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# Condensed Testimony of Dr. Cyril Wecht

Cyril H. Wecht

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1 THE STATE OF OHIO, )  
2 ) SS: RONALD SUSTER, J.  
3 COUNTY OF CUYAHOGA.)

4 IN THE COURT OF COMMON PLEAS

5 CIVIL DIVISION

6 ALAN J. DAVIS, Special )  
7 Administrator of the Estate, )  
8 of SAMUEL H. SHEPPARD, )  
9 )  
10 Plaintiff, )  
11 )  
12 -v- ) Case No. 96-312322-CV  
13 ) C/A: N/A  
14 )  
15 STATE OF OHIO, )  
16 )  
17 Defendant. )

18 - - - -  
19 TRANSCRIPT OF PROCEEDINGS  
20 - - - -

21 APPEARANCES:

22 TERRY H. GILBERT, ESQ., and  
23 GEORGE H. CARR, ESQ., and  
24 GORDON S. FRIEDMAN, ESQ.,  
25 on behalf of the Plaintiff;  
  
26 WILLIAM D. MASON, ESQ.,  
27 STEVEN A. DEVER, ESQ.,  
28 DEAN BOLAND, ESQ., and  
29 KATHLEEN MARTIN, ESQ.,  
30 on behalf of the Defendant.

31 Bruce J. Bishilany  
32 Official Court Reporter  
33 Cuyahoga County, Ohio

34 THE STATE OF OHIO, )  
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53 - - - -

54 BE IT REMEMBERED, that at the January,  
55 A.D. 2000 term of said Court, to-wit,  
56 commencing on Monday, January 31, 2000, this  
57 cause came on to heard before the Honorable  
58 Ronald Suster, in Courtroom No. 20B, Courts  
59 Tower, Justice Center, Cleveland, Ohio, upon  
60 the pleadings filed heretofore.

1 MONDAY MORNING SESSION, FEBRUARY 28, 2000

2 THE COURT: Good morning,  
3 ladies and gentlemen.  
4 THE JURY: Good morning.  
5 THE COURT: Admit it, you're  
6 a little surprised.  
7 You may, Mr. Gilbert, you may call  
8 your next witness.  
9 MR. GILBERT: We will call Dr.  
10 Cyril Wecht to the stand.

11 - - - -  
12 The PLAINTIFF, to maintain the issues  
13 on their part to be maintained, called  
14 as a witness, CRYIL H. WECHT, M.D.,  
15 who, being first duly sworn, was  
16 examined and testified as follows:

17 MR. GILBERT: Good morning.  
18 DIRECT EXAMINATION OF CYRIL H. WECHT, M.D.

19 BY MR. GILBERT:

20 Q. Good morning, Mr. Wecht.  
21 A. Good morning.  
22 Q. Would you please state your name for the  
23 record?  
24 A. Cyril H. Wecht.  
25 Q. Would you spell your last name?

1 A. W-E-C-H-T.  
2 Q. And where do you currently reside?  
3 A. Pittsburgh, Pennsylvania.  
4 Q. And what is your current occupation?  
5 A. Physician, specializing in anatomic, clinical  
6 and forensic pathology. The occupations would include  
7 Coroner of Allegheny County, which is Pittsburgh, and  
8 129 other municipalities, director of forensic  
9 pathology at St. Francis Central Hospital, and  
10 medical/legal forensic pathology consultant on a  
11 private basis, civil and criminal, and workers  
12 compensation, occasionally other kinds of legal  
13 matters.

14 THE COURT: Doctor, I want to  
15 make sure it is clear on the record, I know Mr.  
16 Gilbert checked with you about this, you have  
17 no objection to being televised or videotaped?

18 THE WITNESS: This is being  
19 televised?

20 No, Your Honor.

21 THE COURT: Just to be clear  
22 on the record. You may proceed. I didn't  
23 think you would be shocked about that.

24 I just remind counsel to make sure  
25 before they come in.

1 Q. How long have you been the coroner for  
2 Allegheny County?

3 A. I was coroner from 1970 to 1980, and I am now  
4 the coroner again since January 1 of '96. So this is  
5 the fifth year, second time around. Ten years before.  
6 And four years before that as the chief forensic  
7 pathologist in the Allegheny county coroner's office.  
8 Those years were '66 to '70, '70 to '80 as coroner,  
9 '96 to the present as coroner again.

10 Q. And how long have you been head of the St.  
11 Francis Central Hospital department of pathology?

12 A. I was chairman of the department of pathology  
13 from the time the hospital opened in '74 until '98,  
14 and since '98 to the present time I have been director  
15 of forensic pathology at that hospital.

16 Q. Would you tell the jury your educational  
17 background?

18 A. After graduating from the University of  
19 Pittsburgh in '52, I went to the University of Buffalo  
20 School of Medicine, '52 to '54, and then finished my  
21 third and fourth years at the University School of  
22 medicine graduating with an M.D. degree in '56.

23 I spent one year in a rotating internship at  
24 St. Francis General Hospital and Rehabilitation

1 Maryland, '61 to '62, and obtained a law degree then  
2 in the June of '62.

3 Q. So in addition to you being a physician and a  
4 forensic pathologist, you are also an attorney; is  
5 that right?

6 A. Yes.

7 Q. How does education and the law, becoming an  
8 attorney, assist you in the field of forensic  
9 pathology?

10 A. Well, the role of the forensic pathologist  
11 requires extensive contact with the criminal and civil  
12 justice system. The interface between law and  
13 medicine is no more frequently encountered than it is  
14 in the work of the forensic pathologist, especially as  
15 it relates to coroner and medical examiner's office  
16 case.

17 Q. Dr. Wecht, are you board certified in any  
18 state?

19 A. Well, board certification is a national thing,  
20 licensure is a state thing. I am licensed to practice  
21 medicine in Pennsylvania, California and Maryland.  
22 I'm certified by the American Board of Pathology in  
23 anatomic and clinical pathology and also in forensic  
24 pathology.

