

1 IN CHAMBERS - Outside the hearing of the jury, with the  
2 Defendant and all counsel being present.

3 THE COURT: Go ahead.

4 MR. RACICOT: Your Honor, it is our belief that Shannon  
5 O'Brien is being called to testify to the following; that she  
6 stated to the FBI in June of 1979, the date she does not  
7 recall, that last fall, being the fall of '78, that Kim Nees  
8 had told her that Goose Kirn had pulled a knife on her and  
9 asked her what she would do if he used it on her. We would  
10 maintain that that is hearsay testimony, prejudicial and it  
11 is totally irrelevant to this inquiry in every way whatsoever,  
12 having occurred substantially prior to this incident, that it  
13 is remote and there is no way that it would be competent  
14 to establish someone else being involved in this particular  
15 crime.

16 MR. MOSES: I guess the court has noted the objection.

17 THE COURT: Okay. I guess the witness  
18 Sheriff Mahlum is here now so let's  
19 go back in.

20 IN THE COURTROOM, with defendant and all counsel present and  
21 the Jury being present in the Jury box:

22 THE COURT: You may proceed.

23 MR. MOSES: Call Sheriff Mahlum.

24 WHEREUPON,

25 SHERIFF DEAN MAHLUM

1 having been called as a witness for the defendant, and having  
2 been first duly sworn upon his oath, testified as follows:

3  
4 DIRECT EXAMINATION

5 By Mr. Moses:

6 Q State your name please?

7 A Dean Mahlum.

8 Q And where do you live, Sheriff?

9 A Wolf Point, Montana.

10 Q Would you speak up a little louder for me  
11 please?

12 A Wolf Point, Montana.

13 Q And what is your occupation, Sir?

14 A Presently I am Sheriff of Roosevelt County.

15 Q And how long have you been the Sheriff of  
16 Roosevelt County, Montana?

17 A Since January 1st, of 1983.

18 Q And prior to that time, what was your occupation?

19 A I was the Under Sheriff of Roosevelt County.

20 Q And how long were you undersheriff of Roosevelt  
21 County?

22 A Since July of 1976.

23 Q Now in your capacity as the Under Sheriff, that  
24 would be the person who would be next in charge, right?

25 A That's correct.

1 Q And in that connection I take it that you were  
2 involved in the investigation of the homicide of Kim Nees?

3 A That is correct.

4 Q In connection with that, were you in charge of  
5 the investigation, Officer?

6 A Sheriff Carpenter would have been in charge  
7 of the investigation.

8 Q But you aided and assisted?

9 A That's correct.

10 Q And was there during that investigation, were  
11 there or was there a palm print discovered on the vehicle  
12 in the course of the investigation?

13 A That's correct.

14 Q And was that palm print lifted?

15 A It was processed, yes.

16 Q What do you mean by -- what I mean by lifting,  
17 and what do you mean by processing? Let's inform the jury.

18 A One of the agents of the FBI photographed the  
19 palm print and also lifted it with tape or he attempted to  
20 lift it with tape.

21 Q And was that palm print located on an area  
22 where there was blood?

23 A That is correct.

24 Q And what was done with that bit of evidence,  
25 both the lift and the photograph?

- 1 A The FBI retained that.
- 2 Q And do you know whether there was a palm prints  
3 taken of Barry Allan Beach?
- 4 A There were.
- 5 Q And what was done with those palm prints?
- 6 A I am not sure that I follow your question, Sir?
- 7 Q Well when you took the palm print of Barry Allan  
8 Beach, what did you do with them?
- 9 A They were submitted to the FBI for comparison.
- 10 Q And did you receive a report back from them?
- 11 A Yes sir.
- 12 Q From the FBI?
- 13 A Yes sir.
- 14 Q Now in connection with the investigation of this  
15 case, were there any blood samples that were obtained as  
16 evidence?
- 17 A Yes sir.
- 18 Q And how is that done, Sheriff, could you just  
19 describe to the jury how you gathered that sort of evidence?
- 20 A We are speaking of ---
- 21 Q Blood samples. I will get to blood typing in  
22 a moment.
- 23 A Okay, again the FBI obtained the blood samples  
24 from the pickup, that were on the pickup.
- 25 Q In any areas that are reflected in Exhibit Number



1 28, showing the blood -- areas of blood on that exhibit?

