, from the recording  
14 device you ultimately used in the tape recording  
15 of the conversation with Jeffrey?

16 A Yes.

17 Q The recording device that you used when  
18 you actually recorded these conversations with  
19 Jeffrey was a standard micro cassette recorder,  
20 is that a fact?

21 A Yes.

22 Q Belonging to the Peekskill Police  
23 Department?

24 A Yes.

1           Q       It wasn't your personal cassette, was  
2       it?

3           A       No.

4           Q       You mentioned that you had advised  
5       Jeffrey of certain rights on the morning of  
6       December 12th of 1989. Do you recall testifying  
7       to that?

8           A       Yes.

9           Q       At 0808 hours, which is eight minutes  
10      after eight in the morning?

11          A       Yes.

12          Q       And he signed a card, and you signed  
13      the card, is that a fact?

14          A       Yes.

15          Q       And that's the card which you've  
16      identified here this morning?

17          A       Yes.

18          Q       Correct me if I'm wrong, sir, but this  
19      is the only card with rights on it that Jeffrey  
20      ever signed, is that a fact?

21          A       For me.

22          Q       For you?

23          A       Yes.

24          Q       You, however, yourself signed another

1 card on some other occasion?

2 A Yes.

3 Q But Jeffrey did not sign that card?

4 A Correct.

5 Q So, this is the only card that Jeffrey  
6 signed?

7 A Yes.

8 Q Now, where did he sign that card, sir?

9 MR. INSERO: Withdrawn. Let me  
10 rephrase it.

11 Q Did he sign the card in the detective  
12 room?

13 A Yes.

14 Q And you had arrived at the Detective  
15 Division just a few moments earlier?

16 A Several minutes.

17 Q Several minutes earlier?

18 A Yes.

19 Q Within a matter of moments you advised  
20 him of his rights, and he signed the card?

21 A Correct.

22 Q Did you ever at that time about 8:08  
23 a.m. on December 12th of 1989 tell Jeffrey  
24 Deskovic flat out, "If you want go to go home,

1 you can go home"?

2 A Not inside headquarters.

3 Q Once he was inside headquarters those  
4 words were not expressed to him?

5 A No.

6 Q Now, that was a conversation between  
7 you and Jeff that lasted some approximately three  
8 hours?

9 A Yes.

10 Q Approximately eight o'clock to  
11 approximately eleven o'clock?

12 A Yes.

13 Q And you, sir, asked him if he had, in  
14 fact, attended all four sessions of the wake,  
15 isn't that a fact?

16 A Yes.

17 Q And he denied that and stated that he  
18 gone to three sessions?

19 A Yes.

20 Q And not four?

21 A Yes.

22 Q He also indicated to you, sir, did he  
23 not, that he had gone to the scene where the  
24 young lady's body was discovered the day after it

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1 a friend, John Laurino.

2 Q But that was in response to your  
3 question to him, did he ever write any notes to

4 [REDACTED]

5 A Yes.

6 Q And he denied ever writing any notes  
7 for him?

8 A Yes.

9 Q And he stated that he had carried notes  
10 to her for somebody else?

11 A Yes.

12 Q All right. There came a time when you  
13 had been questioning Jeffrey, and then the matter  
14 of the previous summer came up, did there not,  
15 sir?

16 A Yes.

17 Q Specifically a scenario involving a  
18 swimming pool?

19 A That's correct.

20 Q And Jeffrey indicated to you that he  
21 had seen this girl at the swimming pool?

22 A Yes.

23 Q And he indicated to you that he was  
24 trying to decide whether he liked her?

1 A Yes.

2 Q As a girlfriend?

3 A Yes.

4 Q Now, when he was talking to you all the  
5 this time, sir, he was not distraught in any way,  
6 was he?

7 A No.

8 Q He was carrying on a conversation the  
9 way you and I are?

10 A Yes.

11 Q You, sir, in your own mind thought it  
12 was highly unusual that a young boy would go to a  
13 wake three times?

14 A Not just going to the wake, but the  
15 other stuff coupled with it. That's the remark I  
16 made to him.

17 Q And also being distraught over her  
18 death?

19 A Over the death of a girl who he said he  
20 hardly knew.

21 Q But he said that he went to school with  
22 her, didn't he?

23 A Yes.

24 Q And he took some classes with her?

1           A     Yes.

2           Q     And that previous summer he said he was  
3 trying to decide whether he liked her as a  
4 girlfriend?

5           A     That came up later. He said he never  
6 had seen her out of school. Then he said he went  
7 to three sessions of the wake.

8           Q     But you did ultimately learn that he  
9 had seen her that previous summer in a bathing  
10 suit?

11          A     Yes.

12          Q     Now, I believe, sir, at some time  
13 during that first conversation with Jeffrey on  
14 December 12th of 1989 there came a time when you  
15 became a bit more forceful than you had been, is  
16 that a fact?

17          A     Yes.

18          Q     You, sir, at that time --

19                   MR. INSERO: Withdrawn.

20          Q     The conversation with Jeffrey on  
21 December 12th of 1989 initially started out as a  
22 conversation as we're having here?

23          A     Correct.

24          Q     But there did, however, come a time,

1 sir, when you became more forceful, did there  
2 not?

3 A Yes.

4 Q And you had become more forceful,  
5 because you didn't believe what Jeffrey was  
6 telling you?

7 A Yes.

8 Q Now, let me ask you this: When you say  
9 you became more forceful, how much more forceful  
10 did you become?

11 A I simply told him flat out, and I  
12 believe the words I used were, "I don't believe  
13 the words you're telling me."

14 Q Flat out?

15 A Yes.

16 Q And in reply his response to you, sir,  
17 was, "I'm telling you the truth," is that not a  
18 fact, sir?

19 A I don't recall his exact words. At one  
20 point he said that he didn't know what I was  
21 getting at. And then he said, no, that he had  
22 nothing to do with her death.

23 Q And it was during that conversation on  
24 December 12th, sir, when you initially asked Jeff

1 to take a polygraph, is that a fact?

2 A Yes.

3 Q And he indicated some reluctance, did  
4 he not?

5 A Yes.

6 Q In fact, he told you he didn't trust  
7 polygraph exams?

8 A Yes.

9 Q In spite of his telling you that, sir,  
10 you indicated to him -- in fact, you said to him,  
11 "Well, think it over and get back to us"?

12 A That's correct.

13 Q In other words, you affirmatively said  
14 to him, "Think it over and get back to us"?

15 A Yes, I did.

16 Q Now, the conversation of December --  
17 excuse me, on January 10th of 1990, that was the  
18 first conversation that you had with Jeffrey  
19 since the previous conversation of December 12th,  
20 1989, sir?

21 A Yes, sir, I believe it is.

22 Q In other words, Detective, in the  
23 hiatus between the 12th day of December and the  
24 10th day of January you had no contact with

1 Jeffrey?

2 A That's right.

3 Q No personal contact with Jeffrey?

4 A Right.

5 Q Now, you've mentioned January 10th of  
6 1990 at a period between nine o'clock and ten  
7 o'clock p.m., sir?

8 A Yes, I did.

9 Q During which time you had another  
10 conversation with Jeffrey?

11 A Yes.

12 Q During which time you tape recorded a  
13 conversation with Jeffrey?

14 A Yes.

15 Q Now, prior to nine o'clock that night,  
16 January 10th, 1990, you had seen Jeffrey?

17 A Yes.

18 Q Now, on January 10th, 1990, sir, when  
19 did you first see Jeffrey, to the best of your  
20 recollection, sir?

21 A At about eight o'clock.

22 Q About eight o'clock?

23 A Yes.

24 Q That was just immediately before you

1 all took the trip to the Griffins Pond area?