1 residency or specialty training in pathology at the  
2 University Veteran's Administration Hospital in  
3 Pittsburgh. I was there for two years, '57 to '59,  
4 when I was called into the service.

5 I spent two years as a captain in the United  
6 States Air Force and served as an associate  
7 pathologist at Maxwell Air Force base, Montgomery  
8 Alabama, '59 to '61. When I got out of the Air Force  
9 I went directly to Baltimore where I spent one year,  
10 '61 to '62, as an associate pathologist and research  
11 fellow in forensic pathology at the office of the  
12 chief medical examiner of Maryland.

13 I finished that program in the summer of '62  
14 and went back to Pittsburgh where I have been  
15 practicing in anatomic, clinical and forensic  
16 pathology doing hospital work, private laboratory,  
17 governmental and private consultation in Allegheny  
18 County and in surrounding counties of southwestern  
19 Pennsylvania.

20 As part of education, when I decided that I  
21 eventually wanted to go into forensic pathology, I  
22 also then enrolled in law school. I was at the  
23 University of Pittsburgh School of Law '57 to '59.  
24 That was interrupted by the stint in the Air Force,

1 pathology?

2 A. You are not licensed now in the specialty, you  
3 are only licensed to practice medicine in any state.  
4 You are certified by the boards.

5 Q. I'm sorry.

6 A. So I was licensed in I guess '57 in  
7 Pennsylvania and then California '59 or so, I'm not  
8 sure, and Maryland '61. I was certified by the  
9 American Board of Pathology in anatomic and clinical  
10 pathology I think in '63 and in forensic pathology in  
11 '64.

12 Q. Are you a member of any professional  
13 organizations relating to forensic pathology?

14 A. Yes, I am. I am a fellow of the College of  
15 American Pathologists, a fellow of the American  
16 Society of Clinical Pathologists, I am a fellow and  
17 former president of the American Academy of Forensic  
18 Sciences, a fellow and former member of the board of  
19 directors of the National Association of Medical  
20 Examiners, I'm a fellow of the British Academy of  
21 Forensic Sciences, I'm a fellow and formerly vice  
22 president of the International Association of Forensic  
23 Science, I'm a fellow and formerly vice president of  
24 the International Association of Accident and Traffic

1 Medicine, I'm an honorary life fellow of the National  
2 Forensic Science Medical/Legal Organizations of Spain,  
3 France, Yugoslavia, as it used to be, Mexico, Brazil,  
4 and Columbia.

5 Q. Have you received in your career any major  
6 achievement awards for your work in forensic  
7 pathology?

8 A. Yes, I have.

9 Q. And give us a couple examples, please.

10 A. Well, I received an award given to one person  
11 annually from the New York Society of Forensic  
12 Sciences I think is the name. I received awards from  
13 some law enforcement agencies, Commonwealth of  
14 Pennsylvania. I received an award from the American  
15 College of Legal Medicine, which I am a fellow and  
16 former president, also. Those are some of the awards.

17 Q. Now have you written any books in the subject  
18 area of forensic pathology?

19 A. Yes, written and edited. I am the editor or  
20 coeditor of about 36 books. There is five-volume set  
21 entitled Forensic Sciences, there is a three-volume  
22 set that deals with soft tissue injuries, there is a  
23 three-volume set that deals with medical malpractice,  
24 there is a book that is called, I think, Microscopic  
25 Diagnoses in Forensic Pathology, and then there is a

1 Rockefeller Commission in 1974 and I was the first  
2 nongovernmental forensic pathologist given access to  
3 the JFK autopsy materials at the National Archives in  
4 Washington, D.C., that was in '72.

5 Q. And have you been consulted in the death of  
6 Robert F. Kennedy?

7 A. Yes. I was an official consultant to the  
8 office of the medical examiner and coroner of Los  
9 Angeles in the Robert F. Kennedy case. I went to the  
10 Ambassador Hotel where he had been shot a few days  
11 after that shooting, reviewed materials then and then  
12 subsequently with Dr. Noguchi who was the chief  
13 medical examiner at that time.

14 Q. And in your career as a forensic pathologist,  
15 can you give us a ball park figure of approximately  
16 how many autopsies you have conducted?

17 A. Well going back to 1957, well actually '56 I  
18 did a few autopsies as intern, but then more  
19 frequently, obviously when I started my residency in  
20 pathology, so going back now 43 years I would estimate  
21 that I have performed, myself, about 14,000 autopsies  
22 and I have reviewed, supervised or signed off on about  
23 30,000 other autopsies.

24 Q. Are you frequently called upon to testify  
25 concerning your area of expertise, forensic pathology,

1 whole series called Legal/Medicine Annuals that went  
2 on for about 20 years or so.

3 Q. Have you written articles for publications?

4 A. Yes. I have about 420 or so articles that have  
5 been published in regional, national and international  
6 journals and other publications in the fields of  
7 forensic pathology, forensic science, legal medicine,  
8 and related subjects.

9 Q. Have you been involved in some nationally  
10 noteworthy cases over your career that you could talk  
11 about at this time?

12 A. Yes. I have been consulted by different  
13 entities, and some cases that are well known.

14 Q. Were you involved with the United States House  
15 of Representatives in terms of their investigation  
16 into the assassination of John F. Kennedy?

17 A. Yes. I was a member of the forensic pathology  
18 panel appointed by the house select committee on  
19 assassinations of the United States Congress that was  
20 constituted in 1977 to reanalyze and review the  
21 assassinations of President John F. Kennedy and Dr.  
22 Martin Luther King. I testified then before congress  
23 in 1978.

24 I had previously been consulted in that case by  
25 other groups and had also testified before the

1 in courts of law?

