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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CRIMINAL PART
BERGEN COUNTY
INDICTMENT NO.: 09-08-1485
A.D. # A-3447-10T3

STATE OF NEW JERSEY,)
)
vs.) TRANSCRIPT
) OF
) TRIAL
STEPHEN F. SCHARF,)
)
Defendant.)

Place: Bergen County Justice Center
10 Main Street
Hackensack, NJ 07601-7699

Date: April 27, 2011

BEFORE:

HONORABLE PATRICK J. ROMA, J.S.C. and JURY

TRANSCRIPT ORDERED BY:

HELEN GODBY, ESQ. (Assistant Deputy Public
Defender)
Office of the Public Defender, Appellate Section

APPEARANCES:

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TRANSCRIPTIONIST NOTE: Due to a loud buzzing noise
throughout the audio, certain portions of this
transcript were difficult to describe.

1		<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
2					
3	<u>WITNESSES FOR</u>				
3	<u>THE STATE</u>				
4	Lieutenant Siri	4	22	48	51
5				<u>Re-redirect</u>	<u>Re-recross</u>
6				52	52
7		<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
8	Detective Karnick	54,72	107,120	154	
9	Detective Lynam	157			
10				<u>Ident.</u>	<u>Evid.</u>
11	<u>EXHIBITS</u>				
11	S-72 9/21/92 report of Lt. Siri			15	
12	D-6 Photo of Stephen Scharf			23,144	145
13	S-257 Photo at Lookout (woods, path)			59,162	
13	S-250 Photo of fence/flat rock area			60,164	
14	S-251 Photo of fence/flat rock area			60,164	
14	S-253 Photo of flat rock			61,166	
14	S-259 Photo of flat rock			61,166	
15	S-74 Det. Karnick's report			67	
15	S-94 Stephen's written statement			68	72
16	S-26 Consent-to-search form			82	84
16	S-25 Consent-to-search form			85	86
17	S-276 Photo of Stephen's front upper torso			88	89
18	S-277 Photo of Stephen's back torso			88	89
18	S-280 Blow up of S-276			89	89
19	S-281 Blow up of S-277			89	89
19	S-247 Photo of vehicle in lot			91,161	
20	S-248 Photo of vehicle's rear seat			92	92
21	S-31 Det. Karnick's property receipt document			94	
21	S-219 Red nylon bag			95	95
22	S-221 Blue nylon bag			96	96
22	S-225 Two white towels			97	96
23	S-226 Corkscrew, candle & ace bandages			97	97
23	S-224 Green Army blanket			98	98
24	S-232 Box of wine crackers			99	99
24	S-223 Plastic bag			100	100
25	S-220 Receipt for cheese			100	100

		<u>Ident.</u>	<u>Evid.</u>
1	<u>EXHIBITS</u> (continued)		
2	S-218 Steak knife	102	102
3	S-227 Gray jewelry box w/ cross necklace	102	102
	S-228 Stanley clawhammer	103	
4	285 Photo with cooler	145	145
	D-244 Photo of receipt	152	
5	S-249 Photo of Palisades Commission notice/warning	165	
6	S-252 Photo of rock with graffiti	167	
	S-260 Photo of side view of rock	167	
7	S-254 Photo of rock (less foliage)	168	
	S-255 Photo of ledge w/ makeup kit and credit card	170	
8	S-256 Photo of makeup brush on foliage	170	
9	S-95 Det. Alver's report	178	
10			
11			
12			
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(Jury entering)

THE COURT: Welcome back, ladies and gentlemen of the jury; please be seated.

Madam Clerk, roll call.

(Roll call of jurors taken. All present.)

THE COURT: Ready to proceed?

MR. MELLO: We are. May I do so?

THE COURT: Call your witness.

MR. MELLO: Lieutenant Walter Siri, please.

(Pause in proceeding)

THE COURT: Please step up, face the court clerk.

COURT CLERK: Raise your right hand.

L I E U T E N A N T W A L T E R S I R I , STATE'S WITNESS, SWORN

COURT CLERK: State your name for the record.

THE WITNESS: Walter Alan Siri, Jr.

THE COURT: Please have a seat.

You may begin, Prosecutor.

MR. MELLO: Thank you, Your Honor.

DIRECT EXAMINATION BY MR. MELLO:

Q Good morning, Lieutenant.

A Good morning, sir.

Q Lieutenant, by whom are you presently employed?

1 A Palisades Interstate Parkway Police Department.

2 Q And you obviously hold the rank of
3 Lieutenant?

4 A That is correct, sir.

5 Q How long have you been employed as a police
6 officer with the Palisade Interstate Parkway Police,
7 sir?

8 A I've been employed by the PIP since 1991.

9 Q I'm going to direct your attention to
10 September 20, 1992, all right?

11 A Yes, sir.

12 Q I'm going to ask you if, on September 20,
13 1992, you worked a shift as a police officer employed
14 by the Palisade Interstate Parkway Police.

15 A Yes, sir; I did a four to 12 tour.

16 Q I'm going to direct your specific attention
17 now to approximately -- or specifically, I should say,
18 eight minutes past 8 p.m. on the evening of September
19 20, 1992, understood?

20 A Yes, sir.

21 Q Can you tell us where you were at that time?

22 A I was about to exit Police Headquarters as --
23 after finishing my lunch period.

24 Q Now, at that time did anything occur that
25 attracted your attention?

1 A Yes, sir.

2 Q What was that, sir?

3 A A gentleman ex -- entered Headquarters and
4 reported to my desk sergeant that he was stopped in the
5 Rockefeller Lookout; a man had flagged him down and
6 stated that his wife had fallen from a cliff.

7 Q Who was the sergeant on desk at that time?

8 A It was Sergeant Nelson Pagan.

9 Q Can you describe the person that came into
10 Headquarters and made the report as you have so
11 testified?

12 A It's a white male, olive complexion; I would say
13 35 to 40 years old, about six-feet tall, 220 to 240
14 pounds, dressed in a suit with an open collar, no tie.

15 Q What is the next event that occurred
16 following the appearance of this individual at
17 Headquarters and the report that he has made as you
18 have testified to thus far?

19 A Sergeant Pagan threw me the keys to our rescue
20 vehicle, J-7, an SUV, and asked me to pull it out front
21 in front of Headquarters for him.

22 Q What, if anything, did you do?

23 A I exited the building with the keys to find the
24 vehicle and realized that it wasn't there; it was at
25 our maintenance center.

1 Q What is the next thing that occurred?

2 A I came and I reported that to Sergeant Pagan.

3 Q What is the next thing that occurred after
4 your report to Sergeant Pagan of that fact?

5 A I transported him up to the maintenance center
6 where he got into J-7 and we both responded to the
7 Englewood(sic) -- I'm sorry -- Rockefeller Lookout.

8 Q Can you tell the jury and describe the
9 vehicle that Sergeant Pagan utilized?

10 A It was an old Dodge Ram SUV, fully-marked police
11 vehicle, light bar on the roof, decals and that on the
12 sides identifying it.

13 Q Can you tell the jury and describe the
14 vehicle that you utilized?

15 A I was driving an older-model Chevy Caprice, a
16 square style. I don't know if you remember, but, in
17 the early-'90's, they went to a bubble-style Caprice.
18 This was an older-style Chevy Caprice. It was brown,
19 unmarked, no cage. It did have a teardrop light in the
20 windshield and a police radio and siren.

21 Q At this time, you immediately proceed to a
22 location.

23 A After going and picking up J-7, yes, we did.

24 Q Okay. What is the location that you would
25 respond to?

1 A The Rockefeller Lookout.

2 Q And that is located in Englewood Cliffs, is
3 it not?

4 A That's correct, sir.

5 Q And it abuts the Palisade Interstate Parkway
6 northbound lanes.

7 A That's correct.

8 Q And, if you would, just take a moment to
9 describe for the jury the jurisdictional face of the
10 Palisade Interstate Parkway Police as it existed in
11 1992.

12 A Okay. In 1992, we patrolled the Palisades
13 Interstate Parkway from the George Washington Bridge to
14 its -- to where it met the New York State line in
15 Alpine, New Jersey, to the towns of Edgewater, Fort
16 Lee, Englewood Cliffs, and Tenafly and Alpine.

17 We also have lower areas with both basins and park
18 areas, pre-scenic(phonetic) views, the historic park in
19 Fort Lee, basically from Route 9-W east to the Hudson
20 River is owned by the Palisades Interstate Park
21 Commission and we patrol that.

22 Q Now, in light of the report that you received
23 at Headquarters, can I presume that you and Sergeant
24 Pagan proceeded with all speed to the Rockefeller
25 Lookout?

1 A That's correct, sir.

2 Q And may I also presume that activated were
3 the emergency vehicle's on -- emergency lights on the
4 vehicles?

5 A Lights and sirens, sir, yes.

6 Q Okay. Now, can you tell us with some
7 approximation of how long it took you to arrive at
8 Rockefeller Lookout?

9 A We arrived at approximately quarter-after-8.

10 Q Now, can you tell us what first occurs upon
11 your arrival at Rockefeller Lookout?

12 A As we were entering the Lookout, Sergeant Pagan
13 told me to close the Lookout and secure the area, have
14 all vehicles leave the area.

15 Q With respect to the instruction given to you
16 by Sergeant Pagan, what, if anything, did you do?

17 A As soon as I got into the entrance, I got out of
18 my patrol vehicle, I closed the Lookout with the
19 barricades, putting them across the entrance ramp,
20 returned to my vehicle and made a public address
21 announcement to everything in the Lookout to please
22 return to their vehicles and leave the area.

23 Q Were you able to observe whether or not
24 persons did, in fact, return to vehicles and follow
25 your instructions?

1 A Yes, sir.

2 Q Were you able to observe cars in the Lookout
3 area?

4 A Yes, sir, I was.

5 Q Can you estimate or give us a general sense
6 of how many cars were in the Lookout area at the time
7 that you are now proceeding to close it?

8 A Excluding emergency vehicles, there were about 15,
9 sir.

10 Q With respect to police or emergency vehicles
11 on scene at this time, you of course are there, Pagan
12 is of course there, do you recall any other emergency
13 vehicles or police vehicles at scene at that time?

14 A I believe there were two others at that time,
15 Patrolman Abbott and Patrolman Tamayo.

16 Q Now, with respect to the instruction that you
17 received to close and clear the area of all non-Law
18 Enforcement and/or rescue personnel, did any civilian
19 person approach you?

20 A No, sir.

21 Q Did any civilian person approach anyone in
22 Law Enforcement that you saw?

23 A Not to my knowledge, sir.

24 Q Okay. Now, as you have taken this action,
25 what do you now see occurring with respect to vehicles

1 and non-police, non-emergency persons?

2 A The vehicles -- the people who were in the park
3 and the area returned to their vehicles and they left
4 the area.

5 (Pause in proceeding)

6 Q Now, following the events that you've thus
7 far described, can you tell us what happens next?

8 A Sergeant Pagan ordered me to pick up Mr. Scharf,
9 the victim's husband, and transport him to
10 Headquarters.

11 Q Now, did you see a person who would come to
12 be known to you as Stephen Scharf?

13 A Yes, sir.

14 Q Do you see him in court today?

15 A Yes, sir; I do.

16 Q Would you point him out please?

17 A He's seated second from the left of the Defense
18 table.

19 MR. BILINKAS: I'll stipulate he's identified
20 my client.

21 THE COURT: The record will so identify the
22 Defendant.

23 BY MR. MELLO:

24 Q Can you tell us where you first saw the
25 Defendant, Mr. Scharf, at the Lookout on September 20,

1 1992?

2 A Yes, sir. He was seated in the rear of J-27.
3 That was the vehicle assigned to Patrolman Tamayo that
4 night. The back door was open; he was sitting in the
5 back seat covering his face with his hands.

6 Q Can you tell us what you recall of how he was
7 attired?

8 A He was wearing a dark-colored t-shirt, blue jeans,
9 and sneakers.

10 Q With respect to the patrol vehicle that
11 you've referred to, was that a marked or unmarked unit?

12 A Yes, sir, a fully marked vehicle.

13 Q As you first observed him, other than
14 observing his person, did you take note of anything
15 else as you observed him in that car?

16 A No, sir.

17 Q Did you then approach Mr. Scharf?

18 A Yes, sir, I did.

19 Q Can you tell us if you had a conversation
20 with him at the time you approached him in Officer
21 Tamayo's car?

22 A Yes, sir, I introduced him -- introduced myself to
23 him and told him that I was going to be transporting
24 him back to Headquarters and asked him to follow me to
25 my patrol car.

1 Q Now, at that time were you in uniform?

2 A Yes, sir, I was.

3 Q Did Mr. Scharf appear to understand your
4 comments?

5 A Yes, sir, he did.

6 Q Did he in any way ask you to stay at the
7 Lookout?

8 A No, sir.

9 Q Did he follow your instruction?

10 A Yes, sir, he did.

11 Q What and where did you first bring him?

12 A I walked and he followed me over to my patrol
13 vehicle. I opened the back door on the passenger side
14 and he got in without incident.

15 Q Now, throughout your contact with Mr. Scharf,
16 up until this point, did you have occasion to observe
17 his demeanor, his affect or presence, in your company?

18 A He seemed more nervous than upset, not at all how
19 I would have reacted in that situation.

20 Q By the way, did you have occasion to observe
21 the demeanor of the individual who came to
22 Headquarters?

23 A Yes, sir, I did.

24 Q How would you characterize that demeanor?

25 A Very excited, and he seemed like he had just lost

1 someone in his family, more so than Mr. Scharf did.

2 Q Now, do you then begin transport to
3 Headquarters?

4 A Yes, sir, I did.

5 Q Can you tell us the approximate time you
6 begin transport to Headquarters?

7 A It was about 20:20, 20 minutes after 8 p.m.

8 Q Can you tell us if you, during transport,
9 heard Mr. Scharf say anything to himself?

10 A Yes, sir, I did.

11 Q What was that?

12 A First, it was like an incoherent mumbling, and
13 then I could make out that he was reciting Hail Mary's
14 in the back seat.

15 Q During this course of transport, up until the
16 point where you have now so testified, did you ask Mr.
17 Scharf any questions?

18 A No, sir, I did not.

19 Q During transport, other than what you have
20 just testified to as having heard Mr. Scharf say, does
21 Mr. Scharf have any conversation with you?

22 A Yes, sir, he does.

23 Q Is that as a result of a question --

24 A No.

25 Q -- or is it spontaneously stated by him?

1 A It was spontaneously -- spontaneously stated by
2 him, sir.

3 Q Can you tell the jury what he said in that
4 car on that transport?

5 A His statement was, and I quote, we were walking
6 and she said to me to go back to the car and get the
7 blanket, and she slipped and I didn't see her anymore.

8 Q Was that statement one continuous sentence?

9 A Yes, sir, it was.

10 Q I'm going to show you what's been marked, "S-
11 72," for purposes of these proceedings.

12 (Pause in proceeding)

13 Q (Noise drowns out voice) -- examine that --

14 (Pause in proceeding)

15 Q Have you examined that exhibit, sir?

16 A Yes, sir, I have.

17 Q Do you recognize that exhibit?

18 A Yes, sir, I do; it's the report that I prepared on
19 9/21/1992.

20 Q Does that report capture the conversation
21 stated by Mr. Scharf on September 20, 1992?

22 A Yes, sir, it does.

23 Q Would you please refer to the portion of your
24 report where you have captured that statement and read
25 it please?

1 A Yes, sir.

2 MR. BILINKAS: Objection, Judge.

3 THE COURT: Your objection?

4 MR. BILINKAS: He's already said what he
5 recalled. I think it's inappropriate to -- (Noise
6 drowns out voice)

7 MR. MELLO: This is a different question,
8 sir; this is an identification of the conversation that
9 is obviously important that he notes in his report.

10 THE COURT: I'll allow it. Overruled.

11 BY MR. MELLO:

12 Q Would you please do so, sir?

13 A "We were walking and she said for me to go back to
14 the car and get the blanket, and she slipped and I
15 didn't see her anymore".

16 Q It is true, is it not, that you set that off
17 in quotation marks?

18 A That's correct, sir.

19 Q Can you tell us the approximate distance from
20 the Rockefeller Lookout to Palisade Interstate Parkway
21 Police?

22 A Yes, sir, it's about five miles.

23 Q And that of course would be a straight shot
24 up the Palisade Interstate Parkway northbound lanes.

25 A That's correct, sir.

1 Q And would it be fair to say that takes but a
2 few minutes to get to?

3 A Yes, sir.

4 Q Now, apart from what you've testified to that
5 was stated by Mr. Scharf, did Mr. Scharf say anything
6 else that you recall regarding his wife's fall from the
7 cliffs?

8 A He asked if there were going to be doctors or
9 paramedics there to help her or to climb down to help
10 get her.

11 Q And did you inform him that there certainly
12 would be?

13 A Yes, sir, I did.

14 Q Can you tell us --

15 (Pause in proceeding)

16 A -- if Mr. Scharf's affect, his demeanor, remained
17 the same throughout that transport as you referred to
18 earlier?

19 A Yes, it did.

20 Q Now, can you tell us approximately when you
21 arrived at your Headquarters?

22 A It was approximately 20:30, 8:30 p.m..

23 Q As you arrived at Headquarters, did you
24 escort Mr. Scharf into Headquarters?

25 A Yes, sir, I did. I opened the back door for him

1 and I told him to follow me in -- or I asked him to
2 follow me in.

3 Q That is to say you were in front, then he
4 followed.

5 A That's correct, sir.

6 Q And, at this time as you now enter
7 Headquarters, can you give the jury a sense of what
8 Headquarters at that time looked like as you enter
9 Headquarters?

10 A The Headquarters building at Palisades is Police
11 Headquarters Administrative Building. Our court is in
12 there as well. It's an old mansion from the early-
13 1900's. When you first pull up, there's a traffic
14 circle in front with a flagpole. There's a small
15 entrance foyer covered, a glass door inside of that.
16 As soon as you walk into the right, there was a water
17 cooler, a restroom -- a -- a men's restroom, a
18 courtroom door down that hall, on the other side was a
19 ladies' room.

20 To the left of the entrance door, there's a
21 hallway leading to a staircase to our second floor
22 administrative offices -- the Police Headquarters on
23 the first floor with a double-door in front of that.

24 Q Thank you, sir. Can you tell us, with
25 respect to Mr. Scharf's entry into Headquarters

1 accompanied by yourself as you've described, can you
2 tell us what, if anything, you might have observed upon
3 entry into Headquarters?

4 A Yes, sir, he asked if he could get a -- a drink of
5 water at the water fountain. I told him, "Sure". I
6 said, "We're just over here, right behind you, through
7 the double-door".

8 I then turned and started walking toward
9 Headquarters. In the -- the plexiglass that was on our
10 double-door, I could see Mr. Scharf's reflection as he
11 looked back on the water fountain and splashed water up
12 into his face.

13 Q Can you tell us where Mr. Scharf was brought
14 following the event that you've just described?

15 A After we got into Headquarters, he was seated at
16 -- on the bench in front of our police desk.

17 Q And did Mr. Scharf remain at that bench in
18 your presence?

19 A Yes, sir.

20 Q And in any way, at that time as you observed
21 him on that bench, was he in any way emotional in any
22 manner?

23 A I didn't see any emotion from him at all, sir.

24 Q Did you see any tears?

25 A No, sir.

1 Q Now, at any time while Mr. Scharf was in your
2 personal presence, did he request to be brought back to
3 the scene where his wife had fallen in the Palisades?

4 A No, sir, he did not.

5 (Pause in proceeding)

6 Q During transport, can you tell us first if
7 there was a police radio?

8 A Yes, sir, there was.

9 Q At the time you transport Mr. Scharf to
10 Headquarters, were you aware of whether or not Mrs.
11 Scharf was alive?

12 A I was not, sir.

13 Q During the course of the transport to
14 Headquarters as you have described it, was the radio
15 that you referred to on or off?

16 A It was turned off by Sergeant Pagan's order.

17 Q And was there a reason for turning that radio
18 off in that car as you transported Mr. Scharf?

19 A So --

20 MR. BILINKAS: Objection.

21 THE COURT: Your objection?

22 MR. MELLO: If he knows.

23 MR. BILINKAS: Yeah, it has to do with the
24 conversation with Pagan.

25 MR. MELLO: I'm sorry; I -- I didn't hear the

1 basis --

2 THE COURT: Conversation with Pagan.

3 MR. MELLO: I'm ask -- if he knows why the

4 radio was turned off. He can testify --

5 MR. BILINKAS: The only way he would know was

6 if he was told by --

7 THE COURT: All right --

8 MR. BILINKAS: -- another --

9 THE COURT: -- the objection is sustained.

10 Next --

11 MR. MELLO: Okay.

12 THE COURT: -- question.

13 BY MR. MELLO:

14 Q In any event, the radio was off and you were
15 unaware of the status of Mrs. Scharf.

16 A That's correct, sir.

17 Q Would it be therefore fair to say that in
18 your presence in no way was Mr. Scharf advised of the
19 status of Mrs. Scharf?

20 A That's correct; he had no idea either, sir.

21 Q At any time in your presence did Mr. Scharf
22 request to go back to the Lookout?

23 A No, sir, he did not.

24 MR. MELLO: Thank you, Lieutenant. No
25 further questions.

1 THE COURT: I have one question before you
2 start.

3 BY THE COURT:

4 Q What is the difference(sic) between -- what
5 is the distance, rather, between Police Headquarters
6 and the Rockefeller Lookout?

7 A It's about five miles, sir.

8 THE COURT: You may begin.

9 CROSS EXAMINATION BY MR. BILINKAS:

10 Q I'm going to show you what's been marked in
11 evidence as, "D-6".

12 Before I show you this, can you describe my
13 client on the day in question?

14 A Yes, sir. Same height as he is now --

15 Q Well --

16 A -- dark hair --

17 Q -- can you tell me what height that was?

18 A About six-foot tall, dark hair, mustache. I would
19 guess 230, fairly muscular, a little bit of a pot, but,
20 you know, we all have a little bit of a pot these days.

