

1 Q DO YOU AGREE THAT IT IS THE FAIREST AND MOST  
2 ACCURATE WAY FOR US TO HEAR WHAT TRANSPIRES DURING AN  
3 INTERROGATION?

4 A IT CAPTURES WHAT'S ACTUALLY SAID, YES, SIR.

5 THE COURT: THANK YOU VERY MUCH.

6 MR. GREELEY.

7 MR. GREELEY: NO QUESTIONS.

8 THE COURT: WE APPRECIATE YOUR TIME. YOU  
9 CAN FEEL FREE TO LEAVE. THANK YOU. CALL YOUR NEXT  
10 WITNESS.

11 MR. BRACKETT: PLEASE THE COURT. THE  
12 STATE CALLS DETECTIVE MIKE BAKER.

13 MICHAEL BAKER, BEING FIRST DULY  
14 SWORN TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MR. BRACKETT:

16 Q SIR, WOULD YOU PLEASE STATE YOUR FULL NAME?

17 A IT'S MIKE BAKER.

18 Q WHERE ARE YOU EMPLOYED, SIR?

19 A WITH THE YORK COUNTY SHERIFF'S DEPARTMENT.

20 Q WHAT DO YOU DO FOR THE YORK COUNTY SHERIFF'S  
21 OFFICE?

22 A I'M POLYGRAPH EXAMINER.

23 Q AND HOW LONG HAVE YOU BEEN POLYGRAPH EXAMINER  
24 FOR THE SHERIFF'S OFFICE?

25 A SEVEN YEARS.

1 Q WOULD YOU PLEASE BE SO KIND, SIR, TO RELATE SOME  
2 YOUR BACKGROUND AND TRAINING IN THE AREA OF THE  
3 ADMINISTRATION OF THE POLYGRAPH EXAM?

4 A YES, SIR. TO START WITH I GRADUATED FROM THE,  
5 AN ACCREDITED POLYGRAPH SCHOOL ACCREDITED FROM THE,  
6 IS AMERICAN POLYGRAPH ASSOCIATION. THE SCHOOL'S  
7 TITLE ARGENBRIGHT INSTITUTE OF POLYGRAPH. IT'S A  
8 CURRICULUM OF ABOUT 400 HOURS OF POLYGRAPH RELATED  
9 AREAS. THAT WAS IN 1997. AFTER THAT I DID AN  
10 INTERNSHIP AT THE STATE LAW ENFORCEMENT DIVISION SLED  
11 THAT LASTED FOR SIX MONTHS AND INCLUDED 200 POLYGRAPH  
12 EXAMS THAT WERE ADMINISTERED UNDER SUPERVISION BY  
13 SLED POLYGRAPH EXAMINERS.

14 SINCE THAT TIME CONTINUING EDUCATION,  
15 I'VE ATTENDED 6 TO 8, COULD BE EVEN MORE, POLYGRAPH  
16 CONFERENCES AND SEMINARS PUT ON BY THE AMERICAN  
17 POLICE POLYGRAPH ASSOCIATION, THE NORTH CAROLINA  
18 ASSOCIATION FOR POLYGRAPH EXAMINERS, SOUTH CAROLINA  
19 ASSOCIATION FOR POLYGRAPH EXAMINERS, AND THE NATIONAL  
20 ASSOCIATION FOR IDENTIFICATION. I HAVE RUN IN EXCESS  
21 OF 900 POLYGRAPH EXAMS DURING THIS TIME. ALSO HAVE  
22 SUPERVISED ANOTHER POLYGRAPH EXAMINER, SUPERVISE HIS  
23 INTERNSHIP, WHICH INCLUDED 150 POLYGRAPH EXAMS THAT  
24 HE RAN UNDER MY SUPERVISION.

25 Q AND THE CONTINUING EDUCATION THAT YOU'VE

1 RECEIVED IN THE AREA OF POLYGRAPH ADMINISTRATION, IS  
2 THIS MANDATORY CONTINUING EDUCATION?

3 A IN THE STATE OF SOUTH CAROLINA IT IS NOT  
4 MANDATED THAT YOU HAVE SO MANY HOURS OF CONTINUING  
5 EDUCATION. THIS IS SOMETHING THAT IS RECOMMENDED AS  
6 FAR AS GUIDELINES, DOES NOT REQUIRED IT. IT'S  
7 SOMETHING WE DO ON OUR OWN VOLITION IN ORDER TO STAY  
8 CURRENT.

9 Q AND YOU, IN FACT, DO ATTEND THOSE?

10 A YES, SIR.

11 Q REGARDLESS OF THE FACT THAT THERE IS NO MANDATE?

12 A THAT'S CORRECT.

13 MR. BRACKETT: YOUR HONOR, AT THIS TIME I  
14 WOULD TENDER DETECTIVE BAKER AS AN EXPERT IN  
15 POLYGRAPH ADMISSION.

16 THE COURT: ANY DIRE, MR. MORTON.

17 MR. MORTON: NO, SIR.

18 THE COURT: MR. GREELEY.

19 MR. GREELEY: NO OBJECTION.

20 THE COURT: I FIND HE'S QUALIFIED.

21 Q SIR, WERE YOU INVOLVED IN THE INVESTIGATION OF  
22 THE DEATH OF AMANDA COPE?

23 A I DID BECOME INVOLVED IN THE INVESTIGATION, YES,  
24 SIR.

25 Q RELATE TO THE JURY PLEASE YOUR VERY FIRST

1 INVOLVEMENT IN THIS CASE, WHEN DID YOU FIRST BECOME  
2 AWARE OR FIRST GET CONTACTED IN REGARDS TO THIS  
3 INVESTIGATION?

4 A NOVEMBER 30, 2001, AROUND 3 A.M. IN THE MORNING  
5 I WAS CONTACTED BY LIEUTENANT LES HERRING OF THE ROCK  
6 HILL POLICE DEPARTMENT. I WAS AT HOME AT THAT TIME,  
7 AND HE CONTACTED ME REGARDING THIS CASE, EXPLAINED  
8 THE VERY BASICS OF THE CASE, AND REQUESTED THAT I  
9 COME IN AND RUN A POLYGRAPH EXAM AT THAT TIME.  
10 THAT'S MY INITIAL CONTACT.

11 Q ALL RIGHT. AND WHAT DID YOU DO IN REGARDS TO  
12 THAT QUESTION?

13 A AFTER OBTAINING SOME INFORMATION FROM LIEUTENANT  
14 HERRING I DECIDED THAT IT WAS NOT ADVISABLE TO RUN A  
15 POLYGRAPH EXAM AT THAT TIME ON THE SUBJECT. I TOLD  
16 HIM THAT WE WOULD LOOK AT IT AGAIN IN THE MORNING AND  
17 ADVISED HIM TO HAVE SUBJECT AT MY OFFICE THE NEXT  
18 MORNING.

19 Q OKAY. AND WHY IS THAT?

20 A HE HAD EXPLAINED THAT HE HAD INTERROGATED THE  
21 SUBJECT FOR A FEW HOURS AND IT IS ALSO LATE IN THE  
22 EVENING, THE SUBJECT HAD BEEN UP MOST OF THE DAY, AND  
23 THAT COULD BE DETRIMENTAL TO THE OUTCOME OF POLYGRAPH  
24 EXAM FOR BOTH PARTIES; THE PARTY TAKING THE EXAM AND  
25 ALSO THE PERSON REQUESTING THE EXAM, SO IT'S JUST

1       ADVISABLE IN ORDER TO GIVE THEM A FAIR AND ACCURATE  
2       EXAM I KNEW THAT WE WOULD NOT ACHIEVE THOSE RESULTS  
3       THAT NIGHT.

4       Q     ALL RIGHT, SIR.  WHERE ARE YOUR OFFICES LOCATED?

5       A     THEY ARE LOCATED HERE IN THE SHERIFF'S OFFICE IN  
6       THE MOSS JUSTICE CENTER HERE.

7       Q     DID YOU GO TO WORK THE NEXT MORNING?

8       A     YES, SIR, I DID.

9       Q     DID YOU HAVE OCCASION TO SEE THE DEFENDANT BILLY  
10      WAYNE COPE THAT MORNING?

11      A     YES, SIR.  LIEUTENANT HERRING ACCOMPANIED  
12      MR. COPE TO MY OFFICE.

13      Q     AND APPROXIMATELY WHAT TIME WAS THAT IF YOU  
14      RECALL?

15      A     IT WAS 10 A.M. THE NEXT MORNING.

16      Q     NOW WHO DID YOU SPEAK TO FIRST, MR. COPE,  
17      MR. HERRING, OR BOTH, WHO DID YOU TALK TO FIRST AFTER  
18      THEY ARRIVED?

19      A     BRIEF INTRODUCTIONS WOULD HAVE BEEN MADE BETWEEN  
20      MR. COPE AND MYSELF AND THEN LIEUTENANT HERRING AND I  
21      WOULD HAVE TALKED FOR AWHILE.

22      Q     AND WHAT YOU WERE DISCUSSING WITH LIEUTENANT  
23      HERRING?  WHAT INFORMATION WERE YOU SEEKING FROM HIM?

24      A     IN ORDER TO RUN A POLYGRAPH EXAM I WOULD NEED  
25      INFORMATION AS FAR AS BASIC FACTS OF THE CASE AND WE

1 SPENT SOMETIME WITH HIM EXPLAINING THOSE FACTS TO ME.

2 Q APPROXIMATELY HOW LONG?

3 A IT WAS APPROXIMATELY 45 MINUTES.

4 Q WAS MR. COPE PRIVY TO THIS CONVERSATION OR WHERE  
5 YOU AND MR. HERRING BY YOURSELF?

6 A WE WERE BY OURSELF. WE HAVE A HOLDING CELL  
7 ADJACENT TO MY OFFICES. MY OFFICE ORIGINALLY WAS A  
8 JUVENILE AREA. MR. COPE WAS IN THE HOLDING CELL AT  
9 THAT TIME AND NOT PRIVY TO OUR CONVERSATION.

10 Q ALL RIGHT. NOW AT THE CONCLUSION OF YOUR  
11 DISCUSSION WITH LIEUTENANT HERRING, WHAT DID YOU DO  
12 NEXT?

13 A MR. COPE AND I WOULD HAVE THEN GONE INTO THE  
14 POLYGRAPH ROOM AND WE WOULD STARTED INTERVIEW THERE.

15 Q OKAY. NOW PRIOR TO ANY DISCUSSION WITH MR. COPE  
16 AT ALL, WHAT IS YOUR STANDARD PRACTICE? WHAT IS THE  
17 VERY FIRST THING THAT YOU DO?

18 A THE VERY FIRST THING WITH MR. COPE AND WITH ANY  
19 INTERVIEW THAT I CONDUCT OF THIS NATURE HE WOULD HAVE  
20 BEEN ADVISED OF HIS MIRANDA WARNINGS, HIS RIGHTS.

21 Q SIR, I'M SHOWING YOU WHAT'S BEEN MARKED AS  
22 STATE'S EXHIBIT 11 AND I'LL ASK YOU WHAT, WHAT IS  
23 THAT ITEM?

24 A THIS IS THE RIGHTS FORM THAT WAS USED THAT DAY  
25 WITH BILLY WAYNE COPE.

1 Q ALL RIGHT. AND WOULD YOU PLEASE DESCRIBE IT TO  
2 THE JURY?

3 A YES, SIR. THE FIRST PART, TOP PORTION OF THIS  
4 FORM, LAYS OUT THE DEFENDANT'S RIGHT. THESE RIGHTS  
5 ARE READ TO ME IN EVERY CASE AND IN THIS CASE ALSO.  
6 I READ THESE OUT LOUD TO THE PERSON I'M TALKING TO  
7 AND ASK THEM IF THEY UNDERSTAND THEM AND THEY SIGNIFY  
8 WHETHER THEY UNDERSTAND THEM OR NOT AND THEN THEY ARE  
9 ASKED TO SIGN AND DATE IT.

10 Q SIGNIFYING THEY DO UNDERSTAND THEM?

11 A YES, SIR.

12 Q AND WHAT ARE THOSE RIGHTS, SIR? I THINK MOST  
13 PEOPLE ARE FAMILIAR WITH THEM BUT GO AHEAD AND REVIEW  
14 THEM WITH US AS YOU WOULD HAVE REVIEWED THEM THAT  
15 DAY?

16 A THE FIRST THING I READ TO THEM IS YOU HAVE THE  
17 RIGHT TO REMAIN SILENT. THE SECOND ONE WOULD BE  
18 ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN  
19 A COURT OF LAW. THE THIRD ONE IS YOU HAVE THE RIGHT  
20 TO TALK TO AN ATTORNEY AND HAVE HIM OR HER PRESENT  
21 WITH YOU WHILE YOU ARE BEING QUESTIONED. THE FOURTH  
22 ONE, IF YOU CANNOT AFFORD TO HIRE AN ATTORNEY ONE  
23 WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY  
24 QUESTIONING IF YOU WISH. THE FIFTH ONE, YOU CAN  
25 DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT

1 ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS. THEN IT  
2 FOLLOW UP ASKING DO YOU UNDERSTAND EACH OF THESE  
3 RIGHTS AS I HAVE EXPLAINED THEM TO YOU.

4 Q AND HOW DID HE ANSWER?

5 A HE ANSWERED THAT HE DID UNDERSTAND THEM.

6 Q ALL RIGHT. WHAT'S THE NEXT THING YOU INQUIRE  
7 ABOUT?

8 A THE NEXT IS ACTUALLY A WAIVER OF RIGHTS, IT'S  
9 ABOUT THREE SENTENCES, AND I ASK THE INDIVIDUAL TO  
10 READ THAT BACK OUT LOUD TO ME.

11 Q ALL RIGHT. WHAT DID HE HAVE TO SAY IN REGARDS  
12 TO HIS DESIRE TO WAIVE THE RIGHTS THAT YOU JUST READ  
13 TO HIM?

14 A HE HAD NO PROBLEM WITH IT WHATSOEVER. HE READ  
15 THE WAIVER AND SIGNED TO THAT EFFECT.

16 Q DID YOU WITNESS HIM SIGNING THAT DOCUMENT?

17 A YES, SIR, I DID.

18 Q IS THAT IN FACT HIS SIGNATURE AND HIS INITIALS  
19 IN VARIOUS PLACES ON THE DOCUMENT?

20 A YES, SIR.

21 Q AND YOU SIGNED THE DOCUMENT AS WELL?

22 A YES, SIR.

23 MR. BRACKETT: YOUR HONOR, I MOVE STATE'S  
24 EXHIBIT 11 IN EVIDENCE.

25 MR. MORTON: NO OBJECTION, YOUR HONOR.



1 MR. GREELEY: NO OBJECTION.

2 THE COURT: BE RECEIVED.

3 (STATE'S EXHIBIT 11 RIGHTS FORM  
4 RECEIVED INTO EVIDENCE.)

5 Q AFTER REVIEWING MIRANDA WARNINGS-- WELL, LET ME  
6 ASK YOU THIS, DETECTIVE BAKER. DO YOU TYPICALLY GIVE  
7 MIRANDA WARNINGS TO AN INDIVIDUAL WHO IS NOT UNDER  
8 ARREST AND IS FREE TO LEAVE?

9 A YES, SIR, I DO.

10 Q YOU DO?

11 A YES, SIR.

12 Q OKAY. NOW IN SO AS FAR AS, IS IT MANDATORY?

13 A IT WOULD DEPEND ON THE CIRCUMSTANCES. AS FAR AS  
14 A CRIMINAL POLYGRAPH EXAM REGARDLESS THEY ARE READ  
15 THEIR MIRANDA WARNINGS.

16 Q YOU DO FOR POLYGRAPH?

17 A YES, SIR.

18 Q I SEE. WHAT IS THE NEXT STEP IN THE POLYGRAPH  
19 PROCEDURE?

20 A I HAVE A CONSENT TO INTERVIEW POLYGRAPH THAT  
21 EXPLAINS THE PROCEDURE. WE READ THAT AND ASK THE  
22 PERSON IF THEY UNDERSTAND AND THEN THEY SIGN  
23 SIGNIFYING THAT THEY DO.

24 Q OKAY. AND I'M SHOWING YOU WHAT'S BEEN MARKED,  
25 MR. MORTON, AS STATE'S EXHIBIT 12?

1 MR. MORTON: NO OBJECTION.

2 Q AND ASK IF YOU WOULD IDENTIFY THAT DOCUMENT?

3 THE COURT: MR. GREELEY.

4 MR. GREELEY: NO OBJECTION.

5 A YES, SIR. THIS IS THE CONSENT TO INTERVIEW OF  
6 POLYGRAPH THAT I USED THAT DAY.

7 Q ALL RIGHT, SIR. AND BASICALLY WHAT DOES THAT  
8 DOCUMENT ADVISE HIM?

9 A IT EXPLAINS FIRST OFF WHY WE'RE THERE. IN THIS  
10 CASE IT WAS THE DEATH OF AMANDA. IT EXPLAINS THEIR  
11 RIGHTS IN REGARDS TO POLYGRAPH. HE HAS THE RIGHT TO  
12 REFUSE TO TAKE THE POLYGRAPH TEST. IF YOU AGREE TO  
13 TAKE THE POLYGRAPH TEST YOU HAVE THE RIGHT TO STOP  
14 THE TEST AT ANY TIME. IF YOU AGREE TO TAKE THE  
15 POLYGRAPH TEST YOU HAVE THE RIGHT TO REFUSE TO ANSWER  
16 ANY INDIVIDUAL QUESTIONS, AND THEN IT GIVES A WAIVER  
17 CONSENT.