2 A Yes.

3 Q You had not seen him at four o'clock at  
4 headquarters?

5 A No.

6 Q At five o'clock in headquarters?

7 A No.

8 Q At six or at seven o'clock in  
9 headquarters?

10 A No, I did not.

11 Q By the way, sir, do you happen to  
12 recall what shift you were working on January  
13 10th, 1990, if you recall?

14 A I don't work specific shifts. I don't  
15 know.

16 Q But you yourself hadn't seen Jeffrey  
17 until eight o'clock that evening, January 10th,  
18 1990?

19 A Yes.

20 Q And some time between eight o'clock and  
21 nine o'clock p.m. that night a trip was made to  
22 the Griffins Pond area?

23 A Correct.

24 Q You and Jeffrey and Detective Astrologo

1 and Detective Levine?

2 A No, I believe it was myself, Jeffrey,  
3 Detective Levine, Lieutenant Tumolo and Sergeant  
4 O'Buck.

5 Q Detective Astrologo did not go with  
6 you?

7 A Not that I recall.

8 Q But Sergeant O'Buck and Lieutenant  
9 Tumolo did go?

10 A Yes.

11 Q So, we have what, five police officers  
12 and Jeffrey?

13 A That's right.

14 Q Now, that trip took about how long,  
15 sir, to the best of your recollection?

16 A From the entire time we were gone and  
17 back?

18 Q Yes. From the time you had left  
19 headquarters until the time you returned to  
20 headquarters.

21 A Approximately an hour.

22 Q About an hour?

23 A Yes.

24 Q The micro cassette recorder that you

1 utilized starting at about nine o'clock p.m. on  
2 January 10th, 1990 was available to you at eight  
3 o'clock, was it not?

4 A At that time Detective Levine had had  
5 it.

6 Q Levine had it?

7 A Yes.

8 Q But you were working with Levine on  
9 this case?

10 A Yes.

11 Q And Levine, in fact, accompanied you to  
12 the Griffins Pond area?

13 A Yes.

14 Q That micro cassette recorder, sir, that  
15 was also available to you, sir, on December 12th  
16 of 1989?

17 A Yes, it was.

18 Q It was not utilized on December 12th,  
19 1989, because you believed at that time that  
20 another recording device was working?

21 A Correct.

22 Q Now, you indicated, sir, that you went  
23 to the Griffins Pond area on the night of January  
24 10th, 1990, and Jeffrey pointed out certain

1 things to you?

2 A Yes.

3 Q You had had a conversation with Jeffrey  
4 prior to going to the pond area, however?

5 A On that day?

6 Q Yes, on that night.

7 A No, I didn't.

8 Q You had not?

9 A No.

10 Q In other words, the first time you saw  
11 Jeff that night I believe you said at about eight  
12 o'clock, you had not had a prior conversation  
13 with him that night?

14 A No.

15 Q You had not discussed with him, sir,  
16 the two diagrams that he had drawn for you?

17 A No.

18 Q At that time?

19 A No, I did not.

20 Q The conversation relating to those two  
21 diagrams was had after you returned from the  
22 Griffins Pond area?

23 A Yes.

24 Q Now, when you went through the Griffins

1 Pond area you, sir, were the primary individual,  
2 the police officer talking to Jeffrey, were you  
3 not?

4 A Yes.

5 Q Do you recall if Lieutenant Tumolo had  
6 anything to say to Jeff?

7 A He may have, but I don't recall  
8 anything.

9 Q How about Detective Levine, did he have  
10 anything to say?

11 A Not that I can recall.

12 Q Sergeant O'Buck?

13 A No.

14 Q You had the conversation with Jeff as  
15 you were going through the field area?

16 A Yes.

17 Q And you, in fact, sir, had gone to the  
18 Griffins Pond area with Jeffrey at your own  
19 suggestion, sir?

20 A Yes.

21 Q Now, prior to your departure from the  
22 police station to go to the Griffins Pond area,  
23 had you had a conversation with Detective Levine  
24 relative to diagrams drawn by Jeffrey?

1           A       Yes.

2           Q       He, in fact, sir, had shown you those  
3 diagrams, he not?

4           A       Yes.

5           Q       And as a result of your seeing those  
6 diagrams you, sir, suggested to Jeffrey that you  
7 go to the pond area?

8           A       Yes.

9           Q       And he readily agreed to go?

10          A       Yes.

11          Q       And he knew that he would be going  
12 there with five policemen?

13          A       I didn't discuss who we would be going  
14 with. I asked him if he would go to the scene  
15 and show us like he drew it on the map. He saw  
16 we were getting into the police cars once we got  
17 outside. But I didn't actually give him a  
18 number.

19          Q       So, when he agreed to go to the crime  
20 scene with you, he agreed to go with you?

21          A       Yes.

22          Q       He had at that time when you suggested  
23 that you go to the crime scene, he had no  
24 knowledge that there would be four other police

1 officers present, did he, sir?

2 A Detective Levine was standing there at  
3 that point, but other than that, no.

4 Q Now, Detective, when you returned from  
5 the scene of the pond area, that was about nine  
6 o'clock?

7 A Yes.

8 Q On January 10th?

9 A Yes.

10 Q You all went directly into the muster  
11 room, the training room, if you will?

12 A Yes.

13 Q And that would be Jeffrey and all the  
14 people, the police officers who had accompanied  
15 him to the pond area?

16 A No.

17 Q Just who?

18 A At that time there was just Jeffrey and  
19 I.

20 Q And it was at that time, sir, that you  
21 began to record the conversation that we all  
22 heard this morning?

23 A Yes.

24 Q Somehow or another you had obtained the

1 tape recorder from Levine?

2 A Yes.

3 Q When, to the best of your recollection,  
4 sir, did you obtain that tape recorder?

5 A When we returned back to our  
6 headquarters.

7 Q You were able to get it from Levine  
8 with no problem at all? I mean, you said, "Let  
9 me have the tape recorder," or words to that  
10 effect?

11 A Yes.

12 Q So, as you're entering the muster room  
13 you activated the tape recorder?

14 A Yes.

15 Q Would you please indicate to the jury  
16 how it was, sir, that you activated that tape  
17 recorder?

18 A It was placed in my left shirt pocket  
19 inside my jacket, and the record button is on the  
20 top side. I simply pushed it.

21 Q It's simply a question of pushing your  
22 thumb down on the button?

23 A Two buttons.

24 Q The record button and the play button

1 simultaneously?

2 A Yes.

3 Q I believe you have previously  
4 testified, sir, that you were wearing a brown  
5 leather jacket?

6 A A black leather jacket.

7 Q So, when you entered the muster room  
8 you quickly turned on the tape recorder?

9 A Prior to entering the room I turned it  
10 on, yes.

11 Q I believe the tape recorder was turned  
12 off-- and again we're referring to nine o'clock  
13 p.m. on January 10th. I believe the tape  
14 recorder was turned off twice, sir, the next hour  
15 or so?