21 Q (Voice drowned out by noise) --

22 (Laughter)

23 Q I'm going to show you --

24 THE WITNESS: I'm hiding mine under the desk.

25 BY MR. BILINKAS:

1 Q I'm -- I'm showing you D-6. Have you ever
2 seen this photograph before?

3 A No, sir, I have not.

4 Q Who's the person depicted in the green shirt
5 in that photograph?

6 A That appears to be Mr. Scharf.

7 Q Any doubt in your mind?

8 A Not really.

9 Q And would you agree with me that on the day
10 in question he appeared exactly like that?

11 A No, sir, I wouldn't.

12 Q Well, when I say, "Exactly like that," the
13 same age, the same physical characteristics?

14 A Very similar, yes.

15 Q When you say, "Very similar," is there
16 anything different about his appearance in that
17 photograph, other than his clothing or his --

18 A It's pretty --

19 Q -- glasses --

20 A Pretty much his clothing. His hair I think is a
21 little bit lighter there. I remember it being a little
22 darker.

23 Q Okay. And -- and you saw him at nighttime,
24 correct?

25 A That's correct.

1 Q And this photograph is taken during the day,
2 correct?

3 A That's absolutely true, sir.

4 Q Now, would you agree with me that that
5 photograph was taken at the Rockefeller Lookout?

6 A Yes, I would.

7 Q No doubt in your mind based on the background
8 that you see, correct?

9 A That's correct.

10 Q And -- and do you see a cooler there --

11 A Yes, sir, I do.

12 Q Did -- did you see any cooler that the police
13 seized on the night in question?

14 A No, sir, I did not.

15 Q Now, with regards to this gentleman that came
16 into Police Headquarters, you testified that you were
17 present when you heard him speaking to Pagan, correct?

18 A Yes, sir.

19 Q And -- and what exactly did he say?

20 A Exactly what he said, I can't recall, but it was
21 in the general vicinity of: A man stopped me --
22 flagged me down in the Rockefeller Lookout and said his
23 wife had fallen off the cliff.

24 Q Did he just say that one sentence or did --

25 A He might have said more; I can't recall.

1 Q So you can't recall exactly what he said 18
2 years ago, correct?

3 A That's correct.

4 Q Now, did you get his name?

5 A No, sir, I did not.

6 Q Did you get his address?

7 A No, sir, I did not.

8 Q Telephone number?

9 A No, sir.

10 Q Was that in your mind a significant event
11 concerning that night?

12 A Yes, sir.

13 Q And can you tell the jury whether or not you
14 ever mentioned in your official police report that you
15 were privy to the conversation that you've testified to
16 here today?

17 A It is not mentioned in my report, sir.

18 Q As a matter of fact, there's absolutely no
19 mention of you witnessing any conversation with a
20 person coming to Headquarters, correct?

21 A That's correct, sir.

22 Q Now, you indicated that that person was very
23 emotional, correct?

24 A Yes, sir.

25 Q And would you agree with me that whoever he

1 had talked to had caused him to become emotional?

2 A Yes.

3 Q And did you or Pagan ask him what the person
4 that told him whatever he told him, whether he was
5 emotional at that point?

6 A I couldn't say. I know I did not; I don't know
7 about the conversation be(sic) him -- between him and
8 the Sergeant, because I was tasked with another matter
9 at that time.

10 Q And, with regards to your report, you've
11 indicated that there is no mention of you witnessing
12 this -- this conversation, and there is no mention of
13 the physical description also, correct?

14 A That's correct.

15 Q And -- and so, as you sit here today and
16 describe that individual very specifically, you're
17 doing that without the use of any report, correct?

18 A That's correct.

19 Q And based solely on your recollection of a
20 brief conversation that you had with that person 18
21 years ago, correct?

22 A That's correct.

23 Q Now, did you hear the person talking to Pagan
24 that notified your department that he was flagged down
25 with a flashlight?

1 A No, I did not.

2 Q What specifically did you hear him say?

3 A I remember him saying, "I was flagged down in the
4 Rockefeller Lookout".

5 Q Okay, and --

6 A No mention of a flashlight, sir.

7 Q Okay, well, do you recall the exact
8 conversation, all the things that were said?

9 A No, sir.

10 Q Now, you get to the Lookout at some point,
11 correct?

12 A That's correct.

13 Q And that's about 8:08?

14 A Yes, sir -- no -- no, sorry, that's not 8 -- 8:08.
15 8:08 is when the gentleman came into Headquarters.

16 Q Okay. When did you get to Head(sic) -- to
17 the Lookout?

18 A I would say around 8:15 --

19 Q Okay.

20 A -- 20:15.

21 Q And, at 8:15 -- and correct me if I'm wrong
22 -- there's approximately 15 vehicles parked in the
23 parking lot, correct?

24 A That's correct, sir.

25 Q And -- and we're talking about vehicles other

1 than Law Enforcement rescue vehicles, correct?

2 A Yes, sir.

3 Q And those vehicles, some people were in their
4 car, other people were walking around, correct?

5 A That's correct; most were looking at the scenic
6 view.

7 Q Okay. Throughout the Lookout area, correct?

8 A Most of the cars, believe it or not, were in the
9 south end. That's where the best views are from, in
10 the south end of the Lookout.

11 Q Okay, well, were there any cars in the middle
12 or towards the north end?

13 A There were a couple; most were down in the other
14 end.

15 Q Well, as you sit here today, you can't say
16 specifically where each car was or each person was on
17 that particular night, correct?

18 A That is correct.

19 Q So you get there and Sergeant Pagan orders
20 you to shut down the parking area, correct?

21 A That's correct.

22 Q And you indicated, I believe, that you used
23 the loud speaker and told everyone it's time to leave

24 --

25 A That's --

1 Q -- or words to that effect.

2 A That's correct.

3 Q And how long did it take everyone to get in
4 their cars and exit the area?

5 A Four to five minutes.

6 Q Okay, and the Prosecutor asked you did anyone
7 come up to you and say anything to you; do you recall
8 that question?

9 A Yes, sir, I do.

10 Q And, when a number of police cars are in the
11 area and someone is saying to leave the area, did it
12 surprise you that all those people did exactly what you
13 told them to do, leave?

14 A It didn't surprise me at all.

15 Q You basically chased all those people out of
16 the parking area, correct?

17 A That's correct.

18 Q And so anyone who was present who could have
19 seen Stephen Scharf and his wife, either in the car,
20 walking around the area, walking to the path, or even
21 on the path, were chased away by your department,
22 correct?

23 A That's correct.

24 Q Now, your department was conducting an
25 investigation at this point, correct?

1 A We're conducting a re -- a rescue operation, what
2 we felt was a rescue operation at that time, yes.

3 Q Okay, well, irrespective of how you describe
4 it, you were trying to determine what happened,
5 correct?

6 A We were trying to rescue a victim who had fallen
7 off the cliff.

8 Q Okay, and, once your department found out
9 that it was no longer a rescue, would you agree with me
10 that that rescue turned into an investigation?

11 A Yes, that was much later into the event.

12 Q Well, after they found the body, correct?

13 A Yes, sir.

14 Q At that point in time is there any doubt in
15 your mind that an investigation with regards to how
16 that person died had started, correct?

17 A I didn't realize that that investigation started
18 -- had started until much later.

19 Q (Noise drowns out voice) -- agree with me
20 that, upon the finding of the body, based on your rank
21 and your experience, an investigation should have begun
22 at the very least at that point, correct?

23 A Yes, sir.

24 Q And would you agree with me that it would be
25 important to identify and talk to any potential

1 witnesses, correct?

2 A Yes, sir.

3 Q And would you agree with me that it would be
4 important to document the scene in question?

5 A Yes, sir, if we knew the scene that we had when we
6 got there, that would have all been done. Without a
7 doubt, that would have -- that would have been done.

8 Q I'm -- I'm referring to after the body is
9 found; is there any doubt in your mind that at that
10 point the scene should have been documented?

11 A Yes, it should have been documented.

12 Q Anything related to that specific event
13 should have been seized and taken as potential pieces
14 of evidence, correct?

15 A Anything -- of value, yes.

16 Q Now, when you first saw my client, he was
17 sitting in the back of patrol car with his hands
18 covering his face, correct?

19 A That's correct, sir.

20 Q Was -- was he shaking at all?

21 A Not that I noticed, sir.

22 Q Did you take a good look at him at that
23 point?

24 A I looked at him, but I wouldn't say I took a
25 mental picture of him, no.

1 Q Do you have any idea why his hands were over
2 his face?

3 MR. MELLO: Objection; calls for speculation,
4 Your Honor.

5 THE COURT: Sustained.

6 BY MR. BILINKAS:

7 Q So the record is clear, when you first came
8 on the scene, he was in the back of Tamayo's car?

9 A That's correct, sir.

10 Q Sitting with his hands over his face,
11 correct?

12 A That's correct.

13 Q And -- and how long did he have those hands
14 over his face -- (voice trails)

15 A I couldn't tell you, sir; I had my interaction
16 with him and he got out of the car and followed me back
17 to my patrol car.

18 Q When you say your, "Interaction," you were
19 ordered by Pagan to transport him back to Headquarters,
20 correct?

21 A That's correct.

22 Q The same person that ordered you to clear the
23 area, correct?

24 A That's correct.

25 Q And, when my client was sitting in the car

1 with his hands over his face and you told him, "Come
2 on, get in my car; I'm taking you back to the station,"
3 was that an order?

4 A No, it was not an order.

5 Q Was it a suggestion by you?

6 A I guess you could call it a suggestion.

7 Q What would you have done if Mr. Scharf didn't
8 get out of Tamayo's car and declined to enter your car?

9 A I would have informed the Sergeant.

10 Q And what do you think Pagan would have done?

11 MR. MELLO: Objection.

12 THE COURT: Sustained.

13 BY MR. BILINKAS:

14 Q Did you find anything unusual that, when a
15 uniformed police officer orders someone to go to point
16 -- from point "A" to point "B," that he complied with
17 your request?

18 A Not all the time, sir.

19 Q But in most times will you agree with me
20 that, when you approach a citizen and you tell him to
21 do something specific, that in most instances he'll
22 comply?

23 A Yes, I'll agree with that.

24 Q And so what were the specific words you said
25 to Stephen Scharf --

1 A "Sir" --

2 Q -- to get him in your car?

3 A I believe it was, "Sir, would you please come with
4 me; I'll take you back up to our Headquarters".

5 Q "Sir, will you please come with me". And --
6 and he complied, correct?

7 A Yes, sir.

8 Q And you put him in the back of your police
9 car, correct?

10 A That's correct.

11 Q You didn't put him up front.

12 A No, sir, my briefcase was open and latched into
13 the front seat.

14 Q Well, you could have taken out your
15 briefcase, correct?

16 A I could have, yes.

17 Q You decided not to let him sit in the front
18 of your car; you put him in the back. And did you have
19 a cage in your car at that point?

20 A No, sir.

21 Q Now, at this point in time is that when he
22 made the statement that you testified to?

23 A During the transportation from the Lookout to
24 Headquarters.

25 Q Okay, and, prior to him making that

1 statement, did you note his demeanor?

2 A He was almost like nothing had happened, calm; he
3 was calm. He looked more nervous than he was shaken.
4 He didn't -- he wasn't reacting how I would have
5 reacted to that situation at all.

6 Q Well, will you agree with me that different
7 people react differently to tragic situations?

8 A Yes, I would, but I find it very -- a very, very
9 rare occasion that there's no emotion shown at all.

10 Q Well, did he appear shaken at all?

11 A Very slightly, if at all, very slightly.

12 Q I don't recall if you mentioned that he
13 appeared shaken at all on your direct, correct?

14 A I don't believe I was asked that question.

15 Q Well, I'm asking you the question now.

16 Irrespective of the degree, would you describe his
17 demeanor, at least in part, as shaken?

18 A Yes, I would.

19 Q And did you use that word in your police
20 report?

21 A Yes, sir, I did.

22 Q Now, you indicated at one point in time,
23 before he made the statement that you testified to,
24 that he was mumbling incoherently, correct?

25 A Yes, sir.

1 Q Couldn't even understand what he was saying,
2 correct?

3 A Not at first.

4 Q And wa -- was he calling or mentioning his
5 wife's name at any point?

6 A I didn't hear him mention his wife's name one
7 time. I heard him mention her as, "She" and "Her".

8 Q And -- and, when he was mumbling
9 incoherently, could you discern exactly what he was
10 saying?

11 A He was reciting what sounded to me as if it was a
12 Hail Mary.

13 Q Praying, correct.

14 A Correct.

15 Q He was praying in the back of your patrol
16 car, correct?

17 A Yes, sir.

18 Q And at some point in time he asks you whether
19 or not the rescue personnel were coming to the scene,
20 correct?

21 A Yes, sir.

22 Q And did that indicate to you a concern for
23 his wife?

24 MR. MELLO: Objection; how would he know if
25 it was real or if it was faked.

1 THE COURT: Sustained.

2 BY MR. BILINKAS:

3 Q Irrespective of what you thought, did he or
4 did he not specifically ask you whether or not medical
5 personnel were coming to the scene?

6 A Yes, he did.

7 Q And did he specifically ask you whether or
8 not there would be people who could repel down the
9 cliffs to rescue his wife?

10 A "To get her," he said, sir, "to get her".

11 Q "To get her".

12 A That's correct.

13 (Pause in proceeding)

14 Q Now, this statement, "We were walking and she
15 said for me to go back to the car and get the blanket,
16 and she slipped; I didn't see her anymore," the one you
17 testified to on direct, now, have you previously
18 testified that that statement had four specific parts
19 to it?

20 MR. MELLO: Objection. The objection is that
21 this is --

22 MR. BILINKAS: Judge, if there's going to be
23 a speech, I'd like to --

24 MR. MELLO: I'll -- I'll -- I'll --

25 MR. BILINKAS: -- hear it at sidebar.

1 MR. MELLO: -- I'll be happy to do it at
2 sidebar, Judge.

3 (Sidebar)

4 MR. MELLO: Okay, this is not a grammar
5 examination. What Mr. Bilinkas would like to do is
6 suggest by this question that there are four specific
7 parts to this statement, as in you can stop here, here,
8 here, and here -- witness -- has already testified this
9 is one continuous statement. And it's inappropriate, I
10 think, at this hearing to now say let's go through this
11 grammar --

12 MR. BILINKAS: And -- and -- and, Judge, the
13 specific previous testimony indicate that there was
14 four parts to the statement -- he was specifically
15 asked what belongs to each part.

16 The Prosecutor now has kind of changed his
17 testimony and brought out that it was one continuous
18 statement. And I believe I'm able to cross examine him
19 on that.

20 His previous testimony is inconsistent with
21 what he's testified --

22 MR. MELLO: That is -- that is absolutely not
23 the case. This is the question he asked: Is the first
24 part, "We were walking?". "We were walking". Next,
25 next -- he set that up; he set that up, not the

1 witness. That's his set up in a Miranda hearing. But
2 to do it now, well, then we'll just have a redirect on
3 did he say it in four parts or one part. But to
4 suggest that it's inconsistent, that is truly
5 disingenuous. He set that --

6 MR. BILINKAS: --

7 MR. MELLO: Would you agree with me that the
8 first part of the sentence is, "We were walking".
9 That's not the kind of testimony that --

10 THE COURT: -- your reply?

11 MR. BILINKAS: Judge, the Prosecutor's
12 setting up and trying to bring out that this was a
13 continuous statement. That's his suggestion. I have a
14 different suggestion. It's -- it's inconsistent with
15 what he testified to --

16 THE COURT: All right, the objection is
17 sustained; ask another question.

18 (Sidebar concluded)

19 THE COURT: The objection is sustained. Ask
20 another question.

21 (Pause in proceeding)

22 BY MR. BILINKAS:

23 Q Lieutenant, Mr. Scharf makes a statement to
24 you in the back of your car, correct?

25 A Yes, sir.

1 Q And that was right after he was mumbling
2 incoherently and saying the Hail Mary, correct?

3 A That's correct, sir.

4 Q And the first thing he says, "We were
5 walking," do you recall those exact words?

6 A Yes, sir, I do.

7 Q Now, was he incoherent at this point or was
8 he of a clear mind?

9 A He seemed calm, clear, and in full perspective of
10 what was going on.

11 Q Immediately proceeding his incoherent babble
12 that you've testified --

13 MR. MELLO: Judge, first of all, "Incoherent"
14 is a characterization. "Babble" is an even greater
15 conversation(sic). What he said was he could not hear
16 what he said. He did not suggest that Mr. Scharf was
17 in some ways incoherent and babbling.

18 THE COURT: While you may ask leading
19 questions, why don't you ask another question --

20 MR. BILINKAS: --

21 THE COURT: -- without the -- , all right?

22 MR. BILINKAS: Okay.

23 BY MR. BILINKAS:

24 Q Mr. Scharf was saying things that you
25 couldn't understand, correct?

1 A At first I did not understand; that's correct.

2 Q And, immediately after this circumstance, he
3 makes the statement that you testified to, correct?

4 A That's correct.

5 Q And, again, we're talking about only minutes
6 to get from the Lookout to Police Headquarters,
7 correct.

8 A That's correct, about ten minutes.

9 Q Ten minutes --

10 A That's --

11 Q -- to go five miles?

12 A That's correct.

13 Q Is -- is it your testimony that it took you
14 ten minutes to get from the Lookout to Police
15 Headquarters?

16 A Yes, sir.

17 Q And so in what part of that ten minutes did
18 he say things that you didn't understand and saying the
19 prayer, the Hail Mary?

20 A Shortly after it started, less than a mile into
21 the ride, he started with the -- the Hail Mary.

22 Q And -- and when did this other statement come
23 out?

24 A About halfway through the ride.

25 Q And how many minutes was that?

1 A I couldn't tell you minute-wise.

2 Q And the first thing you recall him saying is
3 that, "We were walking," correct?

4 A That's correct.

5 Q And -- and you're familiar with that rock
6 area where his wife fell, correct?

7 A Yes, sir, I am.

8 Q And will you agree with me that that place,
9 that exact spot, is frequented by many people, correct?

10 A No, sir, not that exact spot.

11 Q Did you ever see graffiti on that exact spot
12 --

13 A Yes, sir -- yes, sir, I have.

14 Q Did you ever see beer cans, bottles, food
15 containers, thrown around that area?

16 A Yes, sir.

17 Q Did you ever chase any people away from that
18 exact area?

19 A Not to my recollection. I don't think I ever had
20 anybody in that area when I was working.

21 Q Now, would you agree with me, to get from the
22 parking lot to that rock ledge, he and his wife had to
23 walk down, correct?

24 A That's correct.

25 Q And, when he said, "She said for me to go

1 back to the car and get the blanket," could he have
2 said, "He went back to the car and get the blanket"?

3 A No, sir.

4 Q You remember his exact words as you sit here
5 today.

6 A Yes, sir, I hear them almost every night when I
7 put my head on the pillow to go to sleep.

8 Q Every single night you hear those exact
9 words.

10 A That's correct.

11 Q And that's why you remember them, his
12 statements from 18 years ago, so vividly, correct?

13 A Yes, sir.

14 Q Every night you hear those words. Now, he
15 did say he was going back to the car, correct?

16 A No, he did not.

17 Q Well, he said she said for him to go back to
18 the car, correct?

19 A That's correct.

20 Q And get a blanket, correct?

21 A Yes, sir.

22 Q And then she slipped and he didn't see her
23 anymore, words to that effect.

24 A Those words exactly.

25 (Pause in proceeding)

1 Q Now, at any point in time during this ride,
2 did Mr. Scharf appear to be in shock?

3 A No, sir.

4 Q You're absolutely positive of that, correct?

5 A Yes, sir.

6 Q Now, you get to Headquarters at some point,
7 correct?

8 A That's true.

9 Q And you walk him into Police Headquarters, or
10 at least you start to, correct?

11 A I asked him to follow me into Headquarters, yes.

12 Q And then at some point in time he stops at a
13 water fountain, correct?

14 A Correct.

15 Q And you look at his reflection and you see
16 him putting water on his face, correct?

17 A That's correct, looking back toward me and
18 splashing water up into his face.

19 Q When you say, "Looking back towards you," you
20 were asking him to follow you, correct?

21 A Yes, sir.

22 Q So is there any problem with him looking in
23 your direction; is there any reason why you noted that
24 he was looking in your direction?

25 A Yes, it seemed inappropriate at that time that he

1 would be looking that way.

2 Q Inappropriate that, when you got to
3 Headquarters, you're escorting him in the building,
4 correct?

5 A Correct.

6 Q At some point in time he stops to use the
7 water fountain, correct?

8 A Correct.

9 Q And he would have to walk from that fountain
10 in your direction, correct?

11 A That's correct.

12 Q And you felt that him looking at you was
13 inappropriate under those circumstances.

14 A Yes, sir.

15 (Pause in proceeding)

16 Q Now, why did you take Stephen Scharf away
17 from the scene to Police Headquarters?

18 A To keep him safe at the scene, to keep him from
19 interfering with the rescue attempt.

20 Q And at any point in time did he appear overly
21 emotional and indicate to you or anyone else in your
22 presence that he would act inappropriate?

23 A He didn't appear emotional at all.

24 Q And so was there any reason why you didn't
25 let him stay at the scene?

1 A Yes, there's no telling how his emotion might have
2 turned.

3 Q No -- based on your observations of him,
4 there was a possibility he may have become emotional,
5 correct?

6 A My observations of him were seeing him sitting in
7 the back of Patrolman Tamayo's car.

8 Q (Noise drowns out voice) -- that -- correct?

9 A That's correct.

10 Q But, if you took him back to Headquarters
11 because you were concerned that he would get emotional
12 and interfere with the rescue attempt?