2 A. Well, I'm consulted fairly often in matters  
3 pertaining to my areas of specialty in pathology in  
4 civil, criminal and workers comp cases. Fortunately  
5 for me most cases don't wind up going to court. But I  
6 certainly have testified many, many times over the  
7 past 35 years or so. But that's a relatively small  
8 percentage of the cases in which I have been  
9 consulted.

10 Q. Dr. Wecht, showing you what has been marked as  
11 plaintiff's exhibit 178 B, would you identify that  
12 document?

13 A. Yes. This is the latest -- no, it is not the  
14 latest, no. It is a curriculum vitae, a kind of  
15 biographical sketch. Everything is correct, it is  
16 just that I can tell from the number of the articles  
17 that it was a previously typed one. There is a newer  
18 one but everything that is a matter of history is, of  
19 course, fixed in place.

20 Q. This document is quite lengthy, as I see here.  
21 Approximately how many pages?

22 A. Gee, I don't know, I have never counted --

23 Q. You don't have to count it.

24 A. -- the pages.

25 Q. One thing I expected to ask you was your

1 teaching appointments. You have had an extensive  
2 career in the area of teaching other pathologists and  
3 other professionals related to forensic pathology; is  
4 that correct?

5 **A.** Yes, I have. I had faculty appointments that  
6 actually started in '57. But the ones that fell into  
7 place later and which exist at this time and have been  
8 present for several years are six: clinical or adjunct  
9 professorships at the University of Pittsburgh. I'm a  
10 clinical professor of pathology in the school of  
11 medicine, clinical professor of pathology in the  
12 school of dentistry, and an adjunct professor in the  
13 graduate school of public health at Pitt.

14 At Duquesne University I'm an adjunct professor  
15 in the graduate school of health sciences, an adjunct  
16 professor in the graduate school of pharmacology and  
17 toxicology, and an adjunct professor of law at the law  
18 school.

19 Then in addition to those six formal teaching  
20 positions, we also do a fair amount of teaching at the  
21 Allegheny county coroner's office. Residents in  
22 pathology, doctors, men and women who are training to  
23 become pathologists at the teaching hospitals in  
24 Pittsburgh come to our office and spend anywhere from  
25 one to three months with us. We teach them, we then

1 We look for changes in body structure, anatomy,  
2 and we look for changes in body function, physiology.  
3 Anything that can produce a change is a pathological  
4 process which we in the field of pathology try to  
5 identify and clarify and in many instances quantify.  
6 So that's what a pathologist does. We do this through  
7 the study of tissues and through the study of body  
8 fluids and excrement.

9 **Q.** And what is forensic pathology?

10 **A.** Forensic pathology utilizes all of the testing  
11 techniques that are found in anatomic pathology,  
12 tissue work and cell study, cytology, preps like pap  
13 smears, clinical pathology, which is blood work,  
14 chemistry, urine analysis, serology, immunology,  
15 bacteriology.

16 The forensic pathologist uses all of that  
17 background information, all of those testing  
18 techniques, analytical processes, and applies them to  
19 the investigation of violent, sudden, suspicious,  
20 unexpected, unexplained and medically unattended  
21 deaths. To a great extent it is the kind of work  
22 found in coroner and medical examiner's offices.

23 However, it also involves, as do all other  
24 medical specialties, teaching, writing, research in  
25 modern times, in the past couple few decades around

1 have various other groups from time to time, but  
2 that's an ongoing structured teaching program.

3 **Q.** And I notice also that you have been a visiting  
4 professor and guest lecturer at other institutions; is  
5 that correct?

6 **A.** Yes, I have. At various institutions in this  
7 country, the Yale University School of Medicine,  
8 Harvard University School of law, University of  
9 Southern Illinois, one of three speakers with the  
10 United States Supreme Court Justice, and I have been  
11 an invited professorial guest lecturer at programs in  
12 China, Australia, Israel, and various other countries  
13 in different parts of the world.

14 **Q.** Doctor, is there anything that I have left out  
15 that this jury should know concerning your background?

16 **A.** No, this is -- I think that you have covered  
17 it.

18 **Q.** Thank you.

19 Now what is pathology?

20 **A.** Pathology is the study of any disease or any  
21 kind of external forces or agency that produces  
22 changes in the human body, changes that we see with  
23 the naked eye, changes that we see under the  
24 microscope, changes that we measure in test tubes and  
25 a variety of other analytical procedures.

1 the world and especially in an advanced country like  
2 the United States forensic pathology has also become  
3 frequently involved in other situations, not all of  
4 which result in death cases. Alcohol and drug abuse,  
5 rape, sexual assault, child adult, spousal abuse,  
6 environmental, public health concerns in toxicology  
7 and so on. These are all areas which the forensic  
8 pathologist may be involved in, too.

9 **Q.** Now does government have an interest in the  
10 application of forensic pathology?

11 **A.** Yes, very definitely.

12 **Q.** And generally why is it that governments would  
13 have institutions that deal with forensic pathology?

14 **A.** Well, since time immemorial with any civilized  
15 society people are always concerned when someone died  
16 violently or suddenly, unexpectedly, and we see  
17 references then to these kinds of official  
18 governmental investigations, literally thousands of  
19 years ago. But coming up to modern times, the past  
20 couple of centuries, in Europe they developed all  
21 kinds of programs established by the government to  
22 look into these kinds of cases.

23 In our situation, with the heritage in our law  
24 from England, this coroner system goes back to the  
25 12th century and for the same purpose, when someone

1 dies unexpectedly, violently, when there are  
2 suspicions, when there is no physician in attendance,  
3 society must know something about that case, is it  
4 something to worry about.

5 It could range from an infectious communicable  
6 disease to a mass or serial killer, to a public health  
7 hazard. Any kind of potential danger to citizens can  
8 only be fully appreciated and recognized if these  
9 deaths are thoroughly investigated by trained  
10 specialists.