18 Q DID THE DEFENDANT ACKNOWLEDGE THAT HE UNDERSTOOD  
19 THOSE WARNINGS?

20 A YES, SIR, AND EXPRESSED THAT HE WANTED TO BE  
21 THERE AND TAKE IT.

22 Q AND DID HE SIMILARLY SIGN THAT FORM AS HE SIGNED  
23 THE MIRANDA FORM?

24 A YES, SIR, HE DID.

25 Q AND THAT WAS WITNESSED BY YOU?

1 A YES, SIR.

2 Q OKAY. WHAT IS THE PRETEST INTERVIEW?

3 A THE PRETEST INTERVIEW IS BASICALLY A FACT  
4 FINDING MISSION. IT GIVES ME AN OPPORTUNITY TO HEAR  
5 FROM THE PERSON WHO IS ABOUT TO TAKE THE TEST AS FAR  
6 AS WHAT THEY KNOW ABOUT THE CASE, IT EXPLAINS THE  
7 TEST AND HOW IT'S RAN. WHAT'S EXPECTED OF THEM. HOW  
8 THINGS ARE GOING TO GO. WE EXPLAIN EVERYTHING ABOUT  
9 THE TEST TO THEM AND MAKE SURE THAT WE BOTH  
10 UNDERSTAND EACH OTHER SO THAT THERE IS NO  
11 COMPLICATION, THERE IS NO MISUNDERSTANDING.

12 Q AND GETTING THAT FORM, GETTING SIGNATURE ON THAT  
13 FORM AND EXPLAINING AND GOING THROUGH THAT FORM, IS  
14 THAT PART OF THE PRETEST INTERVIEW?

15 A YES, SIR.

16 MR. BRACKETT: YOUR HONOR, I MOVE STATE'S  
17 EXHIBIT 12 INTO EVIDENCE.

18 MR. MORTON: (APPROACHING THE WITNESS.) I  
19 DON'T THINK I HAVE AN OBJECTION. I HAVE NO  
20 OBJECTION, YOUR HONOR.

21 MR. GREELEY: NO OBJECTION.

22 THE COURT: BE RECEIVED.

23 (STATE'S EXHIBIT 12 CONSENT RECEIVED  
24 INTO EVIDENCE.)

25 Q WHAT WAS THE NEXT STEP YOU TOOK WITH MR. COPE

1 AFTER GOING THROUGH THAT FORM?

2 A THEN WE BEGAN TO FIND OUT WHAT MR. COPE KNEW  
3 ABOUT THE CASE, ASKING HIM TO EXPLAIN WHAT HAD  
4 HAPPENED THE NIGHT THAT THIS TOOK PLACE. THEN WE  
5 BEGIN TO FORMULATE THE QUESTIONS AND I BEGAN TO  
6 EXPLAIN THE EXAM TO HIM. SPECIFICALLY ON THIS DATE  
7 HE GAVE ME SOME STATEMENTS AND AS FAR AS WHAT HAD  
8 OCCURRED THE NIGHT THAT THIS HAPPENED.

9 Q ALL RIGHT, SIR. PLEASE RELATE TO THE JURY THE  
10 SUBSTANCE OF THE INFORMATION THAT MR. COPE GAVE YOU  
11 REGARDING THE ACTIVITIES OF THE NIGHT BEFORE HIS,  
12 MISS AMANDA COPE WAS KILLED, AND THE EARLY MORNING  
13 HOURS WHEN HE DISCOVERED HER BODY?

14 A YES, SIR. MR. COPE STATED THAT THEY WERE AT  
15 HOME THAT NIGHT. THE WIFE HAD GONE TO WORK AT SOME  
16 POINT IN THE EVENING. IT WAS HE AND THE CHILDREN  
17 THERE AT HOME. IT CHANGED A FEW TIMES AS FAR AS THE  
18 SEQUENCE OF EVENTS, EXACTLY WHAT TIME AND WHO WAS  
19 DOING WHAT, HE STATED THAT HE WAS WORKING ON SOME  
20 BIBLE STUDIES QUIZZES AND THAT HE WAS STUDYING ON  
21 THIS. THAT HE ALSO TALKED ABOUT ONE OF THE CHILDREN  
22 WAS NEEDING HELP WITH MATH HOMEWORK. HE TALKED ABOUT  
23 DIFFERENT PEOPLE IN THE HOUSEHOLD HELPING THAT CHILD.  
24 THAT CHANGED A FEW TIMES. THEN ALSO THAT THE  
25 TIMEFRAME AS FAR AS WHAT TIME HE WENT TO BED. HE

1           FINALLY SAID THAT HE WENT TO BED AROUND 1 A.M. HE  
2           HAD SET THE ALARM ON THE PORTABLE PHONE TO WAKE HIM  
3           UP SIX. HE STATED HE GOT UP AROUND 3 A.M. TO USE THE  
4           RESTROOM AND HE CHECKED ON THE TWO YOUNGER CHILDREN  
5           BUT DID NOT CHECK ON AMANDA AND HE REPORTED HAVING A  
6           DREAM ABOUT THE RAPTURE AND IN THIS DREAM HE SAYS HE  
7           HEARD GOD SAYING COME UP. THAT WAS THE GIST OF, AS  
8           FAR AS RELATING THE EVENTS OF THAT NIGHT.

9           Q       OKAY. NOW ABOUT HOW LONG HAS THE PROCESS TAKEN  
10          FROM THIS POINT? ABOUT WHAT TIME ARE WE AT NOW?

11          A       THIS HAS NOT TAKEN TOO LONG. THE ENTIRE PRETEST  
12          INTERVIEW LASTS GENERALLY 45 OR SO MINUTES. I THINK  
13          THIS ONE WENT A LITTLE BIT LONGER THAN THAT SO FROM  
14          START TO FINISH WE'RE LOOKING AT ALMOST AN HOUR AS  
15          FAR AS PRETEST INTERVIEW.

16          Q       OKAY. AND HOW LONG, YOU SAY ABOUT 45 MINUTES  
17          TALKING TO DETECTIVE, LIEUTENANT HERRING?

18          A       YES, SIR.

19          Q       SO ABOUT WHAT TIME IS IT BY THE TIME YOU ARE  
20          DONE WITH THE PRETEST INTERVIEW AND YOU ARE READY TO  
21          ADMINISTER THE POLYGRAPH?

22          A       AROUND 11:45.

23          Q       AND WHAT IS YOUR PROCEDURE IMMEDIATELY PRIOR TO  
24          ADMINISTERING THE POLYGRAPH EXAM?

25          A       WE ASK THE PERSON IF THEY NEED A BREAK, USE THE

1 RESTROOM, GET WATER, ANYTHING LIKE THAT, AND IF SO,  
2 WE DO THAT, AND MR. COPE DID GO TO THE RESTROOM AND  
3 TAKE A QUICK BREAK.

4 Q WHAT WAS MR. COPE'S DEMEANOR DURING THIS ENTIRE  
5 TIME PERIOD?

6 A MR. COPE WAS CALM. HE WAS VERY COOPERATIVE. I  
7 WOULD NOT SAY JOVIAL BUT HE SEEMED TO BE UPBEAT. I  
8 WAS PRETTY WELL SURPRISED BY HIS DEMEANOR. I WOULD  
9 HAVE EXPECTED A LOT MORE EMOTION. I HAD NOT SEEN ANY  
10 TEARS, NO CRYING, DID NOT APPEAR TO BE UPSET. I'M  
11 LOOKING FOR THIS TYPE OF INFORMATION BECAUSE IF IT  
12 HAD UNDULY, HE WAS UNDULY STRESSED, IF THERE WERE  
13 PROBLEMS WITH HIS EMOTIONAL STATE, WE WOULD NOT HAVE  
14 PROCEEDED WITH THE POLYGRAPH EXAM. IT'S PART OF THE  
15 PRETEST INTERVIEW.

16 Q IS THAT PART OF YOUR EXPLAINING TO LOOK FOR  
17 THESE THINGS?

18 A YES, SIR, THAT'S VERY IMPORTANT. WE LOOK FOR  
19 CERTAIN MEDICAL HISTORY. IF THERE ARE CERTAIN  
20 MEDICAL HISTORY THERE, WE DO NOT GO FORWARD. IF THE  
21 PERSON'S OVERLY STRESSED, IF HE IS OVERLY TIRED, IF  
22 HE IS INATTENTIVE, IF HE'S NOT ABLE TO STAY AWAKE,  
23 THERE IS A NUMBER OF PROBLEMS THAT WE'RE LOOKING FOR  
24 THAT WOULD NOT GIVE US A FAIR AND ACCURATE TEST AND  
25 WE WOULD NOT PROCEED IF ANY OF THOSE ITEMS CAME UP.

1 Q AND YOU DID IN FACT PROCEED?

2 A YES, SIR, WE DID.

3 Q WAS THERE ANY INDICATION THAT MR. COPE ON, FROM  
4 YOUR DISCUSSION WITH HIM, MIGHT HAVE BEEN LABORING  
5 UNDER ANY KIND OF MENTAL DEFECTS SUCH AS RETARDATION  
6 OR MENTAL ILLNESS OF ANY SORT?

7 A NO, SIR. I HAD BEEN INFORMED THAT MR. COPE HAD  
8 A TWO YEAR DEGREE. DURING THE INTERVIEW HE TOLD ME  
9 IT WAS A FOUR YEAR DEGREE. HE SEEMED TO BE OF GOOD  
10 INTELLIGENCE. I BELIEVE HIS SCHOOLING WAS IN THE  
11 AREA OF COMPUTERS SO HE WAS INTERESTED IN THE FACT  
12 THAT WE USED COMPUTERIZED POLYGRAPH, BUT, NO, HE  
13 SEEMED TO BE FINE.

14 Q ALL RIGHT. AND WE HAVEN'T ACTUALLY DISCUSSED  
15 HOW A POLYGRAPH WORKS, BUT HOW DOES THE FACT THAT  
16 DISTRESS AND TIRED OR ANY OF THESE PROBLEMS, IF HE  
17 WAS INTOXICATED OR UNDER THE INFLUENCE OF DRUGS, DID  
18 YOU NOTICE ANYTHING THAT WOULD MAKE YOU THINK THAT  
19 MIGHT BE THE CASE?

20 A NO, SIR. HE WAS, DID NOT APPEAR TO BE UNDER ANY  
21 TYPE OF INTOXICANT OR ANY TYPE OF DRUGS.

22 Q HOW WOULD ANY OF THESE PROBLEMS THAT I HAVE JUST  
23 GONE THROUGH WITH YOU, HOW WOULD ANY OF THEM AFFECT  
24 THE ADMINISTRATION OF THE TEST?

25 A WELL, THAT'S INDIVIDUALIZED BUT GENERALLY WE

1 LOOK FOR IF IT'S GOING TO AFFECT THE ACCURACY OF THE  
2 TEST OFTEN CAUSING WHAT WE CALL INCONCLUSIVE TEST  
3 WHERE YOU CAN'T TELL: BEING TIRED, BEING SLEEPY,  
4 COULD CAUSE DIMINISHED RESULTS. YOU COULD ACTUALLY  
5 HAVE THE PERSON NODDING OFF SO THEREFORE WE WOULD NOT  
6 BE GETTING INFORMATION AND WOULD NOT BE ACCURATE.  
7 AND INTOXICANTS, THE PERSON MIGHT NOT UNDERSTAND THE  
8 QUESTIONS OR BE ERRATIC. THERE ARE A LOT OF  
9 DIFFERENT WAYS, BUT BASICALLY WE'RE LOOKING FOR  
10 THINGS THAT WOULD AFFECT THE ACCURACY OF THE TEST.

11 Q SO YOU ARE TRAINED TO SPECIFICALLY LOOK TO SEE  
12 IF THEY ARE TIRED?

13 A YES, SIR.

14 Q AND ANY INDICATION THAT HE WAS TOO TIRED TO TAKE  
15 THIS TEST?

16 A NO, SIR. THIS IS SOMETHING WE LOOK FOR IN EVERY  
17 SINGLE TEST THAT WE RUN.

18 Q WHAT TIME DID THE ACTUAL, DID YOU SAY YOU GAVE  
19 HIM AN OPPORTUNITY USE THE BATHROOM, DID HE TAKE THAT  
20 OPPORTUNITY?

21 A YES, SIR.

22 Q WAS HE OFFERED ANY BEVERAGE OR ANYTHING TO MAKE  
23 HIM MORE COMFORTABLE?

24 A THERE IS A WATER FOUNTAIN WITHIN A FEW FEET OF  
25 WHERE WE GO TO THE RESTROOM AND HE WAS MADE AWARE OF



1 THAT.

2 Q ALL RIGHT, SIR. AT WHAT TIME DID THE ACTUAL  
3 ADMINISTRATION OF THE TEST ACTUALLY START?

4 A IT'S GOING TO BE LIKE 11:50 A.M.

5 Q AND HOW LONG DOES IT TAKE TO ADMINISTER A  
6 POLYGRAPH TEST.

7 A IT GENERALLY TAKES NO MORE THAN 15 MINUTES.

8 Q AND HOW DO YOU DETERMINE WHAT QUESTIONS TO ASK  
9 DURING A POLYGRAPH TEST?

10 A FIRST WE HAVE DEALT WITH THE INVESTIGATOR WHO IS  
11 INVESTIGATING THE CASE AND WE WANT TO KNOW WHAT THEY  
12 SEEK TO GET OUT OF THE TEST AS FAR AS INFORMATION, AS  
13 FAR AS KNOWLEDGE, SO THAT WOULD BE ONE THING THAT  
14 WILL COME INTO PLAY. THEN WE WILL TALK WITH THE  
15 INDIVIDUAL WHO IS GOING TO BE TESTED AND DEPENDING  
16 UPON THEIR KNOWLEDGE OF THE TEST, EXCUSE ME, THEIR  
17 KNOWLEDGE OF THE CASE, WE FORMULATE THE QUESTIONS AS  
18 FAR AS WHAT NEEDS TO BE DETERMINED.

19 Q SO HE WAS AWARE OF THE QUESTIONS YOU WERE GOING  
20 TO ASK?

21 A YES, SIR. ALL THE TEST QUESTIONS ARE REVIEWED,  
22 WE DON'T WANT TO SURPRISE ANYONE WITH ANYTHING, SO  
23 THE QUESTIONS ARE READ TO HIM. IF THERE IS ANY  
24 DIFFICULTIES, IF THERE ARE ANY MISUNDERSTANDINGS OVER  
25 THE VERBIAGE OF THE LANGUAGE, WE MAKE THEM AS SIMPLE

1 AND CLEAR AS CONCISE AS WE POSSIBLY CAN SO THOSE ARE  
2 READ TO HIM. HE IS GIVEN AN OPPORTUNITY TO ANSWER  
3 THOSE QUESTIONS AND WORK OUT ANY PROBLEMS WITH THOSE  
4 QUESTIONS BEFORE HE EVER SITS DOWN IN THE POLYGRAPH  
5 CHAIR AND BEFORE WE EVER START.

6 Q AND WHAT, WHAT DO YOU DO, I TAKE IT FROM THAT  
7 POINT YOU ADMINISTERED THE TEST, IT TOOK ABOUT 15  
8 MINUTES?

9 A YES, SIR.

10 Q WHERE DO YOU SCORE THE TEST AND HOW DO YOU SCORE  
11 IT?

12 A AS I MENTIONED EARLIER OURS IS A COMPUTERIZED  
13 POLYGRAPH. WE HAVE A PRINTER WHERE THE CHARTS PRINT  
14 OFF AFTER THE TEST IS RUN. IT TAKES A FEW MINUTES  
15 FOR THOSE TO PRINT. ONCE THEY ARE THROUGH PRINTING I  
16 RETRIEVE THEM AND I GO INTO AN ADJACENT OFFICE AND I  
17 SIT DOWN AND ANALYZE THOSE CHARTS AND THAT TAKES  
18 ROUGHLY 10 OR 15 MINUTES.

19 Q WHAT IS THE POLYGRAPH ACTUALLY MEASURING?

20 A THE POLYGRAPH IS LOOKING AT THE FACT THAT WHEN  
21 MOST PEOPLE TELL A LIE, ESPECIALLY IF IT'S SOMETHING  
22 SERIOUS, IT CAUSES AN EMOTIONAL STATE. WHEN A PERSON  
23 EXPRESSES EMOTIONAL STATE IT CAUSES PHYSIOLOGICAL  
24 REACTIONS WITHIN THE BODY. THEIR PHYSIOLOGY CHANGES  
25 IN THE BODY. A TRAINED POLYGRAPH EXAMINER USES

1 POLYGRAPH TO RECORD THESE CHANGES IN PHYSIOLOGY AND  
2 THEN USING THOSE CHANGES WE CAN INFER A PERSON'S  
3 TRUTHFULNESS.