13 A No, because I was ordered to by Sergeant Pagan.

14 Q Do you know if Sergeant Pagan thought that he
15 may get emotional based on his observations?

16 A I don't know what Sergeant Pagan thought; I'm not
17 in his head.

18 Q But, irrespective of who saw what or thought
19 what, you were ordered to remove him from the area,
20 correct?

21 A Yes, sir

22 Q And did you know that they were going to take
23 a statement from him at Headquarters?

24 A No, sir, I did not.

25 Q Are you sure that wasn't the specific reason

1 why he was escorted?

2 A I was ordered to drive him back to Headquarters.

3 Q And you r --

4 A Specific reason, I'm not sure.

5 Q Okay, well, you -- you said it was for his
6 own safety. Who told you that?

7 A That would be my assumption.

8 Q Okay, so, when you said it was for his own
9 safety, you know, that's what you were assuming,
10 correct?

11 A Yes, sir.

12 Q You were never told that by any of your
13 superior officers, correct?

14 A Not to my knowledge, no.

15 Q So you don't know for a fact whether or not
16 he was taken to the station, ordered to the station, to
17 give a written statement, correct?

18 A That's correct.

19 (Pause in proceeding)

20 Q Is there any reason -- and, again, this isn't
21 a homicide investigation at this point, correct?

22 A That's correct.

23 Q Is there any reason why you didn't have him
24 drive in his own car back to the station?

25 A I --

1 Q He wasn't upset, correct?

2 A I was ordered to drive him back to Headquarters.

3 Q Do you know why he was not allowed to get in
4 his vehicle and drive to the station?

5 A No, I do not.

6 Q Wasn't under arrest or anything, correct?

7 A No, was not.

8 (Pause in proceeding)

9 Q Did anybody tell you they were going to
10 search his car?

11 A No, sir.

12 (Pause in proceeding)

13 Q Did you ever tell Stephen Scharf that you
14 were taking him to Headquarters for his own safety?

15 A No, sir.

16 Q Did you tell him anything as to why you were
17 taking him to Headquarters?

18 A No, sir.

19 Q He just did exactly as he was told by you,
20 correct?

21 A Yes, sir.

22 MR. BILINKAS: No -- nothing further, Judge.

23 THE COURT: Re --

24 REDIRECT EXAMINATION BY MR. MELLO:

25 Q About how long --

1 THE COURT: -- redirect?

2 MR. MELLO: Very briefly.

3 BY MR. MELLO:

4 Q About how long did the transport take again?

5 A About ten minutes, sir.

6 Q And it's approximately five miles or

7 thereabouts?

8 A That's correct.

9 Q Okay. How is it that it took ten minutes?

10 A Traffic getting out of the Looking; the trip was

11 made without lights and sirens; traffic on the highway

12 on a Sunday night at that time; and the speed limit

13 being 50 miles-an-hour up the highway, 25 on the ramp

14 and the side road to our Headquarters.

15 Q (Noise drowns out voice) -- your encounter

16 with Mr. Scharf who was at all times calm?

17 A I'm sorry; I didn't hear the question, sir.

18 Q You testified that at all times about your

19 encounter with Mr. Scharf, he was at all times calm,

20 that is what you testified -- (voice trails)

21 A That's correct.

22 Q (Noise drowns out voice) -- respect to Mr.

23 Scharf's statement, that statement was captured in your

24 report on the 21st of September?

25 A That's correct.

1 Q You set that statement in quotes?

2 A Yes, sir.

3 Q That statement began with, "We were walking,"

4 yes?

5 A Yes, sir.

6 Q Clearly not sitting --

7 A Ab --

8 Q -- walking.

9 A -- absolutely walking, not sitting.

10 Q "She said to go back to the car".

11 A Yes, sir.

12 Q "She slipped and I didn't see her anymore".

13 A That's correct.

14 Q Man tells you his wife has just tragically

15 fallen from the cliffs, an accident, correct?

16 A Correct.

17 Q That's what he's told you, correct?

18 A Yes, sir.

19 Q Not tripped and fallen; fell off the

20 Palisades Cliffs, yes?

21 A Yes, sir.

22 Q Ever see one, one tear in his eyes?

23 A Never.

24 (Pause in proceeding)

25 MR. MELLO: Thank you.

1 THE COURT: Anything further?

2 RECROSS EXAMINATION BY MR. BILINKAS:

3 Q When did you write your report?

4 A It was either that night right after midnight or
5 the next day when I came in at four o'clock.

6 Q Can you -- can you look at your report and
7 refresh your recollection?

8 A It says, "9:21". It was either after midnight on
9 that night or the next night after 4 p.m., the next
10 evening.

11 Q You don't have a specific recollection of
12 when you actually wrote it, correct?

13 A No, sir, it's not time --

14 Q Okay, and --

15 A -- date stamped.

16 Q -- did you talk to the other members on your
17 shift that night with regards to the circumstances
18 concerning Mrs. Scharf's death?

19 A Yes, sir.

20 Q So you -- you talked to Abbott, correct?

21 A Yes, sir.

22 Q You talked to Tamayo, correct?

23 A Yes, sir.

24 Q Karnick?

25 A Very briefly when he came in; yes, sir.

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Q And, after you talked to -- and Pagan,
correct?

A Yes, sir.

Q And, after you talked to all of those
officers, you write this report, correct?

A Yes, sir.

Q And, when -- when you talk about did you ever
see a tear, while he was in your control and under your
observations was he informed that his wife was dead?

A Not to my knowledge, no.

(Pause in proceeding)

MR. BILINKAS: Nothing further.

RE-REDIRECT EXAMINATION BY MR. MELLO:

Q Just what effect did the conversations that
you had with other police officers have on your writing
of your report?

A None whatsoever, sir.

Q And would that ever be the case?

A No, sir, it would not.

THE COURT: Anything --

MR. MELLO: Thank you.

THE COURT: -- else?

(Pause in proceeding)

RE-RE-CROSS EXAMINATION BY MR. BILINKAS:

Q Did any of those officers that you talked to

1 indicated that they had screwed up the investigation
2 and --

3 A No, sir.

4 Q -- made mistakes?

5 A No, sir.

6 MR. BILINKAS: Nothing further.

7 THE COURT: All right, you may step down,
8 Lieutenant; thank you.

9 THE WITNESS: Thank you, Sir.

10 MR. MELLO: Thank you --

11 (Witness is excused)

12 THE COURT: Next witness?

13 MR. MELLO: Thank you, sir. Ronald Karnick,
14 please.

15 (Pause in proceeding)

16 THE COURT: Please step up, face the court
17 clerk.

18 COURT CLERK: Raise your right hand.

19 D E T E C T I V E R O N A L D K A R N I C K,

20 STATE'S WITNESS, SWORN

21 COURT CLERK: State your name for the record.

22 THE WITNESS: Ronald Karnick, K-A-R-N-I-C-K.

23 THE COURT: Please have a seat. You may
24 begin.

25 MR. MELLO: Thank you, sir.

1 DIRECT EXAMINATION BY MR. MELLO:

2 Q Mr. Karnick, before I begin my questioning,
3 would you please keep in mind and make an effort to
4 keep your voice up so that members of the jury and all
5 parties concerned can hear the answers to any question
6 that is asked, all right?

7 A Yes, sir. Also, could you speak up too?

8 (Laughter)

9 A -- hearing a little.

10 Q Okay. Can you hear me?

11 A Yes.

12 Q All right. With that added -- in mind, let
13 me ask you this: If you would, can you tell the
14 members of the jury your background in Law Enforcement?

15 A I've been a police officer for 30 years. In 1967,
16 I began the job on the Palisades Interstate Parkway.
17 1997, I retired from that Parkway. I've been in the
18 Detective Bureau for 15 years.

19 Q I'm going to direct your attention to
20 September 20, 1992, understood?

21 A Yes, sir.

22 Q And I'm going to ask you if you were at that
23 time employed as a police officer with the Palisade
24 Interstate Parkway Police?

25 A Yes, sir, I was.

1 Q At that time, what was the general nature of
2 your assignment within that department?

3 A I was a detective.

4 Q With respect to your tenure as a detective,
5 can you tell us approximately how many years you had
6 been a detective in that department as of 1992?

7 A Approximately ten years.

8 Q Now, if you would, would you tell us, on
9 September 20, 1992 during the evening hours, were you
10 on duty?

11 A No, sir, I was off-duty; I was at my residence.

12 Q While at your residence on the evening of
13 September 20, 1992, did you receive a communication
14 from your Headquarters?

15 A Yes, I did.

16 Q Can you tell us the approximate time you
17 received that communication?

18 A Approximately 8:25 p.m.

19 Q Can you tell us the general nature of the
20 communication you received from Headquarters at the
21 aforementioned time?

22 A Yes, I was informed that we had had a cliff case
23 and I would be needed to come to Headquarters to
24 investigate it.

25 Q And, by "Cliff case," is it fair to say that

1 you mean a report of someone having fallen from the
2 cliffs?

3 A Yes, sir, either fallen or jumped.

4 Q Now, with respect to that communication,
5 what, if anything, did you do?

6 A I responded to Headquarters and I got my patrol
7 vehicle and responded to the scene, which was the
8 Rockefeller Lookout.

9 Q Approximately what time did you arrive at
10 your Headquarters?

11 A I would say maybe 8:45 p.m.

12 Q And can you --

13 A Around that.

14 Q -- tell us first what kind of vehicle you
15 utilized to respond to the scene?

16 A It's an unmarked patrol car which is assigned to
17 the Detective Bureau.

18 Q Can you tell us if you responded directly to
19 the Rockefeller Lookout?

20 A Yes, I did.

21 Q Can you tell us approximately what time you
22 arrived at Rockefeller Lookout?

23 A Roughly I would say it would have been -- it would
24 have been after 9 p.m.

25 Q Can you tell us, as you arrived at

1 Rockefeller Lookout, did you observe Law Enforcement
2 and/or emergency unit personnel and vehicles?

3 A Yes, sir, I did.

4 Q Can you tell us, after you arrived at
5 Rockefeller Lookout and made that observation, where
6 and what you did?

7 A The emergency vehicles were all situated towards
8 the north end of the parking lot, and I get out of my
9 vehicle and went to the scene and spoke with Officer
10 Abbott.

11 Q Now, you -- you first observed emergency
12 vehicles at the north end of the Lookout, correct?

13 A Yes.

14 Q And from there you alight from your car.

15 A Yes.

16 Q When you alight from your car in the parking
17 lot, do you have any conversations with any personnel
18 at that time?

19 A No, sir.

20 Q Now, you say that you then responded to what
21 you have called, "The scene".

22 A Yes.

23 Q If you would, could you in words describe
24 what you mean by, "The scene"?

25 A It's -- the scene was at the edge of the cliffs,

1 which was in the north end of the parking lot off to
2 the east side.

3 Q Now, have you seen, S-E-E-N, the scene, S-C-
4 E-N-E, before?

5 A Yes.

6 Q And is it fair to in some way describe that
7 particular location as a flat rock?

8 A Yes.

9 Q And is it also fair to explain what you have
10 termed, "The scene," in addition to being a flat rock
11 there, is what appears to be a naturally-formed stone
12 seat, if you will?

13 A You could call it a stone seat. It's -- it's a
14 flat rock which juts down I imagine about ten or 15
15 inches and then it goes flat again.

16 Q So one could sit on that seat --

17 A Yes.

18 Q -- or sit like a -- okay.

19 (Pause in proceeding)

20 MR. MELLO: Just a moment, Judge.

21 (Pause in proceeding)

22 BY MR. MELLO:

23 Q Now, let's step back one moment. To get to
24 the flat rock, you must enter a wooded area, correct?

25 A Yes.

1 Q You must traverse a path, right?

2 A Yes.

3 Q And you are familiar with that path.

4 A Yes.

5 Q When you traverse that path at the northern
6 end of the Rockefeller Lookout, what do you come to?

7 A There was a cable fence which was installed along
8 the cliffs.

9 Q And it is fair to say, is it not, that the
10 rock that you've referred to is just beyond that fence?

11 A Yes.

12 (Pause in proceeding)

13 Q I'm going to show you what's been marked, "S-
14 257".

15 MR. BILINKAS: Counsel, could I see that?

16 MR. MELLO: Sure. Sorry --

17 (Pause in proceeding)

18 BY MR. MELLO:

19 Q --

20 A Yes, sir.

21 Q Do you see this?

22 A Yes.

23 Q Do you recognize that photograph?

24 A Yes.

25 Q Okay. Now, if you would -- if you would, can

1 you tell us is this the point at which you enter the
2 wooded area?

3 A Yes, it's right around here.

4 Q And the path then traverses through the woods
5 to the fence.

6 A Yes.

7 (Pause in proceeding)

8 Q I'm going to show you two photos.

9 MR. MELLO: Mr. Bilinkas? 250 and 251, good?

10 MR. BILINKAS: Good.

11 BY MR. MELLO:

12 Q All right, these photographs are numbered S-
13 250 first. Take a look at the photograph.

14 A Yes.

15 Q Okay? And tell us what the photograph
16 depicts.

17 A The cable fence. It's four strands. It's
18 approximately four-foot high, three-and-a-half feet,
19 four-foot high. And right out here beyond the fence is
20 the flat-rock area.

21 Q And similarly what appears to be a closer
22 view of that same area?

23 A Yes, sir.

24 Q --

25 A And the flat rock.

1 Q And can you see the outline of the edge like
2 you referred --

3 A It's -- yes, it's right -- it starts here; it goes
4 along; and then it drops down; then it goes out again,
5 flat.

6 (Pause in proceeding)

7 Q S-253, take a look at that.

8 A Yes.

9 Q Do you recognize what that photograph
10 depicts?

11 A Yes, it's the flat rock. This is the what you can
12 call, "A seat". And this is the other -- the lower
13 part of it. And then it's got the Hudson River.

14 Q And -- (noise drowns out voice)

15 A Yes.

16 Q S-259.

17 A It's another view of the rock. It's the little
18 ledge and the flat part -- just the cliff's edge right
19 here -- looking the river --

20 (Pause in proceeding)

21 Q Now, with respect to the area that you've
22 just identified in the last photographs, the area of
23 the fence and the rock that you have identified, is
24 that the place where you encounter Patrol Officer
25 Abbott?

1 A Yes, it is.

2 Q Does Abbott at this time apprise you of the
3 status of the situation up until this point?

4 A Yes, he did.

5 Q With respect to your conversation with Patrol
6 Officer Abbott, does Abbott refer to a finding of a
7 pocketbook?

8 A Yes, he did.

9 Q Does he, in fact, turn that pocketbook over
10 to you?

11 A Yes, he did.

12 Q Now, at this point in time, what is occurring
13 at that cliff edge as you see it and as you are
14 conversing with Abbott and Abbott is apprising you of
15 the status of the situation?

16 A The rescue team was repelling over the side to get
17 to Mrs. Scharf.

18 Q Other than making the observation of the
19 repel team attempting a rescue effort, do you
20 personally take part in any such rescue effort?

21 A Not -- no, I did not.

22 Q Following your conversation with Abbott and
23 the observation of the rescue effort that you've
24 testified to, can you tell us what the next thing you
25 do is?

1 A I stayed at the scene for a few minutes, which I
2 wasn't needed anymore, nothing I could do there. From
3 there, I responded back to Headquarters.

4 Q When you arrive at Headquarters, can you tell
5 us if you meet a man at that time?

6 A Yes, I did.

7 Q Can you tell us if you see that man in court?

8 A Yes; Mr. Scharf; he's sitting to the right of Mr.
9 Bilinkas.

10 MR. BILINKAS: I'll stipulate he's identified

11 --

12 THE COURT: The record will identify

13 Defendant --

14 MR. MELLO: Thank you, Sir.

15 BY MR. MELLO:

16 Q Now, at the time you make the observation of
17 the man that you have just identified in court, can you
18 tell us where he was?

19 A He was in the police desk room -- he was --

20 Q Can you describe that for us?

21 A Uh, it's a desk room, the police desk is in there.
22 There's a bench where you'd sit on. And, on the other
23 side of the -- there's a -- there was a wall in there
24 where the officers could make out the reports and
25 everything with a gate on it.

1 Q As you saw him at that moment, was he in any
2 way restrained?

3 A No, he was not.

4 Q And did you make any other observation of him
5 at that time, other than he was seated at that bench
6 that you've testified to?

7 A No.

8 Q Would you, upon seeing the Defendant, begin
9 to have a conversation with him?

10 A Yes, I did.

11 Q Did you identify yourself?

12 A Yes, I did.

13 Q Did you identify yourself as a detective with
14 the Palisades Interstate Parkway Police?

15 A Yes, I did.

16 Q At that time, by the way, were you in uniform
17 or not?

18 A Plainclothes.

19 Q Did he introduce himself to you?

20 A Yes.

21 Q Did he introduce himself to you by name of
22 Stephen Scharf?

23 A Yes.

24 Q Did you ask him to accompany you to a
25 location within the department?

1 A Yes.

2 Q Would you tell the jury first what that
3 location was?

4 A The location was my -- the -- the -- Detective
5 Bureau. It's shared by three other people; a secretary
6 and a lieutenant.

7 Q How many desks would there be?

8 A There are three desks and four chairs.

9 Q Okay. One desk would be a lieutenant's desk?

10 A One was mine; one is a lieutenant's; and one was a
11 secretary's.

12 Q And where in relation to the bench that you
13 referred to you found Mr. Scharf sitting upon, where
14 was that office?

15 A It was right outside my office.

16 (Pause in proceeding)

17 Q After you asked Mr. Scharf to accompany you
18 to the office that you've described, did he follow your
19 direction?

20 A Yes.

21 Q Did he indicate that he was willing to talk
22 to you?

23 A Yes.

24 Q Can you tell us at this time how the
25 conversation between you and Mr. Scharf evolves?

1 A Mr. Scharf, I had him sit down in the chair. I
2 was sitting at my desk and I asked him, "Tell me what
3 happened?".

4 Q Did he respond to your question?

5 A Yes, he did.

6 Q I would like you to tell the jury what Mr.
7 Scharf said at this time in response to your question.

8 A He stated that he and his wife, Jody, were going
9 to a comedy show over in New York City. They wound up
10 on the Rockefeller Lookout, which he stated was their
11 spot. They had been drinking in their vehicle. They
12 left the vehicle. They went out to the cliff's edge,
13 climbed through the fence. And Jody was sitting on his
14 lap at -- at that flat rock.

15 Q Did he tell you what they were doing as she
16 sat on his lap at that flat rock?

17 A Yes, he said that they were kissing and hugging.

18 Q Okay. Did he tell you anything else?

19 A He told me that he was uncomfortable and he told
20 Jody that he was going to get up and get a blanket and
21 some wine from the vehicle.

22 Q Did he tell you what happened next?

23 A He stated that, when Jody got up, he started to
24 get up and she fell forward. He then said that he
25 called out her name and he got no response from her.

1 Q Did he indicate to you at that time when he
2 -- strike that. Did he indicate to you when she got up
3 whether or not she said anything to him?

4 A She had told him, "No, don't go".

5 (Pause in proceeding)

6 Q Now, can you tell us approximately what time
7 the conversation that you've just described for the
8 jury took place?

9 A It was around 10 p.m.

10 (Pause in proceeding)

11 Q For the record, sir, I'm showing you a
12 document that is marked, I believe, "S-74". Is that
13 accurate, S-74?

14 A Yes.

15 Q Would you please remove the document from its
16 sleeve and examine it?

17 (Pause in proceeding)

18 A Yes, sir, it's my report that I had made out in
19 regards to the incident.

20 Q And does that report bear a date?

21 A Pardon?

22 Q Does that report bear a date?

23 A Yes.

24 Q What is that date?

25 A 21 September, '92 --

1 Q Now --

2 A -- 1992.

3 Q Thank you. Now, with respect to the
4 testimony that you have just given to the jury; that is
5 I'm specifically referring to the conversation that you
6 had with Mr. Scharf as you've testified; did you
7 capture that conversation in your report?

8 A Yes, I did.

9 Q Following the conversation, would you ask Mr.
10 Scharf to complete a document?

11 A Yes, I did.

12 Q In short, did you ask him for a written
13 statement?

14 A Yes.

15 Q And did he provide that to you?

16 A Yes, he did.

17 (Pause in proceeding)

18 Q Will you examine that document?

19 (Pause in proceeding)

20 Q That document marked, "S-94," please.

21 A Yes, sir, this is the statement form.

22 Q Now, first of all let me ask you: Does that
23 appear to be the original of the statement?

24 A It looks like it, yes.

25 Q And, if you would, would you tell us whether

1 or not certain information with respect to
2 identification of the person making the statement is on
3 that form?

4 A Yes, it is.

5 Q Can you tell us if it bears a name?

6 A Yes, it does.

7 Q What is the name?

8 A Stephen Scharf.

9 Q An address?

10 A Yes. 27 Knob Hill Road; Hackettstown, New Jersey.

11 Q Does it state an age?

12 A Yes; 41.

13 Q Does it show phone numbers?

14 A Yes, it does, two numbers.

15 Q Does it show an occupation of the person
16 making the statement?

17 A Yes, it does.

18 Q What is that?

19 A Engineering Supervisor.

20 Q Does it show a date of statement?

21 A Yes, it does, 9/20/'92.

22 Q Now, with respect to the information that you
23 have just stated to the jury, who put that information
24 on that document that you have before you?

25 A Mr. Scharf.

1 Q Now, there is a time indicated on that
2 statement, is there not?

3 A Yes.

4 Q With respect to the time, before you tell us
5 what the time was, can you tell us if the time was put
6 on before the statement was completed or after it was
7 completed?

8 A It would have been after the statement was
9 completed.

10 Q Now, with respect to the document that is
11 before you, there is a narrative, is there not?

12 A Yes, there is.

13 Q Who wrote the narrative in that statement?

14 A Mr. Scharf.

15 Q And, by the way, the heading on that
16 statement is, is it not, "Palisades Interstate Parkway
17 Police Affidavit"?