2 A Yes, there was also some blood samples taken  
3 from that area.

4 Q And do you know of your own knowledge, Sheriff,  
5 what was done with those blood samples taken from the scene  
6 of this homicide?

7 A I personally do not know. I wasn't involved  
8 with any of those blood samples.

9 Q Were there any blood samples taken from or  
10 sent to you, or delivered to you office, from Doctor John  
11 Pfaff?

12 A I believe Doctor Pfaff did take some blood  
13 samples from the victim.

14 Q And were there blood samples taken from the  
15 clothing of Kim Nees?

16 A There was blood on the clothing so that there  
17 would be samples there.

18 Q Were they sent anywhere for analysis?

19 A I personally don't know if they were sent or  
20 not. I personally did not send them.

21 Q Well, doesn't the record reflect that they were  
22 sent to Missoula, to the state laboratory there?

23 A I don't know. I would have to look at the  
24 lab reports that came back from the state lab.

25 Q I will get you the report in just a moment. Do  
you know if there was some effort made to take blood samples?

- 1           A           Yes.
- 2           Q           And that was accomplished also by taking blood  
3 samples from Barry Allan Beach?
- 4           A           Yes sir.
- 5           Q           And the purpose of that, I take it, Sheriff,  
6 was simply to be able to blood type his blood and the blood  
7 type of Kimberley Nees and then make a comparison?
- 8           A           Yes sir.
- 9           Q           With respect to finger prints themselves, were  
10 there efforts made to "dust" as the law enforcement says, to  
11 dust the pickup for fingerprints?
- 12          A           Yes there was.
- 13          Q           And is that the same lifting process that you  
14 do, where you can use cellophane or something like that, to  
15 pull it off?
- 16          A           Yes.
- 17          Q           And then that preserves the finger prints?
- 18          A           That's correct.
- 19          Q           And were there finger prints taken of Barry Allan  
20 Beach?
- 21          A           Yes sir.
- 22          Q           On more than one occasion?
- 23          A           One that I am aware of that I personally was  
24 involved with.
- 25          Q           Okay, and when was that?

1 A I don't recall the exact date.

2 Q Well the approximate date. Was it a year ago,  
3 five years ago, two years ago?

4 A I would say sometime in 1980.

5 Q Okay, thank you. And the purpose for taking  
6 fingerprints was to make comparisons so that the finger prints  
7 of Barry Allan Beach could be compared with finger prints  
8 that were lifted from the vehicle?

9 A That's correct.

10 Q Now were there others, besides Barry Allan  
11 Beach, whose fingerprints were taken for comparison purposes  
12 to show whether their finger prints appeared on the inside  
13 of the vehicle?

14 A That's correct.

15 Q And was the FBI able to make positive  
16 identification with respect with persons whose finger prints  
17 appeared on the inside of the vehicle?

18 A They were.

19 Q And do I understand that Barry Allan Beach  
20 that there was no positive identification that his finger  
21 prints being within the interior or exterior, but that there  
22 were positive identifications made?

23 A Yes sir.

24 Q And did that include Goose Kirn?

25 A It included him as being submitted for positive  
comparison.

1 Q For positive comparison

2 A To my knowledge there was no positive compar-  
3 ison with Mr. Kirn.

4 Q Okay, I see. May I have just a moment, Your  
5 Honor?

6 THE COURT: Yes.

7 (After a short time, the following)

8 Q Well, let's see, just a moment here, Sir, --  
9 There has been an exhibit in this case, having to do with  
10 hair samples, do you know about that?