11 The specialists that do this work are forensic  
12 pathologists, with much assistance and input from  
13 other kinds of forensic scientists, toxicologists,  
14 criminologists, anthropologist, odontologist,  
15 questioned document examiners, forensic psychiatrists.  
16 These are other forensic scientists who contributed to  
17 these overall investigations.

18 **Q.** Now you mentioned the coroner system. What is  
19 the coroner system in terms of the way it is setup?

20 **A.** It was set up by the king in England almost a  
21 thousand years ago to protect his financial interest.  
22 When there were violent deaths or people committed  
23 suicide or one baron, earl or lord stormed another's  
24 castle and took over or so on, the question became one

1 the same kinds of things, investigating the same kinds  
2 of cases but with a somewhat different approach.

3 **Q.** Now you have had an opportunity because of your  
4 affiliations around the country to take a look at the  
5 way the states generally handle the forensic pathology  
6 issues from a coroner system versus a medical examiner  
7 system. What can you say about how America generally  
8 is broken down into the coroner versus medical  
9 examiner system?

10 **A.** Well, it is an age-old controversy which I  
11 won't get into at this time about which is the better  
12 system, the appointed medical examiner or the elected  
13 coroner system.

14 I will say this, that as far as I am concerned  
15 in modern days the good coroner offices perform  
16 essentially the same as the good medical examiner  
17 offices. The bad ones in either system don't do such  
18 a great job.

19 The big problem in the United States is that  
20 except for less than a half a dozen states that have  
21 some requirements, and even then it is quite limited  
22 to just having an M.D. degree, but in the remainder of  
23 states that have the coroner system literally anybody  
24 can be elected coroner.

1 takeover the chattels. It could be a carriage with  
2 six horses that had run somebody over, it could be an  
3 entire castle with thousands of acres.

4 Suicide was a religious crime and your  
5 properties then can be confiscated upon your death.  
6 So everybody wanted a piece of the action. The  
7 church, the titled nobility and the king, who was not  
8 the all-powerful king of a unified England as the  
9 monarchy became in later years.

10 So the king appointed these people, they were  
11 called crowners, from the crown, and the name became  
12 coroner. Well in Latin, corona, crown, means the same  
13 thing. Hence the term corona, or coroner. That's  
14 where our system came from. The colonies in the 17th,  
15 18th centuries adopted that office as it did other  
16 offices from the Anglo Saxon form of government and  
17 law.

18 The medical examiner system arose differently  
19 in the rest of the world pretty much aside from the  
20 countries that have been colonized by Great Britain.  
21 The medical examiner system was related more to  
22 universities, more to teaching, scientific  
23 undertakings and affiliated them with these  
24 institutions of higher learning which provided

1 in rural counties, people functioning as coroners who  
2 have no training in pathology, forensic pathology,  
3 law, or anything that might be related to the forensic  
4 scientific field.

5 On the other hand, coroner's offices have  
6 retained many of the traditional powers that existed  
7 with the coroner system which are not to be found in  
8 many medical examiner's offices, such as the power of  
9 subpoena, the power to obtain records, to conduct  
10 inquest, to do a lot of things that medical examiner's  
11 offices don't get into in this country.

12 **Q.** So the coroner is elected and the medical  
13 examiner is appointed?

14 **A.** Yes. There are few jurisdictions where  
15 coroners are appointed. For example, I was just on a  
16 case recently in Las Vegas, Clark County coroner there  
17 is appointed. But 95 percent of coroner's offices,  
18 probably when you hear the word coroner you can assume  
19 that that person has been elected. Medical examiners  
20 are always appointed. There is no such thing, as far  
21 as I know, as an elected medical examiner.

22 **Q.** And you are a coroner; is that right?

23 **A.** Yes, I am elected in Allegheny County, as is  
24 your coroner here in Cuyahoga County.

1 time to time?

2 **A.** Yes. I assure you run as part of a political  
3 party and government includes politics and politics  
4 run government. So the answer obviously is yes.  
5 Sometimes in ways that are insidious. Sometimes ways  
6 which go far beyond the ethics, morality and law.

7 There are many examples of those that have  
8 occurred quite recently, some of which were  
9 extensively discussed last week at the annual meeting  
10 of The American Academy of Forensic Sciences which was  
11 held in Nevada talking about some of these instances  
12 in Texas and elsewhere.

13 **Q.** What is an autopsy?

14 **A.** An autopsy is a post mortem or after death  
15 dissection of a human body designed to determine the  
16 cause of death, identify any and all disease  
17 processes, any and all other changes. Then in  
18 forensic pathology or so-called medical/legal  
19 autopsies we also deal with the determination of  
20 manner of death, natural, accident, suicide, homicide,  
21 or undetermined. And we have five choices. I gave  
22 them to you, by the way, in decreasing order of  
23 occurrence, frequency.

24 We also get into determination of mechanism of  
25 death, and some instances, time, place of death,

1 pathologists who have not trained in forensic  
2 pathology who are providing a service to the community  
3 because forensic pathologists are not available.

4 **Q.** And once it is determined that the manner of  
5 death is not a natural kind of disease oriented death  
6 or from an accident or something like that, and it is  
7 something like a homicide, what then happens to the  
8 report that is done in the autopsy?

9 **A.** Of course the majority of homicides are  
10 identified as such from the outset and therefore the  
11 police, homicide detectives are involved from the  
12 beginning. They then collaborate with the  
13 medical/legal investigative office and usually are  
14 present at the autopsy of one or two of them.

15 In those instances in which we uncover  
16 something that is suspicious, that we see is a  
17 homicide, could be, might be, what we do is  
18 immediately notify the homicide detectives and ask  
19 them to come by as quickly as they can or at their  
20 earliest convenience and apprise them of our findings.