18 A Yes.

19 Q Now, with respect to the information that Mr.
20 Scharf put in the document, would you read that to the
21 jury?

22 A It reads, "Jody and I were kissing and hugging on
23 the flat rock by the trail overlooking the river about
24 I guess 7:30. And I was uncomfortable when I asked
25 Jody if or told her I was going to get the blankets and

1 the wine. She said, 'No, don't go'. As I got up to
2 get the wine and blankets, she got up and then fell
3 forward and I didn't see her anymore. She didn't
4 answer me".

5 Q And fair to say that that information is
6 substantially the same information that he gave you
7 orally and that you've referred to in your prior
8 testimony.

9 A Yes.

10 Q After completing the writing of this
11 statement, did Mr. Scharf sign the statement?

12 A Yes, he did.

13 Q Did he sign it in your presence?

14 A Yes.

15 Q After he signed the document, did you now
16 indicate the time on that document?

17 A Yes, I did.

18 Q And what is the time indicated?

19 A 22:11 hours.

20 Q And that would be 11 minutes past 10 p.m.,
21 would --

22 A Yes.

23 MR. MELLO: Judge, if I might, this might be
24 an appropriate time to take the morning --

25 THE COURT: Take a ten-minute break.

1 MR. MELLO: Thank you, Your Honor.

2 (Ten-Minute Break)

3 (Back on the record)

4 (Jury is not present)

5 THE COURT: All right. Bring out the jury.

6 COURT CLERK: Yes, Sir.

7 (Pause in proceeding)

8 UNIDENTIFIED: --

9 THE COURT: What's that?

10 UNIDENTIFIED: Is that -- (voice trails)

11 THE COURT: These are people --

12 (Pause in proceeding)

13 (Off the record. Back on the record.)

14 (Jury entering)

15 (Jury is present)

16 THE COURT: All right. Welcome back, ladies

17 and gentlemen of the jury; you may be seated.

18 Prosecutor, you may continue.

19 MR. MELLO: Thank you, Sir.

20 (Pause in proceeding)

21 DIRECT EXAMINATION CONTINUED BY MR. MELLO:

22 Q Sir, S-94, the statement of Defendant --

23 (noise drowns out voice)

24 (Pause in proceeding)

25 MR. BILINKAS: Did you just put the statement

1 -- (voice trails)

2 MR. MELLO: I did.

3 MR. BILINKAS: No objection.

4 MR. MELLO: Thank you.

5 (Pause in proceeding)

6 BY MR. MELLO:

7 Q Now, referring you to that period of time
8 that you have testified to as encompassing the moment
9 that you meet Mr. Scharf to the completion of the
10 statement that you have identified and has now been
11 moved into evidence; referring to that period of time,
12 did you observe Mr. Scharf's demeanor, his countenance,
13 as you spoke with him?

14 A Yes, he seemed a little upset, not overly upset,
15 but he seemed a little upset.

16 Q And at any time did you see him cry or
17 anything of the kind?

18 A No, I did not.

19 Q At any time, other than the conversation that
20 you related, at this point in time, did he ask you any
21 questions with respect to the status of his wife?

22 A Yes, he had asked me if she was alive.

23 Q Okay. Now, is that at the time of the
24 statement --

25 A During the --

1 Q -- or later?

2 A -- statement.

3 Q During the statement?

4 A Around that time, yes.

5 Q Did you know at that time?

6 A No, I did not. I had a feeling, but I didn't know
7 for a fact.

8 Q Now, is it fair to say the feeling came from
9 your knowledge and observation of the point of fall?

10 A Yes.

11 Q But you did not know as a fact whether she
12 was alive or dead at the time of the giving of the
13 statement.

14 A No, sir, I did not.

15 Q So it's fair to say that he makes that
16 inquiry and you have nothing to tell him.

17 A I just told him I didn't know at that time.

18 Q Now, after you have taken the statement that
19 you have discussed and identified, can you tell us if
20 you remain with Mr. Scharf or if you proceed to another
21 responsibility?

22 A After I had finished with the statement and Mis --
23 with Mr. Scharf at that time, I responded to the lower
24 road which is where the rescue team was bringing the
25 body down from.

1 Q Now, when you left or parted company with Mr.
2 Scharf and departed back to the Lookout area, did you
3 leave Mr. Scharf at Headquarters?

4 A Yes, I did.

5 Q And was he left at Headquarters alone, which
6 is to say he was not under any kind of restraint or
7 arrest.

8 A No, he was not.

9 Q Do you recall where you left him in the
10 building?

11 A When I closed my office door, he was in the police
12 desk room. I don't know where he went from there.

13 Q Now, you've testified that you now respond
14 back to the Lookout area, not the parking lot, but that
15 -- that general vicinity, correct?

16 A No, sir, it was the lower road.

17 Q Well, I understand that --

18 A Oh.

19 Q -- but I'm talking about it is the area of
20 the Rockefeller Lookout, but you were on the lower
21 road.

22 A Yes.

23 Q Okay. Can you tell the jury what you mean
24 by, "The lower road"?

25 A The lower road, the name of it is, "The Henry

1 Hudson Drive"; it's a scenic overlook which is below
2 the cliffs -- parallels the Hudson River. The road is
3 wide enough for maybe two cars to pass carefully.

4 Q Now, at that location, did you have occasion
5 to see Law Enforcement personnel and/or emergency
6 personnel?

7 A Yes, sir.

8 Q Did you have occasion at this time to observe
9 the recovery of the body in terms of it being brought
10 down off the cliffs?

11 A Yes.

12 Q Can you tell us what time the body of Jody
13 Scharf was brought down from the cliffs to the lower
14 road?

15 A The team got off the -- out -- out to the lower
16 road at 23:30 hours, 11:30 p.m.

17 Q Did you note that time and fact in your
18 report?

19 A Yes.

20 Q Now, did you at that location see a police
21 officer, John DeSimone(phonetic)?

22 A Yes, sir, I did.

23 Q And he is a police officer associated with
24 the Bergen County Police Department and the Medical
25 Examiner's Office, correct?

1 A He's assigned to the Medical Examiner's Office,
2 yes.

3 Q And did you have a conversation with him?

4 A Yes, I did.

5 Q Now, with respect to the body of Jody Ann
6 Scharf, is she examined at that time at that lower
7 roadway?

8 A Yes, we looked at the body.

9 Q Can you tell us if she is pronounced dead?

10 A Yes, she was.

11 Q Can you tell us the manner in which that
12 pronouncement was made?

13 A Paramedics had hooked her up to their machinery
14 and she was pronounced dead through Dr. Clayton, which
15 is the Medical Examiner.

16 Q Now, was Dr. Clayton actually present at the
17 scene?

18 A No, she was not.

19 Q Was there a telephone communication between
20 emergency personnel, Patrolman DeSimone and --

21 A Yes.

22 Q -- Dr. Clayton?

23 A Yes, there was.

24 Q And was information relative to the condition
25 of the body of Jody Scharf relayed telephonically to

1 the Medical Examiner?

2 A Yes.

3 Q Can you tell us if you noted the time of
4 pronouncement in your report?

5 A It was 23:40 hours, 11:40 p.m.

6 Q Following pronouncement, is the body of Jody
7 Scharf removed from the scene at the lower roadway as
8 you've describe it?

9 A Yes, it was.

10 Q Did you note the time that that event
11 occurred?

12 A 23:50 hours, 11:50 p.m.

13 Q And was that removal thereafter to the
14 Medical Examiner's Office for purposes of --

15 A Yes --

16 Q -- autopsy?

17 A -- livery(phonetic) service took the body to the
18 Medical Examiner's Office.

19 (Pause in proceeding)

20 Q Now, following the events that you've thus
21 far described occurring at the lower roadway, do you
22 remain at that location or do you now move to another
23 location?

24 A We stayed at the lower road for a couple of
25 minutes and then we responded back to my Headquarters.

1 Q Now, at Headquarters did you have occasion to
2 steve(sic) -- to see Stephen Scharf again?

3 A Yes, he(phonetic) did.

4 Q Did you have a conversation with him?

5 A Yes.

6 Q Can you tell the jury the nature of the
7 conversation that you had with him?

8 A Mr. Scharf had asked me if she was alive yet, and
9 I told him, "No, she didn't make it".

10 (Pause in proceeding)

11 A I had also asked him if he would --

12 Q Well, before you get to that, I -- I want you
13 to stay in this conversation that you had with him
14 relative to informing him his wife was dead, all right?

15 A Right.

16 Q Focusing on that conversation, do I
17 understand you to state that he asked if his wife was
18 alive or not?

19 A Yes.

20 Q And you responded how?

21 A I told him she -- he -- that she didn't make it.

22 Q Do you recall that to be the words that you
23 say?

24 A Yes.

25 Q Now --

1 (Pause in proceeding)

2 Q -- did you at Headquarters, in addition to
3 speaking with Mr. Scharf, did you have occasion to
4 speak with Officer DeSimone?

5 A Yes.

6 Q Now, without telling us the content of that
7 conversation, can you tell us approximately what time
8 that conversation took place?

9 A It was around 12:30.

10 Q Now, following that conversation, did
11 DeSimone contact any other Law Enforcement agency?

12 A Yes, he did.

13 Q Do you know the agency?

14 A The Bergen County Prosecutor's Office.

15 Q Do you know the person that he spoke to?

16 A Investigator Kane, Roger Kane.

17 Q Now, I'd like to take you back to the
18 conversation that you had with Mr. Scharf, all right?

19 A Yes.

20 Q He's asked you if his wife was alive or not
21 and you have replied, "She didn't make it".

22 A Yes.

23 Q What was his reaction, his demeanor, his
24 countenance, at that point in time?

25 A At that point, he didn't seem very upset.

1 Q Did he in any way become emotional?

2 A Pardon?

3 Q Did he in any way become emotional?

4 A Very slight that I can recall.

5 Q Did he in any manner or way cry?

6 A Not that I can recall, no.

7 Q Now --

8 (Pause in proceeding)

9 Q -- you now remain at Headquarters for a
10 period of time.

11 A Yes.

12 Q While at Headquarters -- and I am now
13 directing your attention to that period of time after
14 you have informed Mr. Scharf that his wife is dead,
15 after the conversation DeSimone had with the
16 Prosecutor's Office -- did you have occasion to speak
17 with Law Enforcement persons from Washington Township;
18 Morris County, New Jersey?

19 A Yes, sir, I did.

20 Q Now, with respect to the conversation that
21 you had with DeSimone and the conversation DeSimone had
22 with Kane -- by the way, Kane was assigned to the
23 Homicide Bureau of the Bergen County Prosecutor's
24 Office at that time?

25 A Yes, he was.

1 Q Following that conversation, did you have --
2 or those conversations and the conversation with
3 Washington Township Police -- did you have a further
4 conversation with Mr. Scharf?

5 A After Washington Township?

6 Q After the conversa -- I'm sorry, let me --
7 let me -- that was a badly-worded question.

8 After you spoke with DeSimone at Headquarters
9 --

10 A Yes.

11 Q -- after DeSimone spoke with Bergen County
12 Prosecutor's Office Homicide Kane, after that series of
13 events, did you have a conversation with Scharf?

14 A Yes.

15 Q Now, with respect to that conversation, did
16 you ask him for his consent to do certain things?

17 A Yes, I did.

18 Q With respect to that event, did you ask him
19 for consent to take certain photos?

20 A Yes.

21 Q And did you also ask him for consent to
22 search his vehicle?

23 A Yes, I did.

24 (Pause in proceeding)

25 Q I'll show you what's been marked, "S-26";

1 just take a moment to examine that exhibit please.

2 (Pause in proceeding)

3 Q Have you examined that exhibit?

4 A Yes, sir, I did.

5 Q Do you recognize that exhibit?

6 A Yes, I do.

7 Q What do you recognize that exhibit to be?

8 A It's a consent-to-search form.

9 Q And is that the consent to search a Ford
10 Taurus, four-door, color white?

11 A Yes.

12 Q With respect to that consent-to-search form,
13 did you explain that form to Mr. Scharf before giving
14 it to him?

15 A Yes. I also had him read it.

16 Q Did he take the opportunity to read it?

17 A Yes.

18 Q After he took the opportunity to read it, did
19 he ask you any questions?

20 A No, he did not.

21 Q After he took the opportunity to read it, did
22 he sign that document?

23 A Yes, he did.

24 Q Did he sign that document in your presence?

25 A Yes, he did.

1 Q Did you sign that document?

2 A Yes, I did.

3 Q Did you sign it in his presence?

4 A Yes.

5 (Pause in proceeding)

6 MR. MELLO: S-26 in evidence please.

7 MR. BILINKAS: No objection.

8 MR. MELLO: Thank you, sir.

9 BY MR. MELLO:

10 Q If you would, would you read to the jury S-26
11 in evidence?

12 A It's consent-to-search form; it says, "I" -- and
13 the printed name, "Stephen Scharf" --

14 Q Who printed that name?

15 A He did, Mr. Scharf.

16 Q Continue please.

17 A "I hereby authorize Detective Ronald Karnick, who
18 has identified himself as a Law Enforcement Officer,
19 and any other persons he may designate to assist him,
20 to conduct a complete search of the property and
21 premises located at the Rockefeller Lookout parking
22 area, a Ford Taurus, four-door, color white, including
23 all vehicle's effects.

24 I further authorize the same officers to remove
25 any and all papers, property, and effects which they

1 may consider pertinent to their criminal investigation.

2 I give this consent to search freely and
3 voluntarily without fear, threat, coercion, or promises
4 of any kind and with full knowledge of my
5 Constitutional Rights to refuse to give my consent to
6 search, which I hereby waive.

7 I am also fully aware that if I wish to exercise
8 this right it would be respected.

9 This consent to search is given by me this 21st
10 day of September 1992 at 01:20 a.m.". Signed by Mr.
11 Scharf; witnessed by myself. And the address is
12 Palisades Interstate Parkway Police Department.

13 (Pause in proceeding)

14 Q I'll show you what's been marked, "S-25".
15 Take a moment to examine that exhibit.

16 (Pause in proceeding)

17 Q Have you examined that exhibit?

18 A Yes, sir.

19 Q Do you recognize that exhibit?

20 A Yes, I do.

21 Q What do you recognize it to be?

22 A A consent-to-search form.

23 (Pause in proceeding)

24 Q Did you explain that form to Mr. Scharf?

25 A Yes, sir.

1 Q Did you give him the opportunity to read that
2 form?

3 A Yes, sir.

4 Q Did he take the opportunity to read it?

5 A Yes.

6 Q Did he have any question of you when he
7 completed reading that form?

8 A No, sir.

9 Q After he read that form, did he execute that
10 form?

11 A Yes.

12 Q Did he sign it in your presence?

13 A Yes, he did.

14 Q Did you sign it?

15 A Yes, I did.

16 Q Did you sign it in his presence?

17 A Yes.

18 MR. MELLO: S-25 in evidence please.

19 MR. BILINKAS: No objection.

20 THE COURT: In evidence.

21 BY MR. MELLO:

22 Q If you would, sir, would you please read S-25
23 in evidence to the jury?

24 A Consent to search; it says, "I" -- printed name,
25 "Stephen Scharf" -- "hereby authorize Detective Ronald

1 Karnick, who has identified himself as a Law
2 Enforcement Officer, any other person -- any other
3 persons he may designate to assist him, to conduct a
4 police search of Stephen Scharf for any marks on his
5 body and to photograph same.

6 I further authorize the same officers to remove
7 any and all papers, properties, and effects which they
8 may consider pertinent to their criminal investigation.

9 I give this consent to search freely and
10 voluntarily without fear, threat, coercion, or promises
11 of any kind and with full knowledge of my
12 Constitutional Rights to refuse to give my consent to
13 search, which I hereby waive.

14 I am also fully aware that if I wish to exercise
15 this right it would be respected.

16 This consent to search is given by me this 21st
17 day of September 1992 at 01:20 a.m. hours". Signed by
18 Mr. Scharf; witnessed by myself. Address: Palisades
19 Interstate Parkway Police Department.

20 Q Now, with respect to that which has been
21 marked, "S-25," in evidence, the document that you've
22 just read, following the signing of that document by
23 Mr. Scharf consenting to the taking of certain
24 photographs of his person, did you, in fact, take
25 photographs?

1 A Yes, I did.

2 Q How many?

3 A Two.

4 Q Let me show you what has been marked, "S-
5 276," and ask you first if you recognize that
6 photograph.

7 A Yes, I do.

8 Q Is that the photograph that you took of the
9 person of Mr. Scharf?

10 A Yes.

11 Q And that is obviously a front view --

12 A Yes --

13 Q -- person.

14 A -- upper torso.

15 Q I'm going to show you what's been marked, "S-
16 277"; do you recognize that?

17 A Yes, I do.

18 Q What do you recognize that to be?

19 A It's a picture of Mr. Scharf, shirt up, his back
20 torso.

21 (Pause in proceeding)

22 MR. BILINKAS: -- see --

23 MR. MELLO: Sure.

24 MR. BILINKAS: The other one behind?

25 MR. MELLO: -- . Evidence?

1 MR. BILINKAS: No objection.

2 THE COURT: In evidence.

3 MR. MELLO: That will be "S-276," "S-277,"
4 "S-280," and "S-281".

5 THE COURT: So noted; in evidence.

6 MR. MELLO: Thank you, Judge.

7 BY MR. MELLO:

8 Q Okay, S-280, do you recognize that
9 photograph?

10 A Yes, sir.

11 Q What is that photograph?

12 A It's a blown-up photo of the Polaroid I took of
13 his upper torso, front view.

14 Q And, similarly, the enlargement, S-281.

15 A Yes, sir, enlarged the other photo I took of his
16 upper torso -- back.

17 MR. MELLO: S-280, 281 to the jury.

18 (Pause in proceeding)

19 BY MR. MELLO:

20 Q Earlier in your testimony, we briefly
21 discussed the conversation that you had with Officer
22 Abbott and the recovery from Abbott of a pocketbook, do
23 you recall that --

24 A Yes.

25 Q Can you tell us what you did with the

1 pocketbook that you received from Abbott at the cliff's
2 edge afterwards?

3 A I turned it over to Mr. Scharf. There was nothing
4 of any value in it.

5 Q And is that the last that you have seen of
6 that pocketbook?

7 A Yes, sir.

8 (Pause in proceeding)

9 Q Now, I'd like to discuss with you events
10 related to the consent to search the Ford Taurus that
11 you referred to, all right?

12 A Yes.

13 Q Following the execution of the consent at
14 1:20 a.m. that you've testified to, do you have
15 occasion to respond back to the Rockefeller Lookout?

16 A Yes, I did.

17 Q And, at this point, did you respond back to
18 the lot of the Rockefeller Lookout?

19 A Yes.

20 Q At the time you responded back, can you tell
21 us the general purpose of your response back to that
22 area?

23 A To search the vehicle.

24 Q Now, before you searched the vehicle, did you
25 photograph the vehicle in any way?

1 A Yes.

2 Q Did you photograph the exterior of the
3 vehicle?

4 A I believe I did, yes.

5 Q And did you photograph the interior of the
6 vehicle?

7 A Yes.

8 Q Now, I'm going to show you a photograph.

9 (Pause in proceeding)

10 Q This is in evidence; it's S-247; do you
11 recognize that photograph?

12 A Yes.

13 Q What do you recognize that photograph to
14 depict?

15 A That was the -- Mr. Scharf's vehicle in the
16 Rockefeller Lookout.

17 Q And -- (Noise drowns out voice)

18 A Yes.

19 Q And, when you photographed it, it was secured
20 by other police officers?

21 A Yes.

22 Q Now, this is of course a daylight --

23 A Yes.

24 Q This is not the photograph that you took of
25 it at night.

1 A No.

2 Q And -- but it is -- same -- (Noise drowns out
3 voice)

4 A Yes.

5 (Pause in proceeding)

6 MR. MELLO: Judge, without objection, S-248
7 in evidence.

8 THE COURT: In evidence.

9 BY MR. MELLO:

10 Q I'm going to display this to the jury in a
11 moment, but, if you would, would you first tell us if
12 you recognize this photograph?

13 A Yes, I do.

14 Q And what do you recognize the photograph to
15 be?

16 A It's a photograph of the rear seat of the vehicle.

17 Q Okay. On that rear seat, do you see certain
18 items?

19 A Yes.

20 Q Would you note certain of the items that you
21 see on that rear seat?

22 A Yeah, a nylon bag with the -- the nylon bag inside
23 it.

24 Q Okay.

25 A Headphones for a Walkman and a Coleman cooler.

1 Q Now, this photograph, is this a photograph
2 that you took?

3 A Yes.

4 Q Does this photograph accurately depict the
5 location of the items that you referred to?

6 A Yes.

7 Q And you specifically referred to, amongst
8 those items, to a cooler and a red nylon bag with a
9 blue nylon bag inside of it, correct?

10 A Yes.

11 MR. MELLO: -- jury -- S-248 --

12 (Pause in proceeding)

13 BY MR. MELLO:

14 Q Did you, following photographing both the
15 exterior and the interior of the Scharf vehicle, did
16 you then proceed to conduct an examination and search
17 of that vehicle?

18 A Yes, I did.

19 Q If you would, can you first tell us what you
20 recall with respect to items that you observe in that
21 vehicle?

22 A You mean the contents of what I had found?

23 Q Yes.

24 A All right. In the cooler -- it was a Coleman
25 cooler -- was -- wine glass, bottle of wine cooler,

1 "Bartles & Jaymes," a full one and an empty one, and
2 there's also a steak knife in the cooler.

3 When I opened the nylon-type bags, there was a red
4 bag and there was a blue bag inside, I found an Army-
5 type green -- green blanket, a couple of ace bandages,
6 two white towels, a candle, plastic bag with a receipt
7 for cheese, a box of wine crackers; there was a small
8 gray jewelry box with a cross and a gold-type chain on
9 it; and at the bottom of the bag was a -- a Stanley
10 clawhammer.

11 Q I'm going to show you what's been marked, "S-
12 31". Before I do, with respect to the testimony that
13 you've just noted, did you note the recovery and
14 observation of those items in your report?