16 A Yes.

17 Q Once when you stepped outside the room  
18 to order some food?

19 A Yes.

20 Q And the second time when detective  
21 Brovarski appeared unexpectedly?

22 A Yes.

23 Q Other than those particular times the  
24 tape recorder was continuously running?

1           A       Yes.

2           Q       How long would you estimate it was  
3           turned off when you ordered the food, the pizza,  
4           or whatever it was?

5           A       It was just a couple of minutes. I  
6           simply walked up to the hall to the office and  
7           then back.

8           Q       You only had to walk about twenty,  
9           twenty-five feet?

10          A       It's probably closer to fifty feet.

11          Q       You instructed one of the uniformed  
12          officers or somebody to get some food?

13          A       At that point the food had already been  
14          ordered. I was simply up there checking on the  
15          food. It was already taken care of.

16          Q       So, that's the first time the tape  
17          recorder was turned off?

18          A       Yes.

19          Q       And the second time was when Brovarski  
20          appeared?

21          A       Yes.

22          Q       Would you estimate, sir, how long the  
23          tape recorder was turned off then?

24          A       I couldn't give you an actual figure on

1 that.

2 Q An estimate?

3 A It was just a short time. I simply  
4 told him that I was tied up and that I would get  
5 back to him later on. It was just a brief  
6 conversation.

7 Q And those were the only two times it  
8 was turned off?

9 A Yes.

10 Q I believe that the micro cassette  
11 itself that you were using that night is of a  
12 forty-five minute duration?

13 A I believe the cassette that was  
14 inserted at that time was referred to as an  
15 MC-90, which is a ninety minute cassette tape.

16 Q Ninety minutes, forty-five minutes on  
17 each side?

18 A Yes. That depends also on the speed  
19 you're operating it at. It has two speeds, a  
20 slow speed, which increases the length when  
21 you're recording voices.

22 Q Let me ask you this, sir: During your  
23 recording of the conversation of January 10th  
24 starting at nine o'clock in the evening, did you

1 have occasion to stop the tape recorder and turn  
2 over the tape?

3 A No, I didn't. I don't believe I had  
4 to. It was one continuous play on the original  
5 tape.

6 Q In other words, you didn't have to let  
7 it run to the end of the tape and then turn it  
8 over?

9 A No, I had chosen a tape that was long  
10 enough to go for a long period of time.

11 Q There are tapes, sir, that are  
12 available that can go for a long period of time?

13 A Yes. You can specify different time  
14 lengths, and you can also adjust the speed of  
15 your recorder to adjust the time length.

16 Q In fact, it's possible to utilize a  
17 tape recording device such as the one you did  
18 utilize and record continuously for three hours,  
19 isn't it, sir, with the appropriate type of a  
20 tape?

21 A I believe so, yes.

22 Q Now, at some time or another during the  
23 questioning of Jeffrey on January 10th, 1990  
24 commencing at nine o'clock you again advised him

- 1 of his so-called rights?
- 2 A On January 10th?
- 3 Q Yes.
- 4 A No, I did not.
- 5 Q I'm sorry?
- 6 A On the 10th I didn't, no.
- 7 Q You did not?
- 8 A No.
- 9 Q You, sir, on January 10th didn't advise
- 10 Jeff of his rights at all?
- 11 A No, I didn't.
- 12 Q On January 10th?
- 13 A That's right.
- 14 Q There did come a time, however, toward
- 15 the end of the conversation with Jeffrey where
- 16 you, I believe, made arrangements for him to be
- 17 taken home?
- 18 A Yes.
- 19 Q By automobile, police vehicle?
- 20 A Yes.
- 21 Q In fact, he was driven home by I
- 22 believe Detective Levine?
- 23 A Yes.
- 24 Q Now, Detective, the questioning of

1 Jeffrey that evening took place in the muster  
2 room?

3 A Yes.

4 Q I'm talking about on the evening of  
5 January 10th, is that right?

6 A Yes.

7 Q In the muster room?

8 A Yes.

9 Q And it was in that muster room that  
10 Jeffrey started to tell you what he knew or  
11 believed to know about the crime scene, is that a  
12 fact, sir?

13 A Yes.

14 Q And he indicated to you various things,  
15 did he not?

16 A Yes.

17 Q He indicated, among other things, that  
18 he believed that certain things had occurred,  
19 right?

20 A Yes.

21 Q He indicated to you, sir, I think I'm  
22 quoting him, "I believe that's where the rape  
23 occurred," is that a fact?

24 A Yes.

1           Q       He also indicated to you, and I think  
2 I'm quoting him, "I believe this is where the  
3 body may have been found covered up with leaves,"  
4 is that a fact, sir?

5           A       Yes, I think so.

6           Q       He was at that time indicating to you  
7 his beliefs, is that correct?

8           A       Yes.

9           Q       And these beliefs came to him from his  
10 investigation, is that a fact?

11          A       Yes.

12          Q       As he indicated to you?

13          A       That's what he said.

14          Q       In other words, you at this time then  
15 knew that this young man was conducting his own  
16 investigation?

17          A       No. I know that that's what he told me  
18 the investigation was coming from.

19          Q       I'm sorry?

20          A       He said the information was coming from  
21 an investigation.

22          Q       That he was conducting?

23          A       Correct.

24          Q       Did you at that time, sir, during the

1 conversation that we have heard this morning, did  
2 you ask him what his investigation consisted of,  
3 to the best of your recollection, sir?

4 A At one point I asked him how he was  
5 able to obtain this type of information, and he  
6 responded with something to the effect that he  
7 had a source, but he wouldn't go any further than  
8 that.

9 Q He did not, however, say that he  
10 believed this is where a rape occurred, because  
11 he had committed the rape, did he?

12 MR. BOLEN: Objection to that.

13 THE COURT: Overruled.

14 MR. INSERO: Thank you, your  
15 Honor.

16 Q Did he?

17 A Could you repeat that?

18 Q He did not indicate to you that he  
19 believed this is where the rape occurred because  
20 he had, in fact, committed the rape, did he?

21 A At that point he said, no, he just  
22 believed that's where the rape occurred.

23 Q In other words, at that time, sir, at  
24 that time when he was indicating to you his

1 belief that this occurred and this may have  
2 occurred here and this belief that something  
3 occurred here, he was engaging, sir, in  
4 speculation, was he not?

5 MR. BOLEN: Objection, your Honor.

6 He's asking this witness to  
7 characterize --

8 THE COURT: Hold on a moment.

9 That's for the jury to determine. They  
10 are the ultimate trier of the fact.

11 Q He did, however, Detective McIntyre,  
12 use the words, "I believe this may have, it's  
13 perhaps possible," he used those words time and  
14 time again during the course of your  
15 conversation, did he not?

16 A At that time, yes.

17 Q Now, let me just ask you this: There  
18 did come a time when the trip to the pond area  
19 concluded, did there not?

20 A Yes.

21 Q And it was at that time that you  
22 invited Jeffrey back to the police station for  
23 some pizza?

24 A Correct.

1 Q And soda?

2 A Yes.

3 Q Pizza and soda?

4 A Yes.

5 Q In fact, you said to him, and I think  
6 I'm quoting you now, "Do you want to come back to  
7 the Police Headquarters and have some pizza,  
8 Jeffrey?"