4 Q AND WHAT EXACTLY DO YOU HAVE TO HOOK UP TO HIM  
5 TO MEASURE THESE THINGS?

6 A FIRST WE HAVE A POLYGRAPH CHAIR, A CHAIR THAT'S  
7 DESIGNED FOR POLYGRAPH THAT IS ACTUALLY VERY  
8 COMFORTABLE AND IT HELPS TO KEEP A PERSON STILL WHILE  
9 WE'RE RUNNING THE TEST, ONCE THEY ARE SEATED IN THE  
10 CHAIR WE WILL ATTACH WHAT'S CALLED THE NEUMOGRAPH  
11 TUBES. THERE ARE TWO TUBES THAT MEASURE OR LOOK AT  
12 THE RESPIRATION OF THE PERSON. THEY GO ACROSS THE  
13 CHEST. SECONDLY, WE WILL ATTACH A BLOOD PRESSURE  
14 CUFF WHICH IS A STANDARD MEDICAL BLOOD PRESSURE CUFF.  
15 AND THIRDLY, WHAT'S CALLED ELECTROTHERMO SENSORS WILL  
16 BE ATTACHED TO TWO OF THEIR FINGERS.

17 Q WHERE DID YOU SAY YOU WENT TO SCORE THE TEST  
18 AFTER?

19 A I GO TO THE, I HAVE AN OFFICE ADJACENT TO THE  
20 POLYGRAPH ROOM.

21 Q AND HOW LONG DID THE SCORING PROCESS TAKE?

22 A IT GENERALLY WILL TAKE 10 TO 15 MINUTES.

23 Q AFTER SCORING THE TEST, WHERE DID YOU THEN GO?

24 A I WENT BACK IN THE POLYGRAPH ROOM.

25 Q AND WHERE WAS MR. COPE DURING THIS TIME PERIOD

1 WHILE YOU WERE SCORING THE TEST?

2 A MR. COPE WOULD HAVE BEEN MOVED BACK INTO THE  
3 HOLDING ROOM THAT IS, THIS IS ALL WITHIN A, AN OFFICE  
4 COMPLEX, SO THEY ARE JUST RIGHT NEXT TO EACH OTHER.

5 Q OKAY. DID YOU MAKE A DETERMINATION AS TO  
6 WHETHER MR. COPE PASSED OR FAILED THE POLYGRAPH?

7 A YES, SIR. BASED UPON THE OUTCOME OF THE TEST,  
8 INFORMATION ON THE TEST, I DETERMINED THAT  
9 MR. COPE --

10 MR. BRACKETT: IS THERE AN OBJECTION?

11 THE COURT: I HADN'T HEARD ONE.

12 MR. BRACKETT: YES, SIR.

13 MR. MORTON: I THINK WE NEED TO DISCUSS  
14 THIS WITH THE COURT.

15 THE COURT: ALL RIGHT. I'M GOING TO LET  
16 YOU GO TO THE JURY ROOM JUST FOR A FEW MINUTES.

17 (THE JURY EXITS THE COURTROOM AT 10:38  
18 A.M.)

19 THE COURT: ALL RIGHT.

20 MR. MORTON: I WOULD OFFER THIS, YOUR  
21 HONOR, AS A PROPOSED LIMITING INSTRUCTION.

22 THE COURT: WHY DON'T WE TAKE A SHORT  
23 BREAK AND I CAN READ THIS OVER AND IT'S A GOOD TIME  
24 TO TAKE A BREAK ANYWAY. I CAN TAKE A LOOK AT THIS  
25 BECAUSE I DID ASK FOR SOMETHING ALONG THOSE LINES.

1 THE STATE CAN LOOK AT IT. HAVE YOU HAD A CHANCE TO  
2 LOOK AT IT YET, MR. BRACKETT?

3 MR. BRACKETT: NO, SIR.

4 MR. MORTON: I'M SORRY. I SHOULD HAVE  
5 GOTTEN IT TO THEM BEFORE.

6 THE COURT: WE WILL TAKE A SHORT BREAK AND  
7 YOU CAN STEP DOWN.

8 (COURT'S IN RECESS AT 10:40 A.M.)

9 (COURT RESUMES AT 10:58 A.M. AND THE  
10 WITNESS RESUMES THE WITNESS STAND.)

11 THE COURT: THE ISSUE IS THE LIMITING  
12 INSTRUCTION WHICH I ASKED TO BE PREPARED AND IT HAS  
13 BEEN PREPARED. I HAVE GONE THROUGH MINE AND HAD  
14 PARED IT DOWN TO WHAT I THINK REALLY WHAT IS  
15 APPROPRIATE TO ADVISE THE JURY. I HAVE BEEN TOLD BY  
16 MY LAW CLERK THAT COUNSEL FOR THE DEFENSE APPEARS TO  
17 BE OKAY WITH MY REVISIONS BUT THE STATE HAS SOME  
18 CONCERNS.

19 MR. BRACKETT: I THINK WE RESOLVED THOSE.  
20 WE'RE FINE.

21 THE COURT: ALL RIGHT. MR. MORTON, ARE  
22 YOU OKAY WITH THE WAY I CHANGED IT?

23 MR. MORTON: YES, SIR.

24 THE COURT: MR. GREELEY.

25 MR. GREELEY: MR. SANDERS HAS NO

1 OBJECTION.

2 THE COURT: YOU WANT ME TO CHARGE IT AT  
3 THIS TIME?

4 MR. MORTON: YES, SIR.

5 THE COURT: LET'S BRING IN THE JURY.

6 MR. BRACKETT: I NEVER GOT TO THE MONEY  
7 QUESTION.

8 THE COURT: THE MONEY QUESTION.

9 MR. BRACKETT: WHETHER HE PASSED OR  
10 FAILED. I NEVER ASKED. I STOPPED.

11 THE COURT: ALL RIGHT. YEAH, ASK HIM THE  
12 MONEY QUESTION.

13 MR. BRACKETT: THANK YOU.

14 THE COURT: THEN I'LL CHARGE IT. OKAY.  
15 BRING THEM IN. LET ME CHARGE THEM THIS BEFORE YOU GO  
16 FORWARD.

17 MR. BRACKETT: ALL RIGHT.

18 (THE JURY RETURNS TO THE COURTROOM AT  
19 11:01 A.M.)

20 THE COURT: MEMBERS OF THE JURY PANEL,  
21 YOU'VE HEARD SOME TESTIMONY REGARDING POLYGRAPH. I  
22 WANT TO TELL YOU AT THIS TIME THAT A POLYGRAPH IS A  
23 MACHINE THAT MEASURES THE PHYSIOLOGICAL RESPONSES OF  
24 A PERSON ON WHOM THE TEST IS ADMINISTERED. THE  
25 COURTS OF OUR STATE HAVE TRADITIONALLY NOT ALLOWED

1 THE JURY TO CONSIDER THE RESULTS OF POLYGRAPH TEST IN  
2 YOUR DELIBERATIONS. I AM ALLOWING THE STATE TO  
3 INTRODUCE EVIDENCE OF MR. BILLY WAYNE COPE, THE  
4 DEFENDANT'S, SUBMITTING TO A POLYGRAPH EXAMINATION  
5 AND RESULTS OF THAT TEST FOR A LIMITED PURPOSE. LET  
6 ME STRONGLY CAUTION EACH OF YOU FROM SUBSTITUTING THE  
7 RESULTS OF THE POLYGRAPH FOR YOUR OWN JUDGMENT AND  
8 COMMON SENSE. YOU AND YOU ALONE ARE THE TRIERS OF  
9 FACT IN THIS CASE AND YOU AND YOU ALONE WILL  
10 DETERMINE WHETHER THE TESTIMONY GIVEN BY EACH AND  
11 EVERY WITNESS IS TRUE AND WHAT TESTIMONY IS NOT TRUE.  
12 OUR SUPREME COURT HAS REPEATEDLY HELD THAT POLYGRAPH  
13 EXAMINATION RESULTS ARE INADMISSIBLE TO PROVE THE  
14 TRUTH OF THE MATTER WHICH THEY ASSERT. THAT IS,  
15 RESULTS OF A POLYGRAPH EXAMINATION MAY NOT BE USED TO  
16 PROVE THE TRUTHFULNESS OR LACK OF TRUTHFULNESS OF THE  
17 DEFENDANT'S STATEMENTS. UNDER LIMITED CIRCUMSTANCES  
18 POLYGRAPH EXAMINATION RESULTS MAY BE ADMITTED IN  
19 EVIDENCE FOR OTHER PURPOSES SUCH AS IN THIS CASE  
20 WHERE THE PARTIES HAVE AGREED THAT THE RESULTS WILL  
21 BE ADMITTED TO SHOW THE EFFECT THE POLYGRAPH EXAM HAD  
22 UPON MR. COPE. YOU DO NOT CONSIDER THE POLYGRAPH  
23 EXAMINATION RESULTS FOR ANY OTHER REASON OR THE FACT  
24 THAT THAT RESULT, THAT IS THE RESULTS OF THE TEST,  
25 ADMINISTERED TO THE DEFENDANT MR. BILLY WAYNE COPE.

1 YOU MAY NOT CONSIDER THE RESULTS IN REGARDS TO THE  
2 TRUTHFULNESS OR LACK OF TRUTHFULNESS OF MR. COPE'S  
3 STATEMENT.

4 BY ALLOWING THE INTRODUCTION OF THIS  
5 POLYGRAPH, THE COURT IS NOT VOUCHING FOR THE  
6 RELIABILITY OF THE POLYGRAPH. LIKEWISE, WITH THIS  
7 LIMITING INSTRUCTION, THE COURT IS NOT ASSERTING THAT  
8 THE POLYGRAPH IS NOT RELIABLE. THE POLYGRAPH IS  
9 SIMPLY A PIECE OF EVIDENCE YOU MAY CONSIDER ALONG  
10 WITH THE OTHER EVIDENCE PRESENTED TO REACH A VERDICT  
11 IN THIS CASE. ALL RIGHT, MR. BRACKETT.

12 DIRECT EXAMINATION CONTINUED BY MR. BRACKETT:

13 Q ALL RIGHT, SIR. WHEN WE, BEFORE WE BROKE YOU  
14 HAD JUST SCORED THE EXAM?

15 A YES, SIR.

16 Q AND YOU WENT BACK INTO THE ROOM WITH MR. COPE TO  
17 DISCUSS THAT WITH HIM?

18 A YES, SIR.

19 Q AND DID YOU CONFRONT HIM WITH THE RESULTS OF THE  
20 EXAMINATION THAT YOU HAD JUST DONE?

21 A YES, SIR, I DID.

22 Q AND WHAT WERE THE RESULTS OF THE EXAMINATION  
23 THAT YOU, THE POLYGRAPH EXAM THAT YOU DID ON  
24 MR. COPE?

25 A I ASKED HIM, MR. COPE, THREE QUESTIONS RELEVANT



1 TO AMANDA'S DEATH AND THE DETERMINATION WAS DECEPTION  
2 WAS INDICATED AS FAR AS HIS RESPONSES TO THOSE  
3 QUESTIONS.

4 Q AND WHAT WERE THE THREE QUESTIONS THAT YOU  
5 ASKED?

6 A THE FIRST QUESTION WOULD HAVE BEEN: DID YOU  
7 CHOKE AMANDA AND HIS ANSWER WAS NO. THE SECOND  
8 QUESTION IN REGARD TO THAT WAS: DID YOU CHOKE AMANDA  
9 CAUSING HER TO DIE AND THE ANSWER WAS NO. AND THE  
10 THIRD QUESTION IN REGARD TO THAT WAS: WERE YOU IN  
11 THE ROOM WHEN AMANDA DIED AND HIS ANSWER WAS NO.

12 Q ALL RIGHT. NOW WHAT WAS HIS REACTION TO BEING  
13 INFORMED BY YOU THAT HE HAD FAILED THE POLYGRAPH?

14 A HE DID NOT APPEAR TO BE SURPRISED WHATSOEVER.

15 Q DID HE SHOW ANY EMOTIONAL REACTION AT ALL?

16 A NO, SIR. HIS DEMEANOR DID NOT CHANGE. HE DID  
17 NOT GET UPSET BY THIS. HE DID NOT ACT SURPRISED BY  
18 THIS.

19 Q RELATE TO THE JURY IF YOU WOULD BASICALLY HOW  
20 DID YOUR CONVERSATION WITH THE DEFENDANT PROCEED FROM  
21 THAT POINT?

22 A BASICALLY PROCEEDED IN THE SAME MANNER AND SAME  
23 FASHION, IT WAS CONVERSATIONAL THE WHOLE TIME. MY  
24 INTERVIEW STYLE IS BASICALLY THAT, JUST A  
25 CONVERSATION, FROM LETTING HIM KNOW THAT HE HAD

1 FAILED AND AGAIN HE WAS NOT SURPRISED. THEN HE BEGAN  
2 TO OFFER OR ASK QUESTIONS ABOUT HOW THIS COULD  
3 HAPPENED THAT AS FAR AS HOW AMANDA COULD HAVE DIED.  
4 ONE OF HIS FIRST QUESTIONS TO ME WAS, COULD I HAVE  
5 DONE THIS IN MY SLEEP.

6 Q AND WHAT DID YOU ANSWER?

7 A I ANSWERED NO, I DID NOT BELIEVE THAT WAS  
8 POSSIBLE.

9 Q AND WHY IS THAT?

10 A A COUPLE OF REASONS. ONE I JUST DON'T BELIEVE  
11 IT'S FEASIBLE --

12 MR. MORTON: YOUR HONOR, I OBJECT.

13 MR. BRACKETT: MAYBE WE SHOULD APPROACH.

14 (BENCH CONFERENCE.)

15 THE COURT: I SUSTAIN THE OBJECTION.

16 Q MR. BAKER, WITHOUT DISCUSSING ANY OF THE  
17 CONVERSATION THAT YOU HAD WITH MR. COPE FROM ABOUT  
18 FIVE MINUTES AFTER YOU ANNOUNCED THE RESULTS, DID  
19 MR. COPE ULTIMATELY EVER ADMIT CULPABILITY?

20 MR. MORTON: YOUR HONOR, I'M SORRY.

21 THE COURT: I SUSTAIN THE OBJECTION.

22 MR. MORTON: I'M AFRAID AND I APOLOGIZE  
23 FOR HAVING TO ASK THE JURY BUT I THINK WE HAVE A  
24 MATTER OF LAW.

25 THE COURT: ALL RIGHT. I'M GOING TO LET

1 YOU GO BACK OUT.

2 (THE JURY EXITS THE COURTROOM AT 11:07  
3 A.M.)

4 THE COURT: YES, SIR.

5 MR. MORTON: YOUR HONOR, AT THIS TIME WE  
6 OBJECT TO ANY STATEMENT MADE BY MR. COPE TO MR. BAKER  
7 OR TO MR. HERRING ON THAT DAY NOVEMBER 30 BECAUSE WE  
8 BELIEVE THAT THE STATE HAS NOT PROVEN THAT MR. COPE  
9 WAS ARRESTED WITH PROBABLE CAUSE ON THE NIGHT BEFORE.  
10 WE WERE HERE IN FRONT OF THE COURT TWO WEEKS AGO, I  
11 BELIEVE IT WAS TWO WEEKS AGO.

12 THE COURT: I WAS HERE.

13 MR. MORTON: I WAS TRYING TO REMEMBER WHEN  
14 IT WAS, AND WE MADE A MOTION, OF COURSE, THAT THE  
15 WARRANT WHICH I WOULD MOVE TO ADMIT AT THIS TIME  
16 DOESN'T STATE ANY PROBABLE CAUSE; THAT THEY HAD NO  
17 PROBABLE CAUSE TO ARREST MR. COPE THAT NIGHT. THAT  
18 AS A RESULT OF HIS ARREST WITHOUT PROBABLE CAUSE ON  
19 THE MURDER CHARGE THAT ANY STATEMENTS THAT HE MADE ON  
20 NOVEMBER 30 SHOULD BE SUPPRESSED AS FRUIT OF THE  
21 POISONOUS TREE. THE COURT AT THAT TIME DENIED OUR  
22 MOTION. IT'S MY UNDERSTANDING THAT I HAD TO MAKE  
23 THAT MOTION AGAIN NOW AFTER THE JURY HAS BEEN SWORN  
24 AND I AM SO MAKING THAT MOTION. THE COURT ALSO ASKED  
25 US IF WE HAD ANY NEW INFORMATION TO PUT UP REGARDING

1 THAT.

2 THE COURT: YES, SIR.

3 MR. MORTON: AND WE DO AND THE NEW  
4 INFORMATION, IF YOU JUST WANT ME TO STATE IT FOR THE  
5 COURT IS, IS THAT ON THAT DAY DETECTIVE BLACKWELDER  
6 TESTIFIED THAT SHE SERVED MR. COPE A MURDER WARRANT  
7 AT 4:21 A.M. ON THE MORNING OF NOVEMBER 29, THAT SHE  
8 THEN WORKED ALL NIGHT AND THEN SHE THEN CHARGED HIM  
9 WITH UNLAWFUL NEGLECT WARRANTS AT 8 O'CLOCK THAT  
10 MORNING. MRS. BLACKWELDER HOWEVER IN HER SYNOPSIS OF  
11 THE EVENTS INDICATES IN HER OWN REPORT THAT SHE DID  
12 NOT SERVE MR. COPE WARRANTS FOR UNLAWFUL NEGLECT  
13 UNTIL HE WAS RETURNED FROM HIS INTERVIEW WITH  
14 MR. COPE AND MR. HERRING WHICH WOULD MAKE THE  
15 STATEMENTS TO MR. COPE AND MR. HERRING FRUIT OF THE  
16 POISONOUS TREE AS FAR AS THE LACK OF PROBABLE CAUSE  
17 ON THAT DAY. IN OTHER WORDS --

18 THE COURT: BASED SOLELY ON THE MURDER  
19 WARRANT?

20 MR. MORTON: YES, SIR. YOUR HONOR, I  
21 DON'T KNOW IF THAT'S BEEN MADE A PART OF THE RECORD  
22 BUT I WOULD MAKE THE MURDER WARRANT A PART OF THE  
23 RECORD AND IN MY OPINION CLEARLY DOESN'T STATE ANY  
24 PROBABLE CAUSE. I DON'T THINK THERE IS ANY PROBABLE  
25 CAUSE TO ARREST HIM FOR MURDER.