15 A Yes.

16 Q Okay, I'm going to show you what's been
17 marked, "S-31" -- ask you if you recognize that
18 document?

19 (Pause in proceeding)

20 A Yes --

21 Q Do you re --

22 A -- sir.

23 Q -- do you recognize that document?

24 A Yes, I made it.

25 Q And is that document a property-receipt

1 document?

2 A Yes.

3 Q And does it note the items that you have
4 referred to?

5 A Yes.

6 (Pause in proceeding)

7 Q Now, in the photograph you've testified that
8 you observed a red nylon bag and that you recovered
9 same, correct?

10 A Yes. Yes.

11 Q I'm going to show you what's been marked, "S-
12 219," and ask if you recognize that exhibit. You may
13 remove it from the -- (Noise drowns out voice)

14 A Yes.

15 Q What do you recognize that to be?

16 A This was the red nylon-type bag that was on the
17 rear seat.

18 Q And is that the same bag that you secured as
19 evidence?

20 A Yes.

21 MR. MELLO: Any objection?

22 MR. BILINKAS: -- see --

23 MR. MELLO: Sure.

24 (Pause in proceeding)

25 MR. BILINKAS: No objection.

1 MR. MELLO: -- (Noise drowns out voice)

2 (Pause in proceeding)

3 BY MR. MELLO:

4 Q Earlier you testified with respect to a
5 photograph and -- blue nylon bag. I'm going to show
6 you what's been marked, "S-221," and ask you to examine
7 it -- (Noise drowns out voice) -- bag --

8 (Pause in proceeding)

9 MR. MELLO: -- (Noise drowns out voice)

10 (Pause in proceeding)

11 MR. BILINKAS: I have no objection to that
12 bag --

13 THE COURT: --

14 BY MR. MELLO:

15 Q Thank you, sir. Can you identify that for
16 us?

17 A Yes, sir, it's the bag that was inside the red
18 one.

19 (Pause in proceeding)

20 Q S-225 --

21 MR. MELLO: --

22 (Pause in proceeding)

23 MR. MELLO: S-225, this will be in evidence,
24 Your Honor.

25 THE COURT: In evidence without objection.

1 BY MR. MELLO:

2 Q Do you recognize what is contained in that
3 paper bag?

4 A Yes, sir, two white towels.

5 Q And are those the same towels that you
6 recovered from that vehicle?

7 A Yes.

8 Q Now --

9 MR. MELLO: Let's take a moment and just get
10 that bag --

11 (Pause in proceeding)

12 BY MR. MELLO:

13 Q I'm now going to show you S-226.

14 (Pause in proceeding)

15 MR. MELLO: S-226 in evidence without
16 objection, Your Honor.

17 MR. BILINKAS: No objection.

18 THE COURT: Noted.

19 (Pause in proceeding)

20 BY MR. MELLO:

21 Q Do you recognize what is before you?

22 A Yes.

23 Q What do you recognize those items to be?

24 A Corkscrew, candle, and ace bandages.

25 Q Now, with respect to the two white towels,

1 they were in the blue nylon bag which was inside of the
2 red nylon bag?

3 A Yes.

4 Q And is that similarly accurate with respect
5 to the ace bandages that you've identified --

6 A Yes.

7 Q -- and the candle and corkscrew?

8 (Pause in proceeding)

9 MR. MELLO: S-224 in evidence without
10 objection, Your Honor.

11 MR. BILINKAS: No objection.

12 THE COURT: In evidence.

13 (Pause in proceeding)

14 BY MR. MELLO:

15 Q Do you recognize the exhibit that is before
16 you?

17 A Yes, sir.

18 Q What is that?

19 A A green-type Army blanket.

20 Q And where did you find that?

21 A That was in the blue bag also.

22 (Pause in proceeding)

23 Q Now, with respect to each of the items that
24 you've thus far identified and testified to, did you
25 note each of those items in the property report and its

1 location where it was found?

2 A Yes, they were.

3 (Pause in proceeding)

4 MR. MELLO: S-232 in evidence without
5 objection.

6 MR. BILINKAS: No objection.

7 THE COURT: In evidence.

8 BY MR. MELLO:

9 Q Would you please examine S-232 please?

10 (Pause in proceeding)

11 A Box of --

12 Q Do you recognize that exhibit?

13 A Yes, sir, I do.

14 Q What is that exhibit?

15 A It's a box of wine crackers that was also in the
16 blue nylon-type bag.

17 (Pause in proceeding)

18 MR. BILINKAS: What was that? I didn't hear

19 --

20 MR. MELLO: Box of crackers inside --

21 THE COURT: Wine crackers.

22 MR. MELLO: -- the blue nylon --

23 MR. BILINKAS: Wine crackers.

24 MR. MELLO: -- bag.

25 (Pause in proceeding)

1 MR. MELLO: S-223 envelope -- I should say
2 paper bag -- and contents, Your Honor, and specifically
3 we've marked one exhibit, "S-220".

4 THE COURT: Any objection?

5 MR. BILINKAS: No.

6 THE COURT: In evidence.

7 BY MR. MELLO:

8 Q I'm going to ask you if you would examine the
9 contents of S-223 and if you would remove all the
10 contents --

11 (Pause in proceeding)

12 Q Do you recognize the contents of S-223?

13 A Yes, plastic bag.

14 Q Okay, and --

15 MR. BILINKAS: I can't -- I can't hear --

16 MR. MELLO: Plastic bag.

17 THE WITNESS: Plastic bag.

18 MR. MELLO: Keep your voice up please.

19 BY MR. MELLO:

20 Q Now, examine what's been marked, "S-220".

21 A Yes, it's a receipt.

22 Q All right. Now, earlier you testified to
23 locating a receipt; do you recognize that exhibit?

24 A Yes, it's a receipt for cheese.

25 Q Okay. Does it -- may I see it?

1 (Pause in proceeding)

2 Q Does it show a location on the receipt?

3 A Yes, it does; ShopRite of Mansfield in
4 Hackettstown, New Jersey.

5 Q Does it show a date of purchase?

6 A Yes, 9/20/92.

7 Q Does it show a time?

8 A 3:28 p.m.

9 (Pause in proceeding)

10 Q And, with respect to the items you've just
11 identified, where were they found?

12 A That was in the blue nylon bag also.

13 Q Now --

14 (Pause in proceeding)

15 Q -- earlier you testified to finding inside
16 the cooler a full bottle of Bartles & Jaymes, a wine
17 cooler, and one empty bottle, correct?

18 A Yes.

19 Q In that car was there any other bottle of
20 alcohol?

21 A Yes, there was; there was a full bottle of wine on
22 the rear seat.

23 Q That was a full bottle.

24 A Yes.

25 Q And did you note the type of wine it was?

1 A It was a white wine; I believe it was called, " --
2 Canyon(phonetic)".

3 (Pause in proceeding)

4 MR. BILINKAS: No objection.

5 THE COURT: In evidence.

6 BY MR. MELLO:

7 Q I'm going to show you what's been marked, "S-
8 218," in evidence and envelope and contents. Would you
9 please remove the content and examine it --

10 (Pause in proceeding)

11 Q Do you recognize that exhibit?

12 A Yes.

13 Q What do you recognize that exhibit to be?

14 A A steak knife.

15 Q Where was that knife found?

16 A That was in the cooler.

17 (Pause in proceeding)

18 MR. BILINKAS: No objection.

19 MR. MELLO: S-2-sev(sic) -- S-227 in evidence
20 without --

21 THE COURT: In --

22 MR. MELLO: -- objection.

23 THE COURT: -- in evidence.

24 BY MR. MELLO:

25 Q Would you please examine S-227, bag and

1 contents?

2 (Pause in proceeding)

3 Q Do you recognize that exhibit?

4 A Yes, sir, I do.

5 Q What do you recognize that exhibit to be?

6 A A gray small jewelry box with a gold-type chain
7 and a gold-type cross.

8 Q And did you recover that item?

9 A Yes, sir.

10 Q Where did you recover it?

11 A That was in the blue tote bag also.

12 (Pause in proceeding)

13 Q I'm going to show you what's been marked, "S-
14 228," paper bag and content; would you please remove
15 that item and examine it?

16 (Pause in proceeding)

17 Q Have you examined that item?

18 A Yes, sir, I did.

19 Q Do you recognize that item?

20 A Yes, sir.

21 Q What do you recognize that item to be?

22 A A Stanley clawhammer.

23 Q Did you recover that item?

24 A Yes, sir, I did.

25 Q Where did you recover that item from?

1 A This was at the bottom of the blue nylon tote bag.

2 Q Now, I'm going to refer your attention to the
3 property report that you have before you -- (Noise
4 drowns out voice)

5 A --

6 Q For the record, that's S-31 -- . Now, with
7 respect to the finding of that hammer at the bottom of
8 the blue tote bag, did you note that in that report?

9 A Yes, sir, I did.

10 Q And would you note that specific location in
11 that report?

12 A Yes.

13 Q Now, to make things a bit simpler, with
14 respect to all the items that we've just moved into
15 evidence, all the items that you recovered that you've
16 identified as having taken from the blue tote bag that
17 was inside the red nylon bag, and with respect to each
18 and every one of those items, they were all secured as
19 evidence by you?

20 A Yes, sir.

21 Q And were they thereafter, after your securing
22 them in this manner, were they turned over to another
23 agency?

24 A Yes, sir, they were.

25 Q What agency would that be?

1 A Bergen County Prosecutor's Office.

2 Q Can you tell us the date that the items that
3 you retrieved which you've identified to -- identified
4 and testified to, what date they were turned over to
5 the Bergen County Prosecutor's Office?

6 A 9/24/92.

7 MR. MELLO: If I may just have one moment,
8 Judge?

9 (Pause in proceeding)

10 BY MR. MELLO:

11 Q Following the recovery of items that you have
12 testified to, did you return to Headquarters?

13 A Yes, I did.

14 Q At Headquarters, did you now see Mr. Scharf
15 when you returned to Headquarters?

16 A No.

17 Q Had Mr. Scharf left Headquarters?

18 A Yes, he did.

19 Q By what manner did he leave?

20 A I had asked Mr. Scharf after he finished with the
21 consent forms and the photographs if he could get a
22 ride, someone to pick him up and take him home, which
23 he said he could.

24 Q And did he make a phone call to affect that
25 transport?

1 A Yes, sir, he used the phone on my desk.

2 (Pause in proceeding)

3 Q Thereafter, would you have a communication
4 with a Law Enforcement Officer from Washington
5 Township?

6 A Yes, sir.

7 Q Can you tell us the approximate time that you
8 had that communication?

9 A 2:20 a.m.

10 Q Following the events that you have testified
11 to today, did you thereafter conclude your work with
12 respect to this event on that day?

13 A Basically, yes, I started paperwork.

14 Q Did you, in fact -- in terms of paperwork,
15 are you referring to your report?

16 A Yes, I started some of the reports that were
17 needed that night.

18 Q And did you complete your report on the 21st
19 of September '92?

20 A Yes.

21 Q And is that so noted in your report?

22 A Yes.

23 Q Thank you.

24 MR. MELLO: I've concluded my examination,
25 Judge.

1 THE COURT: Cross examination?

2 CROSS EXAMINATION BY MR. BILINKAS:

3 Q Detective, this incident at the cliffs
4 occurred at about somewhere right before eight o'clock,
5 correct?

6 A Yes, sir.

7 Q And --

8 MR. MELLO: Objection, Judge, I think that's

9 --

10 MR. BILINKAS: I'll -- I'll rephrase it.

11 MR. MELLO: Yeah.

12 BY MR. BILINKAS:

13 Q When did your department initially respond to
14 the cliffs?

15 MR. MELLO: Thank you.

16 BY MR. BILINKAS:

17 Q What time?

18 A Um.

19 Q Approximately eight o'clock?

20 A Around that time, yes --

21 Q A little bit after, correct?

22 A Around that, yes.

23 Q Now, when did Mr. Scharf get picked up that
24 evening?

25 A What do you mean by, "Picked up"?

1 Q You indicated that he made a telephone call
2 for someone to pick him up, correct?

3 A Yes.

4 Q And that was after you had already searched
5 his car, correct?

6 A No.

7 Q That was before you searched his car.

8 A Yes.

9 Q Okay. Well, what time did he make that call
10 for someone to pick him up?

11 A Before I left Headquarters to search the car,
12 which I -- was around 1:48 a.m.

13 Q So he had been with members of your
14 department from about eight o'clock to -- to roughly
15 two o'clock in the morning, correct?

16 A Yes.

17 Q Again, you don't know how long it took for
18 whoever he called to pick him up, correct?

19 A No, I don't.

20 Q So he was there for at least five hours to
21 your knowledge, correct?

22 A Yes.

23 Q And you specifically asked him if he can get
24 a ride home, correct?

25 A Yes.

1 Q And -- and you indicated that he -- he made a
2 telephone call in front of you, correct?

3 A Yes.

4 Q Did he mention a woman's name by the name of
5 Dolly during that conversation?

6 A No.

7 Q What specifically did he say?

8 A I don't recall what he said.

9 Q You were standing right there listening to
10 him, correct?

11 A I may have stepped out of the office.

12 Q When you say you may have stepped out of the
13 office, do you recall 18 years later whether or not you
14 were in the office when he was on the telephone at your
15 direction?

16 A I don't recall that.

17 Q You don't recall whether or not you were in
18 there, or you don't recall any part of that
19 conversation?

20 A I don't recall any part of his conversation on the
21 phone.

22 Q Now, you indicated that, on September 24th,
23 1992, all of the items that the Prosecutor has
24 introduced into evidence through you were turned over
25 to them, correct?

1 A Yes.

2 Q At that point in time, your job as far as the
3 investigation is -- is concerned is over, correct?

4 A Yes.

5 Q And everything that has been introduced into
6 evidence was in the Prosecutor's hands back on
7 September 24th, way back 1992, correct?

8 A Yes.

9 Q Now, you found a steak knife which the
10 Prosecutor has entered into evidence, correct?

11 A Yes.

12 Q Now, did you examine that steak knife when
13 you first found it?

14 A Yes.

15 Q Did there appear to be anything on that knife

16 --

17 A Not that I --

18 Q -- the blade?

19 A Not that I can recall.

20 Q Like maybe cheese or some food particles?

21 A There might have been cheese.

22 Q And -- and did you find any cheese wrapper in
23 your search?

24 A No, I don't recall any, no.

25 Q Any wrapping that could have been used to

1 cover the cheese -- (Noise drowns out voice)

2 A Just the plastic bags that were in there with the
3 receipt.

4 Q And that receipt specifically makes reference
5 to a block of cheese, correct?

6 A Yes, sir.

7 Q It gives you and -- and everyone who looks at
8 it a specific location and a time as to when that piece
9 of cheese was purchased, correct?

10 A Yes.

11 Q Now, you've been a detective for how many
12 years?

13 A Fifteen.

14 Q You have handled numerous investigations,
15 correct?

16 A Yes.

17 Q And are you aware of the fact that the hammer
18 that has been introduced into evidence was sent to the
19 State Police lab?

20 A No, I don't -- I didn't realize that.

21 Q Do you know whether or not, as you sit here
22 today, whether or not that knife was sent to the State
23 Police lab?

24 A I have no idea.

25 (Pause in proceeding)

1 Q Now, the Prosecutor has introduced a written
2 statement that my client gave on the day in question,
3 correct?

4 A Yes.

5 Q And -- and that statement was given in your
6 office?

7 A Yes.

8 Q And what did you ask my client with regards
9 to that statement?

10 A Prior to the statement, I had asked him to tell me
11 what had happened, what took place at the cliff's edge.

12 Q Okay, and that --

13 A After that --

14 Q -- that was something that was said to you
15 orally, correct?

16 A Yes, verbally.

17 Q And did you include a summary of that oral
18 statement in your official police report?

19 A Yes.

20 Q After he gave you the oral statement, is it
21 your testimony that you had him fill out a written
22 statement?

23 A Yes, I asked him if he would complete a statement
24 in writing.

25 Q Now, did you record the statement that he

1 gave to you orally before the written statement? Did

2 --

3 A No.

4 Q -- you record it?

5 A No.

6 Q Did you videotape it?

7 A No.

8 Q So whatever's contained in your official

9 report is your recollection of what he told you,

10 correct?

11 A Yes.

12 Q And would you agree with me that it's not the

13 exact specific words that he told you on the night in

14 question?

15 A It's basically the same, yes.

16 Q When you say, "Basically the same," I'm

17 asking you if the reference to the oral statement in

18 your report is the exact word-for-word statement that

19 my client gave to you before the written statement.

20 A It's as close as I could get, yes.

21 Q And -- and when did you make this report?

22 A I started it that night -- or that morning.

23 Q Now, you mentioned --

24 (Pause in proceeding)

25 Q Correct me if I'm wrong.

1 (Pause in proceeding)

2 Q I'll have to get back to that; I lost my --
3 my page.

4 On the day in question, you were called in to
5 respond to the Lookout area, correct?

6 A Yes.

7 Q And -- and where were you coming from?

8 A My home, my residence.

9 Q Okay, and at some point in time you indicated
10 that you arrived on the -- on the scene and speak to
11 Police Officer Abbott, correct?

12 A Yes.

13 Q And, after that, you respond back to
14 Headquarters, was that your testimony?

15 A Yes.

16 Q And -- and can you tell me how long it took
17 you to get from the Lookout parking lot to your
18 Headquarters?

19 A How long it took?

20 Q Yeah, how many minutes?

21 A Five or ten minutes.

22 Q Is it five or is it ten or?

23 A Well, it's 18 years ago.

24 Q Hard to remember the exact time it took you?

25 A No.

1 Q My question is it's hard to remember the
2 exact number of minutes it took you, correct?

3 A Yes, depends how fast I was going.

4 Q Okay. And was there any traffic that night?

5 A There -- possibly there was traffic, yes; Sunday
6 night.

7 Q And, again, you did an official report here,
8 correct?

9 A Yes.

10 Q And will you agree with me that the report
11 that you refer to was done in a chronological order?

12 A It was supposed to be.

13 Q W--

14 A It didn't turn out that way.

15 Q Would you agree with me that some of the
16 things that you've said are not even in your report?

17 A Yes.

18 Q For instance, this -- this handwritten
19 statement, the only official written statement of what
20 my client said happened, can you tell the jury whether
21 or not there's even a mention anywhere in your entire
22 report that you were the one that took that statement?

23 A No, there isn't.

24 Q Will you agree with me that the only thing
25 with regards to your conversation with my client is

1 something that you indicated he told to you orally,
2 correct?

3 A Yes.

4 Q And that written statement that has been
5 introduced into evidence, is there a -- a -- a spot on
6 it where the person who received that statement is
7 supposed to sign it?

8 A Yes.

9 Q And can you tell the jury whether or not
10 anyone signed that statement where it was supposed to
11 be signed by an official Law Enforcement officer?

12 A No.

13 Q Now, your testimony is that you go to the
14 scene initially, correct?

15 A Yes.

16 Q And then you testified on direct that, from
17 the scene, you go to Headquarters and take that written
18 statement of my client, correct?

19 A Yes.

20 Q Will you agree with me that your report
21 indicates something different?

22 A Yes.

23 Q Specifically, it indicates that, "I spoke
24 with Abbott who was standing by the repelling site; he
25 informed me of the incident; I left the area and

1 responded to the lower drive and awaited the team to
2 bring the body down". Is that what your official
3 report says?

4 A Yes.

5 Q And your testimony on direct is -- is that
6 that statement in your official report is incorrect.

7 A Yes.

8 Q And -- and your specific recollection 18
9 years later is that, after you arrived, you didn't wait
10 down until the body was brought down, but rather you
11 have a specific recollection of going and taking a
12 written statement.

13 A Yes.

14 (Pause in proceeding)

15 Q Is it your testimony that, after you left the
16 scene, you went back to the station and had an oral
17 conversation with my client, correct?

18 A Yes.

19 Q And -- and then you had him give a written
20 statement, correct?

21 A Yes.

22 Q And is your recollection now that it's then
23 that you went back to the scene?

24 (Pause in proceeding)

25 A I'm not sure I follow you, sir.

1 Q Okay. Your report says that you arrived on
2 the scene, talked to Abbott, he informed you of the
3 incident, you left the area and responded to the lower
4 drive and awaited the team to bring the body down;
5 that's what your report says, correct?

6 A Yes.

7 Q You've now testified on direct that that's
8 not true, correct?

9 A Right.

10 Q And my specific question to you is are you
11 saying at this point that, instead of going down and
12 waiting for the body, you went back to Headquarters to
13 take a statement from my client?

14 A Yes.

15 Q First you took an oral statement, correct?

16 A Yes.

17 Q And -- and then you say you took this written
18 statement that's not signed by you --

19 A Yes.

20 Q -- correct? And, after those two statements
21 were taken by you, did you then go back to the scene?

22 A I went down to the lower road, yes.

23 Q Okay, and you waited til the body came down,
24 correct?

25 A Yes.

1 Q And Pagan, Sergeant Pagan, is one of the
2 persons that brought the body down to the road,
3 correct?

4 A Yes.

5 Q And who was with him?

6 A It was Mike Cioffi from Englewood Cliffs.

7 Q And did you have a conversation with Cioffi
8 and Sergeant Pagan with regards to the positioning of
9 the body, where it came to lay to rest?

10 A I don't recall any conversation -- (Noise drowns
11 out voice)

12 THE COURT: Would this be a good place to
13 break?

14 MR. BILINKAS: Yes, Judge.

15 THE COURT: We will adjourn until 1:30.

16 (Luncheon Break)

17 (Back on the record)

18 (Jury is present)

19 THE COURT: -- you may be seated. Madam
20 Clerk, roll call.

21 (Roll call of jurors taken. All present.)