9 A I asked him if he wanted to go home, to  
10 come back to headquarters and then have some  
11 coffee.

12 Q In other words, Detective, you had  
13 asked him if he wanted to go home or to go to the  
14 police station?

15 A Yes.

16 Q And he chose the police station?

17 A Yes.

18 Q Now, with respect to Exhibit 160 A in  
19 evidence, let me hand that to you, sir. Please  
20 take a look at it.

21 (Witness examines.)

22 Q Do you recognize that exhibit?

23 A Yes.

24 Q That is an exhibit on which you placed

1 an X?

2 A Yes.

3 Q At the instruction of Jeffrey?

4 A Yes.

5 Q And that X indicates what?

6 A The place where the victim had lost her  
7 camera.

8 Q Thank you.

9 Now, let me ask you this, sir: Prior  
10 to your placing the X on Exhibit 160 A in  
11 evidence you said to Jeffrey, "Where do you think  
12 the camera was found," is that correct?

13 A Yes.

14 Q And he responded to you that he  
15 believed that the camera was found there. Is  
16 that a fact, sir?

17 A Yes.

18 Q And with respect to your questioning  
19 of, and I think you asked something to the  
20 effect, "How do you think she was killed," I  
21 believe Jeffrey responded to you, "I believe she  
22 had a hard blow maybe to the temple area." That  
23 was his response, was it not?

24 A Yes. He indicated the right side of

1 his head.

2 Q In other words, he used the word that  
3 he believed this is how it occurred?

4 A Yes.

5 Q Now, let me ask you this, Detective  
6 McIntyre: On December 12th of 1990 did you think  
7 that Jeffrey was the killer of [REDACTED]?

8 A Prior to him coming to Police  
9 Headquarters?

10 Q Yes.

11 A No, I did not.

12 Q On December 12th of 1990 -- excuse me.  
13 On December 12th of 1989 after having had the  
14 three hours with Jeffrey, did you then believe  
15 that he had killed [REDACTED]?

16 A Yes, I considered him a suspect after  
17 he left headquarters that day.

18 Q In fact, Detective, at that time on  
19 December 12th of 1990 at approximately eleven  
20 o'clock in the morning you considered Jeffrey to  
21 be a suspect?

22 A Yes, I did.

23 Q Now, there was some tape recording this  
24 morning having to do with leaves, I believe. You

1 had asked him why he thought that her body  
2 perhaps was covered with leaves. Do you recall  
3 hearing that, sir?

4 A Yes.

5 Q And he responded to you that he thought  
6 it would perhaps make the body harder to find?

7 A That's right.

8 Q Now, in fact, during the recording of  
9 this conversation he posed two different theories  
10 as to how the body wound up where it ultimately  
11 wound up?

12 A The final point, no. He was consistent  
13 with that. He said the body had been dragged.  
14 We indexed them as points A, B and C.

15 Q Did he also indicate to you on the  
16 tape, sir, that may be she was carried?

17 A That was initially from A to B when he  
18 was talking about that he believed she may have  
19 been unconscious, that she was carried from point  
20 A to point B, which would be from the path to the  
21 rape scene.

22 Q He believed she may have been  
23 unconscious? He believed she may have been  
24 carried?

1           A       Yes.

2           Q       And he believed that she may have been  
3 dragged?

4           A       That's right.

5           Q       Now, I believe you're on the tape this  
6 morning, Detective McIntyre, saying something to  
7 the effect, and I think you said it several  
8 times, and I'm not exactly sure, "Again it's just  
9 opinions on your part, Jeffrey."

10                   Do you recall saying that?

11          A       Yes.

12          Q       In fact, that's what he was giving you,  
13 opinions?

14          A       Yes.

15          Q       In fact, in response to your question  
16 why was she dragged, he responded, "I don't  
17 know," correct, sir? This is as best you can  
18 recall the tape, sir?

19          A       I think he said, "I don't know, maybe  
20 to make her harder to find," or something like  
21 that.

22          Q       "I don't know, maybe to make her harder  
23 to find"?

24          A       Yes.

1           Q       And he also indicated to you, sir,  
2 maybe she was hit in the temple with a hard shot,  
3 is that correct?

4           A       Yes.

5           Q       Let me ask you this, sir: You  
6 testified earlier that he had said to you at some  
7 time or another that he had certain sources?

8           A       Yes.

9           Q       And that did not key you, sir, to the  
10 fact that perhaps this kid was conducting his own  
11 investigation?

12          A       I didn't feel that he was conducting an  
13 investigation, no.

14          Q       Sir, when I use the word investigation,  
15 I don't mean it in a professional sense the way  
16 you are an investigator.

17          A       I understand.

18          Q       Did he --

19                   THE COURT: Mr. Insero, we'll take  
20 a brief five-minute recess so this  
21 witness can stretch.

22                   (Whereupon, the Court declares a  
23 recess at 2:55 p.m., and the trial  
24 resumes at three o'clock p.m.)

1 THE COURT: Are you ready?

2 MR. BOLEN: Yes.

3 MR. INSERO: Yes, Judge.

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

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

8 THE COURT: Proceed.

9 MR. INSERO: Thank you.

10 CROSS EXAMINATION

11 BY MR. INSERO: (Continued)

12 Q Detective McIntyre, you use a recording  
13 device in your work as a detective, do you not?

14 A Yes.

15 Q And you use it in a variety of  
16 different types of cases, I would imagine?

17 A Yes.

18 Q And there is a clear reason for  
19 recording of conversations, is there not?

20 A Yes.

21 Q And that reason for that is that there  
22 can be no question as to what was said, is that a  
23 fact?

24 A That's right.

1 Q And, in fact, that's why you made the  
2 tape recordings from this case, sir?

3 A Yes.

4 Q Now, on the tape that we heard this  
5 morning you say to Jeffrey, "You're doing pretty  
6 good so far, Jeff."

7 Do you recall saying that?

8 A Yes.

9 Q What do you mean he was doing pretty  
10 good?

11 A He had asked me a question, and I don't  
12 recall what it was at that point. I don't recall  
13 the exact circumstances around that.

14 Q But in you're saying to Jeffrey,  
15 "You're doing pretty good so far, Jeff," those  
16 were words of encouragement?

17 A Yes.

18 Q In response to the question about the  
19 camera on the tape in which you asked, "Where do  
20 you think the camera was found or where do you  
21 believe the camera was found," he indicated to  
22 you, "On the blacktop or over on the grass," on  
23 the tape this morning?

24 A He said on the blacktop, no more

1       shortly off in the grass over there.

2               Q       This is on the tape this morning that  
3       we heard?

4               A       Yes.

5               Q       That's your recollection of it?

6               A       Yes.

7               Q       And that was in response to a specific  
8       question, "Where was the camera?"

9               A       Yes.

10              Q       You also this morning on the tape  
11       indicated to Jeffrey, "You've done remarkably  
12       well."

13                     Do you recall that, sir?

14              A       Yes.

15              Q       And you were inquiring this morning  
16       about a possible robbery I believe that perhaps  
17       might have occurred, as well, with respect to  
18       money. Do you recall that?