1 I WOULD ALSO LIKE TO ADMIT A INCIDENT  
2 REPORT FROM MRS. BLACKWELDER IN WHICH SHE STATES THAT  
3 THE WARRANT WAS OBTAINED ON BILLY WAYNE COPE FOR THE  
4 CHARGE OF MURDER. MR. COPE WAS ARRESTED FOR THE SAME  
5 ON 11-30-01. BILLY COPE CONSENTED TO A POLYGRAPH AND  
6 LIEUTENANT HERRING TRANSPORTED COPE TO THE MOSS  
7 JUSTICE CENTER WHERE DETECTIVE MIKE BAKER DID  
8 MIRANDIZE COPE AND DID COMPLETE SAME. WHILE AT THE  
9 SAME LOCATION WITH DETECTIVE BAKER AND LIEUTENANT  
10 HERRING BILLY WAYNE COPE CONFESSED TO THE MURDER OF  
11 HIS DAUGHTER AMANDA RENEE COPE. COPE WAS BROUGHT  
12 BACK TO THE ROCK HILL LAW CENTER WHERE HE WAS CHARGED  
13 WITH MURDER, TWO COUNTS -- WHERE HE WAS CHARGED WITH  
14 MURDER, TWO COUNTS OF CRIMINAL SEXUAL CONDUCT FIRST  
15 DEGREE, THREE COUNTS OF, THREE COUNTS OF UNLAWFUL,  
16 I'M SORRY. HE'S CHARGED WITH MURDER, TWO COUNTS OF  
17 CRIMINAL SEXUAL CONDUCT FIRST DEGREE, THREE COUNTS OF  
18 UNLAWFUL NEGLECT. THE NEXT SENTENCE IS HE WAS  
19 TRANSPORTED BACK TO THE MOSS JUSTICE CENTER AFTER HIS  
20 BOND WAS DENIED. WHICH IS NOT WHAT WAS TESTIFIED TO  
21 TWO WEEKS AGO.

22 THE COURT: WELL, OBVIOUSLY YOU ARE  
23 CORRECT, YOU NEED TO MAKE A CONTEMPORANEOUS MOTION AT  
24 THE TIME OF THE INTRODUCTION OF EVIDENCE. I HEARD  
25 THE EVIDENCE. THERE MAY BE CONFLICTS IN THE

1 EVIDENCE. THAT'S NOT UNUSUAL PARTICULARLY IN A CASE  
2 SUCH AS THIS. I STAND WITH THE DECISION I MADE  
3 EARLIER AND I DENY THE MOTION IN LIMINE AND WILL  
4 ALLOW THE STATE TO CONTINUE. THAT IS, THE RULING I  
5 MADE IN LIMINE STAGE I AM STILL COMFORTABLE WITH AND  
6 WILL ALLOW THE TESTIMONY FOR THE STATE TO GO FORWARD  
7 BASED ON THE RULING MADE AT THAT TIME.

8 MR. MORTON: SECONDLY, YOUR HONOR, AND I  
9 THINK MY OBJECTION IS NOTED FOR THE RECORD AND I  
10 WOULD LIKE TO INTRODUCE A COPY OF MRS. BLACKWELDER'S  
11 REPORT.

12 MR. BRACKETT: NO OBJECTION.

13 MR. GREELEY: NO OBJECTION.

14 MR. BRACKETT: MY SECOND MOTION, YOUR  
15 HONOR, IS I DON'T KNOW IF THE STATE INTENDS TO TRY TO  
16 INTRODUCE MR. BAKER SUMMARY'S OF WHAT MR. COPE STATED  
17 TO HIM ON THAT DAY OR NOT.

18 MR. BRACKETT: I MIGHT. WE'VE INTRODUCED  
19 SEVERAL OF THEM. DO YOU HAVE AN OBJECTION TO THIS?

20 MR. MORTON: YES, I HAVE AN OBJECTION TO  
21 INTRODUCTION OF ANY SUMMARY MR. BAKER MADE. IT'S  
22 HEARSAY. IT'S NOT SIGNED BY MR. COPE. IT'S NOT EVEN  
23 SIGNED BY MR. BAKER. IT'S NOT DATED. NO TIME IS ON  
24 IT. ALL IT IS ---

25 THE COURT: HE'S GOING TO CONCEDE.

1 MR. BRACKETT: THAT'S FINE. I WON'T.

2 THE COURT: SO IT WON'T BE INTRODUCED. IT  
3 WON'T BE OFFERED.

4 MR. BRACKETT: YES, SIR.

5 MR. MORTON: I THINK THAT'S ALL I HAVE.

6 THE COURT: BRING THE JURY BACK.

7 MR. BRACKETT: BEFORE WE DO, WE HAD A  
8 BENCH CONFERENCE IMMEDIATELY PRIOR TO, I WANTED TO  
9 MAKE SURE I UNDERSTOOD AND MR. BAKER UNDERSTOOD, I  
10 WAS MOVING PAST THAT IN MY LAST QUESTION, BUT IT WAS  
11 BRIEF CONVERSATION, I WANTED TO JUST APPRISE THE  
12 COURT OF WHERE I WAS HEADED WITH THAT TO SEE IF  
13 POSSIBLY YOU MIGHT RECONSIDER YOUR RULING BASED ON  
14 WHAT I READ FROM THIS TO YOU. AFTER ANNOUNCING HE  
15 HAD FAILED, AND THIS IS FROM HIS REPORT, AT THIS TIME  
16 DISCREPANCIES IN HIS STATEMENT WERE POINTED OUT TO  
17 COPE, THE CASE FACTS WERE ALSO REVIEWED, AFTER  
18 APPROXIMATELY FIVE OR TEN MINUTES COPE ASKED IF HE  
19 COULD HAVE DONE THIS, REFERRING TO KILLING AMANDA,  
20 AND NOT REMEMBER HAVING KILLED HER. AFTER MORE  
21 CONVERSATION COPE ASKED IF HE COULD HAVE KILLED  
22 AMANDA IN HIS SLEEP AND NOT REMEMBER IT. AFTER THESE  
23 THEORIES WERE CHALLENGED HE STATED HE MUST HAVE DONE  
24 IT. NOW THIS IS THE, THIS IS THE LINK BETWEEN BEING  
25 TOLD THAT HE'S FAILED TO HIM CONFESSING. IT'S NOT

1 BEING OFFERED TO SAY THAT THE POLYGRAPH IS ANYMORE  
2 RELIABLE. ALL IT'S BEING OFFERED TO SHOW IS WHAT --

3 MR. MORTON: WE HAVE NO OBJECTION.

4 THE COURT: ALL RIGHT. BRING IN THE JURY.  
5 MY UNDERSTANDING WAS AND THE REASON I INDICATED IT  
6 WOULD NOT BE ADMISSIBLE, ALTHOUGH IT'S OVER NOW, WAS  
7 THAT I THOUGHT WE WERE GOING INTO MORE EXPERT  
8 ANALYSIS AS TO WHY HE HAD ASKED.

9 MR. MORTON: THAT'S WHAT I THOUGHT.

10 THE COURT: AS TO WHY HE MADE THIS AND  
11 WHAT THEY MEANT, NOT THAT THEY WERE MADE.

12 MR. BRACKETT: YES, SIR, AND JUST WHAT THE  
13 IMMEDIATE CONVERSATION FOLLOWING DISCUSSION OF THIS  
14 WAS.

15 (THE JURY RETURNS TO THE COURTROOM AT  
16 11:15 A.M.)

17 THE COURT: YOU MAY PROCEED.

18 MR. BRACKETT: THANK YOU.

19 DIRECT EXAMINATION BY MR. BRACKETT:

20 Q DETECTIVE BAKER, AGAIN WHERE WE WERE. YOU HAD  
21 JUST ANNOUNCED TO MR. COPE IN THE ROOM THAT HE HAD  
22 FAILED THE POLYGRAPH?

23 A YES, SIR.

24 Q ON THE THREE QUESTIONS YOU REFERENCED EARLIER?

25 A YES, SIR, THAT'S CORRECT.



1 Q AND YOU INDICATED THAT YOUR, HIS REACTION WAS HE  
2 WASN'T SURPRISED AND SHOWED NO EMOTION?

3 A THAT'S CORRECT, NO EMOTION WHATSOEVER. HE WAS  
4 NOT SURPRISED.

5 Q ALL RIGHT, SIR. PLEASE OUTLINE FOR THE JURY  
6 WHAT THE SUBSTANCE OF YOUR CONVERSATION WAS  
7 IMMEDIATELY FOLLOWING THAT. WHAT DID HE ASK YOU OR  
8 WHAT DID YOU SAY TO HIM, TELL THE JURY WHAT WAS  
9 DISCUSSED?

10 A IMMEDIATELY AFTER AND IN PART OF THE  
11 CONVERSATION AS FAR AS EXPLAINING TO HIM THAT HE HAD  
12 FAILED WE REVIEWED THE CASE FACTS BRIEFLY AS FAR AS  
13 THE FACT THAT EVEN HE HAD SAID THAT THERE WAS NO  
14 FORCED ENTRY INTO THE HOME, THE CIRCUMSTANCES  
15 SURROUNDING AMANDA'S DEATH, AND WHO IS IN THE HOME  
16 AND DIFFERENT THINGS THAT EVENING. MR. COPE ASKED  
17 REFERRING TO KILLING AMANDA COULD HE HAVE DONE IT AND  
18 NOT REMEMBER. AFTER MORE CONVERSATION HE ASKED AGAIN  
19 COULD HE HAVE DONE IT IN HIS SLEEP AND NOT REMEMBERED  
20 AND I DISAGREED THAT THAT WOULD HAPPEN. AND THAT HE  
21 SAYS WELL I MUST HAVE DONE IT.

22 Q ALL RIGHT, SIR. NOW HYPOTHETICALLY AS AN EXPERT  
23 IN POLYGRAPH ADMINISTRATION, WOULD SOMEONE HAVE A  
24 PHYSIOLOGICAL REACTION TO AN EVENT, QUESTIONED ABOUT  
25 AN EVENT, THAT THEY DIDN'T REMEMBER?

1       A     THAT IS CORRECT, THEY WOULD NOT.  A PERSON  
2       KNOWS.  WE ALL KNOW THINGS WE HAVE DONE OR HAVE NOT  
3       DONE.

4               MR. MORTON:  YOUR HONOR --

5               THE COURT:  I SUSTAIN THE OBJECTION.  I  
6       THOUGHT WE JUST DISCUSSED THAT.  I SUSTAIN THE  
7       OBJECTION.

8       Q     ULTIMATELY DID HE GIVE A STATEMENT?

9               MR. MORTON:  MY OBJECTION IS HE IS NOT  
10      QUALIFIED TO STATE THAT KIND OF OPINION.

11              THE COURT:  ALL RIGHT.  I SUSTAIN THE  
12      OBJECTION.

13      Q     ULTIMATELY DID HE GIVE YOU AN INCRIMINATING  
14      STATEMENT?

15      A     YES, SIR, HE DID.

16      Q     OKAY.  AND APPROXIMATELY HOW LONG WAS THIS AFTER  
17      YOU TOLD HIM THAT HE HAD FAILED THE POLYGRAPH?

18      A     IT WAS APPROXIMATELY FIVE MINUTES, NO MORE THAN  
19      TEN MINUTES, FROM THE TIME I RE-ENTERED THE ROOM AND  
20      BILLY WAYNE, YOU FAILED, AND THAT BRIEF  
21      CONVERSATION, SO BETWEEN FIVE AND TEN MINUTES, NO  
22      MORE THAN TEN MINUTES.

23      Q     ALL RIGHT.  AND COULD YOU RELATE TO THE JURY THE  
24      SUBSTANCE OF HIS STATEMENT WHAT HE TOLD YOU HAD  
25      OCCURRED IN THE HOUSE THAT NIGHT?

1 A YES, SIR. BILLY WAYNE THEN WENT ON TO EXPLAIN,  
2 HE SAID THAT EVERYTHING HE HAD SAID WAS PRETTY MUCH  
3 TRUE EXCEPT FOR SOME FACTS. HE SAID THAT AFTER HE  
4 HAD GOTTEN --

5 MR. MORTON: YOUR HONOR, I DON'T REALLY  
6 OBJECT TO WHAT HE TOLD HIM, BUT AS TO THE PROCEDURE  
7 THAT WE'RE NOW FOLLOWING, YOU KNOW, HE CAN REFRESH  
8 HIS RECOLLECTION.

9 THE COURT: I THINK YOU NEED TO ASK  
10 QUESTIONS AND HE CAN REFRESH HIS MEMORY USING THE  
11 STATEMENT.

12 Q OKAY. WHAT DID HE TELL YOU THE TIME WAS THAT HE  
13 WOKE UP WHEN HE WAS, PREPOLYGRAPH INTERVIEW, WHAT  
14 TIME DID HE TELL YOU HE WOKE UP?

15 A HE SAID 3 A.M. HE WOKE UP AND WENT TO THE  
16 RESTROOM.

17 Q WHAT DID HE SAY HE DID AFTER HE WENT TO THE  
18 RESTROOM IN THE POLYGRAPH?

19 A IN THE PRETEST INTERVIEW HE EXPLAINED THAT HE  
20 HAD GOTTEN UP, USED THE RESTROOM, AND WENT AND  
21 CHECKED ON THE TWO YOUNGER DAUGHTERS AND NOT CHECKED  
22 ON AMANDA AND THEN RETURNED TO THE BED.

23 Q ALL RIGHT. NOW POST POLYGRAPH INTERVIEW, WHAT  
24 DID HE TELL YOU OCCURRED AT 3 A.M.

25 A HE SAID AT THIS TIME HE SAID THAT HE HAD GOTTEN

1 UP TO USE THE RESTROOM AT 3 A.M. AND THEN ONCE HE HAD  
2 USED THE RESTROOM HE STILL HAD AN ERECTION, IN HIS  
3 WORDS A HARD ON, AND HE WALKED INTO AMANDA'S ROOM.

4 Q AND WHAT DID HE SAY HE DID AFTER HE WALKED INTO  
5 AMANDA'S ROOM?

6 A HE SAID THAT HE WENT IN THERE AND HE BEGAN TO  
7 MASTURBATE. HE POINTED OUT AND RE-ITERATED THAT HE  
8 AND HIS WIFE HAD NOT BEEN HAVING NORMAL SEXUAL  
9 RELATIONS FOR AWHILE. HE SAID THAT HE WAS  
10 MASTURBATING WHEN AMANDA WOKE UP. AMANDA WOKE UP AND  
11 SAID OH, GROSS, DADDY. AND HE SAID THAT ENRAGED HIM  
12 AND THAT HE JUMPED ON TOP OF HER.

13 Q OKAY. DID HE SAY WHETHER OR NOT, WHERE WAS HE  
14 MASTURBATING, WHAT WAS HE MASTURBATING INTO?

15 A AT THAT POINT IN TIME HE WAS NOT SPECIFIC. HE  
16 WAS STANDING THERE AND HE SAID HE HAD MASTURBATED  
17 INTO A WASH CLOTH. HE WAS NOT QUITE SURE WHERE THE  
18 EJACULATE WENT BUT HE WAS, EJACULATED INTO A WASH  
19 CLOTH IN HER ROOM.

20 Q WELL, THAT EVENING WAS HE MASTURBATING INTO A  
21 WASH CLOTH OR DOES HE NORMALLY, CAN YOU --

22 A ACTUALLY IT SAID HE NORMALLY DOES AND PART OF  
23 THE CONVERSATION HE HAD SAID THAT HE MASTURBATES BUT  
24 THAT PARTICULAR EVENING HE WAS MASTURBATING INTO A  
25 WASH CLOTH.

1 Q OKAY. DO YOU HAVE YOUR STATEMENT IN FRONT YOU?

2 A YES, SIR.

3 Q OKAY. ASK YOU TO REFRESH YOUR MEMORY LOOKING AT  
4 THE THIRD, FOURTH LINE?

5 MR. MORTON: I THINK HE'S GOT TO ASK A  
6 QUESTION AND IF HE CAN'T REMEMBER.

7 THE COURT: YEAH.

8 MR. BRACKETT: YES, SIR.

9 Q ARE YOU SURE ABOUT THAT? WOULD YOU PLEASE  
10 REVIEW YOUR STATEMENT AND REFRESH YOUR MEMORY ON THAT  
11 POINT?

12 MR. MORTON: I THINK HE'S ALREADY ASKED  
13 AND ANSWERED IT. IT'S NOT A TRY IT ONE TIME GET IT  
14 RIGHT.

15 THE COURT: I'M GOING TO LET HIM ASK HIM  
16 TO REVIEW THE STATEMENT, IF HE'S USING IT TO REFRESH  
17 HIS MEMORY.

18 A YES, SIR, AND I UNDERSTAND WHERE I MISSPOKE. I  
19 ACTUALLY SAID BOTH. HE SAID HE NORMALLY MASTURBATES  
20 INTO A WASH CLOTH AND I BELIEVE I SAID EARLIER HE WAS  
21 NOT SURE WHERE THE EJACULATE WENT THAT'S BECAUSE HE  
22 WAS NOT USING A WASH CLOTH THIS NIGHT. HE DID NOT  
23 REMEMBER CLEANING UP THE EJACULATE.