22 THE COURT: Now, I'm looking at some of you
23 putting on sweaters and doing different things. Around
24 here, you have to be careful what you ask for. We need
25 --

1 (Laughter)

2 THE COURT: -- we needed some air
3 conditioning and now we have it.

4 (Laughter)

5 THE COURT: But it's supposed to be warm
6 outside. I didn't get a chance to go outside during
7 the break, but it's supposed to get up to 80 degrees
8 today, so --

9 JUROR: --

10 UNIDENTIFIED: It's really warm.

11 THE COURT: -- my thought is, for the
12 remainder of this trial, you should probably bring the
13 additional clothing. You can always take that clothing
14 off, but you can't put it on if you don't have it.

15 So bring a sweater or something, so that we
16 can adjust to the climate in the courtroom, all right?
17 Thank you.

18 You may begin.

19 CROSS EXAMINATION CONTINUED BY MR. BILINKAS:

20 Q Detective Karnick, you arrive on the scene at
21 approximately when on the day in question?

22 A On the scene -- at the scene? Um.

23 (Pause in proceeding)

24 Q Approximately 8:30?

25 A Well, nine o'clock, I was at the scene probably.

1 Q Okay.

2 A Around that time.

3 Q Approximately nine o'clock. And where did
4 you have this conversation with Police Officer Abbott?

5 A At the flat rock, at the repel site.

6 Q Okay. And how did you know to go to that
7 specific location to meet with him?

8 A That's where I was told the incident occurred.

9 Q Who told you that?

10 A The police desk.

11 Q Okay. And I assume there were communications
12 back and forth between officers from your department
13 and that police desk, correct?

14 A Yes.

15 Q Were they recorded at the time?

16 A Pardon?

17 Q Were they recorded at the time?

18 A I don't know if they were or not.

19 Q Now, you arrive on the scene; you go directly
20 to the flat rock, correct?

21 A Yes.

22 Q Okay. And you have a conversation with A --
23 Abbott.

24 A Yes.

25 Q Okay. Do you recall the details of that

1 conversation?

2 A He just told me what had occurred; that they were
3 at the flat rock and she got up and she fell over.

4 Q Okay. And did he indicate to you any -- any
5 observations he made of Mr. Scharf, specifically his
6 demeanor?

7 A No, he didn't.

8 Q So, at that point in time, were the repelling
9 people there?

10 A They were already over the cliff repelling down.

11 Q Okay, so you got there after --

12 A After it started, yes.

13 Q After it started. And -- and where were they
14 tied off on the top?

15 A I don't recall where. There were several
16 locations they could have tied off at.

17 Q Do you know whether or not they had reached
18 the base of the mountain, based on your discussions
19 with -- with Abbott?

20 A No, I don't know.

21 Q And was Abbott in constant communication with
22 those people repelling down the cliff?

23 A I believe he was, yes.

24 Q And -- and at some point in time you go to
25 the Police Headquarters, correct?

1 A Yes.

2 Q And do you recall how long you stayed on the
3 scene initially?

4 A No, I don't.

5 Q Was the person from the Medical Examiner's
6 Office on the scene when you got there?

7 A He wasn't at the top; I don't know if he was at
8 the -- at the lower road.

9 Q Okay. And -- and do you know for a fact
10 whether or not anybody was at the lower road at that
11 point?

12 A No, I don't.

13 Q Okay. You then go back to the station and
14 you take a oral statement from my client, correct?

15 A Yes, sir.

16 Q Okay. Now, on direct examination you
17 indicated that Stephen Scharf -- and, again, correct me
18 if I'm misstating this -- that Stephen Scharf indicated
19 to you that he called out his wife's name and he got no
20 response.

21 A Yes.

22 Q And -- and was that in his written or oral
23 statement to you?

24 A I know it was in the oral statement.

25 Q Okay.

1 A And I believe it was also in the written
2 statement.

3 MR. BILINKAS: --

4 (Pause in proceeding)

5 MR. BILINKAS: Thank you --

6 (Pause in proceeding)

7 BY MR. BILINKAS:

8 Q As you sit here today, do you have a specific
9 recollection of him telling you those exact words in
10 the oral statement that -- (voice trails)

11 A Yes.

12 Q Can you look at your report, S-sev -- 74.

13 (Pause in proceeding)

14 Q Then will -- will you agree with me that
15 there is no mention in your official report, based on
16 your oral conversation with him, that he said anything
17 with regards to calling his wife's name over the cliff?

18 A Right, it's not in my report.

19 Q And, as you sit here 18 years later, is it
20 your testimony you have a specific recollection of him
21 telling that to you orally?

22 A Yes, I do.

23 Q Any idea why it's not in your report, those,
24 according to you, were pretty much his exact words?

25 A No, I don't know.

1 Q Is there anything else that you recall, based
2 on what he told you orally, that is also not in your
3 written statement?

4 A No, sir.

5 Q Now, is it your testimony that what you wrote
6 in this report is exactly what he told you?

7 A Basically, yes, it's the same conversation that we
8 had and it's also from his statement that he had given
9 me in writing.

10 Q Now, that's my specific question; is what's
11 contained in your report based solely on what he told
12 you in the oral interview you had with him, or is part
13 of what he wrote in his written statement incorporated
14 in what you say is the oral statement that he gave?

15 A No, I could remember that he had -- what he had
16 told me.

17 Q Okay, well, for instance, how did the
18 conversation first start?

19 A As far as getting this -- the oral statement?

20 Q Yes.

21 A I had asked him if he could tell me what had
22 happened, what took place that night.

23 Q Okay, and did you ask any questions
24 throughout this conversation?

25 A No.

1 Q So you basically asked him what happened, and
2 it's your recollection that he said everything you put
3 in your report.

4 A Yes.

5 Q Did he say: When they left the vehicle, they
6 went north on a path approximately 50 feet; did he use
7 those exact words?

8 A Yes. He also put that in his statement.

9 (Pause in proceeding)

10 Q I'm going to show you his exact statement, S-
11 94. Can you tell me whether or not in his exact
12 statement there's any reference to him going north on a
13 path approximately 50 feet?

14 (Pause in proceeding)

15 A No, there isn't.

16 Q The -- when you just said that that's what he
17 put in his written report, you were inaccurate,
18 correct?

19 A Yeah, I made a mistake.

20 Q Have you made any other mistakes?

21 A Not that I know of.

22 Q Well, did he say he crawled through the fence
23 out to a flat rock?

24 A Yes.

25 Q Okay, what did he say after that?

1 MR. MELLO: I'm sorry, can we just focus on
2 which statement he's referring to?

3 THE COURT: Right, clarify the issue.

4 BY MR. BILINKAS:

5 Q The oral statement.

6 MR. MELLO: Thank you.

7 BY MR. BILINKAS:

8 Q After he told you that he crawled through the
9 fence out to a flat rock, what's the next thing that he
10 said?

11 A They were sitting at the edge and they were
12 hugging and kissing.

13 Q Did he say they were sitting down?

14 A Yes.

15 Q And -- and did he say they were sitting down
16 before they started to hug and kiss?

17 A No, they(sic) said they were either sitting down
18 and she was sitting on his lap.

19 Q And when did they start to hug and kiss?

20 A I --

21 Q Before or after they sat down?

22 A I would --

23 MR. MELLO: If he was told.

24 THE WITNESS: -- imagine after they sat down.

25 THE COURT: I'm sorry?

1 THE WITNESS: I don't know if --

2 THE COURT: There's an objection?

3 MR. MELLO: Yes, Sir; pardon me. If he was
4 told that.

5 THE COURT: --

6 BY MR. BILINKAS:

7 Q Were you told -- what specifically were you
8 told with regards to hugging and kissing?

9 A Said they were sitting on a flat rock; they were
10 hugging and kissing.

11 Q Okay. Did you put in your official police
12 report regarding the oral conversation that they went
13 out to a flat rock where they began to hug and kiss?

14 A -- yes.

15 Q Okay. Did the hugging and kissing, according
16 to your report, come before or after they sat down?

17 MR. MELLO: I'm going to object to the form
18 of the question. It's not according to his report; it
19 should be according to Mr. Scharf.

20 THE COURT: Rephrase the question.

21 BY MR. BILINKAS:

22 Q What exactly did Mr. Scharf tell you
23 regarding the sequence of events concerning hugging and
24 kissing and sitting down?

25 A He said that they were -- crawled through the

1 fence; they were hugging and kissing, and she was
2 sitting on his lap.

3 Q Now, at any point in time did you ask him to
4 explain anything that he said?

5 A No.

6 Q And you previously testified you never asked
7 any questions to clarify anything, correct?

8 A Correct.

9 Q Now, will you agree with me that, although
10 more detailed, his oral statement is basically almost
11 identical to the written statement, according to your
12 recollection?

13 A Yes.

14 Q Now, had you talked to the Prosecutor's
15 Office before or after the verbal statement you took?

16 A It's after.

17 Q And how was the Prosecutor's Office
18 contacted?

19 A By phone.

20 Q By who?

21 A Officer DeSimone.

22 Q Was that after the body was recovered?

23 A Yes.

24 Q Okay. And what time was the Prosecutor --
25 Prosecutor's Office first contacted?

1 A Um, it was 12:45 a.m.

2 Q And will you agree with me that that was
3 before you asked my client to sign the consent forms,
4 correct?

5 A Yes.

6 Q And will you agree with me that, at the time
7 you asked him to sign those consent forms, that there's
8 no doubt in your mind after having a conversation with
9 the Bergen County Prosecutor's Office that you were
10 conducting a criminal investigation at this point?

11 A No, it wasn't a criminal investigation.

12 (Pause in proceeding)

13 Q I'm going to show you the two consent-to-
14 search forms, S-25 and S-26, the ones that you
15 indicated you went over with my client. Is there
16 anything on these forms to indicate that this request
17 has to do with a criminal investigation?

18 A Yes, there is.

19 Q Isn't it a fact that both of those documents
20 that the Prosecutor entered into evidence specifically
21 make reference to the fact that the request that you
22 made of my client had to do with a criminal
23 investigation?

24 A These are the standard forms that we use for
25 everything. At that time, there was no criminal

1 investigation taking place; it was just an
2 investigation (clears throat) -- excuse me -- into his
3 wife's death.

4 Q And was this after you talked to -- strike
5 that. When you say these are standard forms, did you
6 explain that to Mr. Scharf before you had him sign them
7 --

8 A I don't know if I --

9 Q -- that this was not a criminal
10 investigation?

11 A I don't know if I did or not.

12 Q Do you have a specific recollection of
13 explaining what you were attempting to do by having him
14 sign those forms?

15 A Well, I had asked him originally, prior to signing
16 the forms, what we wanted to do as far as the
17 photographs and to get consent to search the vehicle,
18 which he agreed to, and I had filled out the forms, and
19 he filled them out, he read them, and he signed them.

20 Q Okay, well, will you agree with me that
21 anyone, particularly a layperson, reading those forms
22 where it mentions a criminal investigation would tend
23 to believe that it was a criminal as opposed to a
24 accident investigation?

25 MR. MELLO: I'm going to object to the form

1 of the question, but there's no question that the form
2 is in evidence and the language is what the language
3 is.

4 MR. BILINKAS: I'll withdraw the question and
5 ask another one, Judge.

6 BY MR. BILINKAS:

7 Q You will agree with me that both of these
8 forms specifically authorize you to remove any and all
9 papers, property, and effects which may be considered
10 pertinent to their criminal investigation.

11 A Yes.

12 Q Both of them say those exact words, correct?

13 A Yes.

14 Q And, when you explained what you wanted from
15 Mr. Scharf, you really didn't give him any information,
16 other than what's contained on these forms, correct?

17 A Correct.

18 Q Aside from what's contained on those forms,
19 he voluntarily cooperated with you and gave you the
20 authority to search his body as well as his car,
21 correct?

22 A Correct.

23 Q The car that the hammer was found in,
24 correct?

25 A Yes.

1 Q And will you agree with me that, if this was
2 not a criminal investigation according to you, that, if
3 he had refused, that you couldn't have looked in the
4 car and found the hammer.

5 MR. MELLO: That's not accurate, is it,
6 Judge? That's one possibility. There are others. I
7 think that's an inappropriate question.

8 THE COURT: Ask another --

9 MR. MELLO: I'll object --

10 THE COURT: -- question.

11 MR. MELLO: -- to the form.

12 BY MR. BILINKAS:

13 Q Well, what would you have done as the
14 investigator in charge at this point, correct, if he
15 refused to sign those consent forms?

16 MR. MELLO: I'm going to object to what he
17 would have done. I think it's fair to ask him what he
18 did or did not do, but not what he would have done.

19 MR. BILINKAS: Judge, I think that's a
20 perfectly appropriate question.

21 THE COURT: I'll allow it; overruled.

22 THE WITNESS: Could you repeat that please?

23 BY MR. BILINKAS:

24 Q What -- what would you have done if he didn't
25 sign those consent forms?

1 A We wouldn't have done anything; we wouldn't have
2 searched the vehicle and we wouldn't have photographed
3 him or asked him to show us his upper torso.

4 Q Would you have tried to get a warrant from a
5 judge to search that car?

6 A No, sir.

7 (Pause in proceeding)

8 Q You basically asked and he consents, correct?

9 A Yes.

10 Q And -- and where were these forms filled out?

11 A In my office.

12 Q The same office that you had taken the verbal
13 and written statement?

14 A Yes.

15 Q And how much time had gone by from those two
16 statements, from when you asked him to sign the form?

17 A -- five or ten minutes. I had to get the forms,
18 and certain parts of the forms were "x"'d out.

19 Q Isn't it a fact that a representative from
20 the Prosecutor's Office, Homicide Section in
21 particular, told you to try to get him to consent?

22 A He asked us to, yes.

23 Q And -- (Noise drowns out voice) -- the
24 Homicide Section of the Bergen County Prosecutor's
25 Office, correct?

1 A Yes.

2 Q You had apprised him of the details of what
3 had gone on up to this point, correct?

4 A Yes.

5 Q Do you know if Pagan, the person who'd found
6 Jody Scharf's body, had communicated anything to him?

7 A I have no idea.

8 Q Did the representative from the Medical
9 Examiner's Office communicate with him?

10 A I don't know.

11 Q It was your belief that you were the only one
12 that talked to the Prosecutor's Office?

13 A At that particular time, yes.

14 Q And, based on whatever you told them, they
15 asked you to try to get a consent form --

16 A Yes.

17 Q -- correct? Now, could Mr. Scharf have left
18 your office from the time he gave the oral statement
19 and the written statement to the time that you asked
20 for these consent forms?

21 A Did he leave my office?

22 Q Could he have --

23 A Yes.

24 Q -- left your office?

25 A Yes.

1 Q Did -- did you tell him he was free to leave
2 the office at any time?

3 A Yes. He was also told he could use the restroom
4 at the end of the hallway.

5 Q Was his a car -- was his car secured at the
6 Lookout site?

7 A Yes, it was.

8 Q Was there a police officer watching it so no
9 one touched it or let it leave the area?

10 A Yes.

11 Q Who was that?

12 A I believe it was Officer Abbott.

13 Q And -- and who told him to do that?

14 A I'm not sure; I think it was Sergeant Pagan.

15 Q Sergeant Pagan. Now, irrespective of whether
16 or not this is a criminal investigation, would you
17 agree with me that any type of investigation it's
18 important to get all the facts, correct?

19 A Yes.

20 Q And would you agree with me that it's
21 important to interview any potential witnesses who may
22 have seen something relating to an incident that you're
23 investigating, correct?

24 A Yes.

25 Q To your knowledge, were there numerous

1 witnesses, approximately 15 different cars at the
2 Lookout site, when this incident -- incident allegedly
3 happened?

4 A I don't know how many vehicles were there.

5 Q Do you know if there were any vehicles there?

6 A When I arrived, I don't believe there were any,
7 except for the emergency vehicles and Mr. Scharf's car.

8 Q Now, when did Police Officer Abbott give you
9 Jody Scharf's purse?

10 A It was at the repelling site.

11 Q When you first arrived on the scene?

12 A Yes.

13 Q And -- and where did he hand that to you?

14 A At that site.

15 Q And -- and what did you do with that purse?

16 A I held onto it til I got to Headquarters and I
17 gave it to Mr. Scharf.

18 Q And did you give it to him before or after
19 you took the statements from him?

20 A Probably before.

21 Q And did you go through the purse?

22 A I looked at it, yes.

23 Q And did you look at each and every item in
24 that purse?

25 A I don't recall what was in it. There was nothing

1 of value.

2 Q From an evidential standpoint, correct?

3 A Yes.

4 Q So, at --

5 A Or --

6 Q -- at --

7 A -- or money-wise.

8 Q And, at that point in time, you turned it

9 over to Mr. Scharf, correct?

10 A Yes.

11 Q Now, what did Police Officer Abbott tell you
12 about that purse?

13 A I don't recall him telling me anything, but just
14 that it belonged to the victim, Mrs. Scharf.

15 Q Did you talk to anyone else with regards to
16 the circumstances of how that purse was found, other
17 than Abbott?

18 A No, I don't recall any.

19 Q And it's your recollection that you turned
20 the purse over to my client before you took the
21 statement from him, correct?

22 A Yes.

23 Q And when were you told that contents had
24 spilled out of that purse?

25 A It was at the scene.

1 Q By who?

2 A Abbott.

3 Q I just asked you what Abbott told you about
4 the purse. Can you tell me specifically what he told
5 you about the purse?

6 A That it was found at the scene and it was -- I
7 believe it was tossed up to him.

8 Q Okay, and --

9 A --

10 Q -- and what did he say about the contents?

11 A He said that's all that was in it. And there was
12 actually was nothing that I can recall that was in it.
13 I don't -- I couldn't tell you what was in the
14 pocketbook.

15 Q Did he say --

16 A All I know is there was nothing of value.

17 Q Did he say that the contents had fallen out?

18 A He might have; I don't -- I don't recall.

19 Q --

20 (Pause in proceeding)

21 Q Did you put in your official police report
22 that her pocketbook was found on the lower ledge below
23 the area where they had been, with some of the contents
24 spilled out; did you say words to that effect?

25 (Pause in proceeding)

1 A Yes.

2 Q And can you tell me where you got the
3 information that you put in your official report that
4 night that the contents had spilled out of the purse?

5 A Probably from Abbott.

6 Q When you say, "Probably," as you --

7 A He was the only one I spoke to at the scene.

8 Q Do you have a specific recollection of Abbott
9 telling you that, you know, the contents of the purse
10 had spilled out on the scene?

11 A No, I don't.

12 Q Can I assume when you talked to the
13 representative from the Prosecutor's Office that you
14 indicated to him what you put in your report that there
15 was possible contents from the purse at the scene?

16 A I could only tell him what I put in my report;
17 that's that it was found on a ledge and it says that
18 most of the stuff was -- was in the pocketbook had
19 fallen out; that's all I could tell him.

20 Q Most of the stuff?

21 A Whatever was in the pocketbook.

22 Q Well, again, does your report indicate that
23 contents had spilled out of the purse?

24 A Yes.

25 Q And will you agree with me that, in all

1 probability, if it was in your report, you relayed
2 that information to the Bergen County Prosecutor's
3 Office?

4 A Through my report, yes.

5 Q When did they get your report?

6 A I don't recall when they got the reports.

7 (Pause in proceeding)

8 Q Now, my client signed two consent forms,
9 correct?

10 A Yes.

11 Q One is for the taking of photographs of his
12 body, correct?

13 A Yes.

14 Q And can I also assume that the Prosecutor
15 requested that you get Scharf to sign that consent form
16 as well?

17 A Yes.

18 Q The Homicide Detective, correct?

19 A Yes.

20 Q And -- and will you agree with me that the
21 reason why you were asked to do that was to determine
22 whether or not there was any evidence that there was a
23 struggle between him and his wife?

24 A Yes.

25 Q That was that specific purpose for you

1 getting that consent form, correct?

2 A I would believe so, yes.

3 Q And that was requested by the Prosecutor's

4 Office.

5 A Yes.

6 Q So can we assume that, upon being requested

7 by the Prosecutor to examine my client's body, that you

8 did a thorough and complete job to make sure there was

9 no evidence of any signs on(sic) the struggle -- of the

10 struggle on his body?

11 A Yes.

12 Q You looked at his hands, correct?

13 A Yes.

14 Q His face, correct?

15 A Yes.

16 Q Could you see any scratches on his eyes?

17 A No.

18 Q Was he wearing makeup that night?

19 A No.

20 Q Did -- did you look on his torso?

21 A Yes.

22 Q And will you agree with me that, based on

23 your extensive investigation, there was absolutely no

24 marks on Stephen Scharf's body soon after his wife fell

25 whatsoever?

1 A Correct.

2 Q And that's evidenced by the -- the
3 photographs, correct?

4 A Yes.

5 (Pause in proceeding)

6 Q Now, at some point in time you go back to the
7 scene after you take the statements from him, correct?

8 A Yes --

9 Q Is that when --

10 A -- lower road.

11 Q -- you went down along the road by the river?

12 A Yes.

13 Q And is that where you waited for the body to
14 be brought down?

15 A Yes.

16 Q Now, with regards to Mrs. Scharf's wounds,
17 did you specifically observe those roun(sic) -- wounds,
18 or is the information contained in your report provided
19 to you by someone else?

20 A I saw them.

21 Q Now, you clearly saw a large head wound,
22 correct?

23 A Yes.

24 Q A large wound to her chest, her right chest,
25 correct?

1 A Yes.

2 Q And, without a doubt, you saw many scrat --
3 scratches and lacerations on both her arms and legs,
4 correct?

5 A Yes.

6 (Pause in proceeding)

7 Q Now, I'm going to show you D-6; is that Mr.
8 Scharf depicted in that photograph?

9 A Yes, it looks like him.

10 Q And is that the way that he looked, as far as
11 his age, his features, back in September of 1992?

12 A As I recall, yes.

13 Q And -- and do you see a cooler depicted in
14 that picture?

15 A Yes.

16 Q Okay. And will you agree with me that the
17 background behind Mr. Scharf is the view that you would
18 see from the Rockefeller Lookout?