11 A I am not aware of the exhibit no.

12 Q Well, I am handing you what has been marked for  
13 identification as State's Exhibit Number 26. Have you see  
14 that before?

15 A No sir.

16 Q Do you know of your own knowledge whether any  
17 hair samples were taken from Barry Allan Beach?

18 A Yes sir.

19 Q Now with respect to the foot prints, were there  
20 photographs taken of the footprints that appear in the  
21 Exhibit Number 28, at the location designated in that exhibit  
22 by Mr. Murray and by Mr. Lambert?

23 A There are photographs, but whether or not they  
24 were of that area, I do not know. I was not at the crime  
25 scene, Sir.

1           Q           I am just for the purpose of reference, I am  
2 sorry my question is, I didn't intend to have you confirm  
3 that they were at that location, but simply saying it is  
4 indicated they are in this location and I would assume that  
5 they were. Were there photographs taken of those footprints?

6           A           I again will have to say that I personally did  
7 not take them, but I have seen a photograph of a set of  
8 foot prints.

9           Q           And have you been in a position to know why  
10 the pictures were taken of those footprints?

11          A           I personally don't know the reason they were  
12 taken.

13          Q           Do you know whether there was any comparisons  
14 made to determine and identify who made those foot prints?

15          A           Not that I am aware of.

16          Q           Were you aware in your investigation as to  
17 whether those foot prints were over the drag area as shown  
18 on the photograph that you saw?

19          A           No sir.

20          Q           I am going to hand you and I will identify for  
21 the record so it will know what we are talking about, and so  
22 I direct your attention to Defendant's --- well, let's mark  
23 it first.

24           WHEREUPON, an instrument was marked as DEFENDANT'S  
25           EXHIBIT E.

1 Q All right, I will now hand you what has been  
2 marked for identification, Defendant's proposed Exhibit E  
3 and would you take a look at that Exhibit?

4 (Examined by the witness, and thereafter examined by  
5 Mr. Racicot and Mr. McCann)

6 Q Can you now tell me whether the FBI in its  
7 lab, made a positive identification of the finger prints of  
8 Goose Kirn?

9 A According to the report there was a positive  
10 identification of Mr. Kirn.

11 THE COURT: Are you offering that in  
12 evidence?

13 MR. MOSES: No I just wanted to identify it.

14 THE COURT: I see.

15 Q Was there a bloody towel recovered in connection  
16 with this investigation?

17 A I personally did not recover any bloody towel.

18 Q Well then, was there one recovered?

19 A There was one, yes.

20 Q And was it marked and tagged?

21 A Yes.

22 Q And do you know of your own knowledge whether  
23 there was a blood typing of the bloody towel?

24 A I believe there was.

25 MR. MOSES: Could I have a moment, Your Honor?

1 (After a short moment)

2 MR. MOSES: No further questions of this witness.

3  
4 CROSS EXAMINATION

5 By Mr. Racicot:

6 Q You testified that to your knowledge you did  
7 not believe there was any identification of the prints of  
8 Albert "Goose" Kirn, is that correct?

9 A Yes.

10 Q Did you state that according to this report,  
11 there was a positive ID made of the fingerprinting inside  
12 that vehicle of Albert Goose Kirn?

13 A According to this report there was.

14 Q And could you tell us where you got that  
15 information from?

16 A From the bottom two lines of the report.

17 Q And that part of the report is referring to  
18 Susan Kirns, isn't that correct?

19 A Yes.

20 Q And if you would look at the second page of  
21 that report, it states that in fact there were no fingerprints  
22 comparison which were identical to those of Albert Goose Kirn,  
23 is that right?

24 A Yes.

25 Q And so according to that report, there was no



1 positive ID of any finger prints submitted on behalf of  
2 Goose Kirns inside of that vehicle, is that correct?