24 Q OKAY. HOW DID HE DESCRIBE THE RESULT ON AMANDA  
25 TO YOU?

1 A HE SAID THAT HE BECAME ENRAGED, THAT WAS HIS  
2 WORDS, AND HE SAID THAT HE HAD JUMPED ON TOP OF HER  
3 AND, WHILE SHE WAS IN THE BED, AND I RECALL MR. COPE  
4 AT THAT TIME WAS A RATHER BIG MAN, WELL OVER 300  
5 POUNDS, HE SAID HE JUMPED ON TOP OF HER STRADDLING  
6 HER AND BEGAN SWINGING HIS FISTS. HE VOLUNTARILY  
7 DEMONSTRATED THAT. IT WAS WITHOUT BEING PROMPTED OR  
8 EVEN ASKED TO AND HE DEMONSTRATED SWINGING HIS FISTS  
9 IN FRONT OF HIS BODY AND HITTING HER IN THE HEAD.

10 Q ALL RIGHT. DID HE DESCRIBE OR HOW DID HE  
11 DESCRIBE THE STRANGULATION INJURIES TO AMANDA COPE?

12 A HE HAD, HE HAD TALKED ABOUT THE HITTING HER IN  
13 THE HEAD WITH HIS FIST. HE ALSO TALKED ABOUT  
14 SLAMMING HER HEAD INTO A VIDEO GAME THAT WAS THERE IN  
15 THE BED. WHEN TALKING ABOUT THE STRANGULATION  
16 BECAUSE THIS IS HOW I UNDERSTOOD THE CAUSE OF DEATH  
17 WAS STRANGULATION, I ASKED HIM IF HE HAD CHOKED HER  
18 WITH ONE HAND, JUST MAKING REFERENCE TO A PREVIOUS  
19 CASE THAT I HAD WORKED WHERE STRANGULATION HAD BEEN  
20 CAUSED BY ONE HAND, HE SAID NO, HE CORRECTED ME, AND  
21 HE SAID HE HAD USED BOTH HANDS, AND AGAIN UNSOLICITED  
22 HE DEMONSTRATED PUTTING HIS HANDS TOGETHER AS IF  
23 AROUND AMANDA'S NECK.

24 Q ALL RIGHT. WHAT, HOW DID SHE REACT TO THE  
25 ASSAULT? DID HE DESCRIBE THAT?

1 A VERY BRIEFLY AS FAR AS THAT SHE WAS MAKING SOME  
2 NOISES AND HE TALKED TO HER ABOUT STRANGLING HER MORE  
3 TO QUIET HER DOWN OR SHUT HER UP. WE TALKED ABOUT  
4 SOME DAMAGE TO HER STOMACH OR GROIN AREA. I DID NOT  
5 HAVE A LOT OF INFORMATION ABOUT THAT. I ASKED HIM IF  
6 HE HAD CAUSED THAT BY PUTTING A KNEE IN HER CHEST OR  
7 IN HER GROIN BECAUSE AGAIN BECAUSE OF HIS LARGE SIZE  
8 AND HE CORRECTED ME AND SAID NO, HE HAD STRADDLED HER  
9 AND TALKED ABOUT THAT THERE WAS SOME STRUGGLE AND HE  
10 HAD WRAPPED THE GREEN CLOTH HER AROUND HER NECK ALSO  
11 AND STRANGLING HER UNTIL SHE QUIETED DOWN. HE ALSO  
12 TALKED ABOUT THAT NOT WORKING QUITE WELL, SO HE HAD  
13 RE-TIED THE CLOTH AND BASICALLY USED IT AS LIGATURE  
14 FASHION.

15 Q HOW WAS HE BEHAVING DURING THIS DISCUSSION?

16 A PRETTY MUCH THE SAME. VERY MUCH VOLUNTEERING  
17 SPECIFICALLY THE INFORMATION ABOUT HOW HE WAS  
18 STRIKING THE GIRL, STRANGLING THE GIRL. HE WAS  
19 TALKING FREELY ABOUT THIS.

20 Q ALL RIGHT, SIR. AND DID HE DESCRIBE THE SEXUAL  
21 ASSAULT ON HER?

22 A YES, SIR. WE HAD TALKED ABOUT THE FACT THAT  
23 THERE WAS A SEX TOY IN THE HOME. I HAD ANTICIPATED  
24 THAT THIS WOULD HAVE BEEN USED IN THE SEXUAL ASSAULT  
25 AND HE SAID NO, HE HAD NOT USED THE SEX TOY, THE

1 DILDO ON THE CHILD. HE VOLUNTEERED THAT THERE WERE  
2 TWO BROOMS IN THE HOUSE AND HE VOLUNTEERED THAT HE  
3 HAD USED ONE OF THE BROOM HANDLES ON AMANDA. HE  
4 VOLUNTEERED THAT HE HAD USED IT BOTH ANALLY ON THE  
5 CHILD AND ALSO VAGINALLY.

6 Q AND PRIOR TO HIM TELLING YOU THIS WERE YOU AWARE  
7 OR HAD YOU BEEN MADE AWARE OF THE EXTENT AND THE  
8 VIOLENCE OF THE INJURIES OF AMANDA?

9 A NO, SIR. I UNDERSTOOD THAT IT WAS OBVIOUS THAT  
10 THERE WAS A, HAD BEEN SOME SEXUAL ACTIVITY OR HAD  
11 BEEN A SEXUAL ASSAULT ON THE CHILD, BUT I WAS NOT  
12 AWARE OF THE EXTENT OF THE DAMAGE OR HOW MUCH IT WAS.  
13 ALSO WAS NOT AWARE THAT WHAT THE OBJECT WOULD HAVE  
14 BEEN OR WHAT TYPE OF OBJECT IT WOULD HAVE TAKEN TO  
15 HAVE DONE THE DAMAGE.

16 Q NOW HOW WAS HE EXPLAINING THIS TO YOU? WAS HE  
17 FORTHRIGHT OR WAS HE HEDGING HIS COMMENTS IN ANY WAY?

18 A I WOULD ACTUALLY SAY A MIXTURE OF BOTH. WHEN HE  
19 WAS TALKING IT WAS PRETTY FORTHRIGHT WITHOUT ANY REAL  
20 EMOTION. THERE WAS NEVER ANY CRYING. THE ONLY  
21 CONCERN THAT I SAW MR. COPE WAS SELF PRESERVATION  
22 COMMENTS. HE WOULD SOMETIMES MAKE THE COMMENT ABOUT  
23 BEING ABLE TO SEE IT IN HIS MIND. HE WOULD ALSO  
24 REFER TO THE DREAM THAT HE TALKED ABOUT, THE RAPTURE  
25 DREAM, AND SAYING COME UP. AND HE SAID HE NOW



1 REALIZED THAT WAS NOW AMANDA'S VOICE THAT HE WAS  
2 HEARING IN THE DREAM. SOMETIMES HE WOULD PREFACE IT  
3 WITH THE, YOU KNOW, BEING ABLE TO SEE IT. IN OTHER  
4 TIMES, IT WAS JUST A STRAIGHT OUT THIS IS WHAT  
5 HAPPENED.

6 Q WHEN DID HE SAY THE RELATIONSHIP BETWEEN THE  
7 CONCLUSION OF HIM MASTURBATING AND THE USE OF THE  
8 BROOMS, WHAT WAS THE RELATIONSHIP? DID HE CONCLUDE  
9 MASTURBATING BEFORE HE USED THE BROOMS OR AFTER?

10 A HE HAD MASTURBATED BEFORE THE ATTACK BOTH  
11 PHYSICALLY AS FAR AS THE ASSAULT HITTING, STRIKING,  
12 AND CHOKING. MASTURBATION WAS STARTING WHEN AMANDA  
13 WAS ASLEEP. THE PHYSICAL ATTACK WITH THE BROOM I  
14 TOOK WAS AFTER, AFTER, WHEN MR. COPE THOUGHT THAT THE  
15 CHILD HAS ACTUALLY DEAD.

16 Q DID HE SAY WHY HE DID THIS AFTER HE MASTURBATED?

17 A YES, SIR. I ASKED HIM, YOU KNOW, SHE'S --  
18 YOU'VE ALREADY MASTURBATED, WHY WOULD YOU CONTINUE A  
19 SEXUAL ASSAULT AND HE, I QUOTE, I JUST WANTED TO PLAY  
20 WITH MY DAUGHTER.

21 Q ALL RIGHT, SIR. DID HE DISCUSS WITH YOU  
22 ANYTHING REGARDING HIS COMPUTER?

23 A YES, SIR. I KNEW FROM THE CASE FACTS THAT  
24 MR. COPE HAD A COMPUTER. IN TALKING ABOUT THAT  
25 MR. COPE IN EXPLAINING SOME OF HIS ACTIVITIES THAT

1 NIGHT --

2 MR. MORTON: YOUR HONOR, I WOULD NEED TO  
3 APPROACH.

4 (BENCH CONFERENCE AT 11:27 A.M.)

5 THE COURT: YOU MAY PROCEED.

6 Q MR. BAKER, DID MR. COPE TELL YOU AFTER THE  
7 ASSAULT IN AMANDA'S ROOM HAD CONCLUDED THAT AT SOME  
8 POINT IN TIME HE HAD DELETED THE TEMPORARY INTERNET  
9 FILES OFF --

10 MR. MORTON: YOUR HONOR, I OBJECT TO THAT.

11 THE COURT: REPHRASE YOUR QUESTION.

12 Q WHAT DID MR. COPE TELL YOU IN REGARDS --

13 MR. MORTON: I OBJECT.

14 THE COURT: REPHRASE YOUR QUESTION.

15 Q WHAT DID MR. COPE TELL YOU IN REGARDS TO YOUR,  
16 TO HIS COMPUTER?

17 MR. MORTON: MAY WE APPROACH?

18 Q ---AND ANY ACCESS TO --

19 (BENCH CONFERENCE AT 11:28 A.M.)

20 THE COURT: I OVERRULE THE OBJECTION.

21 Q WHAT DID MR. COPE TELL YOU IN REGARDS TO THE  
22 TEMPORARY INTERNET FILES ON HIS COMPUTER?

23 A HE TOLD ME THAT AFTERWARDS HE HAD GOTTEN UP AND  
24 HE HAD DELETED TEMPORARY INTERNET FILES OFF OF HIS  
25 COMPUTER.

1 Q ALL RIGHT, SIR. AND AFTER, AFTER THAT WHAT DID  
2 MR. COPE SAY HE DID?

3 A HE SAID HE ALSO HAD THROWN OUT THE DILDO, SAID  
4 THAT HE WAS ASHAMED THAT IT WAS IN THE HOUSE AND THAT  
5 HE SHOULD HAVE GOTTEN RID OF IT A LONG TIME AGO. I  
6 TOOK IT AS BEING ALSO AS FAR AS THE CLEANING OUT THE  
7 TEMPORARY INTERNET FILES. HE SAYS THAT HE HAD GONE  
8 TO BED, PUT HIS FACE MASK ON, AND WENT TO SLEEP.

9 Q ALL RIGHT, SIR. NOW DID YOU AND LIEUTENANT  
10 HERRING MEMORIALIZE THIS CONFESSION IN A WRITTEN  
11 DOCUMENT?

12 A YES, SIR.

13 Q ALL RIGHT, SIR.

14 MR. MORTON: NO OBJECTION, YOUR HONOR.

15 Q SHOWING YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 4  
16 AND ASK IF YOU WOULD TAKE A LOOK AT THAT TWO PAGE  
17 DOCUMENT AND JUST TELL ME CAN YOU IDENTIFY WHAT THAT  
18 DOCUMENT IS?

19 A YES, SIR, THIS IS A VOLUNTARY STATEMENT FORM,  
20 IT'S A FORM THAT MY AGENCY USES FOR THIS PURPOSE, AND  
21 THIS IS THE ONE THAT WAS FILLED OUT THAT DAY.

22 Q OKAY, SIR. AND WHOSE SIGNATURES APPEAR ON THAT?

23 A BILLY WAYNE COPE'S AND ALSO MY SIGNATURE.

24 Q DID MR. COPE HAVE AN OPPORTUNITY TO REVIEW THAT  
25 DOCUMENT BEFORE HE SIGNED IT?

1 A YES, SIR.

2 Q AND IS THAT IN FACT HIS SIGNATURE ON IT?

3 A YES, SIR, IT IS.

4 Q ALL RIGHT, SIR. WHO FILLED THAT OUT? WHOSE  
5 HANDWRITING IS ON THAT DOCUMENT, THE STATEMENT  
6 ITSELF?

7 A THIS IS LIEUTENANT HERRING'S. AFTER  
8 APPROXIMATELY AN HOUR OF INTERVIEW WITH MR. COPE, THE  
9 POST-TEST INTERVIEW, AFTER HE HAD GIVEN ME VERBAL  
10 STATEMENTS EXPLAINING THE EVENTS OF THAT NIGHT I THEN  
11 INVITED LIEUTENANT HERRING WHO WAS IMMEDIATELY  
12 OUTSIDE MY DOOR INTO THE INTERVIEW.

13 Q ALL RIGHT. AND HOW LONG DID YOU AND LIEUTENANT  
14 HERRING DISCUSS THE CASE WITH HIM PRIOR TO SIGNING  
15 THAT FORM?

16 A WE GAVE MR. COPE A BREAK AT APPROXIMATELY 1:30,  
17 THAT'S AN APPROXIMATE TIME, GAVE HIM A BREAK. HE HAD  
18 A SOFT DRINK AT THAT TIME. LIEUTENANT HERRING  
19 ENTERED THE INTERVIEW AT THAT TIME. AT TWO O'CLOCK  
20 THE FIRST PART OF THE STATEMENT WAS FINISHED, SO  
21 APPROXIMATELY 30 MINUTES.

22 Q ALL RIGHT, SIR. AT ANY POINT IN TIME DURING  
23 MR. COPE'S STAY AT YOUR OFFICE FROM APPROXIMATELY TEN  
24 THAT MORNING UNTIL THE TIME THAT THAT INTERVIEW ON  
25 THAT STATEMENT WAS CONCLUDED, DID ANYBODY IN YOUR

1 PRESENCE THREATEN MR. COPE?

2 A NO, SIR.

3 Q DID ANYBODY USE ANY FORM OF PHYSICAL COERCION  
4 UPON MR. COPE?

5 A NO, SIR, NONE WHATSOEVER.

6 Q WERE ANY PROMISES OF LENIENCY MADE TO MR. COPE  
7 TO INDUCE HIM TO GIVE AN INCRIMINATING STATEMENT?

8 A NO, SIR. IN FACT, MR. COPE ALMOST SEEMED TO BE  
9 FISHING FOR THIS TYPE OF THING IN SOME OF HIS  
10 STATEMENTS WHERE HE ASKED IF COULD HE COULD FRY, THAT  
11 TYPE OF THING, AND I IMMEDIATELY MOVE THE  
12 CONVERSATION AWAY FROM THAT, SO NO, SIR.

13 Q ALL RIGHT, SIR. WAS HE DENIED ACCESS TO  
14 RESTROOM, WATER, BASIC HUMAN FACILITIES THAT MIGHT  
15 MAKE HIM UNCOMFORTABLE AND FORCE HIM TO WANT TO TALK?

16 A NO, SIR. IN FACT, FAR FROM DENYING, WE WOULD  
17 MAKE SUGGESTIONS SUCH AS THE ONE BEFORE THE  
18 POLYGRAPH, WE ASK THEM, DO YOU NEED TO GO TO THE  
19 RESTROOM, DO YOU NEED SOMETHING TO DRINK, AND THEN  
20 THE OTHER ONE INITIATED BY ME.

21 Q ALL RIGHT. WERE THE STATEMENTS THAT HE MADE TO  
22 YOU THAT DAY THE ORAL STATEMENTS AND THAT WRITTEN  
23 STATEMENT THERE THE PRODUCT OF HIS OWN FREE WILL?

24 A YES, SIR.

25 Q DID HE EVER COMPLAIN TO YOU AT ANY POINT IN TIME

1           WHEN YOU WERE ALONE WITH HIM THAT ANYBODY ELSE HAD  
2           EVER THREATENED HIM ON ANY PREVIOUS OCCASION?

3           A     NO, SIR.

4           Q     OKAY.  WHEN LIEUTENANT HERRING JOINED YOU DID  
5           MR. COPE'S Demeanor CHANGE?  DID HE APPEAR TO BE  
6           AFRAID OF MR. HERRING, DID HE, WAS HIS ATTITUDE OR  
7           EMOTIONAL STATE CHANGE WHEN MR. HERRING JOINED YOU IN  
8           THE ROOM.

9           A     NO, SIR.  WHEN HE MADE THE INITIAL INTRODUCTION  
10          FOR MR. COPE AND I EVERYTHING SEEMED TO BE FINE.  HE  
11          WAS JUST AS TALKATIVE AS THEN AS LATER WHEN HE WAS  
12          WITH ME ALONE.  WHEN LIEUTENANT HERRING ENTERED THE  
13          ROOM I NOTICED NO CHANGE, HE WAS STILL FORTHCOMING,  
14          HE WAS STILL, WAS BEING VERY COOPERATIVE.  SO I SAW  
15          NO CHANGE WHATSOEVER.