19              A       Yes. I asked him if the motive could  
20       be robbery.

21              Q       And he said, "No, I don't think she  
22       carried much money with her"?

23              A       Yes.

24              Q       Now, with respect to a key chain, sir,

1 that you inquired about on the tape, Jeff had  
2 absolutely no idea what kind of key chain she  
3 would have had?

4 MR. BOLEN: Objection to that,  
5 your Honor.

6 MR. INSERO: Let me rephrase that,  
7 your Honor.

8 Q You asked him specifically, sir, did  
9 you not, "Well, what kind of key chain do you  
10 think she had," right?

11 A Yes.

12 Q And he equivocated? He didn't know,  
13 did he?

14 A That's right.

15 Q And with respect to the argument that  
16 Jeffrey alluded to perhaps having had occurred,  
17 you asked him, "Well, what do you think caused  
18 the argument?"

19 Do you remember that?

20 A Yes.

21 Q And his response to you was that may  
22 be, because she was interested -- maybe because  
23 she was not interested in going out with him any  
24 more?

1           A       That was part of it.

2           Q       Now, you also on the tape this morning  
3       stated, in effect, "I guess news travels fast in  
4       a high school"?

5           A       Yes.

6           Q       Sir, getting back to the time of the  
7       discovery of the body, November 17th, 1989, the  
8       discovery of Angela's body, you had spoken to a  
9       good number of students at the high school, had  
10      you not, sir?

11          A       That's right.

12          Q       And Detective Levine, as well, had  
13      spoken to students at the high school?

14          A       Yes.

15          Q       And Detective Astrologo had spoken with  
16      students at the high school?

17          A       No, I don't believe so.

18          Q       But you and Detective Levine had  
19      spoken?

20          A       Yes.

21          Q       Any other officers on the Peekskill  
22      force, would they have spoken to students at the  
23      high school?

24          A       Yes. I had assigned patrol officers to

1 follow up with certain things also.

2 Q You say you had assigned patrol  
3 officers. Do you know, sir, or can you estimate,  
4 sir, how many officers you had assigned to  
5 partake in this investigation, to the best of  
6 your recollection, sir?

7 A Maybe six.

8 Q So, we've now got six uniformed  
9 officers?

10 A Yes.

11 Q We have six uniformed officers, and at  
12 least two detectives who had spoken with various  
13 students at the Peekskill High School?

14 A Spoken to people in general. I don't  
15 know specifically how many officers talked to  
16 students.

17 Q And, in fact, teachers were spoken to  
18 as well, were there not?

19 A Yes.

20 Q In fact, the principal of the school  
21 had been spoken to?

22 A Yes.

23 Q And whatever the number two man is  
24 called, the vice-principal?

1 A Yes.

2 Q The assistant principal?

3 A Yes.

4 Q He had been spoken to?

5 A Yes.

6 Q It's fair to say, sir, that a large  
7 number of people had been spoken to concerning  
8 the death of [REDACTED]?

9 A Yes.

10 Q Both in and out of the Peekskill High  
11 School?

12 A Yes.

13 Q This TV program that you referred to  
14 this morning on the tape recording, Unsolved  
15 Mysteries, are you familiar with that program,  
16 sir?

17 A Somewhat.

18 Q I'm not. What is it?

19 A It's a TV program that airs about cases  
20 that may have -- not just cases, but incidents  
21 that have happened that may not be explained and  
22 there may not be an answer to.

23 Q Is this a network program?

24 A Yes.

1 Q And it pertains to investigations  
2 apparently?

3 A On occasion, yes.

4 Q On the tape this morning, sir, that we  
5 all heard do you recall saying to Jeffrey, "All  
6 right, buddy"?

7 A I'm not sure, but I may have.

8 Q Only if you're certain, sir.

9 MR. INSERO: Let me rephrase it.

10 Q Do you recall saying to Jeffrey some  
11 time during the conversation that we all heard  
12 this morning, "All right, buddy"?

13 A I don't recall specifically.

14 Q All right, fine. And Jeffrey said to  
15 you in response to one of your questions again on  
16 the tape, "I think she might have been up there  
17 once or twice before, I think she might have  
18 been"?

19 A Yes, he did.

20 Q And with respect to the key chain that  
21 you all were talking about this morning on the  
22 tape at least, he said to you, "That might be the  
23 type, her type of choice," and this is with  
24 respect to that series of questions you were

1 asking him about what type of key chain does he  
2 think Angela might have?

3 A Yes.

4 Q Now, at the conclusion of that  
5 interview with Jeffrey on January 10th, 1990,  
6 Detective, the one that was recorded and the one  
7 that we all listened to this morning, at the very  
8 end of it you, in fact, said to Jeffrey, did you  
9 not, "Stop in from time to time," is that  
10 correct, sir?

11 A Yes.

12 Q Now, Jeff went home that night or was  
13 driven home by Detective Levine?

14 A Yes.

15 Q And you did not see him again for some  
16 time, did you, sir?

17 A No.

18 Q In fact, you didn't see him again I  
19 believe until January 23rd?

20 A I believe so.

21 Q You had, however, spoken with him on  
22 the phone between January 10th and January 23rd?

23 A That's correct.

24 Q And with respect to those

1       conversations --

2                       MR. INSERO:   Let me rephrase that.

3               Q       Did you record any of those  
4       conversations, you personally?

5               A       No, I did not.

6               Q       Now, Jeffrey came around to see you on  
7       January 23rd at about five o'clock in the  
8       afternoon, five o'clock p.m.?

9               A       About that.

10              Q       5:05?

11              A       I believe it was about a quarter to  
12       five.

13              Q       Now, was it at this time that you again  
14       advised Jeffrey of his so-called rights?

15              A       That's right.

16              Q       This is People's Exhibit 47 which is  
17       marked in evidence.  Would you please take a look  
18       at that.

19                       (Witness examines.)

20              Q       That is the card that you used at  
21       approximately a quarter to five in the afternoon  
22       of January 23rd?

23              A       Yes.

24              Q       That is the very card that you used?

1 A Yes, it is.

2 Q Your signature, sir, does that appear  
3 on that card?

4 A Yes.

5 Q And the date appears on that card, as  
6 well?

7 A Yes.

8 Q And the time appears on the card?

9 A Yes.

10 Q Jeffrey's signature does not appear on  
11 that card?

12 A No.

13 MR. INSERO: May I have that back,  
14 please.

15 Q Now, on December 12th of 1990 you had  
16 Jeffrey sign a card, correct?

17 A Yes.

18 Q And that was the first time that you  
19 had told him about his so-called rights?

20 A Yes.

21 Q And then the next time that you told  
22 him about his so-called rights was on January  
23 23rd at about a quarter to five in the afternoon?

24 A Yes.

1           Q       Now, this conversation, this discussion  
2       or this questioning of Jeffrey occurred in the  
3       police station, is that a fact?