3 A That is correct, according to the report.

4 Q And so you misread it when you were testifying?

5 A That is correct.

6 Q Isn't it a fact, Sheriff Mahlum, that you have  
7 peculiar problems in Roosevelt County on occasions with  
8 investigations that take place on the Indian Reservation, do  
9 you not?

10 A Yes, that's true.

11 Q Difficult to determine who has jurisdiction,  
12 isn't that correct?

13 A That is correct.

14 Q Until you get a suspect in view?

15 A Yes sir.

16 Q And if you had an Indian suspect, that would be  
17 in the responsibility of the federal authorities?

18 A That's correct.

19 Q And if you don't then it is your responsibility?

20 A That is also correct.

21 Q And there are occasions when you begin an  
22 investigation and it turns out to be a federal investigation?

23 A That is also correct.

24 Q And that everything that you have, you make that  
25 available to them?

1 A Correct.

2 Q And there are occasions when you have, or what  
3 appears to be a federal investigation and it turns out to be  
4 one of yours?

5 A That is correct.

6 Q And then they give everything to you?

7 A That is correct.

8 Q Now in this particular case, the FBI generated  
9 over 85 different documents, interviews and various reports  
10 relating to this investigation?

11 A Yes sir.

12 Q And you didn't have those until shortly after  
13 the defendant was apprehended, is that correct?

14 A That's correct.

15 Q And so there was no one really actually in  
16 charge of this investigation, clearly pointed out as the  
17 leader of this investigation from the very beginning?

18 A True.

19 Q And there were a lot of mistakes made in this  
20 investigation, weren't there?

21 A That is correct.

22 Q Primarily because no one was at the scene of  
23 the crime giving anybody directions, isn't that true?

24 A Yes sir, that's true.

25 Q And a lot of the evidence wasn't protected  
properly, isn't that true?

1 A That is also true.

2 Q In fact the bloody towel that Mr. Moses talked  
3 about was in fact placed in a position where it was capable  
4 of being tampered with, isn't that right?

5 A Yes sir.

6 Q And along with Kimberley Nees' sweater and  
7 purse?

8 A Right.

9 Q And so a lot of the scientific evidence that  
10 could have been analyzed in this case was contaminated  
11 by improper law enforcement procedures?

12 A Correct.

13 Q And as a matter of fact, up until the time the  
14 defendant confessed, you had had more than twelve different  
15 suspects at different times, didn't you?

16 A Yes sir.

17 Q And you submitted to the FBI the finger prints  
18 of at least twelve different people that were possible  
19 suspects and involved in this case?

20 A Correct.

21 Q And the report on every one of those people  
22 came back negative?

23 A Correct.

24 Q And so you couldn't ascertain whose palm print  
25 that was?

A That is true.

- 1 Q And you don't even know if it is possible to  
2 have been Kimberley Nees' palm print?
- 3 A Also true.
- 4 Q It could be hers?
- 5 A That is possible.
- 6 Q But you know that it wasn't twelve other people?
- 7 A Correct.
- 8 Q And that includes Goose Kirn?
- 9 A That is correct.
- 10 Q Now the hair evidence that was contained on  
11 that sweater, belonging to Kimberley Nees, that Mr. Moses  
12 talked to you about, that was contaminated by a failure to  
13 protect it, wasn't it?
- 14 A Yes sir.
- 15 Q And you also got reports back concerning that  
16 particular hair on that sweater?
- 17 A Yes.
- 18 Q But after you got that report, you determined  
19 that the evidence had not been properly taken care of?
- 20 A Yes sir.
- 21 Q Now isn't it true that at the time this case  
22 was investigated, you were the chief investigating officer  
23 only for a short period of time?
- 24 Q And that you were out of town at the time?
- 25 A Correct.

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1 Q And you had absolutely nothing to do with the  
2 investigation of the crime scene?