16                         MR. BRACKETT:  COURT'S INDULGENCE JUST ONE  
17          MOMENT.

18          Q     DID MR. COPE TELL YOU, DO YOUR NOTES REFLECT  
19          WHAT HE HAD DONE WITH THE BROOM AFTER HE USED IT TO  
20          ASSAULT AMANDA?

21          A     I DON'T BELIEVE THAT HE DID ANYTHING PARTICULAR.  
22          HE TALKED ABOUT THROWING OUT THE DILDO.

23          Q     I'M SPECIFICALLY REFERRING TO, CAN YOU LOOK  
24          THROUGH AND SEE, IF YOU CAN'T REMEMBER INDEPENDENTLY  
25          TO REFRESH YOUR MEMORY, TO SPECIFICALLY THAT PORTION

1 OF YOUR REPORT WHERE HE DISCUSSES THAT, WHAT DID HE  
2 SAY HE DID OR IF HE DID, IF HE REMEMBERED AT ALL,  
3 WHAT DID HE SAY ABOUT THAT?

4 A MR. COPE STATED THERE WERE TWO BROOMS IN THE  
5 HOUSE ONE BEING WOOD AND ONE BEING PLASTIC. HE HAD  
6 STATED HE HAD PULLED AMANDA'S PANTS AND PANTIES DOWN.  
7 HE POKED THE BROOM INTO HER BUTT FIRST, THAT WAS HIS  
8 WORDING. HE SAID THEN HE POKED HER UP FRONT, AGAIN  
9 HIS WORDING REFERRING TO THE VAGINA. THAT'S  
10 SPECIFICALLY, HE STATED HE ONLY REMEMBERED USING THE  
11 BROOM HANDLE ON HER.

12 Q DID HE MAKE ANY STATEMENTS AT ALL ABOUT WHAT HE  
13 DID WITH THE BROOMS AFTERWARDS?

14 MR. MORTON: I DON'T HAVE ANY OBJECTION TO  
15 HIM REFRESHING HIS RECOLLECTION. OBVIOUSLY IT'S  
16 SOMETHING HE NEEDS TO DO.

17 MR. BRACKETT: THE NEXT PARAGRAPH DOWN.  
18 THE FINAL SENTENCE THERE.

19 A AND THE REASON WHY, THE INITIAL ANSWER, MR. COPE  
20 STATED HE DID NOT REMEMBER WHAT HE DID WITH THE  
21 BROOM, SO I DID NOT REMEMBER ANYTHING SPECIFIC ABOUT  
22 THE BROOM AS FAR AS WHAT HE HAD DONE WITH IT, ANY  
23 THING SPECIFIC, BUT HE STATED HE COULD NOT REMEMBER  
24 WHAT HE DID WITH THE BROOM.

25 Q ALL RIGHT, SIR. HOW DID THE INTERVIEW CONCLUDE?

1 A VERY CORDIAL. THE VERY LAST THING THAT MR. COPE  
2 SAID TO ME, HE WAS ABOUT TO LEAVE THE ROOM, HE WAS  
3 LEAVING WITH LIEUTENANT HERRING, HE TURNED AROUND AND  
4 HE EXTENDED HIS HAND AND HE SAID THANK YOU, DETECTIVE  
5 BAKER. THANK YOU FOR HELPING ME GET IT OUT. HE SAID  
6 IT WAS ALL BOTTLED UP. AND I TOOK HIS HAND, SHOOK  
7 HIS HAND, AND HE AND LIEUTENANT HERRING LEFT THE  
8 OFFICE.

9 Q HOW DID HE APPEAR WHEN HE TELLING YOU THIS?

10 A HE APPEARED GENUINE. STILL THERE WAS NO  
11 OVERWHELMING EMOTION. HE HAD NOT CRIED DURING THIS  
12 ENTIRE TIME, HE WAS NOT CRYING AT THIS TIME, BUT HE  
13 SEEMED TO BE GENUINELY THANKING ME FOR HELPING HIM  
14 GET THIS OFF OF HIS CHEST.

15 MR. BRACKETT: YOUR HONOR, I ALSO MOVE  
16 STATE'S EXHIBIT FOUR INTO EVIDENCE AND I BELIEVE WE  
17 NEED TO REDACT EXTRANEIOUS, IRRELEVANT MATERIAL OFF OF  
18 THAT, AND WE WILL DO THAT BEFORE PUBLISHING IT TO THE  
19 JURY.

20 THE COURT: ANY OBJECTION TO THE, SUBJECT  
21 TO THE REDACTION?

22 MR. MORTON: NO, SIR.

23 MR. GREELEY: NO, OBJECTION.

24 THE COURT: IT'S IN SUBJECT TO BEING  
25 REDACTED.



1 (STATE'S EXHIBIT 4 STATEMENT RECEIVED  
2 INTO EVIDENCE.)

3 MR. BRACKETT: THANK YOU VERY MUCH.  
4 PLEASE ANSWER ANY QUESTIONS MR. MORTON MAY HAVE.  
5 CROSS EXAMINATION BY MR. MORTON:

6 Q DETECTIVE BAKER, I THINK CONGRATULATIONS MUST BE  
7 IN ORDER FOR YOU, DO YOU AGREE WITH THAT?

8 A I DON'T KNOW WHERE YOU ARE GOING, SIR.

9 Q WHERE I'M GOING IS THAT YOU HAVE COME IN HERE  
10 AND TRIED TO CONVINCED THIS JURY THAT MR. COPE HAS  
11 JUST CONFESSED TO YOU VOLUNTARILY, EASILY, SIMPLY,  
12 UPBEAT, JOVIALY, RIGHT?

13 A WHAT'S THE QUESTION.

14 Q MY QUESTION IS: IS THAT WHAT YOU ARE ATTEMPTING  
15 TO DO, CONVINCED THEM?

16 A I'M RELATING THE FACTS AS THEY HAPPENED THAT  
17 DAY.

18 Q MY QUESTION IS: ARE YOU TRYING TO CONVINCED THEM  
19 THAT THAT IS HOW THIS INTERVIEW HAPPENED?

20 A NO, SIR. I'M EXPLAINING THE INTERVIEW AS IT  
21 HAPPENED AND THEY WILL MAKE UP THEIR MIND AS THEY SEE  
22 FIT.

23 Q OKAY. WELL, WHY SHOULD THEY BELIEVE YOU? WHAT  
24 EVIDENCE DO YOU HAVE TO PROVE THAT WHAT YOU SAY IS  
25 ACCURATE?

1 A I HAVE MY STATEMENT. I HAVE THE INDEPENDENT  
2 STATEMENT OF A SECOND INVESTIGATOR WHO WAS THERE THAT  
3 DAY.  
4 Q RIGHT.  
5 A I HAVE MY NOTES FROM THAT DAY.  
6 Q YOU HAVE YOUR NOTES?  
7 A YES, SIR.  
8 Q HOW MANY TIMES HAVE YOU REFERRED TO YOUR NOTES  
9 TODAY?  
10 A MANY TIMES.  
11 Q WHY IS THAT?  
12 A FOR ACCURACY SAKE.  
13 Q FOR ACCURACY. WHAT'S THIS LADY RIGHT HERE  
14 DOING?  
15 A SHE IS TAKING NOTES.  
16 Q WHY IS SHE DOING THAT?  
17 A FOR ACCURACY.  
18 Q WHY DIDN'T YOU DO THAT?  
19 A I DID.  
20 Q OH. WHEN DID YOU DO THAT?  
21 A I DID THIS AFTER THE INTERVIEW.  
22 Q UM. DO YOU USE A TAPE RECORDER, MR. BAKER?  
23 A NO, SIR.  
24 Q WHY NOT?  
25 A ONE REASON WE DO NOT HAVE A TAPE RECORDER

1 SUITABLE FOR THIS TYPE OF INTERVIEW. SECONDLY, I DO  
2 NOT LIKE TO USE A TAPE RECORDER BECAUSE I FIND THAT  
3 PEOPLE THAT I HAVE DEALT WITH IT USUALLY SHUTS THEM  
4 DOWN. MANY PEOPLE WILL NOT TALK WHEN THEY ARE ON  
5 RECORD.

6 Q ALL RIGHT. FIRST OF ALL, YOU DON'T HAVE A TAPE  
7 RECORDER SUITABLE FOR THIS KIND INTERVIEW, IS THAT  
8 WHAT YOU SAID?

9 A YES, SIR.

10 Q YOU ARE TELLING US THAT THE RICHLAND COUNTY  
11 SHERIFF'S DEPARTMENT DOES NOT HAVE A TAPE RECORDER TO  
12 TAPE RECORD AN INTERVIEW?

13 A NO, SIR, I DON'T KNOW WHAT THE RICHLAND COUNTY  
14 SHERIFF'S OFFICE HAS?

15 Q WELL, I'M ASKING YOU.

16 A I DON'T KNOW ABOUT THE RICHLAND COUNTY SHERIFF'S  
17 DEPARTMENT.

18 Q I'M SORRY. YORK COUNTY SHERIFF'S DEPARTMENT.

19 A THERE MAY BE. I DO NOT HAVE ANYTHING BUT A  
20 MICROCASSETTE AND I DO NOT CONSIDER THE QUALITY GOOD  
21 ENOUGH TO TAPE AN INTERVIEW.

22 Q YOU DON'T AND YOU CAN'T OBTAIN FROM YOUR  
23 DEPARTMENT A TAPE RECORDER THAT IS SUITABLE TO ENSURE  
24 A FAIR AND ACCURATE REPRESENTATION OF THE INTERVIEWS  
25 AND INTERROGATIONS THAT YOU CONDUCT, IS THAT WHAT YOU

1 ARE TELLING US?

2 A IT'S NOT POLICY OR PROCEDURE OR NORMAL PROCEDURE  
3 FOR OUR AGENCY FOR INTERVIEWS TO BE CONDUCTED. THERE  
4 ARE NO PROVISIONS FOR EVERY INTERVIEW TO BE CONDUCTED  
5 OR EVEN SELECTIVELY. I DO NOT HAVE A TAPE RECORDER  
6 THAT IS SUITABLE FOR OPEN CONVERSATION. THE ONLY  
7 TAPE RECORDER I HAVE IS WHAT'S CALLED A MICROCASSETTE  
8 THAT WE USE FOR, ACTUALLY FOR TAPING PHONE  
9 CONVERSATION HARD WIRED TO THE RECORD.

10 Q SO I GUESS THE ANSWER TO MY QUESTION IS NO, YOU  
11 DO NOT HAVE THE ABILITY OR THE EQUIPMENT IN YOUR  
12 DEPARTMENT TO TAPE RECORD A CONVERSATION WITH  
13 MR. COPE?

14 A I DO NOT HAVE. THERE MAY BE SOMEWHERE IN OUR  
15 AGENCY, I CAN'T SPEAK FOR 300-400 MAN AGENCY, BUT THE  
16 PROCEDURE ARE NOT SET UP, THERE IS NOTHING  
17 PROCEDURALLYLY FIXED FOR US TO TAPE RECORD  
18 INTERVIEWS.

19 Q WHY DON'T YOU DO IT, MR. BAKER?

20 A EXCUSE ME?

21 Q WHY DON'T YOU DO IT?

22 A YOU HAVE TO TALK TO THE ADMINISTRATION. AS FAR  
23 AS MY PERSONAL OPINION ON TAPING INTERVIEWS IF IT WAS  
24 MANDATED TOMORROW THAT WE HAVE TO TAPE ALL INTERVIEWS  
25 I WOULD NOT HAVE A PROBLEM WITH THAT. AGAIN I HAVE

1 SEEN SITUATIONS WHERE PEOPLE WOULD NOT WANT TO TALK  
2 ON TAPE, THAT THEY WOULD YOU TO TURN IT OFF IF YOU  
3 HAD IT. I THINK THERE IS A LOT OF DOCUMENTATION  
4 TOWARD THAT. I THINK PEOPLE CAN RELATE TO THAT IF A  
5 MICROPHONE IS STUCK IN FRONT OF THEIR FACE IT TENDS  
6 TO SHUT THEM DOWN. IF A VIDEO CAMERA IS STUCK IN  
7 THEIR FACE IT TENDS TO SHUT THEM DOWN. IT'S NOT  
8 EVERYONE BUT FROM MY OWN PERSONAL EXPERIENCE, THAT IS  
9 MY OPINION.

10 Q WHY, HOW IS THAT?

11 A PERSONAL EXPERIENCE.

12 Q YOU JUST SAY I'M GOING TO TAPE RECORD THIS  
13 CONVERSATION AND IT'S NOT FAIR AND ACCURATE AS TO  
14 Y'ALL CONVERSATION THAT IT FREEZE UP OR IS THAT WHAT  
15 YOU ARE TELLING US?

16 A SOMETIMES IT HAPPENS, YES, SIR.

17 Q MR. BAKER, THE REASON THAT YOU DON'T TAPE RECORD  
18 THESE CONVERSATIONS IS SO THAT YOU CAN COME IN HERE  
19 AND TELL THIS JURY WHAT YOUR VERSION IS OF HOW THAT  
20 CONVERSATION OCCURRED?

21 MR. BRACKETT: OBJECTION, ARGUMENTIVE.

22 Q ISN'T THAT RIGHT?

23 THE COURT: I OVERRULE THE OBJECTION.

24 IT'S CROSS.

25 Q ISN'T THAT RIGHT?

1 A NO, SIR, NOT AT ALL.

2 Q YOU DENY THAT?

3 A I DENY THAT YES, SIR.

4 Q THEN EXPLAIN TO ME ONCE AGAIN IF YOU DON'T MIND  
5 WHY YOU DON'T DO IT. YOU SAY THAT, AS I UNDERSTAND  
6 IT, THAT IT'S UPSETTING TO THE PERSON THAT YOU ARE  
7 INTERVIEWING, IS THAT BASICALLY WHY?

8 A UPSETTING, YES, IT COULD BE. THAT'S NOT MY  
9 WORDS. PEOPLE SHUT DOWN. IF YOU THINK ABOUT ANY  
10 TIME A PERSON HAS BEEN INTERVIEWED, THEY ARE NOT  
11 PREPARED. ESPECIALLY SOMEBODY WHO IS MAKING  
12 INCRIMINATING STATEMENTS. PEOPLE AREN'T COMFORTABLE  
13 TALKING ABOUT THE FACT THAT I STRANGLED MY DAUGHTER.  
14 I POKED A FOREIGN OBJECT INTO HER BODY. THEN YOU ADD  
15 THE FACT THAT THEIR BEING TAPED OR PERMANENT RECORD  
16 OF IT BEING AUDIO OR VIDEO TAPE, IT'S A PRETTY  
17 DAMNING THING TO HAVE TO ADMIT I DID THIS TO SOMEONE  
18 MUCH LESS MY OWN CHILD AND TO STICK A MICROPHONE IN  
19 FRONT OF THEM, THEY, IN MY PERSONAL EXPERIENCE, IT  
20 CAN BE VERY DETRIMENTAL TO SLOWING THEM DOWN AND  
21 GETTING FREE FLOWING INFORMATION BECAUSE THEY ARE NOT  
22 ONLY TALKING THEY KNOW TO YOU, SIMPLE THING AS FAR AS  
23 INTERVIEWS. THE MORE PEOPLE YOU HAVE IN AN INTERVIEW  
24 THE MORE DIFFICULT IT IS TO GET THAT PERSON TO TALK,  
25 THE MORE INTIMIDATED OR THE MORE PUT OFF OR THE MORE

1 SELF CONSCIOUS THEY BECOME. IT'S THE SAME THING WITH  
2 MICROPHONES OR A VIDEO CAMERAS.

3 Q THIS IS A MURDER CASE, IS IT NOT, MR. BAKER?

4 A YES, SIR.

5 Q AND YOU'RE ASKING US TO CONVICT THIS MAN BECAUSE  
6 OF WHAT YOU SAY HE TOLD YOU; THAT'S PRETTY IMPORTANT,  
7 ISN'T IT?

8 A YES, SIR.

9 Q VERY IMPORTANT, RIGHT?

10 A YES, SIR.

11 Q BECAUSE WHAT YOU SAY HAPPENED IS VERY IMPORTANT  
12 AND YOU ARE ASKING US TO TRUST YOU, RIGHT?

13 A YES, SIR.

14 Q NOW HAVE YOU HEARD, CAN YOU TELL ME WHY, THE  
15 FOUR HOUR INTERVIEW THAT THEY TOOK THE NIGHT BEFORE  
16 WAS NOT DISCONCERTING TO MR. COPE SUCH THAT HE  
17 WOULDN'T TALK.

18 A I'M SORRY. REPHRASE THE QUESTION AGAIN.

19 Q CAN YOU EXPLAIN TO ME WHY THE FOUR HOURS OF  
20 TAPES THAT WE HAVE RIGHT HERE WHERE MR. COPE WAS  
21 RECORDED BY MR. WALDROP, WAS NOT DISCONCERTING TO HIM  
22 BUT YOU FEEL LIKE THAT YOUR TURNING ON A TAPE  
23 RECORDER WOULD BE, CAN YOU EXPLAIN THAT?