19 A That it could be the Rockefeller Lookout, yes.

20 Q Any doubt in your mind?

21 A I would say it's the Rockefeller Lookout.

22 (Pause in proceeding)

23 MR. BILINKAS: Counsel, 285.

24 MR. MELLO: Sure, in evidence.

25 (Pause in proceeding)

1 BY MR. BILINKAS:

2 Q I'm going to show you what's been marked,
3 "285," --

4 MR. BILINKAS: In evidence, Counsel?

5 MR. MELLO: Sure.

6 BY MR. BILINKAS:

7 Q Would you agree that that's the same cooler
8 that's depicted in that picture?

9 A It looks the same.

10 MR. BILINKAS: (Noise drowns out voice) --
11 publish the front of this photograph that's in evidence
12 and this cooler with it.

13 THE COURT: Any objection?

14 MR. MELLO: None at all.

15 (Pause in proceeding)

16 BY MR. BILINKAS:

17 Q Detective, one of the things Mr. Scharf told
18 you in the oral statement that was communicated to both
19 you and then to the Prosecutor when you turned over
20 your report was that he had indicated he had been there
21 with his wife on previous occasions, correct?

22 A Y -- they(sic) just said that it was his favorite
23 -- their favorite spot. He didn't tell me how
24 long(sic) -- how many times they had been there.

25 Q And I'm not asking you for a specific number.

1 Will you agree with me that on the day in question he
2 informed you, and you put it in your report, that he
3 and his wife, it was a favorite spot?

4 A Yes.

5 Q And, by -- by that, did you understand him to
6 mean that he and his wife had been there on previous
7 occasions?

8 A Yes.

9 Q And, irrespective of the exact time that you
10 turned over your report dated September 21st, will you
11 agree with me that you turned it over to the
12 Prosecutor's Office a short time thereafter?

13 A Yes.

14 Q And --

15 (Pause in proceeding)

16 Q -- and when did you draft this report?

17 A Which one?

18 Q The police report that was referred to, the
19 one I believe you have up there.

20 A My report?

21 Q Yes.

22 A I started that evening or that morning.

23 Q N -- and -- and the first paragraph says, "On
24 the above date"; that's wrong, correct?

25 A Yes.

1 (Pause in proceeding)

2 Q Now, when you went to Mr. Scharf's car, was
3 it unlocked?

4 A Yes, it was.

5 Q You're -- you're absolutely positive of that
6 fact, correct?

7 A Yes.

8 Q He didn't give you his keys or you don't
9 recall using a key to open the door, correct?

10 A No, I did not.

11 Q Now, during Mr. Scharf's statement, he also
12 told you that he and his wife had been drinking,
13 correct?

14 A Yes.

15 Q And he was drinking wine, correct?

16 A Yes.

17 Q Now, in that car you found a receipt for the
18 purchase of some cheese, correct?

19 A Yes.

20 Q And did you find a piece of wax paper during
21 your search?

22 A I don't recall any.

23 Q Can you please look on page two of your
24 initial police report, last paragraph, three lines down
25 from the middle; isn't it a fact that you indicated

1 when searching the car you -- you found a piece of wax
2 paper?

3 A Yes, I see that.

4 Q And where is that wax paper?

5 A I don't know.

6 Q Was that the wax paper that the cheese was
7 wrapped in?

8 A I don't know.

9 Q Do you recall as you sit here today finding
10 that piece of wax paper?

11 A I can't recall it, no.

12 Q Will you agree with me that if you put it in
13 your report you probably found a piece of wax paper?

14 A Yes.

15 Q For instance, that's the same report that you
16 listed the clawhammer and the knife, correct?

17 A Yes.

18 Q Did you find the piece of cheese that went
19 along with the receipt that you found in the car?

20 A No.

21 Q Now, isn't there a trash can right near the
22 spot where Mr. Scharf parked his car?

23 A Yes.

24 Q Did you ever check that trash can?

25 A No.

1 Q Do you know whether or not anything was
2 thrown in there from their picnic?

3 A I have no idea.

4 Q Do you recall seeing a trash can basically a
5 few feet from his car?

6 A Yes.

7 (Pause in proceeding)

8 Q Now, that gold-colored cross that the
9 Prosecutor introduced into evidence, that was in a gift
10 box, correct?

11 A What was that; I didn't --

12 Q The gold cross with the chain?

13 A It was in a --

14 Q Jewelry box.

15 A Jewelry -- gray jewelry box, yes.

16 (Pause in proceeding)

17 Q Now, with regards to noting Mr. Scharf's
18 demeanor 18 years later, can you tell the ladies and
19 gentlemen of the jury whether you mentioned anywhere in
20 your official report what Mr. Scharf's demeanor was?

21 A No, I don't believe there is any.

22 Q And will you agree with me that something
23 that you'd consider significant should be in your
24 report?

25 A I should have put it in, yes.

1 Q And do you recall testifying under oath with
2 regards to Mr. Scharf's demeanor at some point in time?

3 A Yes.

4 Q And do you recall saying words to the effect
5 that he appeared upset when you told him about his
6 wife's death?

7 A Yes.

8 Q So I'm clear on this point, you have
9 previously testified under oath that, when you told Mr.
10 Scharf that his wife was dead, that he appeared upset,
11 correct?

12 A Yes.

13 Q That he got emotional, correct?

14 A No, he didn't get --

15 Q Did you use --

16 A -- too emotional.

17 Q -- the word --

18 A He got --

19 Q -- "Emotional"?

20 A -- a little upset. He wasn't ranting and raving,
21 jumping up and down, or anything.

22 Q On direct examination, did you ever describe
23 his demeanor as being upset to any degree?

24 A Slightly upset.

25 Q And have you talked to the other officers in

1 your department regarding Mr. Scharf's demeanor on the
2 night in question?

3 A No, I can't recall any conversations.

4 (Pause in proceeding)

5 Q Now, as a detective, did -- detective
6 involved in this case, did you charge Stephen Scharf
7 with possession of a weapon?

8 A No, sir.

9 Q And, based on your experience, if an item is
10 used as a weapon in any respect --

11 MR. MELLO: Objection to the form of this
12 question.

13 THE COURT: Sustained.

14 BY MR. BILINKAS:

15 Q To your knowledge, has anyone ever charged
16 Stephen Scharf with possession of a weapon,
17 specifically the use of the hammer in this case?

18 A To my knowledge, no.

19 (Pause in proceeding)

20 MR. BILINKAS: -- (speaking away from the
21 microphone)

22 MR. MELLO: I'm sorry?

23 MR. BILINKAS: -- (speaking away from the
24 microphone)

25 BY MR. BILINKAS:

1 Q I'm going to show you --

2 MR. BILINKAS: In evidence?

3 MR. MELLO: Sure.

4 BY MR. BILINKAS:

5 Q I'm going to show you D-244. Is this the

6 photograph that you took of the contents of Mr.

7 Scharf's car?

8 A Yes, it's the receipt.

9 Q And -- and will you agree that that cooler

10 that you photographed looks exactly like the cooler

11 that is in the picture that I've showed?

12 A Yes, sir.

13 MR. BILINKAS: I'd like to publish this

14 quickly to the jury?

15 THE COURT: You may.

16 (Pause in proceeding)

17 MR. BILINKAS: I believe I'm done, Judge, if

18 I can just look at my notes first.

19 (Pause in proceeding)

20 BY MR. BILINKAS:

21 Q Did the Medical Examiner ever arrive on the

22 scene on the night in question?

23 A No, she didn't.

24 Q Did she basically telephone in the

25 pronouncement of death?

1 A There's communications between the paramedics and
2 her.

3 Q And -- so my -- my specific question is she
4 never even came to the scene on that night, correct?

5 A That's correct.

6 Q To your knowledge, did the Medical Examiner
7 or representative ever go to the exact area where the
8 body had landed?

9 A To the best of my knowledge, no.

10 Q As the Chief Detective in charge at that
11 time, to your knowledge did anyone document the area
12 where the body had finally come to rest that night?
13 Did they take photographs?

14 A They probably did; I don't know, I didn't get
15 involved in that.

16 Q Well, will you agree with me that it would be
17 proper police procedures to at the very least document
18 the position of the body before it's removed?

19 A Yes.

20 Q And would you agree with me that there -- if
21 there was any possible evidence surrounding the body,
22 like for instance the tree that supposedly the body
23 struck, would it be appropriate to photograph and
24 document that potential evidence?

25 A Yes.

1 Q To your knowledge, was any of that done on
2 the night in question?

3 A To my knowledge, no, I don't know.

4 Q When you had a conversation with the
5 Prosecutor's Office, did they tell you to make sure the
6 scene is properly documented before you l-- (noise
7 drowns out voice)

8 A No, nothing was ever said about that.

9 (Pause in proceeding)

10 Q Then with regards to your report and every
11 single item that the Prosecutor has introduced into
12 evidence through you, will you agree with me that all
13 of those items was in the possession of the Bergen
14 County Prosecutor's Office back in September of 1992?

15 A Yes, I would.

16 (Pause in proceeding)

17 MR. BILINKAS: Nothing further.

18 THE COURT: Prosecutor?

19 MR. MELLO: Very briefly.

20 (Pause in proceeding)

21 REDIRECT EXAMINATION BY MR. MELLO:

22 Q Mr. Bilinkas asked you about that moment in
23 time when you tell Mr. Scharf that his wife is dead,
24 yes?

25 A Yes.

1 Q And he asked you isn't it true that he was
2 upset, and your response was he appeared to be a little
3 upset.

4 A Yes.

5 Q He was this upset; this is the photograph you
6 took of him?

7 A Yes, I did.

8 Q Is that Mr. Scharf holding in his stomach for
9 this photograph just after he had told you his wife
10 tragically fell off a cliff; is that him holding his
11 stomach in?

12 MR. BILINKAS: Judge, is that --

13 BY MR. MELLO:

14 Q Is that --

15 MR. BILINKAS: Objection, it's leading.

16 Again, he's trying to put words in the witness's mouth.

17 MR. MELLO: Well, let me not do that.

18 THE COURT: Sustained.

19 MR. BILINKAS: Again, after he suggests it,
20 he's going to ask a --

21 MR. MELLO: You know what, Mr. Bilinkas,
22 let's do this; I'll just give it to the jury. You
23 decide, ladies and gentlemen.

24 (Pause in proceeding)

25 THE COURT: All right?

1 (Pause in proceeding)

2 MR. MELLO: Your Honor, we do have another
3 witness. May I ask the Court's indulgence --

4 THE COURT: Any further qu -- questions of
5 this witness?

6 MR. BILINKAS: I don't believe there was a
7 question on redirect, Judge; no.

8 MR. MELLO: I'm done.

9 THE COURT: All right? You may step down;
10 thank you.

11 (Witness is excused)

12 (Sidebar)

13 MR. MELLO: Thank you so much, Judge.

14 (Sidebar concluded)

15 THE COURT: We'll take a ten-minute break.

16 (20-Minute Break)

17 (Back on the record)

18 (Jury entering)

19 (Jury is present)

20 THE COURT: You look like you're a little
21 more prepared for the air conditioning this time.

22 (Laughter)

23 THE COURT: All right, please be seated;
24 welcome back.

25 Prosecutor, call your next witness.

1 MR. MELLO: Thank you, Sir. James Lynam,
2 please.

3 (Pause in proceeding)

4 COURT CLERK: Raise your right hand.

5 D E T E C T I V E J A M E S L Y N A M, STATE'S
6 WITNESS, SWORN

7 COURT CLERK: State your name for the record.

8 THE WITNESS: James Lynam.

9 THE COURT: Please have a seat.

10 (Pause in proceeding)

11 MR. MELLO: --

12 THE COURT: You may begin.

13 DIRECT EXAMINATION BY MR. MELLO:

14 Q Good afternoon, sir.

15 A Good afternoon.

16 Q If you would, let's begin your testimony by
17 detailing for the jury your background in Law
18 Enforcement, all right?

19 A Yes, sir. I became a police officer on January
20 1976. I was appointed to work for the Palisades
21 Interstate Park Commission in the capacity of a
22 uniformed patrol officer. I remained in that uniformed
23 patrol section of the department until 1984 where I
24 entered the Detective Bureau and worked plainclothes
25 assignment until 1993.

1 In 1994, September of specifically, I then left
2 that department, joined the Bergen County Police
3 Department in the capacity of a uniformed patrol
4 officer until 1997, where I entered that Detective
5 Bureau, worked in the capacity of plainclothes.

6 And, in 1999, I then went on loan to the Bergen
7 County Prosecutor's Office Narcotic Task Force, where I
8 remained until 2004. And I retired from the Bergen
9 County Police Department in 2006.

10 Q Thank you. I'm going to direct your
11 attention to September 21, 1992; do you recall that
12 date?

13 A Yes.

14 Q By whom were you employed on that date?

15 A The Palisades Interstate Park Commission.

16 Q Can you tell us on that date the general
17 nature of your assignment within that department?

18 A On that particular day, I was scheduled to work a
19 day tour, which meant I reported to work at 08:00,
20 eight o'clock, and my normal day tour would last until
21 4 p.m.

22 Q And to what particular part of the department
23 were you assigned at that time?

24 A The Detective Bureau.

25 Q And, if you would, can you recall for us

1 approximately how much time you had spent in the
2 Detective Bureau as of that particular date?

3 A Yes, approximately eight years.

4 Q Now, with respect to September 21, 1992, does
5 there come a point in time that you report for duty as
6 a detective with the Palisade Interstate Parkway
7 Police?

8 A Yes.

9 Q And can you tell us on that date after
10 reporting for work if you became involved into an
11 inquiry regarding the death of one, Jody Ann Scharf?

12 A Yes, I did.

13 Q And, at the time that you arrived at work and
14 were assigned to become involved in that particular
15 inquiry, did you have occasion to review certain
16 reports of other police officers within your
17 department?

18 A Yes.

19 Q And did you have occasion to be made privy to
20 the status of the inquiry up until that particular
21 point in time?

22 A Yes.

23 Q Now, with respect to your involvement
24 regarding the death of Jody Ann Scharf, at
25 approximately 9:30 that morning did you undertake a

1 specific assignment with regard to the inquiry?

2 A Yes, I did.

3 Q Okay, would you tell us what was the nature
4 of that particular detail?

5 A I left Headquarters and I proceeded to the
6 Rockefeller Lookout for the purpose of taking pictures
7 of the scene where Ms. Scharf fell off the cliff.

8 Q Now, Rockefeller Lookout is of course located
9 within the jurisdiction of your department.

10 A Yes, it is.

11 Q And it is of course located in Englewood
12 Cliffs, correct?

13 A Yes, sir.

14 Q As you arrived at that location, did you
15 observe a non-police, non-emergency services vehicle in
16 the Lookout area?

17 A Yes, I did.

18 Q And was that a vehicle that belonged to the
19 Scharf family?

20 A Yes.

21 Q Do you remember the color and make of that
22 vehicle?

23 A I believe it was a Ford Taurus, color white.

24 Q Now, with respect to that particular vehicle,
25 did you photograph that vehicle in place?

1 A Yes.

2 (Pause in proceeding)

3 MR. MELLO: S-247 in evidence.

4 BY MR. MELLO:

5 Q I'm going to ask you if you'd take a look at
6 that photograph and, as it is being displayed to the
7 jury, can you tell us first do you recognize what is
8 depicted in that photograph?

9 A Yes.

10 Q What is it?

11 A It's a white vehicle parked in a marked parking
12 spot facing east from the parking lot of the Lookout.

13 Q And is that the Scharf vehicle?

14 A Yes.

15 Q And is that photograph a photograph taken by
16 you on the 21st of September?

17 A Yes, it is.

18 (Pause in proceeding)

19 Q Now, at the time that you were at the
20 Rockefeller Lookout, you have reviewed police reports,
21 correct?

22 A That's correct.

23 Q Have you had the opportunity to discuss this
24 matter with other personnel from that department,
25 without telling us the substance of the conversations?

1 A Yes.

2 Q And, with respect to your arrival on scene
3 for purposes of taking certain photographs, were any
4 Palisade Interstate Parkway Police officers present at
5 the scene with respect to directing your attention to
6 certain locations?

7 A Yes.

8 Q Who would that be?

9 A Sergeant Nelson Pagan.

10 Q Was your attention directed to a particular
11 area in the northern end of the Lookout?

12 A Yes.

13 Q And would that be to the north of the vehicle
14 that you've just identified as having photographed on
15 that date?

16 A That's correct.

17 Q I'm going to show you what's been marked, "S-
18 257," in evidence.

19 (Pause in proceeding)

20 Q Do you recognize the photograph that is being
21 shown to you?

22 A Yes, I do.

23 Q Is that a photograph that you took?

24 A Yes.

25 Q And took on the 21st.

1 A Yes.

2 Q And, for purposes of the series of questions
3 I'm going to ask you, I'll ask you if each of them are
4 in turn photographs that you took on that date. What
5 does that photograph depict?

6 A Well, it depicts the curb of the parking lot.
7 Then, moving east, it depicts a large rock with a --
8 with a paint mark on it. And that mark is part of the
9 trail markings, the hiking trail markings, from within
10 the Palisades Interstate Park.

11 And to the left of that rock is a decline, which
12 is -- which leads to a worn path, foot path, from the
13 lot to the fenced-off area and to the edge of the
14 cliff.

15 Q Now, with respect to the path that you've
16 referred to and the marking on the boulder that you've
17 referred to, the marking on the boulder is a marking
18 with respect to authorized hiking trails, is it not?

19 A Yes, it is.

20 Q Is the pathway that you've referred to as
21 leading through the wooded area to the fence and
22 ultimately to cliff edge one of those hiking-trail
23 areas?

24 A No.

25 MR. MELLO: Thank you.

1 (Pause in proceeding)

2 BY MR. MELLO:

3 Q Now, you referred to that path leading to a
4 fence. I'm going to show you what's been marked, "S-
5 250" and "S-251" in evidence. If you would, would you
6 please first examine those photographs?

7 MR. BILINKAS: Thank you.

8 (Pause in proceeding)

9 BY MR. MELLO:

10 Q If you would, let's take S-250 first; do you
11 recognize that photograph?

12 A Yes.

13 Q What does that photograph depict?

14 A That photograph shows the dirt path which leads to
15 the fence, and it shows the -- a large flat rock east
16 of the fence, which is the location where Mrs. Scharf
17 fell off.

18 Q And did you take that photograph on September
19 21?

20 A Yes.

21 Q Thank you.

22 MR. MELLO: Next photograph please, S-251.

23 (Pause in proceeding)

24 BY MR. MELLO:

25 Q Do you recognize that photograph?

1 A Yes.

2 Q What do you recognize that photograph to
3 depict?

4 A This photograph shows a close-up view of the fence
5 itself and of the flat rock east of the fence and the
6 Hudson River and points east of.

7 Q Thank you. Is that a photograph that you
8 also took on the 21st of September 1992?

9 A Yes.

10 (Pause in proceeding)

11 Q S-249 in evidence.

12 (Pause in proceeding)

13 Q Have you examined that photograph?

14 A Yes.

15 Q What does that photograph depict?

16 A It depicts a notice from the Palisades Interstate
17 Park Commission warning people, for instance, the p --
18 trails close at dusk, to stay within marked trails, and
19 not to go beyond the fence point.

20 Q Did you take that photograph?

21 A Yes.

22 Q Did you take it on September 21st?

23 A Yes, I did.

24 Q Thank you.

25 (Pause in proceeding)

1 Q I'm going to show you what's been marked, "S-
2 253," in evidence.

3 (Pause in proceeding)

4 Q Do you recognize that photograph, sir?

5 A Yes, I do.

6 Q What do you recognize that photograph to be?

7 A That photograph is one of a large flat rock with
8 some graffiti on it, which is overlooking the Hudson
9 River.

10 Q Did you take that photograph?

11 A Yes.

12 Q Did you take it on September 21st?

13 A Yes.

14 (Pause in proceeding)

15 Q S-259 -- S-259 in evidence.

16 (Pause in proceeding)

17 Q Do you recognize that photograph?

18 A Yes, I do.

19 Q What do you recognize that photograph to be?

20 A It's a picture of the rock from a different angle,
21 what -- what show -- shows the same graffiti marking
22 and a short step down from the -- the front part of the
23 rock east to the flat part of the rock directly
24 overlooking the Hudson.

25 Q Thank you. Did you take that photograph?

1 A Yes.

2 Q Did you take it on September 21st?

3 A Yes.

4 Q S-252 in evidence.

5 (Pause in proceeding)

6 Q Do you recognize that photograph?

7 A Yes, I do.

8 Q What does that photograph depict?

9 A It depicts the sa -- a view of the same rock with
10 the same graffiti marking with showing the short step-
11 down from a point east of the beginning of the rock,
12 and it overlooks the Hudson River.

13 Q Did you take that photograph?

14 A Yes.

15 Q Did you take it on September 21st, 1992?

16 A Yes.

17 Q Thank you.

18 (Pause in proceeding)

19 Q S-260.

20 (Pause in proceeding)

21 Q Do you recognize that photograph?

22 A Yes, I do.

23 Q What do you recognize that photograph to be?

24 A It's a side view of the rock with a drop-down to
25 another ledge below it. And the view from that picture

1 shot is obviously behind foliage.

2 Q And is that picture taken by you?

3 A Yes.

4 Q Taken by you on the 21st?

5 A Yes.

6 Q Is that picture taken by you from a position
7 north of the flat rock?

8 A Yes, it is.

9 Q I'm going to show you what's been marked, "S-
10 254".

11 (Pause in proceeding)

12 Q Do you recognize that photograph, sir?

13 A Yes, I do.

14 Q What do you recognize that photograph to be?

15 A It's a similar view of the photograph of the last
16 one, with less foliage obstruction. It shows the flat
17 rock and it shows a drop-down to a ledge below it,
18 which also overlooking the Hudson River.

19 Q Is -- is that a photograph taken by you?

20 A Yes.

21 Q Taken by you on the 21st?

22 A Yes.

23 Q Thank you. I'm going to re-show you S-250.

24 (Pause in proceeding)

25 Q Viewing that photograph, do you see an

1 individual in that photograph?