4           A       Yes.

5           Q       In the lobby area or in the detective  
6       room or the Detective Bureau?

7           A       You're referring to January 23rd?

8           Q       Yes.

9           A       That was in the muster room area.

10          Q       In the muster room?

11          A       Yes.

12          Q       And it was at this time that Jeffrey  
13       provided you with a quick set key?

14          A       Yes.

15          Q       And you later determined where that key  
16       had been made?

17          A       I could tell. It's inscribed.

18          Q       It's inscribed on the key?

19          A       Yes.

20          Q       But it looked like a new key?

21          A       Yes.

22          Q       It didn't look like something that had  
23       been in the woods for a couple of months?

24          A       No, it had not.

1 Q I mean, it was like virgin metal, if I  
2 may use that phrase?

3 A Yes.

4 Q And this was the key that he indicated  
5 to you that he had found on the north end of the  
6 path?

7 A Yes.

8 Q And you, sir, at that time on January  
9 23rd, 1990 were quite curious, were you not, as  
10 to why Jeffrey kept coming in?

11 A Yes.

12 Q You had, in fact, however, on January  
13 10th told him to stop in from time to time, had  
14 you not?

15 A Yes, I did.

16 Q Now, let's talk, if we may, sir, just  
17 for a few moments about the trip to Brewster in  
18 Putnam County. You first met with Jeffrey on  
19 January 25th at approximately what time?

20 A At approximately ten a.m.

21 Q And that would have been in Police  
22 Headquarters?

23 A In the lobby.

24 Q In the lobby of headquarters?

1           A       Yes.

2           Q       And you testified this morning, sir, I  
3 believe that you once again advised Jeffrey of  
4 some so-called rights?

5           A       Yes, I did. I advised him that he  
6 didn't have to take the test. I didn't read the  
7 Miranda card.

8           Q       You told him that he --

9                         MR. INSERO: Excuse me, withdrawn.

10          Q       You told him that he didn't have to  
11 take a polygraph?

12          A       Yes.

13          Q       You did not, sir, at that time, at  
14 about ten a.m. on January 25th of 1990 advise him  
15 of his so-called rights?

16          A       No, I didn't.

17          Q       Now, the trip to Brewster took what,  
18 about an hour?

19          A       Yes.

20          Q       Do you recall if it was a rainy day or  
21 a clear day or whatever, if you recall?

22          A       On the way up there it was clear, I  
23 believe.

24          Q       Now, coming back it was raining?

- 1           A       Raining and very foggy.
- 2           Q       Foggy and raining?
- 3           A       Yes.
- 4           Q       It took you longer to come back than to  
5 go up?
- 6           A       Yes.
- 7           Q       How do you get from Peekskill to  
8 Brewster?
- 9           A       Route 6. You take Route 6 into the  
10 Mahopac area, and then you take one of those side  
11 road. I don't know the number.
- 12          Q       You didn't get on 684 to go to  
13 Brewster?
- 14          A       No.
- 15          Q       You stayed in the northern part of the  
16 County then?
- 17          A       I'm sorry?
- 18          Q       You stayed more or less in the northern  
19 part of the County where Route 6 runs? That's  
20 Route 6 and Route 202 together?
- 21          A       Yes.
- 22          Q       So, it took you about an hour to get  
23 there?
- 24          A       Yes.

1           Q       And you arrived at the address which  
2       I've forgotten, which is on Main Street in  
3       Brewster at approximately eleven o'clock that  
4       morning?

5           A       Yes.

6           Q       Now, sir, did you produce Jeff to  
7       Investigator Stephens yourself?

8           A       No, I didn't.

9           Q       That was done by --

10          A       Lieutenant Tumolo.

11          Q       Lieutenant Tumolo?

12          A       Yes.

13          Q       You were, sir, present when the  
14       introduction was made?

15          A       Yes, because I had never met  
16       Investigator Stephens before that.

17          Q       You didn't know him?

18          A       No.

19          Q       So, you all met together for the first  
20       time?

21          A       Yes.

22          Q       Now, there came a time when Jeffrey and  
23       Investigator Stephens left your view, left your  
24       presence?

1           A       Yes.

2           Q       That would have been about ten minutes  
3 after eleven on the morning of January 25th?

4           A       Yes, it was just shortly after we got  
5 there.

6           Q       The introduction didn't take more than  
7 five minutes?

8           A       No. It was right after we had gotten  
9 there.

10          Q       Right after you got there?

11          A       Yes.

12          Q       Now, you did not see Jeffrey again  
13 until five o'clock that afternoon?

14          A       That's right.

15          Q       Some six hours?

16          A       Yes.

17          Q       And during that hiatus, during that  
18 period of time, that six hour period, you were in  
19 the office that was across the hallway from the  
20 polygraph suit in Investigator Stephens' office,  
21 is that right?

22          A       It's on the opposite side, but on the  
23 opposite end also.

24          Q       In other words, you were in a room

1 where there was a monitoring device?

2 A Yes.

3 Q You were in that room together with  
4 Detective Levine, Lieutenant Tumolo, and anybody  
5 else?

6 A That's all.

7 Q Just three officers?

8 A Yes.

9 Q Now, let me ask you this, Detective  
10 McIntyre: When Jeffrey arrived at the police  
11 station in Peekskill on the morning of January  
12 25th he knew that you, sir, would be accompanying  
13 him to wherever it was that he was going to be  
14 polygraphed, is that a fact?

15 A Yes.

16 Q I mean, you --

17 MR. INSERO: Withdrawn.

18 Q You and he had discussed it?

19 A I asked him if he would.

20 Q He did not, sir, did he, know where the  
21 examination was going to be conducted, did he?

22 A No.

23 Q Sir, let me ask you this: You knew  
24 Jeff was sixteen at that time?

1 A Yes.

2 Q Did you know, sir, if he had the  
3 ability to drive an automobile?

4 A No, I didn't.

5 Q Now, during the time that you were in  
6 the room in Investigator Stephens' office on Main  
7 Street in Brewster, you listened to what was  
8 transpiring in the polygraph suite, did you not,  
9 sir?

10 A Yes.

11 Q And you were able to hear clearly?

12 A Yes.

13 Q And you knew Jeffrey's voice, so you  
14 recognized it?

15 A Yes.

16 Q And from having just met Investigator  
17 Stephens, were you familiar enough with his voice  
18 to recognize it?

19 A Yes, I could.

20 Q So, those were the two voices that you,  
21 in fact, recognized?

22 A Yes.

23 Q At any time during that six hour period  
24 between 11:10 a.m. and five o'clock p.m. did you

1 hear any other voices emanating from that  
2 listening device?

3 A No. It was being done by Investigator  
4 Stephens, that's all.

5 Q So, the only voices you heard were  
6 Stephens and Jeffrey?

7 A I could hear the two secretaries'  
8 voices, too, but they were actually out in  
9 another room.

10 Q You could not hear them distinctly or  
11 clearly, though?

12 A No.

13 Q It was kind of like garbled in the  
14 background?

15 A Sometimes you could. There were two  
16 female secretaries there. Sometimes you would  
17 hear them either responding to somebody talking  
18 in an adjacent room or you could hear them over  
19 the telephone.

20 Q But you did, in fact, hear Stephens and  
21 Jeffrey?

22 A Yes.

23 Q Now, are you familiar, sir, with the  
24 concept --

1 MR. INSERO: Withdrawn.

2 Q Let me ask you this: When you left the  
3 Police Headquarters that morning in Peekskill did  
4 you carry with you the micro cassette recorder?