3 A That is correct.

4 Q And that people who did have anything to do  
5 with it, were people that normally served as deputy sheriff  
6 of Roosevelt County?

7 A That is correct.

8 Q And you had the city police of Poplar involved?

9 A Correct.

10 Q And the Tribal police?

11 A Yes sir.

12 Q The BIA?

13 A Yes sir.

14 Q And the FBI?

15 A Yes sir.

16 Q Some of them took some evidence and put it in  
17 one place, some of them took other evidence and put it in  
18 another place, and a third one took other evidence and put  
19 it in another place, in other words, there was no consolidated  
20 effort to place any of this evidence into one depository and  
21 keep track of it?

22 A Yes sir, that's correct.

23 Q And that severely hampered your ability when  
24 you came back to trace this case or investigate this case  
25 properly?

1 A That is true.

2 Q Even the photographs that were taken were  
3 inadequate, weren't they?

4 A Yes that's correct.

5 Q And in fact some of the photographs taken  
6 revealed that the foot prints that were photographed at the  
7 scene of this crime revealed several different pairs of shoes,  
8 shoe sizes?

9 MR. MOSES: Your Honor, I am going to object to that  
10 testimony upon the grounds that it is not the best evidence.  
11 If he wants to produce those photographs and let the jury  
12 look at them, I would be tickled to death.

13 MR. RACICOT: He talked about the foot prints, Your Honor,  
14 and what they were used for.

15 MR. MOSES: I believe I established that photographs  
16 were taken.

17 MR. RACICOT: And that they were compared, ---

18 MR. MOSES: When were they compared?

19 Q Did you have anybody to compare those foot prints  
20 with, Mr. Mahlum?

21 A No sir.

22 Q Is this a normal -- are you familiar of the  
23 area where Kim Nees died?

24 A Yes sir.

25 Q And people are always down there in that area,  
as far as you know?

1 A Correct.

2 Q And they are throwing beer cans and other  
3 debris all over there in that area?

4 A Looking at the scene, I would say that is  
5 correct, yes.

6 Q Scraps of paper, junk all over the place?

7 A True.

8 Q And now, Sheriff Mahlum, when you find a body  
9 in a place like that, how do you determine what is important  
10 to the case and what isn't?

11 A That is only done as the case progresses, from  
12 the evidence that would be recovered, and anything that is  
13 important, you hope that you have it.

14 Q So that it is very difficult to determine if  
15 something is relevant, isn't it?

16 A True.

17 Q And a lot of times, there are pieces of paper  
18 lying all over the place, all kinds of things lying around?

19 A True.

20 Q And that happened here?

21 A Correct.

22 Q Now with reference to the blood evidence, you  
23 say that the FBI secured some of the blood from the vehicle?

24 A Yes sir.

25 Q And did they do that by scrapping some of it  
off from the steering wheel and so on?



1       A           True, but I did' not personally observe that,  
2 but I have an idea of how it was done, right.

3       Q           And you are certain that some samples were taken  
4 from the seat of the vehicle?

5       A           Yes.

6       Q           And the floor, which were sent in for analysis?

7       A           Yes.

8       Q           And in fact, you are aware of the fact that those  
9 reports concerning that blood evidence, all of the blood that  
10 was forwarded in for analysis, matched Kimberley Nees' blood,  
11 didn't it?

12      A           Yes sir.

13      Q           And there was no blood of any different type  
14 at the scene of the crime?

15      A           No there wasn't.

16      Q           Would it be safe to say, Sheriff Mahlum, that  
17 even though you had suspects involved in this case, that you  
18 had no verified evidence, to point to any specific evidence,  
19 to charge any specific individual untill the Defendant  
20 confessed?

21      A           That's true.

22      Q           And then based upon that, you were able to go  
23 back and establish certain definite points in your investigation?

24      A           True.

25      Q           In other words, he provided you insight into

1 what happened that you never had before nore could you  
2 establish through other means?