24 A YES, SIR.

25 Q OKAY.

1           A     VERY MUCH SO. I THINK IT'S NOTED THAT DURING  
2           THE FOUR HOUR CONVERSATION THAT THE ATTORNEYS  
3           REFERRING TO ALTHOUGH I HAVE NOT BEEN PRIVY TO THAT,  
4           I ACTUALLY NEVER HEARD THAT TAPE, I UNDERSTAND THAT  
5           HE DID NOT MAKE ANY FORTHCOMING COMMENTS DURING THAT  
6           INTERVIEW. WHETHER IT WAS BECAUSE IT WAS BEING TAPE  
7           RECORDED, I WASN'T THERE, I DIDN'T OBSERVE FIRST  
8           HAND. I WILL NOTE THAT IF HE DID NOT DURING THAT  
9           TIME WHILE IT WAS BEING TAPED, WITH ME HE WAS  
10          FORTHCOMING, WE HAD BUILT A RAPPORT, HE WAS VERY  
11          COMFORTABLE, HE DID TALK COMFORTABLELY TO ME.

12          Q     SO THE ANSWER TO MY QUESTION IS IS THAT, YOUR  
13          ANSWER TO MY QUESTION IS THAT WHEN HE WAS BEING TAPE  
14          RECORDED HE WASN'T BEING HONEST AND WHEN HE WASN'T  
15          BEING TAPE RECORDED HE WAS?

16          A     AGAIN --

17          Q     IS THAT WHAT YOU ARE SAYING?

18          A     AGAIN I HAVEN'T BEEN PRIVY TO THOSE TAPES  
19          BECAUSE I DON'T KNOW WHAT HE'S SAYING, WHETHER HE'S  
20          BEING HONEST OR NOT.

21          Q     ALL RIGHT. YOU SAID HE WASN'T FORTHCOMING ON  
22          THE FOUR HOURS BEFORE?

23          A     THAT'S WHAT I UNDERSTAND, YES, SIR.

24          Q     SO I GUESS THE ANSWER TO MY QUESTION IS THAT  
25          WHEN HE WAS BEING RECORDED HE WASN'T BEING



1 FORTHCOMING AND WHEN HE WAS NOT BEING RECORDED HE  
2 WAS?

3 A WELL, I DON'T -- YES, SIR, THAT WOULD BE  
4 CORRECT.

5 Q NOW MR. COPE ARRIVED OVER AT YOUR DEPARTMENT AT  
6 ABOUT 10 A.M., CORRECT?

7 A YES, SIR.

8 Q STATEMENT WAS COMPLETED ABOUT 2:25, CORRECT?

9 A YES, SIR.

10 Q THE POLYGRAPH ITSELF TOOK ABOUT, I THINK YOU  
11 SAID, 12 TO 15 MINUTES, CORRECT?

12 A ABOUT 15 MINUTES, YES, SIR.

13 Q THERE WAS A QUOTE PRETEST INTERVIEW WITH  
14 MR. COPE, CORRECT?

15 A THERE WAS A PRETEST INTERVIEW, YES, SIR.

16 Q YOU SPOKE WITH LIEUTENANT HERRING ABOUT THE  
17 FACTS OF THE CASE BEFORE YOU SPOKE WITH MR. COPE,  
18 CORRECT?

19 A YES, SIR.

20 Q OKAY. AND DO YOU KNOW HOW LONG LIEUTENANT  
21 HERRING SAID Y'ALL SPOKE?

22 A EXCUSE ME?

23 Q DO YOU KNOW HOW LONG LIEUTENANT HERRING SAYS  
24 Y'ALL SPOKE?

25 A NO, SIR.

1 Q BUT YOU STATED 30-45 MINUTES?

2 A APPROXIMATELY, YES, SIR.

3 Q OKAY. 30-45 MINUTES YOU SAY YOU SPOKE WITH  
4 LIEUTENANT HERRING. YOU GAVE A PRETEST INTERVIEW.  
5 YOU GAVE A POLYGRAPH TEST MAYBE 15 MINUTES. WHAT  
6 HAPPENED, MR. BAKER, IN THIS UNRECORDED OTHER TWO,  
7 TWO AND A HALF HOURS OF YOUR CONVERSATION WITH  
8 MR. COPE?

9 A WHAT HAPPENED?

10 Q EXACTLY. THAT'S WHAT I'M ASKING YOU, WHAT  
11 HAPPENED BECAUSE WE DON'T KNOW?

12 A YES, SIR. I'VE RELATED THE CONVERSATION THAT WE  
13 HAD. THERE WERE BREAKS. THERE WERE TIME SPANS WHERE  
14 IT TOOK TIMES TO DO STUFF. YOU KNOW AS FAR AS  
15 RUNNING THE CHARTS, ANALYZING THE CHARTS. AS I  
16 RELATED EARLIER THIS IS THE CONVERSATION THAT TOOK  
17 PLACE.

18 Q TWO AND A HALF HOURS?

19 A ROUGHLY. I BELIEVE THE, AFTER THE TEST WE'RE  
20 ONLY LOOKING AT ABOUT AN HOUR OR SO.

21 Q WELL, WHAT TIME DID YOU START THE TEST? THE  
22 CHART SAID 12:50?

23 A THAT'S CORRECT, THE TIME STAMP IS INCORRECT.  
24 THE TEST, IT'S 11:50. IT HAD NOT BEEN ADJUSTED FOR  
25 TO SAVING TIME.

1 Q WE WEREN'T ON SAVING TIME I BELIEVE IN NOVEMBER?

2 A RIGHT, IT HAD BEEN NOT ADJUSTED EITHER FOR OR  
3 FROM.

4 Q OKAY.

5 A BUT THE TEST --

6 Q SO HE TAKES A 15 MINUTE TEST AT 11:50, WHAT  
7 HAPPENED FOR THE NEXT TWO AND A HALF HOURS?

8 A UM ---

9 Q IN OTHER WORDS, LET ME--IN THIS TWO AND A HALF  
10 HOURS -- AFTER THIS TEST YOU SAY THAT MR. COPE, YOU  
11 TOLD HIM HE FAILED THE TEST AND HE, HE DIDN'T SEEM  
12 SURPRISED, RIGHT?

13 A THAT'S CORRECT.

14 Q THIS IS FROM A MAN THAT WE HEARD THE NIGHT  
15 BEFORE WHO HAD INSISTED 665 TIMES ON HIS INNOCENCE  
16 AND INSISTED ON THAT POLYGRAPH, THAT THAT POLYGRAPH  
17 WOULD CLEAR HIM. HE SAID LET ME HAVE THE POLYGRAPH,  
18 IT WILL CLEAR ME, DID HE NOT?

19 A I'M SORRY. I WASN'T PRIVY TO THAT, SO I DON'T  
20 KNOW.

21 Q THEN AFTER YOU GIVE HIM THE POLYGRAPH AND YOU  
22 TELL HIM HE FAILS HE SEEMS UPBEAT, ALMOST JOVIAL IS  
23 YOUR TESTIMONY. DOES THAT STRIKE YOU AS STRANGE AT  
24 ALL?

25 A NO, SIR.

1 Q IT DOESN'T?

2 A NO, SIR.

3 Q MR. BAKER, FOR ALMOST TWO AND A HALF HOURS AFTER  
4 THIS POLYGRAPH YOU TALKED TO MR. COPE, DID YOU NOT?

5 A NO, SIR, I WOULD DIFFER FROM YOU ON THE  
6 TIMEFRAME, THE TWO AND A HALF HOUR. THE TEST WOULD  
7 HAVE CONCLUDED APPROXIMATELY 12:05, TIME TO STUDY THE  
8 TESTS, ANALYZE IT, YOU KNOW, ROUGHLY AROUND 15  
9 MINUTES. THAT PUTS AROUND APPROXIMATELY 12:20.

10 Q WAIT A MINUTE. LET ME ASK YOU. YOU STARTED AT  
11 11:50, RIGHT?

12 A UH-HUH.

13 Q POLYGRAPH TOOK HOW LONG?

14 A ROUGHLY 15 MINUTES.

15 Q SO THAT'S 12:05.

16 A AND ANOTHER 15 MINUTES TO ANALYZE THE CHARTS,  
17 PRINT THE CHARTS, SO WE'RE DONE AT 12:20 AT 1:30 WE  
18 HAD GIVEN MR. COPE A BREAK AND A SOFT DRINK.

19 Q Y'ALL WERE CONSIDERATE. WHAT DID YOU DO BETWEEN  
20 12:20 AND 1:30.

21 MR. BRACKETT: I OBJECT.

22 THE COURT: JUST DISREGARD WHAT I WOULD  
23 CALL AN EDITORIAL COMMENT. LET'S JUST KEEP QUESTION  
24 ANSWER, QUESTION ANSWER, QUESTION ANSWER.

25 MR. MORTON: I APOLOGIZE.

1 Q WHAT DID YOU DO BETWEEN 12:20 AND 1:30?

2 A THAT'S WHERE MR. COPE RELATED THE EVENTS OF THE  
3 NIGHT.

4 Q THAT'S WHERE MR. COPE RELATED THE EVENTS OF THE  
5 NIGHT?

6 A CORRECT.

7 Q IN OTHER WORDS, YOU GAVE HIM THE POLYGRAPH, HE  
8 FAILED IT, ACCEPTED IT, THEN HE JUST TOLD YOU THAT HE  
9 RAPED AND MURDERED, RAPED WITH A BROOM STICK, THIS  
10 MAN RIGHT HERE, HIS OWN DAUGHTER, RIGHT?

11 A YES, SIR.

12 Q OKAY. AND WHAT DID HE SAY ABOUT MR. SANDERS?

13 A HE DID NOT SAY ANYTHING ABOUT MR. SANDERS.

14 Q HE DIDN'T. THE FACT IS, MR. BAKER, THAT BILLY  
15 COPE BELIEVED IN THAT TEST, HE INSISTED ON THAT TEST,  
16 HE WANTED THAT TEST, AND WHEN YOU TOLD HIM THAT HE  
17 FAILED IT HE COULDN'T BELIEVE IT. HE WAS SHOCKED.  
18 HE BEGAN TO DOUBT HIMSELF.

19 MR. BRACKETT: YOUR HONOR, I AM GOING TO  
20 OBJECT. THIS IS ARGUMENTATIVE.

21 THE COURT: I SUSTAIN -- WHEN HE OBJECTS  
22 YOU STOP.

23 MR. MORTON: OKAY. I'M SORRY.

24 THE COURT: I SUSTAIN THE OBJECTION.

25 MR. BRACKETT: MOVE TO STRIKE.

1 THE COURT: WELL, IT WASN'T EVEN ANSWERED.

2 Q ISN'T IT TRUE --

3 MR. BRACKETT: THE COMMENT ITSELF.

4 Q ISN'T IT TRUE, MR. BAKER, THAT THIS MAN WHO HAD  
5 INSISTED, WHO HAD FOR FOUR HOURS SAID HE HAD NOTHING  
6 TO DO, DIDN'T HEAR, DIDN'T KNOW ABOUT IT, INSISTED ON  
7 POLYGRAPH, FAILED IT; THIS WAS AT SOMETIME THAT  
8 MORNING, CORRECT? HE HAD BEEN UP ALL NIGHT FOR THE  
9 MOST PART, CORRECT?

10 A I ASKED HIM HOW MUCH SLEEP HE GOT, HE SAID LESS  
11 THAN NORMAL, BUT HE FELT FINE.

12 Q HE HAD BEEN CHARGED WITH MURDER AND MURDER OF  
13 HIS OWN DAUGHTER AT 4:21 A.M., CORRECT?

14 A IF YOU SAY SO. I DON'T KNOW.

15 Q AND YOU WERE CONDUCTING A POLYGRAPH TEST ON HIM  
16 BEGINNING AT ABOUT 10:45 THAT MORNING. AND YOU WERE  
17 POLYGRAPHING HIM ON A PRETTY EMOTIONAL SUBJECT, WOULD  
18 YOU AGREE?

19 A YES, IT COULD HAVE BEEN, YES, SIR.

20 Q YOU FEEL LIKE HE WAS A SUITABLE CANDIDATE FOR  
21 POLYGRAPH JUST GIVEN THE BENEFIT OF THE DOUBT EVEN IF  
22 HE SLEPT?

23 A YES, SIR. I HAD GIVEN HIM THE BENEFIT OF DOUBT  
24 AND DIDN'T EVEN CONSIDER GIVING THE POLYGRAPH THE  
25 PREVIOUS NIGHT. ONCE I EVALUATED, THAT IS THE WHOLE

1 PURPOSE OF PRETEST INTERVIEW, AND THERE ARE MANY  
2 TIMES WHEN I HAVE TURNED OFFICERS AROUND SAYING IT'S  
3 NOT GOING TO BE CORRECT TO PERFORM ONE AND THAT WOULD  
4 HAVE HAPPENED THAT DAY IF MR. COPE HAD GIVEN ME ANY  
5 INDICATION OR ANY REASON TO THINK THAT IT WOULD HAVE  
6 BEEN IMPROPER TO GO FORWARD, SO NO, HE GAVE ME NO  
7 REASON WHATSOEVER. ALL THESE WERE TAKEN INTO  
8 CONSIDERATION.

9 Q WAS HE FALLING ASLEEP AT ALL DURING THE TEST?

10 A NO, SIR, NOT AT ALL.

11 Q HE DIDN'T DO THAT?

12 A NOT AT ALL.

13 Q YOU ARE SURE ABOUT THAT?

14 A YES, I'M SURE ABOUT THAT.

15 Q HE WAS UNDER A TREMENDOUS AMOUNT OF STRESS.

16 ORDINARILY SOMEBODY WOULD BE, WOULD THEY NOT?

17 A YOU WOULD THINK THEY WOULD BE, YES, SIR.

18 Q IS THAT A FACTOR?

19 A IT COULD BE, YES, SIR.

20 Q IN FACT, POLYGRAPH TESTS AND EXAMINING IS A VERY  
21 SUBJECTIVE ENTERPRISE?

22 A A SPECIFIC AREA THAT YOU ARE TALKING ABOUT?

23 SOME OF IT IS SUGGESTIVE, SOME OF IT IS NOT.

24 Q I'M TALKING ABOUT GIVING THEM QUESTIONS YOU ASK,  
25 RESPONSES, GRADING; YOU ARE ASKING, YOU ARE TRYING TO

1       DEPEND ON A MACHINE TO TELL YOU WHETHER SOMEBODY IS  
2       TELLING THE TRUTH OR NOT AND THAT IS A SUBJECTIVE  
3       THING, IS IT NOT?

4       A     ACTUALLY THE INSTRUMENT WE USE IS ONLY RECORDING  
5       THE PHYSIOLOGICAL CHANGES. IT DOES NOT TELL YOU  
6       WHETHER THE PERSON IS TELLING, BASICALLY IT IS  
7       LOOKING AT THE PHYSIOLOGY THAT OCCURS WHILE THE TEST  
8       IS BEING GIVEN, SO THAT WOULD BE INCORRECT AS FAR AS  
9       RELYING ON THE MACHINE TO MAKE A DETERMINATION.

10      Q     AND GUILTY PEOPLE PASS POLYGRAPHS. INNOCENT  
11      PEOPLE FAIL THEM, CORRECT?

12      A     THERE ARE ERROR RATES IN ANY SCIENCE, YES, SIR.

13      Q     NOW WHAT HAPPENED WAS THAT AFTER YOU GAVE HIM  
14      THIS POLYGRAPH THAT HE HAD BEEN SO INSISTENT UPON,  
15      YOU BEGAN TO TELL HIM THAT HE DID IT, IS THAT FAIR?

16      A     NO, SIR. AFTER THE POLYGRAPH WHICH AND I'LL  
17      COMMENT TO YOUR PREFACE OF THE QUESTION, MANY, MANY  
18      PEOPLE WHO ARE GUILTY OF CRIMES REQUEST POLYGRAPH  
19      EXAMS. I SOMETIMES EVEN CAUTION OUR INVESTIGATORS  
20      ABOUT SEEING --

21      Q     IF YOU'LL JUST ANSWER MY QUESTION.

22                   MR. BRACKETT: OBJECTION, I THINK HE'S  
23      TRYING TO.

24                   THE COURT: SUSTAINED. LET HIM FINISH.

25      A     I SOMETIMES CAUTION OUR INVESTIGATORS ABOUT



1 BEING DECEIVED BY PERSON'S WILLINGNESS OR EVEN THEM  
2 SUGGESTING TAKING THE POLYGRAPH. POLYGRAPH IS SEEN  
3 AS BEING BY INDIVIDUALS AS PROVING ONE WAY OR ANOTHER  
4 SO THEY THEREFORE SAY HEY I'LL TAKE ONE, NOT REALLY  
5 BELIEVING THAT THEY ARE GOING TO BE GIVEN ONE, THAT  
6 WE HAVE IMMEDIATE ACCESS TO POLYGRAPH BY EXAMINER, SO  
7 THAT IN AND OF ITSELF IS NOT INDICATIVE THAT A PERSON  
8 IS TELLING THE TRUTH. IT'S JUST LIKE WHEN WORKING  
9 WITH THE ROAD AND YOU STOP SOMEBODY, IF YOU ARE IN  
10 UNIFORM AND YOU STOP SOMEBODY FOR A VIOLATION YOU ASK  
11 THEM, WELL, YOU GOT AN OPEN BEER IN THE CAR. WELL,  
12 THEY ARE GOING TO TELL YOU NO AND YOU ASK THEM CAN I  
13 SEARCH AND MAKE SURE AND THEY ARE GOING TO SAY YEAH  
14 GO AHEAD BECAUSE THEY KNOW BY SAYING NO YOU CAN'T  
15 SEARCH, THEY ARE GOING TO LOOK GUILTY AND THE SAME  
16 THING WITH SAYING NO I WON'T TAKE A POLYGRAPH, IT  
17 MAKES ME MORE GUILTY, SO THAT IN AND OF ITSELF IS NOT  
18 INDICATIVE OF SOMEONE, THEIR TRUTHFULNESS OR NOT.  
19 I'M SORRY. THE REST OF YOUR QUESTION?