21 **Q.** And in addition to the forensic pathologist who  
22 conducts the autopsy, I think you already indicated  
23 there are other subspecialties, forensic experts who  
24 join in the process for various aspects of the case;  
25 is that right?

1 conscious pain and suffering, if there is more than  
2 one death, sequence of death. Those are the kinds of  
3 things that we attempt to ascertain from autopsies.

4 The hospital pathologist is dealing with a  
5 determination of cause of death. Hospital  
6 pathologists do not get into determination of manner  
7 of death because if there is such a case, then by the  
8 law of every state in this country that is a coroner  
9 or medical examiner's case.

10 Hospital pathologists doing hospital autopsies  
11 can only determine cause of death and they are  
12 presumed to be natural. If they find something that  
13 turns out quite startlingly to be suspicious or so on,  
14 then that case is to be reported immediately to the  
15 coroner or medical examiner.

16 **Q.** So the three areas that an autopsy looks at are  
17 the cause of death, the manner of death, and the  
18 mechanism of death; is that correct?

19 **A.** Yes. Those are the three principal areas,  
20 certainly for the forensic pathologist.

21 **Q.** And in connection with that autopsy, who  
22 actually conducts the autopsy?

23 **A.** In all the larger metropolitan offices, the  
24 autopsies are done by forensic pathologists. In  
25 smaller areas they may be done just by hospital

1 **A.** Yes.

2 **Q.** Just give us an idea of who they may be.

3 **A.** Well, at the scene of a homicide, the people  
4 who are involved are the criminalists. These are  
5 people who have trained in the area of what is called  
6 criminalistics, and in larger communities they then  
7 subspecializes, you will have people that do  
8 chemistry, drug work, people who do tool mark  
9 identification, people who do fingerprints,  
10 footprints, people who do blood work, serology, people  
11 who do DNA in the last decade and a half.

12 These people or some of them will go to the  
13 scene. So they are the ones who are involved quite  
14 early and most of the time they are the only ones  
15 there. It is not frequent that the forensic  
16 pathologist goes to the scene. That does vary from  
17 one jurisdiction to another. Criminalists with the  
18 homicide detectives are there.

19 Then the pathologist does the autopsy. At that  
20 time there may be a need for other specialists to see  
21 things. That might include the forensic  
22 anthropologist, who studies bones and bone injuries,  
23 the forensic odontologist, the dentist specially  
24 trained who studies oral, facial, teeth injuries,  
25 defects, bite marks and things of that nature.

1. Then body fluids and tissues are submitted to  
2 the laboratory for toxicology. The toxicologists then  
3 play a very big role in modern forensic science.

4 Then there may be spin-offs into other areas of  
5 an ancillary nature which do not require the presence  
6 of people there at the autopsy, such as a forensic  
7 psychiatrist, such as a questioned document examiner,  
8 studying notes, papers, records and so on. Those are  
9 other kinds of forensic scientists.

10 Q. Dr. Wecht, have you been requested to review  
11 from a forensic pathologist's perspective the case of  
12 the death of Marilyn Sheppard?

13 A. Yes.

14 Q. When did you get involved in this effort?

15 A. I believe you first spoke to me in '97 and then  
16 got back in touch with me in the first quarter, late  
17 February or March of '98. That's my recollection.

18 Q. And were you provided with materials to review  
19 in connection with your study of this case?

20 A. Yes.

21 Q. And what kinds of things did you look at?

22 A. Well, you gave me a copy of the autopsy report,  
23 various autopsy photographs, transcripts of testimony  
24 by different people in this case, Dr. Samuel Gerber, a  
25 former coroner of Cuyahoga County, the coroner at the

1 Q. Did you --

2 A. I should say -- well, I was here on October 5th  
3 of last year to attend the exhumation autopsy of Mrs.  
4 Sheppard at your request.

5 Q. Have you received any materials that were  
6 prepared by Dr. Paul Leland Kirk?

7 A. Yes, I did. That was an affidavit on April  
8 26th, 1955 by Dr. Kirk.

9 Q. And who was Dr. Kirk, if you know?

10 A. Dr. Paul Kirk was professor of criminalistics  
11 in California, a very well known and active in  
12 prominent criminal cases in the '50s and '60s. I  
13 don't recall when Dr. Kirk died. I know that he died  
14 quite a few years ago. I had met him, I knew him just  
15 a little, not well. I never worked with him on any  
16 case.

17 Q. And Dr. Kirk, you are aware, did some work on  
18 this case, did he not?

19 A. Yes.

20 Q. And that was when?

21 A. Well, he was involved back in 1954 and did work  
22 on the case then.

23 Q. Okay. And you have been a president of the  
24 American Academy of Forensic Sciences?

25 A. Yes.

1 time of the death in '54 and again at the second phase  
2 of this matter in '66.

3 I received a diagram or sketch of the house in  
4 which Mrs. Sheppard was slain. I got a copy of the  
5 death certificate, a very brief half-page report about  
6 a flashlight that was found some 13 months or so  
7 later, I think August of '55.

8 Q. Do you want to refer to your notes, that's  
9 fine.

10 A. I had made a list. Trace evidence report from  
11 the coroner's office here and then there have been  
12 reports generated following recent events in this  
13 case, 1999. The reports by Dr. Balraj, which is  
14 actually the most recent one that I received, the  
15 current coroner of Cuyahoga County, and then reports  
16 submitted to Dr. Balraj by Dr. Lovejoy, an  
17 anthropologist, by Mr. Wentzel, a photographer in the  
18 coroner's office, and by Dr. Holland, a DNA expert.

19 Then reports from people that you have  
20 consulted with. A DNA expert, Dr. Tahir; a forensic  
21 odontologist, Dr. Michael Sobel. I submitted a report  
22 to you, there was another report from the attorneys on  
23 the other side or submitted to them from Mr. McCrary,  
24 on the criminalistics aspects of it. I think that  
25 pretty much covers it, at least categorically.