3 A That's true.

4 Q And isn't it also true, Sheriff Mahlum, that  
5 the defendant in his statement to the police, gave you  
6 information that you had not released to the general public?

7 A That is true.

8 Q And gave you information that established that  
9 he was the perpetuator of that crime?

10 A Yes.

11 Q Now, could you tell us, Sheriff Mahlum, because  
12 the FBI initiated an extensive investigation, that it was not  
13 an exclusive Roosevelt investigation of this offesne?

14 A Right.

15 Q And would you estimate that there were probably  
16 less then ten reports from Roosevelt County, that were made  
17 up by Roosevelt County, up until the time that you took over  
18 the investigation in early 1983?

19 A I would say that would be aball park figure, yes.

20 Q And isn't it also true, Sheriff Mahlum, that  
21 reference to this investigation, that the rumors and the talk  
22 in Poplar was absolutely rampart?

23 A Correct.

24 Q And there were attempts to follow some of this,  
25 some of these rumors and leads?

1 A All that we could, yes.

2 Q And didn't you determine then, that when you  
3 were given names of people that were supposed to be eye  
4 witnesses, that you found out weren't in any position to  
5 say anything?

6 A Correct.

7 Q And could you determine throughout the course  
8 of the investigation that one rumor built another rumor and  
9 that there would be five or six rumors that had built up over  
10 just one rumor?

11 A That is correct.

12 Q Were you aware, Sheriff Mahlum, as you were  
13 involved in the investigation, of the information concerning  
14 the interview of the defendant's mother, the morning after  
15 the homicide?

16 A I wasn't aware of that.

17 Q Even though Red Wilson had gathered that  
18 information?

19 A Right.

20 Q So what we had was that law enforcement officers  
21 were gathering information, not putting it down in a written  
22 report, and it kind of traveled from one officer to another,  
23 orally?

24 A Yes.

25 Q And then after awhile when some of these people

1 left, the officers of Roosevelt County Sheriff's Office, the  
2 FBI and also the other agencies, nobody knew who the heck had  
3 said anything?

4 A That's true.

5 MR. RACICOT: Nothing further.

6

7

REDIRECT EXAMINATION

8 By Mr. Moses:

9 AT THIS TIME, a document was marked as DEFENDANT'S  
10 EXHIBIT F.

11 Q Sheriff Mahlum, I want to show you what has  
12 been marked for identification as Defendant's Exhibit F and  
13 have you see that exhibit before?

14 A Yes sir.

15 Q And that was in the usual course of business  
16 with respect to the submission of prints of Barry Allan  
17 Beach, fingerprints to the FBI?

18 A Yes sir.

19 Q And what is that document?

20 A This is a report of the latent fingerprint  
21 by the FBI.

22 MR. MOSES: I offer in evidence, Defendant's Exhibit F.

23 MR. RACICOT: May I voir dire.

24 THE COURT: Yes.

25 VOIR DIRE by Mr. Racicot:

1 Q Sheriff Mahlum, is this the only finger print  
2 report that have been received?

3 A No sir.

4 Q And there are at least a number of others that  
5 deal with at least twelve different suspects, is that right?

6 A That is correct, including that one there, I  
7 believe twelve of them.

8 Q And did you prepare this particular document?

9 A No sir.

10 MR. RACICOT: Your Honor, it is totally inadequate insofar  
11 as foundation is concerned for introduction here; there are  
12 others also, that would have to be introduced for consideration,  
13 otherwise I believe this would be incompetent.

14 THE COURT: Let me look at it. (The  
15 Court examines the same) Do the  
16 others reach the same conclusion?

17 A Yes sir.

18 THE COURT: Do you want them all in  
19 there then?

20 MR. RACICOT: I don't want any of them in. I don't have any  
21 objections to putting them all in, however, I believe it would  
22 be repetitive and not necessary, but I am going to object to  
23 just one of them going in.