5 A No, I did not.

6 Q It was, however, still available on  
7 January 25th, was it not?

8 A As far as I know, yes.

9 Q But you didn't take it to from  
10 Peekskill to Brewster?

11 A No.

12 Q Now, let me ask you this, sir: Are you  
13 familiar with a concept known as passive  
14 interrogation?

15 A Yes.

16 Q And are you familiar, sir, with the  
17 concept known as active interrogation?

18 A Yes.

19 Q These are terms known to law  
20 enforcement officials, are they not?

21 A I just have heard the terminology and  
22 been spoken to about them. I wouldn't know it in  
23 depth.

24 Q Your voice trailed off.

1           A       I don't know the principles in depth.  
2       But I have heard the terms.

3           Q       At approximately five o'clock on  
4       January 25th Investigator Stephens came into the  
5       room in which you, Lieutenant Tumolo and  
6       Detective Levine were located, is that a fact,  
7       sir?

8           A       Yes.

9           Q       And as a result of his coming into that  
10      room you then went to the polygraph suite where  
11      Jeffrey was?

12          A       Yes.

13          Q       And you went alone?

14          A       Yes.

15          Q       You know, during that six hour period,  
16      Detective McIntyre when you were in the room  
17      there, did you, by chance, see any food brought  
18      into Jeffrey?

19          A       There was coffee brought in several  
20      times.

21          Q       Several cups of coffee?

22          A       Yes.

23          Q       Any food?

24          A       He didn't want any food. He was asked

1 by Investigator Stephens, and he said he just  
2 wanted coffee. And he was bringing coffee in and  
3 out to him.

4 Q Ultimately, however, he did take some  
5 food?

6 A Yes.

7 Q Which was -- in your presence?

8 A Yes.

9 Q He was eating a hamburger or  
10 hamburgers?

11 A A hamburger and coffee.

12 Q And that was some time between -- what  
13 time was that?

14 A Shortly after five o'clock.

15 Q This was shortly after you entered the  
16 room?

17 A Yes.

18 Q That's when he ate some food?

19 A Yes.

20 Q And that was the first time that day,  
21 sir, that you personally had seen him eating any  
22 food?

23 A Yes.

24 Q You didn't see him eat breakfast

1 obviously?

2 A No.

3 Q And on the way up to Brewster you all  
4 didn't stop and have lunch or anything?

5 A No. We drove directly there.

6 Q Straight through?

7 A Yes.

8 Q Now, within --

9 MR. INSERO: Withdrawn.

10 Q How much time would you estimate, sir,  
11 from the time you that entered the polygraph  
12 suite at at five o'clock that night was it until  
13 you told Jeffrey that it had become evident to  
14 you some time back that he perhaps was  
15 responsible for [REDACTED] death? How much time  
16 had elapsed, sir?

17 A That was shortly after I entered there.

18 Q It may be different, sir, but in terms  
19 of minutes could you estimate for us? You say  
20 you entered there about five?

21 A Yes.

22 Q How much time expired?

23 A Less than a few minutes.

24 Q So, it's your testimony, Detective

1 McIntyre, that on January 25th just a few minutes  
2 after five o'clock in the evening you asked  
3 Jeffrey what had happened in school that day, is  
4 that a fact?

5 A Yes.

6 Q And it was at that particular juncture,  
7 at that particular point in time when Jeffrey  
8 started explaining things to you in the third  
9 person, sir, if I may use that as a pronoun type  
10 thing?

11 A Yes.

12 Q In other words, he did this, he did  
13 that, et cetera?

14 A Yes.

15 Q He started speaking to you in the third  
16 person?

17 A He started that way, yes.

18 Q And from the third person he ultimately  
19 slipped into the first person?

20 A That's correct.

21 Q And, sir, he continued in the first  
22 person?

23 A Yes.

24 Q How would you describe Jeffrey's

1       demeanor when he started talking in the third  
2       person?

3               A       In the third person, or are you talking  
4       about --

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

7               Q       How would you describe Jeffrey's  
8       demeanor when Jeffrey started telling you things  
9       relative to a third person?

10              A       For the most part, it was okay.

11              Q       You say for the most part?

12              A       Yes.

13              Q       What part is it?

14              A       Sometimes he paused and would hesitate,  
15       and I noticed several times his lips quivered,  
16       but that was about the extent of it.

17              Q       Sir, isn't it a fact that he was a  
18       nervous wreck at that particular time?

19              A       At which time particular?

20              Q       At the particular time when he started  
21       talking to you about someone doing certain things  
22       and was using the third person, "He did this, he  
23       did that"?

24              A       No, he appeared very subdued at that

1 point.

2 Q However, he had been in that room for  
3 some six hours?

4 A Yes.

5 Q Sir, do you know whether or not Jeffrey  
6 had ever been to Brewster before?

7 A No, I don't.

8 Q Sir, do you know whether or not Jeffrey  
9 even knew that he, Jeffrey, was in a totally  
10 different county than the county in which he  
11 lived?

12 A I have no knowledge of what he knows  
13 about Brewster.

14 Q You indicated, sir, that there came a  
15 time when Jeff started to sob?

16 A Yes.

17 Q Again, as best you can, and I know it's  
18 difficult, but as best you can, could you tell us  
19 approximately what time was that, sir?

20 A I really wasn't paying attention to a  
21 clock at that point. It was after we had been  
22 talking for a while.

23 Q He began to sob?

24 A Correct.

1 Q And, in fact, ultimately on that very  
2 afternoon he wound up in a fetal position, is  
3 that a fact, sir?

4 A Yes, he did.

5 Q Underneath the table-- or the desk,  
6 rather?

7 A His head was underneath the desk, yes.

8 Q You, Detective, ultimately left that  
9 room, the polygraph room?

10 A Yes.

11 Q And returned to the room across the  
12 hall?

13 A Yes.

14 Q The room in which the monitoring device  
15 was?

16 A Yes.

17 Q Sir, do you remember what time it was,  
18 to the best of your recollection, that you  
19 returned to the room in which the monitoring  
20 device was located?

21 A It was before seven o'clock.

22 Q So, that you were in the room with  
23 Jeffrey from approximately five o'clock p.m.,  
24 sir, that is in the polygraph suite, from

1 approximately five o'clock p.m. to some time just  
2 before seven o'clock?

3 A Yes.

4 Q That was a period of approximately two  
5 hours?

6 A Yes.

7 Q And there came a time, did there not,  
8 sir, when Lieutenant Tumolo and Investigator  
9 Stephens returned to the polygraph suite, is that  
10 correct?

11 A Yes.

12 Q And ultimately everybody left Brewster  
13 for the return trip to Peekskill?

14 A Other than Investigator Stephens.

15 Q Yes, other than Investigator Stephens?

16 A Yes.

17 Q Now, you had gone up in two cars so,  
18 therefore, you came back in two cars?

19 A Yes.

20 Q When you left the address on Main  
21 Street in Peekskill where you had been for some  
22 eight hours, Jeffrey Deskovic was under arrest,  
23 was he not?

24 A It was Main Street in Brewster, sir.

1 But, yes, he was.

2 Q He was under arrest?

3 A Yes.

4 Q And he returned to Peekskill with two  
5 police officers in the car, sir?

6 A Yes.

7 Q With you and Lieutenant Tumolo?

8 A Yes.

9 Q And Detective Levine --

10 A Drove the other car.

11 Q Drove the other vehicle back?

12 A Yes.

13 MR. INSERO: Your Honor, may I  
14 have a moment, please, to confer with  
15 counsel?

16 THE COURT: Yes.

17 (Whereupon, Mr. Insero confers  
18 with his co-counsel in a discussion off  
19 the record.)