1 Q. And is there an annual achievement award that  
2 is awarded every year by that organization?

3 A. There are several in different fields. The  
4 American Academy of Forensic Sciences has about nine  
5 or ten sections. Most, I don't know if all, have an  
6 award designated after some prominent deceased  
7 individual. In the field of criminalistics given by  
8 the section of criminalistics, which I think is  
9 definitely the largest section in the academy, that  
10 award is called the Paul Kirk Award.

11 Q. Now was Paul Kirk early on in this organization  
12 allowed to be a member of the organization?

13 A. No, he was not.

14 Q. And do you know why?

15 A. Yes.

16 Q. Why was he not allowed to be a member of the  
17 organization?

18 A. Because the then secretary-treasurer of the  
19 organization, Dr. Gerber, spoke forcefully against him  
20 and was able to persuade other people not to allow Dr.  
21 Kirk to become a member of the American Academy of  
22 Forensic Sciences.

23 Q. And was that a result of Dr. Kirk's work on the  
24 Sheppard case?

25 A. Yes, it was related directly to Dr. Gerber's



1 statements and allegations pertaining to Dr. Gerber's  
2 work in the original case involving Dr. Sam Sheppard.

3 Q. And did Dr. Kirk's being blackballed from that  
4 organization change at any point?

5 A. Yes. Subsequently Dr. Kirk then did become a  
6 member.

7 Q. And now there is an award being given in his  
8 name; is that right?

9 A. Yes, and you can be proud in this community  
10 that the recipient of the award this past year is Mary  
11 Cowan who I think is now retired and she was for many,  
12 many years the chief of the laboratory division,  
13 criminalistics at the Cuyahoga County coroner's  
14 office.

15 Q. So it would be safe to say that Dr. Gerber's  
16 attempt to blackball Kirk because of his role in the  
17 Sheppard case was not long lived, was it?

18 A. I don't recall the number of years. I don't  
19 think that it was long lived. A few, several years,  
20 something like that.

21 Q. Now, Dr. Wecht, in reviewing the materials on  
22 the Sheppard case, were you asked to look at -- were  
23 you specifically asked to look at some issues  
24 revolving around the Sheppard case?

25 A. Yes.

1 Q. And what were the issues that you were asked to  
2 look at?

3 A. You essentially laid out for me three areas  
4 that you wanted me to address informing me that other  
5 areas would be dealt with by other appropriate  
6 experts. The three areas that you called my attention  
7 to and asked me to focus on because of my practice as  
8 a forensic pathologist and my long involvement and  
9 experiences as a coroner were, one, determination of  
10 cause, manner and mechanism of death, and other  
11 matters related to those determinations.

12 Number two, to deal with the scene  
13 investigation, how it was handled, and especially and  
14 particularly the role then of Dr. Gerber as coroner,  
15 and the other roles or nonroles of other people.

16 Then thirdly, to look at the autopsy and see  
17 what I thought about things that were done, were not  
18 done, could have been done, might have been done,  
19 matters that I agreed with or disagreed with. Those  
20 are the three areas that you asked me to address.

21 Q. Now let's start with the cause, manner,  
22 mechanism of death. Let's deal with those issues  
23 first.

24 I'm going to hand you what has been marked as  
25 plaintiff's exhibit 59 and ask you to identify that

1 document.

2 A. This is a copy of the post mortem examination  
3 from the Cuyahoga County coroner's office. This deals  
4 with the death of Marilyn Reese Sheppard on July 4th,  
5 1954. It sets forth the final conclusions of the  
6 coroner and then gives in detail the autopsy findings.

7 Q. Just preliminarily, the autopsy report does  
8 identify who the victim is; is that right?

9 A. Yes.

10 Q. Her age?

11 A. Yes.

12 Q. And what was her age?

13 A. 31.

14 Q. How much did she weigh?

15 A. 125 pounds.

16 Q. And what was her height?

17 A. Five feet, seven inches.

18 Q. And does the autopsy -- by the way, do you know  
19 who conducted the autopsy?

20 A. Yes.

21 Q. Who conducted the autopsy?

22 A. Dr. Lester Adelson, who was the chief forensic  
23 pathologist in the coroner's office.

24 Q. Did you know Lester Adelson?

25 A. Yes.

1 Q. Did he sign off on this autopsy?

2 A. No, not that I can see, except for I do see  
3 initials LA on the last page of microscopic, beneath  
4 microscopic description. So I will assume that LA  
5 stands for Lester Adelson. I happen to know that he  
6 did the autopsy. It is an assumption, I think a  
7 correct one. Aside from that, I don't see his name or  
8 initials anywhere else.

9 Q. Who did sign the autopsy?

10 A. The autopsy report is signed by S. R. Gerber,  
11 Cuyahoga County coroner.

12 Q. Did you know whether or not Dr. Sam Gerber was  
13 a forensic pathologist?

14 A. Yes. I knew that he was not a forensic  
15 pathologist.

16 Q. Did you know whether or not he had any training  
17 in forensic pathology?

18 A. Yes. He did not have any training in forensic  
19 pathology and to the best of my knowledge did not have  
20 formal residency training in pathology.

21 Q. Is it inappropriate for a coroner to sign off  
22 on an autopsy?

23 A. It is not inappropriate for a coroner to affix  
24 his or her name to an autopsy report, but in my  
25 opinion, based upon my knowledge of how these things

1 were done generally around the country and some  
2 specific instances where problems have arisen because  
3 things were not done that way, it is in my opinion  
4 essentially that the person who does the autopsy have  
5 his or her name affixed to the report, too.

6 Q. Dr. Adelson, other than an initial LA under  
7 microscopic description, is nowhere mentioned in this  
8 autopsy?

9 A. Not that I recall or see as I peruse the sheets  
10 now.

11 Q. Let's review generally the nature of the wounds  
12 that were described in the autopsy report. Just give  
13 us a run-down of the -- of what this autopsy found in  
14 terms of the marks and wounds on her body?