24 THE COURT: And you want it in?

25 MR. MOSES: Of course, the defendant here is on trial and I

1 want this in. If he wants to have the others in, he can do  
2 what he likes, but I want that in.

3 MR. RACICOT: I will not stipulate to foundation, Your Honor,  
4 unless foundation is stipulated as to all of the reports.

5 THE COURT: Yes I know that.

6 MR. RACICOT: Lab reports of all kinds.

7 MR. MOSES: Now you are including the lab reports?

8 MR. RACICOT: Right.

9 THE COURT: And you mentioned this one  
10 and that there are eleven more of  
11 them?

12 MR. RACICOT: There are -- quite a number of lab reports.

13 THE COURT: This isn't a lab report.

14 MR. RACICOT: Finger print lab report, Your Honor.

15 MR. MOSES: Are you confining it just to finger prints?

16 MR. RACICOT: We have number of other finger print lab reports,  
17 and as to all of those, we will stipulate as to foundation,  
18 on all of them, but not just to this one here.

19 THE COURT: I have no objection to  
20 that, do you?

21 MR. MOSES: Sure I do. This defendant is on trial here,  
22 and I want to have this one in.

23 MR. RACICOT: Well, we would object to this one document  
24 going in, for lack of foundation.

25 MR. MOSES: Well then I will withdraw the exhibit.

1 REDIRECT EXAMINATION continued by Mr. Moses:

2 Q Sheriff Mahlum, were you able in your  
3 investigation of this offense that is charged in this case,  
4 were you able to determine whether the foot prints -- or  
5 the photographs taken of the foot prints were that of bare  
6 feet, or shoes, of any particular kind or fashion as seen  
7 here in this Exhibit Number 28, in that area depicted there?

8 A As I stated before I am aware of photographs  
9 that were taken of that, as to their location, but I can't  
10 personally testify to that.

11 Q And you don't know of any other photographs  
12 taken, other than photographs of those foot prints?

13 A What I am saying is that the photographs that  
14 I saw, I do not know personally, exactly, where these foot-  
15 prints were at.

16 Q But does the photograph that-- the photographs  
17 that you saw, reflect whether they were barefoot, tennis shoes,  
18 or regular foot wear, did you or could you make a determination  
19 as to that?

20 A As I recall, the photographs, on one of the  
21 photographs there were toes that were showing, and also  
22 shoe prints.

23 Q And did this lead you to the conclusions that  
24 there were different types of shoes involved?

25 A There were different type of prints, yes.



1 MR. MOSES: Thank you very much, no further questions.

2 MR. RACICOT: Nothing further.

3 WHEREUPON, this witness was EXCUSED.  
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1 MR. MOSES: Call Shannon O'Brien.

2 WHEREUPON,

3 MS. SHANNON O'BRIEN

4 having been now called as a witness on behalf of the Defendant,  
5 and having been previously sworn upon her oath, testified  
6 as follows:

7

8 DIRECT EXAMINATION

9 By Mr. Moses:

10 THE COURT: You are still under oath.

11 A Yes sir.

12 Q Would you state your name for the record  
13 please?

14 A Shannon O'Brien.

15 Q And would you speak up a little bit louder  
16 please, I have difficulty hearing you?

17 A Yes.

18 Q Miss O'Brien, in connection with your testimony  
19 I would like to clear up a matter. Are you familiar with a  
20 report of your testimony taken by the FBI agent, which is  
21 dated July 12th, 1979, did you see that?

22 A I did, yes.

23 Q And in that report, it states that you received  
24 a telephone call early Saturday morning, June 16th, 1979,  
25 at approximately one o'clock AM and the caller was a male, and

18 MR. MOSES: No further questions. May this witness be

19

20 MR. RACICOT: That would be all, thank you.  
21 THE COURT: You may be excused.  
22

23 WHEREUPON THIS WITNESS WAS EXCUSED.

23

24

25

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