20 Q AFTER YOU GAVE HIM THE POLYGRAPH HE STARTED  
21 SAYING THINGS LIKE: COULD I HAVE DONE THIS AND NOT  
22 REMEMBER IT, RIGHT?

23 A YES, SIR, HE DID.

24 Q WHICH IS INDICATIVE OF SOMEONE POSSIBLY, I  
25 UNDERSTAND YOU MAY HAVE A DIFFERENT OPINION, BUT

1 POSSIBLY SOMEBODY BEGINNING TO DOUBT THEMSELF, TO ASK  
2 THAT KIND OF QUESTION?

3 A NO, SIR, I DON'T AGREE. NO, SIR.

4 Q I UNDERSTAND YOU DON'T AGREE. YOU DON'T AGREE  
5 THAT THAT'S A POSSIBLE EXPLANATION.

6 MR. BRACKETT: YOUR HONOR, I ASK HE BE  
7 ALLOWED TO FINISH HIS EXPLANATION.

8 THE COURT: I DON'T KNOW THAT HE, I KIND  
9 OF THOUGHT HE WAS FINISHED.

10 MR. BRACKETT: I THINK HE GOT CUT OFF IT  
11 SOUNDED LIKE.

12 THE COURT: GO AHEAD AND FINISH YOUR  
13 EXPLANATION.

14 A THERE ARE CERTAIN CIRCUMSTANCES THAT THAT COULD  
15 BE PLAUSIBLE. IF YOU HAVE SOMEBODY THAT'S OF  
16 EXTREMELY LOW INTELLIGENCE, A MENTAL DEFECT, VERY,  
17 VERY YOUNG AGE, OR SOME TYPE OF MENTAL DEFECT THAT  
18 PREDISPOSES THEM TO THAT TYPE OF BEHAVIOR THAT WOULD  
19 BE A REMOTE POSSIBILITY. IT IS NOT MY BELIEF THAT A  
20 INTELLIGENT, NORMAL HEALTHY INDIVIDUAL IS GOING TO  
21 START MAKING EXCUSES OR START SAYING WELL MAYBE I  
22 COULD HAVE DONE IT TO TRY TO TALK THEMSELVES INTO IT.  
23 NO, SIR.

24 Q I'M NOT TRYING TO BE START HERE, BUT DO YOU HAVE  
25 A COLLEGE DEGREE?

1 A NO, SIR, I DON'T. I DO HAVE COLLEGE LEVEL WORK

2 BUT I --

3 Q SO YOU CERTAINLY AREN'T A PSYCHOLOGIST?

4 A NO, SIR.

5 Q OKAY. SO THAT'S YOUR OPINION THAT HE WAS NOT  
6 BEGINNING TO DOUBT HIMSELF?

7 A THAT'S CORRECT.

8 Q AND IT'S YOUR OPINION THAT HIS QUESTIONS TO YOU  
9 SUCH AS: MUST I HAVE DONE THIS, COULD I HAVE DONE  
10 THIS IN MY SLEEP, I'M HAVING IMAGES OF THIS, ARE NOT  
11 EVIDENCE OF SOMEONE TRULY STRUGGLING TO FIGURE OUT  
12 WHAT YOU TELLING THEM?

13 A NO, SIR. I FEEL LIKE IT'S ONLY EVIDENCE OF  
14 SOMEONE WHO IS STRUGGLING WITH THE FACT THAT THEY ARE  
15 ABOUT AND THEY ARE TRYING TO ADMIT AND IT'S SLOWLY  
16 COMING OUT THAT THEY DID A HEINOUS ACT. IT'S  
17 DIFFICULT FOR US, EVEN IF WE WANT TO TELL THE TRUTH,  
18 AND I THINK EVERYONE CAN EMPATHIZE WITH THIS, THIS IS  
19 A VERY, VERY HEINOUS ACT, THIS IS A VERY, VERY BAD  
20 ACT THAT THIS MAN HAS DONE AND HE IS STRUGGLING WITH  
21 THE FACT OF: I WANT TO GET THIS OUT, I DO KNOW RIGHT  
22 FROM WRONG, BUT NO ONE WANTS TO COME OUT AND JUST SAY  
23 I KILLED AND RAPED AND SODOMIZED BY DAUGHTER AND IT'S  
24 A DIFFICULT THING. AND OFTEN TIMES IT DOES NOT JUST  
25 COME OUT, NO ONE IS GOING TO SIT THERE CALMLY AND SAY

1       YEAH I DID IT.  IT'S A DIFFICULT THING.  SO I BELIEVE  
2       THAT'S WHAT HE WAS STRUGGLING WITH.

3       Q     BUT I THINK YOU SAID HE DID SAY IT CALMLY?

4       A     HE SAID IT CALMLY, YES, SIR.  THAT DOESN'T MEAN  
5       THAT IT'S NOT A STRUGGLE.

6       Q     SO THERE WAS A STRUGGLE BETWEEN THE TWO OF YOU  
7       OR THERE WAS NOT A STRUGGLE?

8       A     NO, SIR.  I THINK YOU ARE TRYING TO ALLUDE TO  
9       SOMETHING ELSE.  YOU WERE REFERRING TO AN INTERNALIZED  
10      STRUGGLE FOR MR. COPE AND THAT'S WHAT I AM REFERRING  
11      TO.

12      Q     SO WAS THERE A STRUGGLE BETWEEN YOU AND HIM?

13      A     NO, SIR.

14      Q     IS IT YOUR POWER OF PERSUASIVENESS THAT WAS ABLE  
15      TO GET HIM TO DO THIS?

16      A     I DON'T BELIEVE IT'S A POWER OF PERSUASIVENESS.  
17      AGAIN I JUST GO TO COMMON EXPERIENCE AND COMMON  
18      PRACTICE.  YOU BUILD A RAPPORT WITH SOMEBODY.  YOU  
19      GAIN SOME LEVEL OF TRUST.  YOU ALSO TREAT THEM WITH  
20      RESPECT.  IT'S REALLY NO DIFFERENT FROM WHEN WE TALK  
21      TO OUR SPOUSES, WHEN WE TALK TO OUR BEST FRIEND OR WE  
22      TALK TO A COUNSELOR OR PASTOR OR THERAPIST OR JUST A  
23      FRIEND THAT WILL LISTEN.  WE TALK TO THOSE PEOPLE  
24      BECAUSE WE TRUST THEM BECAUSE THEY'VE SHOWN SOME  
25      RESPECT.  THOSE TYPE PEOPLE DON'T HAVE TO STRUGGLE

1 WITH SOMEBODY AND PEOPLE TALK ABOUT VERY DEEP DARK  
2 SECRETS AND PROBLEMS EVERYDAY TO COUNSELORS AND  
3 THERAPISTS AND FRIENDS AND THIS WOULD BE NO DIFFERENT  
4 THAN SOMETHING OF THAT.

5 Q DID YOU KNOW ANYTHING ABOUT AMANDA COPE?

6 A ABOUT WHAT?

7 Q ABOUT AMANDA COPE?

8 A YES, SIR.

9 Q DID YOU KNOW SHE WAS AN HONOR ROLL STUDENT?

10 A I DID NOT.

11 Q THAT SHE LOVED TO PLAY THE VIOLIN?

12 A I DID NOT AT THAT TIME.

13 Q THAT SHE WAS ON THE BIBLE QUIZ TEAM?

14 A NO, SIR.

15 Q DID YOU KNOW THAT?

16 A NO, SIR.

17 Q DID YOU KNOW THAT THIS MAN'S SEMEN, SALIVA WAS  
18 FOUND ON HER BITTEN BREAST?

19 A I DID NOT AT THAT TIME, NO, SIR.

20 Q SO YOU DIDN'T PRESUME TO HAVE ANY LOCK, FOR USE  
21 OF A BETTER WORD, ON THE TRUTH, DID YOU?

22 A NO. WE WERE SEEKING THE TRUTH.

23 Q RIGHT. BECAUSE IN FACT IT TURNED OUT THAT WHAT  
24 MR. COPE TOLD YOU WAS PATENTLY FALSE?

25 A WHICH PART?

1 Q CORRECT?

2 A WHICH PART HE TOLD ME INCORRECTLY?

3 Q WELL IF HE GOES IN AND SAYS THAT HE RAPED WITH  
4 HIS DAUGHTER WITH A BROOM, WERE YOU AWARE THAT SHE  
5 WAS MENSTRUATING AT THE TIME?

6 A NO, SIR.

7 Q YOU ARE AN INVESTIGATOR, WOULD YOU EXPECT TO  
8 FIND SOME TYPE OF BLOOD, VAGINAL FLUID ON A BROOM  
9 THAT WAS USED?

10 A IF IT HAD NOT BEEN CLEANED UP, YES, SIR.

11 Q IF IT HAD NOT BEEN CLEAN. IS THERE ANY EVIDENCE  
12 THAT ANYTHING WAS CLEANED UP THAT YOU ARE AWARE OF?

13 A HE DID TALK ABOUT THROWING THINGS AWAY, SO YES,  
14 I WOULD SAY THERE WAS SOME EFFORT TO CLEAN UP.

15 Q THROWING SOMETHING OUT THE BACK DOOR, RIGHT? DO  
16 YOU REMEMBER, DO YOU KNOW IF ANYTHING WAS FOUND  
17 OUTSIDE THE BACK DOOR?

18 A THERE WAS NOT BUT I DON'T KNOW WHETHER MR. COPE  
19 WOULD HAVE PRECLUDED HIM FROM GOING BACK OUT AND  
20 RETRIEVING IT.

21 Q DID HE SAY ANYTHING ABOUT MR. SANDERS?

22 A NO, SIR.

23 Q SO IF THIS, FROM YOUR ABILITY TO TALK TO  
24 SOMEBODY, YOU WERE ABLE TO GET THE QUOTE TRUTH OUT OF  
25 THEM, YOU DIDN'T DO AS QUITE A GOOD A JOB AS YOU

1 NEEDED TO?

2 A YES, SIR. WE ASKED THE QUESTIONS THAT WE WERE  
3 AWARE OF AND I GUESS I'LL BACK UP OR ABOUT  
4 MR. SANDERS. OF COURSE, IF WE HAD MORE INFORMATION,  
5 IT WAS TOO EARLY FOR THE DNA TEST TO COME BACK, AND  
6 CERTAINLY IF WE HAD KNOWN THE DNA DID NOT MATCH, WE  
7 WOULD HAVE PURSUED THAT, BUT GOING FROM MR. COPE'S  
8 OWN STATEMENTS AND WHAT HE RELATED WAS THAT (ONE)  
9 THERE WAS NO FORCED ENTRY; EVEN HE ADMITTED THAT.  
10 THAT THERE WAS, NO ONE HAD COME INTO THE HOUSE. HE  
11 DIDN'T HEAR ANYTHING. NO ONE HAD BEEN THERE. EVEN  
12 HE RULED OUT SOMEONE FORCEFULLY ENTERING THE HOUSE,  
13 SO GOING BY THOSE STATEMENTS. WE ALSO DON'T EXPECT  
14 TO GET EVERY DETAIL IN A FIRST INTERVIEW. THAT'S WHY  
15 YOU DO SUBSEQUENT INTERVIEWS. SO YOU BUILD ON ONE  
16 INTERVIEW TO THE NEXT.

17 Q YOU INDICATE THAT MR. COPE SAYS HE WENT TO THE  
18 BATHROOM AND THAT AFTER HE WENT TO THE BATHROOM HE  
19 STILL HAD AN ERECTION, CORRECT?

20 A YES, SIR.

21 Q NOW MR. BAKER, YOU'RE OBVIOUSLY A MALE, ARE YOU  
22 NOT?

23 A YES, SIR.

24 Q SO THEN AFTER HE GOES TO THE BATHROOM AND HE  
25 STILL HAS AN ERECTION, HE GOES IN HIS DAUGHTER'S ROOM

1 AND HE BEGINS TO EJACULATE, CORRECT?

2 A HE BEGINS TO MASTURBATE, YES, SIR.

3 Q MASTURBATE THEN HE EJACULATES, RIGHT?

4 A YES, SIR.

5 Q AGAIN, MR. BAKER, YOU ARE OBVIOUSLY A MALE,  
6 RIGHT?

7 A YES, SIR.

8 Q OKAY. THEN HE DECIDES THAT HE JUST WANTS TO  
9 PLAY WITH HIS DAUGHTER, RIGHT?

10 A YES, SIR.

11 Q SO HE DECIDES TO STICK A BROOM UP THIS HONOR  
12 ROLL, BIBLE QUIZ STUDENT, CORRECT?

13 A THAT'S WHAT HE SAID, YES, SIR.

14 Q AND THEN HE BECAME ENRAGED, RIGHT?

15 A AFTER SHE WOKE UP AND SAID SOMETHING TO HIM.

16 Q SHE WOKE UP AND HE BECAME ENRAGED AT HIS HONOR  
17 ROLL, BIBLE QUIZ, VIOLIN PLAYING STUDENT, RIGHT?

18 A THAT'S WHAT HE STATED.

19 Q AND WHY DID HE BECOME ENRAGED?

20 A I'M SORRY. THE QUESTION?

21 Q WHY DID HE BECOME ENRAGED?

22 A I WOULD IMAGINE BECAUSE HE HAS NOW BEEN SEEN  
23 MASTURBATING OVER HIS DAUGHTER.

24 Q SO HE JUMPS ON HER AND HE STRANGLES HER WITH TWO  
25 HANDS, RIGHT?



1 A THAT'S WHAT HE SAYS, YES, SIR.

2 Q FROM THE FRONT OR THE BACK?

3 A HE DIDN'T GET THAT SPECIFIC. I DIDN'T ASK  
4 SPECIFICALLY. I TOOK FOR GRANTED FROM THE FRONT.

5 Q YOU ASKED HIM ABOUT INJURIES TO HER GROIN AND SO  
6 FORTH, DID HE KNEE HER IN THE STOMACH AND SO FORTH?

7 A YES, SIR.

8 Q WHAT DID HE SAY?

9 A HE SAID HE STRADDLED HER. HE SAID THAT HE WAS  
10 NOT AWARE OF INJURIES, CAUSING INJURIES, CAUSING  
11 THAT.

12 Q WHEN HE SAID THAT HE STRANGLED HER I BELIEVE YOU  
13 SAID WITH HIS THUMB AND HIS FOREFINGER TOUCHING?

14 A YES, SIR.

15 Q MR. BAKER, DOES THAT MAKE SENSE TO YOU?

16 A WHICH PART?

17 Q THE WHOLE SHEBANG?

18 A YES, SIR. WHEN YOU CONSIDER THAT A PERSON WHO  
19 WOULD KILL ANY INDIVIDUAL, MUCH LESS HIS OWN  
20 DAUGHTER, AND THEN SEXUALLY ASSAULT, WHEN YOU HAVE  
21 BEEN IN THIS BUSINESS AND YOU'VE DEALT WITH SIMILAR  
22 CASES, THE WAY PEOPLE THINK, IF A PERSON IS THIS TYPE  
23 OF PERSON OR IN THIS FRAME OF MIND, IT DOES NOT  
24 NECESSARILY HAVE TO MAKE SENSE TO THAT PERSON OR EVEN  
25 MAKE SENSE TO US AFTERWARDS.

1 Q THANK YOU, MR. BAKER.

2 THE COURT: MR. GREELEY.

3 MR. GREELEY: I HAVE NO QUESTIONS.

4 THE COURT: REDIRECT?

5 MR. BRACKETT: NO, SIR.

6 THE COURT: ALL RIGHT. YOU CAN STEP DOWN  
7 AND BE EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU.

8 MR. BRACKETT: MAY WE APPROACH, YOUR  
9 HONOR, SCHEDULING.

10 (BENCH CONFERENCE.)

11 THE COURT: AFTER CONSULTING WITH COUNSEL  
12 IT APPEARS NOW WOULD BE A GOOD TIME TO TAKE LUNCH.  
13 IT IS 12:15. I'LL ASK YOU TO BE BACK AT 1:30 HAVE A  
14 PLEASANT LUNCH. THANK YOU.

15 (THE JURY EXITS THE COURTROOM AT 12:11  
16 PM.)

17 THE COURT: ALL RIGHT. WE'LL BE AT EASE  
18 UNTIL 1:30.

19 (COURT IS IN RECESS AT 12:11 PM.)

20 (COURT RESUMES AT 01:32 PM.)

21 THE COURT: WHILE THEY ARE BRINGING THE  
22 DEFENDANTS IN, IF EVERYBODY WILL SIT DOWN JUST A  
23 SECOND, THIS IS MORE FOR THE SPECTATORS THAN FOR  
24 COUNSEL. ONE OF THE JURORS WAS APPROACHED, I'M SURE  
25 INADVERTENTLY, BY ONE OF THE SPECTATORS OVER LUNCH IN