20 MR. INSERO: I believe I just have  
21 a few more questions, your Honor.

22 Q Detective McIntyre, I think I just have  
23 one final question actually: On January 25th,  
24 1990, sir, you were, in fact, aware of the fact

1 that Jeffrey's mother didn't want him talking to  
2 the police?

3 A That's correct.

4 MR. INSERO: Thank you, sir. I  
5 would have no further questions, your  
6 Honor.

7 MR. BOLEN: I have some redirect,  
8 Judge.

9 THE COURT: Okay.

10 RE-DIRECT EXAMINATION

11 BY MR. BOLEN:

12 Q Detective, within the last ten or  
13 fifteen minutes you were asked a series of  
14 questions by Mr. Insero, whether you individually  
15 interviewed among a number of people early on in  
16 the investigation a number of students?

17 A Yes, sir.

18 Q When you did that, Detective, did you  
19 yourself relate to any of those students any of  
20 the observations that you had made of the various  
21 scenes that you had seen on November 17th?

22 A No, I didn't. They were given no  
23 information at all.

24 Q And also during cross-examination, and

1 I don't think this was elicited on direct  
2 examination, but in response to the question  
3 posed by you to Jeffrey on December 12th that  
4 morning, whether he had been to the Griffins Pond  
5 area, you indicated, or he indicated that he had  
6 been up there the Saturday after that to the  
7 scene as indicated in the newspaper, is that  
8 correct?

9 A Yes.

10 Q Were you familiar with the map that he  
11 was alluding to that was in the newspaper?

12 A Yes.

13 Q Would you take a look at what has been  
14 previously marked for identification as People's  
15 Exhibit 168 A.

16 (Witness examines.)

17 Q From on or about November 18th up until  
18 December 12th of 1989 were you familiar with any  
19 of the articles that might have appeared in any  
20 of the newspapers in the Peekskill area?

21 A Yes.

22 Q To your knowledge, Detective, of the  
23 articles that might have been in the paper  
24 pertaining to this case, how many of those

1 articles on one or more dates had a diagram?

2 A This singular article here from the  
3 Gannett paper was the only one that displayed a  
4 map.

5 Q And in the map -- let's just step back  
6 for a second. At the end of the day on November  
7 17th, 1989, as far as the Peekskill Police were  
8 concerned, there were three separate and distinct  
9 parts to this crime scene, is that correct?

10 A Yes.

11 Q And, to your knowledge, being the lead  
12 detective on the case, was any information  
13 pertaining to those three distinct separate crime  
14 scenes given to the Gannett papers?

15 A No, it was not.

16 Q As a matter of fact, the diagram that  
17 we have been just talking about in the  
18 newspapers, did that indicate any of the three  
19 separate areas?

20 A No.

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

23 Q By the way, Detective, would you take a  
24 look at this particular exhibit.

1 (Witness examines.)

2 Q Would you take a look at People's  
3 Exhibit 168 A again, and could you tell us  
4 whether -- could you tell us whether the second  
5 exhibit I showed you, Exhibit 168 B, is a fair  
6 and accurate diagram of the exhibit appearing in  
7 the newspaper article, although blown up?

8 A Yes, it is.

9 MR. BOLEN: All right, may I have  
10 those back, please.

11 Your Honor, I would offer People's  
12 Exhibit 168 B in evidence.

13 MR. INSERO: May I take a look at  
14 it?

15 MR. BOLEN: Certainly.

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

18 MR. INSERO: As to exhibit 168 B,  
19 I have no objection.

20 THE COURT: All right, mark it in  
21 evidence.

22 (Marked.)

23 Q Detective, with respect to the events  
24 of January 25th, 1990, on direct examination, as

1 well as on cross-examination, you were asked  
2 questions with respect to your observations of  
3 Jeffrey, and particularly in response to  
4 questions that I put to you and that Mr. Insero  
5 put to you.

6           You described at some point Jeffrey  
7 being on the floor in what you would describe to  
8 be the fetal position, is that correct?

9           A       Yes.

10          Q       Let me ask you this: At some point  
11 around five o'clock you said Stephens came in to  
12 where you were, and you left and went into the  
13 room, is that correct?

14          A       Yes.

15          Q       After you had entered that room where  
16 Jeffrey was, did there then come a point in time  
17 after you and he had spoken that you left the  
18 room?

19          A       Yes.

20          Q       When you left the room, where did you  
21 go?

22          A       Back to the other office.

23          Q       What happened then?

24          A       At that point Lieutenant Tumolo and

1 Investigator Stephens went in there.

2 Q Forgive me, maybe I'm confused and I  
3 misheard or misunderstood. Let me ask you this  
4 particular question:

5 Where had you been within let's say a  
6 minute or two minutes of Jeffrey being in the  
7 fetal position? Do you understand my question?

8 A Just prior where I had been?

9 Q Yes.

10 A In the opposite office where the  
11 monitoring device is.

12 Q And then did you hear something take  
13 place in the other room?

14 A Yes.

15 Q And you went into the other room at  
16 that time?

17 A Yes.

18 Q And is that when you made the  
19 observations?

20 A Yes.

21 Q On cross-examination, in response to a  
22 question from Mr. Insero, you indicated that from  
23 that point when Investigator Stephens came into  
24 the room and you went in, that you basically

1 stayed in there for upwards of two hours without  
2 leaving.

3 Did you hear him ask you that question?

4 A I was in there for the most part of the  
5 two hours between five and seven p.m.. I left  
6 there, and I don't know specifically at what  
7 time, but Lieutenant Tumolo and Investigator  
8 Stephens did go back in. The whole thing  
9 concluded at seven o'clock.

10 Q So, how long out of that two hours were  
11 you out of the polygraph room during that period  
12 of time while Tumolo and Stephens were in the  
13 polygraph room with Jeffrey?

14 A It was a short while. He gave them the  
15 whole scenario all over again. So, it was in  
16 excess of fifteen minutes, I guess.

17 Q So, the balance of the time between  
18 five and seven, while you were with him you left,  
19 you came back in, and when you saw him on the  
20 floor you stayed with him basically from there  
21 on?

22 A Yes.

23 Q All right.

24 MR. BOLEN: I have nothing

1 further, Judge.

2 MR. INSERO: Very briefly, your  
3 Honor.

4 RE CROSS EXAMINATION

5 BY MR. INSERO:

6 Q Detective McIntyre, Jeffrey was in that  
7 room from 11:10 a.m. until about seven o'clock at  
8 night?

9 A Yes.

10 MR. INSERO: Thank you. I have  
11 nothing further.

12 MR. BOLEN: Thank you, sir.

13 THE COURT: You may step down.

14 THE WITNESS: Thank you.

15 (The witness is excused.)

16 THE COURT: Okay, we have another  
17 witness?

18 MR. BOLEN: Could I --

19 THE COURT: It will take you a  
20 couple of minutes to get him?

21 MR. BOLEN: Could the Court give  
22 me ten minutes?

23 THE COURT: Yes. We'll take ten  
24 minutes. I believe we're going to hear