2 A Yes.

3 Q Does that individual bear the uniform of your
4 department?

5 A Yes, he does.

6 Q Does that individual bear the insignia of a
7 sergeant?

8 A Yes.

9 Q Can you tell us who that person was?

10 A Sergeant Nelson Pagan.

11 Q Thank you.

12 (Pause in proceeding)

13 Q Now, at this particular point in time, Pagan
14 is on scene with you, correct?

15 A Yes.

16 Q And is it fair to say that he has assisted
17 you in documenting certain locations?

18 A Yes.

19 Q Among the locations that you have testified
20 to, did you document a further location on the other
21 side of the flat rock?

22 A Yes.

23 Q And would that be a view of a ledge?

24 A Yes, it would.

25 Q I'm going to show you what's been marked, "S-

1 255" in evidence.

2 (Pause in proceeding)

3 Q Do you recognize that photograph?

4 A Yes, I do.

5 Q What does that photograph depict?

6 A It depicts the ledge below the flat rock in
7 previous pictures, and, within that ledge, on that
8 ledge, is -- is a make-up kit and what appears to be a
9 credit card.

10 Q Okay, and, if you would -- and let's make
11 sure we can have the jury see it -- if you would, would
12 you point to --

13 MR. MELLO: That's -- that's -- that's good,
14 I think.

15 BY MR. MELLO:

16 Q Would you point to the make-up case? And
17 would you point to the credit card?

18 MR. MELLO: Everybody see that? Good?

19 BY MR. MELLO:

20 Q Now, did you -- well, let me show you one
21 more photograph -- (voice fades) -- S-256 -- S-256 in
22 evidence.

23 (Pause in proceeding)

24 Q Do you recognize that photograph?

25 A Yes.

1 Q What do you recognize that photograph to
2 depict?

3 A It depicts a make-up brush sitting on top of
4 foliage.

5 Q And, with respect to the make-up brush
6 sitting on top of foliage, where was that make-up
7 brush?

8 A That make-up brush was in the same location as the
9 kit and the card on the secondary ledge below the --

10 Q That ledge.

11 A -- flat rock.

12 Q Okay. Now --

13 MR. MELLO: Thank you.

14 BY MR. MELLO:

15 Q And of course similarly you took both those
16 photographs.

17 A Yes.

18 Q On the 21st.

19 A Yes.

20 Q Now, did you, after photographing the items
21 in the last two photographs, did you retrieve those
22 items?

23 A I did not, no.

24 Q Okay. Did you have a reason why you did not
25 retrieve those items?

1 A Yes, I deemed that location of those items to be
2 hazardous for me to retrieve. I didn't think I could
3 do it safely.

4 (Pause in proceeding)

5 Q Now, after completing that photography
6 assignment(phonetic), as you've so testified, did you
7 return to Headquarters?

8 A Yes.

9 Q At Headquarters, did you have occasion,
10 without referring to the substance of the conversation,
11 did you have a conversation with a representative of
12 the Washington Township Police Department?

13 A Yes.

14 Q And was that one Lieutenant Ted Ehrenburg?

15 A Yes, it was.

16 Q Now, that morning, after you had completed
17 that assignment and at about the time you're having
18 that conversation, do you see a man who will become
19 known to you as Stephen Scharf?

20 A Yes.

21 Q Do you see Mr. Scharf in court?

22 A Yes, I do.

23 Q Would you point him out please?

24 A He's the gentleman in the suit, white shirt,
25 multi-colored tie, seated at the table.

1 MR. BILINKAS: I stipulate my client.

2 MR. MELLO: Thank you.

3 THE COURT: The record will so indicate the
4 identification of the Defendant. Next question.

5 MR. MELLO: Thank you, Sir.

6 BY MR. MELLO:

7 Q Now, Mr. Scharf was at Headquarters at this
8 time, correct?

9 A That's correct.

10 Q And that would be the morning of the 21st.

11 A Yes.

12 Q Was he there to collect his private vehicle?

13 A Yes, he was.

14 Q At the time that you see Mr. Scharf at
15 Headquarters, do you have a brief conversation with
16 him?

17 A Yes.

18 Q Do you have a conversation with Mr. Scharf
19 with respect to Mr. Scharf presenting himself the
20 following day for an interview at the Prosecutor's
21 Office?

22 A Yes.

23 Q And does Mr. Scharf agree to present himself
24 to the Prosecutor's Office the next day for an
25 interview?

1 A He does.

2 Q Now, throughout that day, would it be fair to
3 say that you begin to work within this inquiry into the
4 death of Mrs. Scharf?

5 A Yes.

6 Q What I'd like to now do is focus your
7 attention to the very next day, September, the 22nd,
8 1992, all right?

9 A Yes, sir.

10 Q Can you tell us if on that day --

11 MR. BILINKAS: What day --

12 MR. MELLO: September 22.

13 (Pause in proceeding)

14 BY MR. MELLO:

15 Q Can you tell us if on that day, September 22,
16 1992, you met with Mr. Scharf?

17 A Yes.

18 Q When you met with Mr. Scharf, let us ask
19 first where you met him, and by that I mean what police
20 agency at this time?

21 A I met him at 29 Linden Street in Hackensack, which
22 is within the confines of the Bergen County
23 Prosecutor's Office; it's an annex building.

24 Q And 29 Linden Street -- you may have said
25 this -- 29 Linden Street is in Hackensack, correct?

1 A Yes.

2 Q And is a satellite or was a satellite of the
3 Prosecutor's main office which is in this courthouse.

4 A Yes.

5 Q Now, at the time you met with Mr. Scharf --
6 let me first ask you: When you met with him at 29
7 Linden Street at the office of the Bergen County
8 Prosecutor, did you meet with him alone or were you
9 with any other police officer?

10 A I was with Investigator Terry Alver of the Bergen
11 County Prosecutor's Office.

12 Q And it is accurate, is it not, that at the
13 time Investigator Alver was an investigator in the
14 Prosecutor's Office assigned to Homicide?

15 A That's correct.

16 Q At the time that you and Detective Alver met
17 with Mr. Scharf, were you in uniform or not?

18 A I was not.

19 Q Was Detective Alver in uniform or not?

20 A He was not.

21 Q Can you tell us approximately what time you
22 and Detective Alver met with Mr. Scharf on the 22nd of
23 September 1992?

24 A 09:56 hours. That's 9:56 a.m.

25 Q Now, with respect to your meeting with Mr.

1 Scharf, can you tell us where in the offices of the
2 Prosecutor you met? And what I'm essentially looking
3 for is a description of the room or environment you met
4 with him.

5 A It's a regular room. In the room were -- were --
6 was a table, a couple of chairs, entry, exit door.

7 (Pause in proceeding)

8 Q Now, I'm going to ask you in a moment to
9 discuss with the jury the conversation that you would
10 have with Mr. Scharf on that date, but, before I do, I
11 want to ask you this: As the conversation developed,
12 did you have occasion to take handwritten notes?

13 A Yes, I did.

14 Q And did you, in fact, preserve those notes?

15 A Yes.

16 (Pause in proceeding)

17 Q Just take a moment to examine --

18 (Pause in proceeding)

19 Q Have you examined the document that I've
20 placed before you?

21 A Yes, I have.

22 Q Do you recognize the document?

23 A Yes.

24 Q What is the document?

25 A The document, it's notes in my handwriting which

1 began at 09:56 hours.

2 Q And are those the original notes of your
3 interview with Mr. Scharf in the company of Detective
4 Alver?

5 A Yes.

6 (Pause in proceeding)

7 Q Now, you have referred to the time of 09:56
8 as the beginning point of that interview; did you note
9 that in your report -- or I should say in your
10 handwritten notes?

11 A Yes.

12 Q Now, what I'd like to ask you first is, in
13 addition to the notes that you have before you, was a
14 report prepared in this matter relative to the
15 interview that you and Detective Alver had with Mr.
16 Scharf on the 22nd of September 1992?

17 A Yes.

18 Q And have you, in the course of your review in
19 these proceedings, have you reviewed that report?

20 A I have.

21 Q With respect to the preparation of that
22 report, would you, after the interview with Mr. Scharf,
23 review all that had been said between Mr. Scharf and
24 you and Detective Alver prior to that report being
25 written?

1 A Yes.

2 (Pause in proceeding)

3 Q I'm going to show you what's been marked, "S-
4 95".

5 (Pause in proceeding)

6 Q I'm going to ask you if you recognize that
7 report?

8 A Yes, I do.

9 Q And do you recognize that report to be the
10 report of Investigator Detective Alver?

11 A Yes.

12 Q Now, what I'd like to now do is begin to have
13 you discuss with the jury the conversation that you had
14 with Mr. Scharf accompanied by Detective Alver on
15 September 22nd, all right?

16 A Yes, sir.

17 Q And what I'd like to first do is ask, in the
18 conversation that you had with Mr. Scharf, did you
19 ascertain certain background information relative to
20 his employment?

21 A Yes.

22 Q If you would, could you tell us what you
23 recall he told you respecting his employment?

24 A He told us that at that time he was currently
25 employed as an engineer with a company called, "GEC

1 Marconi," in Totowa, and he was also a Major in the
2 U.S. Army Reserve, currently stationed at Fort Dix.

3 Q Now, with respect to his marital status at
4 that time, did he tell you whether or not he was
5 married?

6 A Yes, he did.

7 Q Did he tell you how long he had been married?

8 A Yes, he did.

9 Q How long had he been married as of the date
10 that you interviewed him?

11 A Fourteen years.

12 Q Did he tell you whether or not he had any
13 children by that marriage?

14 A Yes.

15 Q Did he tell you what that child's name was?

16 A Yes.

17 Q What was the child's name?

18 A Jonathan.

19 (Pause in proceeding)

20 Q Now, did you, during the course of your
21 interview with Mr. Scharf, begin to discuss with him
22 his activities on September 19 and September 20, 1992?

23 A Yes.

24 Q Specifically referring to Saturday, September
25 19, 1992, would that be the first date that you

1 inquired about?

2 A Yes.

3 Q Can you tell us how the discussion of
4 September 19, Saturday, 1992, evolve with Mr. Scharf?

5 A We asked him to -- to give us his whereabouts --
6 not whereabouts -- activity on the 19th and the 20th.

7 Q And let's start with what he told you about
8 what he did on the 19th, Saturday, 1992.

9 A He told us he reported to work; that would be his
10 regular job, I believe 8:30. And, during the course of
11 the week leading up to that day, he -- it was a common
12 practice for him, as he tells us, to discuss plans of
13 what he would do with his wife for that Saturday night.

14 And this Saturday night he -- they had decided to
15 try a comedy club in Fort Lee, called, "Bananas," and
16 then the Look -- then go to the Plaza Diner where they
17 would eat and then the Lookout.

18 Q Did he indicate whether or not any
19 reservations were made at the comedy club he described
20 as "Bananas" in Fort Lee?

21 A Yes, no reservation was made.

22 Q Did he tell you, following his discussion of
23 the plan, about what time he left for work?

24 A Yes, he left work at 4 and he -- he tells us he
25 arrived home at 6.

1 Q Did he discuss with you what occurred after
2 he arrived home at 6 that Saturday evening?

3 A Yes.

4 Q What did he tell you?

5 A He told us that he arrived home and found his wife
6 suffering from a migraine headache, so they did not go
7 out, at least not at that time.

8 Q What, if anything, did he tell you about what
9 may have occurred later that evening, Saturday,
10 September 19th?

11 A Mr. Scharf told us that his wife awoke at 11:30
12 and they went to a sports bar in Hackettstown, that
13 being him, his wife, and the ten-year-old son,
14 Jonathan.

15 Q Following that conversation -- and perhaps I
16 should ask: Does that give us the sum and substance of
17 what he discussed in terms of Saturday evening,
18 September 19th?

19 A Yes, it does.

20 Q Did you then begin to discuss with him his
21 activities on Sunday, September 20, 1992?

22 A Yes.

23 Q Now, can you tell us what he said about that
24 particular day, Sunday, September 20?

25 A Mr. Scharf told us Sunday that he awoke around 10

1 a.m. and he planted -- did some planting in the yard
2 and worked around the house until 2 p.m.

3 Q Did he discuss with you any plans that he and
4 his wife might have had for that Sunday?

5 A Yes, he -- they were planning -- he -- he said
6 they were planning to go to a comedy club in New York
7 City called, "Caroline's," for an 8:30 show. And he
8 also told us that he had called "Rascals," another club
9 in -- in West Orange, but, however, he did not like the
10 performer, so the plan for "Caroline's" was on.

11 Q With respect to the comment made by Mr.
12 Scharf regarding the comedy show at "Caroline's," 8:30
13 show, did you note that information in your notes?

14 A Yes, I did.

15 Q And is that similarly in the report that you
16 have before you?

17 A Yes, it is.

18 Q Now --

19 (Pause in proceeding)

20 Q -- with respect to the plan to go to the 8:30
21 show at "Caroline's" -- and that's in New York City?

22 A Yes.

23 Q Did he suggest to you or say to you any plans
24 for eating?

25 A Yes, he had also said that he was going to eat and

1 -- either before or after at the Plaza Diner in Fort
2 Lee.

3 Q Now, you've referred to a son, Jonathan.

4 A Yes.

5 Q Did he discuss with you what, if any, plans
6 or provisions were made respecting the care of
7 Jonathan?

8 A Yes, he did.

9 Q What did he tell you?

10 A He told us that Jonathan was going to be dropped
11 off at a mutual friend of their's, the Jacksons, and
12 then they would go out.

13 Q By the way, in terms of this Sunday and the
14 plan to go to "Caroline's," did he in any way discuss
15 the club, "Bananas," that he had referred to as the
16 plan for Saturday evening?

17 A Yeah, well, that was the original plan, but there
18 was no show scheduled, so "Bananas" didn't enter into
19 the picture.

20 Q Now, did he tell you who dropped the child,
21 Jonathan, off at the Jackson's?

22 A Yes.

23 Q And who did he tell you did that?

24 A Jody Scharf.

25 Q Did he tell you anything else about what Jody

1 Scharf may have done on that now Sunday, after dropping
2 her child off at the Jackson's?

3 A Yes, he did; he said -- he told -- told us that
4 Jody went to a place called, "Oats(phonetic) Farm,"
5 where she bought some apples and, in his words, to
6 chat.

7 (Pause in proceeding)

8 Q Now, with respect to the evening, did he tell
9 you anything about a cooler?

10 A Yes.

11 Q What, if anything, did he tell you about
12 that?

13 A He told us that he'd packed a cooler for their
14 trip with two wine coolers -- that would be Bartles &
15 Jaymes brand wine coolers -- also with -- with a
16 blanket, cheese, an opener, et cetera.

17 Q Did he refer to any bottle of wine?

18 A Yes.

19 Q What was that?

20 A There -- well, there was a bottle -- bottle of
21 Chardonnay, but that didn't go in the cooler.

22 Q And did he at any time in reference to this
23 event refer to the Lookout?

24 A Yes.

25 Q With respect to that part of the conversation

1 that you have just testified to, is that memorialized
2 in your notes?

3 A Yes, it is.

4 (Pause in proceeding)

5 Q With respect to the Lookout, did he tell you
6 whether or not he was familiar with the Rockefeller
7 Lookout?

8 A Yes, he did; he --

9 Q What did he tell you about that?

10 A He said he had grown up in Dumont and he was --
11 he'd been to the Lookout. In fact, he said that both
12 he and Jody had been to the Lookout approximately 30 to
13 40 times. And that spot where they went to referred --
14 he referred to as, "Their spot".

15 Q Did he tell you the last time he had been to
16 that Lookout?

17 A Yes.

18 Q And when was that?

19 A He had been to the Lookout with Jody if -- in May
20 of 1992.

21 (Pause in proceeding)

22 Q Did he tell you approximately what time he
23 and his wife left for the evening's plans?

24 A Yes, approximately 5 p.m. would be the time they
25 left.

1 Q Did he tell you that at some point they
2 arrived at the Rockefeller Lookout?

3 A Yes.

4 Q Did he tell you the approximate time they
5 arrived there?

6 A Yes, he did.

7 Q What did he tell you?

8 A He told me they arrived at the Lookout
9 approximately before 7 and in his word, "Dusk," the
10 conditions were dusk.

11 Q What did he tell you they did after arriving
12 at dusk at the Lookout?

13 A They parked in the Lookout and Mr. Scharf told us
14 that they spent approximately 15 minutes in the car
15 where Jody was consuming some wine and he had a little
16 bit of her's.

17 (Pause in proceeding)

18 Q Did he tell you if Jody had anything to drink
19 before arriving at the Lookout?

20 A Yes.

21 Q What did he tell you?

22 A He told us that she had -- she had a glass of wine
23 -- or wine at 11:30 a.m. on Sunday, and then she had
24 some additional wine on the way to the Lookout. In
25 fact, she had it in a Styrofoam cup.

1 (Pause in proceeding)

2 Q Did he tell you approximately, and did you
3 note, approximately how long they remained in the car
4 while they were at the Lookout?

5 A Yes, he told us approximately 15 minutes.

6 Q What did he tell you occurred after the
7 passage of some 15 minutes?

8 A He told us that they went for a walk and they
9 walked down that path and they went through the fence
10 and -- to that position on that rock.

11 Q Did he tell you as they walked down that path
12 that he and she did anything together?

13 A Yeah, he said they were kissing. Stopping, you
14 know, a moment, you know, for a moment to kiss; that's
15 what he said.

16 (Pause in proceeding)

17 Q Now, I want to take you to that point in the
18 conversation where he has told you that they have come
19 to a fence, all right?

20 A Okay.

21 Q Can you tell us what he said about the fence
22 and what they did at the fence?

23 A At the fence, he went through the -- he told us
24 that he g -- he went through the fir(sic) -- fence
25 first and then he helped Jody through.

1 Q After going through the fence and helping her
2 through, did he tell you what they did next?

3 A Yes, he sat down -- he told us that he sat down on
4 the rock, she sat between his legs, and they -- they
5 were engaged in some petting.

6 Q Did he tell you the direction that either he
7 or she was facing as she sat between his legs?

8 A Yes, she was facing south.

9 (Pause in proceeding)

10 Q Did he tell you what they were doing while
11 they were on that rock seated as you've just testified
12 to?

13 A Yes, he said they were petting.

14 Q What, if anything, did he tell you happened
15 next?

16 A He told us -- Mr. Scharf told us that he was
17 uncomfortable because he was sitting on his wallet, so
18 then he tells us he gets up and starts to fix his
19 pants, and he tells Jody that he's going to go back to
20 the car and get some wine and a blanket, and then he --

21 Q At that point when he fastens his pants, did
22 he tell you whether or not they were zipped or not?

23 A Yeah, he -- he said they were unzipped.

24 Q Now, you're at that point where he says what?

25 A He -- he tells her that he's going to go back to

1 the car and get some wine and a blanket.

2 Q Did he tell you what happened at that point?

3 A Yes, he did.

4 Q What did he say?

5 A He said Jody turned to him and said, "No, don't
6 go". And then he says she went to her knees and she
7 fell over the cliff.

8 Q Did he tell you how far from her he was when
9 she fell to her knees and off the cliff?

10 A Yes, he did; he said he was approximately two to
11 three feet from her.

12 Q When she fell off the cliff, did she --
13 strike that. When she fell as he described off the
14 cliff, did he tell you whether or not she cried out in
15 any manner?

16 A Yes, he did; he told us that she did not cry out.

17 (Pause in proceeding)

18 Q Did he tell you the time or light conditions
19 that existed at the time she fell in the manner that he
20 described off the cliff?

21 A Yes.

22 Q What did he tell you?

23 A He said the conditions at that time were -- were
24 dark.

25 Q Did you note that as well in your handwritten

1 notes?

2 A Yes, I did.

3 (Pause in proceeding)

4 Q Did you ask him any question about a
5 pocketbook or purse?

6 A I don't recall if I did, but I know that he told
7 us that he --

8 Q Okay.

9 A -- he was unsure; he didn't know if she had the
10 pocketbook with her at the time she fell.

11 Q Did he tell you what he did after she fell
12 from the cliff?

13 A Yes, he did.

14 Q What did he tell you?

15 A He -- Mr. Scharf told us that he looked over the
16 edge and he called out to her approximately ten times
17 and he received no answer from her.

18 Q Did he tell you what he did after not
19 receiving any answer from his wife who had fallen from
20 the cliffs?

21 A Yes.

22 Q What did he tell you?

23 A He said he ran to his car, got a flashlight out of
24 the glove compartment, returned to the -- to the
25 location, again tried to call out to her, and received

1 no answer.

2 (Pause in proceeding)

3 Q After that event that you have just
4 described, did he tell you what he did next?

5 A Yes.

6 Q What was that?

7 A He said he waved down a motorist and ev -- asked
8 that motorist to -- to -- told the motorist his wife
9 fell off the cliff and to go to the police.

10 MR. MELLO: Judge, I think this would be an
11 appropriate time -- (voice trails)

12 THE COURT: --

13 MR. MELLO: Yes, Sir.

14 THE COURT: You may step down. We'll resume
15 tomorrow at 9 a.m.

16 (Witness is excused for the day)

17 THE COURT: Ladies and gentlemen of the jury,
18 once again please do not read, listen, or watch any
19 media account. Don't watch any law-related programs.
20 Don't have any conversations of any nature with
21 anyone.

22 Have a good evening. I will see you in the
23 morning. We'll begin promptly at 9 a.m., all right?

24 Thank you.

25 MR. MELLO: Thank you --

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(Jury is excused)

(Trial adjourned for the day)

CERTIFICATION

I, Sonia Undseth, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on Video CD No. 1, from index number 9:19:30 to 9:19:36, and from 9:19:41 to 10:49:35, and from 11:13:12 to 11:13:50, and from 11:14:26 to 12:27:41, and from 13:46:45 to 14:36:52, and from 14:56:38 to 15:50:53, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded.

Sonia Undseth
Sonia Undseth AOC # 590

Date: January 21, 2013

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