15 A. There were 16 lacerations on the scalp. These  
16 were located in both frontal areas, which is forehead  
17 and up above, both parietal areas, that's the top and  
18 the middle of the skull curving around on the bony  
19 prominences on the top sides of the head.

20 In the left temporal area, which is the area  
21 around and above the ear and in the right occipital  
22 area, which is the rear portion of the skull, these  
23 were large, several, I think, four were described as  
24 crescentic, crescent shaped, one was I think described  
25 as linear, one or two were irregular or stellate, and

1 left, there were many injuries on the right arm and  
2 hand and there was an injury to the left fourth  
3 fingernail region. Those were the injuries. Mostly  
4 on the head and face, the right forearm, wrist and  
5 hand, the left hand minimally.

6 There was a small bruise on the top of the  
7 right shoulder, and I think that pretty much covers  
8 it. The nose was broken, the nasal bones right and  
9 left, they were broken, too.

10 THE COURT: We are going to  
11 take a very short break. Ladies and gentlemen,  
12 this will be a very short break. It would  
13 probably be best to stay on this floor. If you  
14 do need to return to the fourth floor, you may,  
15 but come right back up.

16 Do not discuss this case among  
17 yourselves, do not permit anyone to discuss it  
18 with you or in your presence. You are  
19 instructed not to form or express an opinion on  
20 this case until it is finally submitted to you.

21 (Thereupon, a recess was had.)

22 THE COURT: Mr. Gilbert, you  
23 may continue

24 BY MR. GILBERT:

25 Q. Dr. Wecht, when I believe we left off we talked

1 others had no specific description other than  
2 measurements and location.

3 Through these lacerations in many areas one  
4 could see and feel broken portions of bone that would  
5 be the calvarium. The entire face and head is called  
6 the skull. We say skull, and doctors do it, too, when  
7 they mean the top of the head only. The skull  
8 actually is, of course, the entire face.

9 Here we are talking pretty much about the top  
10 portion and that is called the calvarium and it has  
11 six arbitrary geographic divisions. Frontal right and  
12 left, temporal right and left, around the ears and  
13 above, occipital right and left, in the back and  
14 everything in between on the top of the head between  
15 frontal and occipital going straight back and between  
16 right and left temporal from side to side, that's  
17 called parietal right and left. So that's how Dr.  
18 Adelson located these in his descriptions.

19 Q. I'm going to show you some actual  
20 photographs --

21 A. Excuse me. I just want to say there were also  
22 markings around the eyes that were swollen, they were  
23 discolored, there were other injuries on the face,  
24 there were fragments of teeth missing from the upper  
25 medial incisors, that's the two front teeth, right and

1 about the extent of the marks and wounds on Mrs.  
2 Sheppard's body during the course of the autopsy. How  
3 many wounds and marks were identified in this autopsy?

4 A. Dr. Adelson numbered these from one to 35.

5 Q. Can you tell how many strikes or blows to her  
6 body from the description of the markings and the  
7 wounds?

8 A. Well, it could be somewhere around 20 to 25 or  
9 even more. Some of these things you see could be  
10 components of the same injury. For example, and I  
11 don't mean for this to be specific, but just to  
12 illustrate what I mean, if the right hand were held up  
13 as a blow were being inflicted on the scalp, then you  
14 could have one of the hand injuries inflicted at the  
15 same time as a head injury. That's why I can't give  
16 you a specific number.

17 I have no problem at all with the way in which  
18 Dr. Adelson enumerated these. That's fine. That's  
19 quite proper. I'm just saying that you can't be sure  
20 that there are 35 separate blows. There could have  
21 been, but I think some what less than 35.

22 By the way, for example, the swelling and  
23 discoloration of the eyes, that's a phenomenon that's  
24 going to occur with these kinds of skull fractures.

25 Q. Can you tell from the wounds on her head, can

1 you come to any opinion regarding the amount of force  
2 that was administered?

3 **A.** Yes. In a semi-quantitative sense, not with  
4 precise specificity in terms of a physics formula. In  
5 order for these kinds of injuries to have been  
6 inflicted, the person who did this would certainly  
7 have had to have had some strength. This is not from  
8 a weak or debilitated individual. I don't think it's  
9 the kind of thing that a child could do.

10 On the other hand, there is nothing here of  
11 super human strength. These are strong blows  
12 inflicted to the skull of Mrs. Sheppard sufficient to  
13 produce lacerations of the scalp and then fractures of  
14 the underlying bones. Please keep in mind that once  
15 the calvarium has been fractured and the suture lines,  
16 as we call them, where portions of the bone come  
17 together and fuse as we grow older, once those suture  
18 lines are displaced and the integrity of the skull has  
19 been compromised by one or two blows, then it is much  
20 easier for subsequent blows to produce additional  
21 fractures.

22 All I can tell you about the kind of force,  
23 obviously they were deliberately inflicted blows of a  
24 forceful nature, nothing that is tangential or of a  
25 superficial glancing nature.

1 **Q.** Was there anything in the autopsy which  
2 indicated an examination forensically of the head in  
3 the condition that it was found at the time that it  
4 was found in the room, in terms of looking for trace  
5 evidence, was there any indication there?

6 **A.** I don't see any specific reference to that kind  
7 of examination or collection of blood on the head, top  
8 of the head and face. I did not tell you if anything  
9 special was done. I do not see any such reference.

10 **Q.** Were you aware whether her head was washed in  
11 order to examine the wounds?

12 **A.** Yes. Dr. Adelson then conducted his  
13 examination with the head, face washed, and in  
14 several, most of the areas of laceration he had the  
15 hair shaved so that he could better visualize,  
16 describe and measure those wounds.

17 **Q.** Would there be a forensic value in looking for  
18 trace evidence in the prewashed condition of that face  
19 and head?

20 **A.** Yes, there would be.

21 **Q.** And what would be the value of doing that?

22 **A.** You would look to see if there might be any  
23 particles of material that came directly from the  
24 instrumentality that produced these injuries or which  
25 may have been transferred from the instrumentality,

1 although not an integral part of the structure of that  
2 instrumentality.

3 In other words, just think of something, I'm  
4 not going to name anything, but just think of  
5 something. So you might get apparel from that  
6 instrumentality or you might have that instrumentality  
7 which had been lying around in something that would  
8 have been transferred upon infliction of the blow from  
9 the instrumentality to the scalp. That is why you  
10 would look in the blood and in the hair as well as on  
11 the skin, of course, and all the structures of the  
12 head and face, particularly where most of the injuries  
13 were, to see if any such extraneous material could be  
14 identified.

15 **Q.** And do you know whether that was done in this  
16 case?

17 **A.** No, I do not see any reference to it. Do I  
18 know whether it was done? No, I cannot tell you as a  
19 matter of my own personal knowledge and I cannot glean  
20 information from the record so as to give you a simple  
21 yes or no.

22 **Q.** In your practice as a forensic pathologist,  
23 have you had criminalists examine the bloody condition  
24 of a body or a head to look for trace evidence like  
25 hairs or like materials, like metals or any kind of

1 transference of materials for identification?

2 **A.** Yes. That's done at the scene. It's done with  
3 the body at the autopsy table and it is done with  
4 materials submitted to the criminalist in the  
5 laboratory by the pathologist who has performed the  
6 autopsy.

7 **Q.** I'm going to show you a series of photographs,  
8 exhibit 2002, 2012, 2008, and 2022. That doesn't  
9 mean, Judge, there are going to be 2,000 exhibits in  
10 this trial, that's just the numbers.

11 2002 is what?

12 **A.** This is a head-on picture of Mrs. Sheppard.  
13 The face has been washed and one can see multiple  
14 lacerations on the forehead extending backward onto a  
15 shaved portion of the left temporal parietal region  
16 that is above the ear.

17 One can also see some discoloration of the  
18 eyes, more so on the right, and one can also see some  
19 abrasions, contusions, scratches and bruises, an  
20 abrasion is a scratch, a contusion is a bruise, above  
21 and below the right upper and lower eyelids and at the  
22 bridge of the nose and a little laceration beneath the  
23 right -- excuse me, beneath the left lower eyelid.

24 **Q.** Showing you 2012, what does that photograph  
25 depict?

1 A. These are photos of several lacerations on the  
2 head from which the hair has been shaved so as to  
3 permit clearer visualization of those injuries.

4 Q. And 2008?

5 A. This is a view from the upper right portion of  
6 Mrs. Sheppard's face showing you some wounds in the  
7 right frontal and temporal area injury beneath the  
8 right eye, discoloration of the eyelids with some  
9 swelling, and a laceration with some scratches in  
10 front of the right ear.

11 Q. And showing you 2022, what's that?

12 A. This is a picture of the top of the skull, the  
13 calvarium. The scalp has been reflected and an  
14 incision is made from behind one ear over the top of  
15 the scalp to the same point behind the other ear.  
16 Then with a sharp knife you undermine the tight fascia  
17 that is located on the under surface of the scalp  
18 which is attached to the skull. After you have done  
19 that, you can then reflect the scalp, the front part  
20 forward, the rear part backward and you expose the top  
21 of the skull. This picture shows the top of the skull  
22 with the scalp reflected.

23 There is extensive hemorrhage on the under  
24 surface of the scalp, front and back, and multiple  
25 fractures with dislocation of the fractured segments

1 then when the brain was serially sectioned, that is  
2 cuts are made through the brain, hemorrhages were  
3 found on top of the brain and then within portions of  
4 the brain that were caused directly by the force that  
5 produced the fractures, contusions of portions of the  
6 temporal lobes and frontal lobes as well as some areas  
7 of hemorrhage deeper inside the brain.

8 Q. How deep were some of those?

9 A. Well, some of those are the result then of some  
10 pressure that develops within the brain. By deep I  
11 mean you would not see it until you cut into the brain  
12 and then you would see it further in. How deep? An  
13 inch or two, something like that.

14 Q. And are you able to examine -- when you  
15 examined the nature of these wounds, is there any way  
16 that a forensic pathologist can determine the sequence  
17 of the wounds, which wound came first, which wound  
18 came second, that kind of thing?

19 A. I cannot do so.

20 Q. Can you tell how long would it take, given the  
21 nature of these injuries, for the victim to expire, to  
22 die from such wounds?

23 A. I cannot tell you specifically. I believe that  
24 the wounds were inflicted within a relatively brief  
25 period of time with no interval between and among the

1 of the calvarium.

2 MR. GILBERT: Judge, can I pass  
3 these out to the jury? I would rather not show  
4 it on the screen.

5 THE COURT: Any objection?

6 MR. MASON: No.

7 THE COURT: You may.

8 Mr. Gilbert, you may continue.

9 MR. GILBERT: Thank you.

10 Q. After reviewing, Dr. Wecht, all of the injuries  
11 sustained by Mrs. Marilyn Sheppard, did you have a  
12 chance to review the autopsy and come to a conclusion  
13 as to the cause of death?

14 A. Yes.

15 Q. And what is the conclusion?

16 A. I would refer to this as blunt force trauma of  
17 the head or craniocerebral injuries or describe it as  
18 multiple fractures with hemorrhages surrounding and  
19 involving the brain. These are all different ways of  
20 describing the findings at autopsy that caused Mrs.  
21 Sheppard's death. Simply put, extensive skull  
22 injuries with damage to the brain.

23 Q. And the description of the injuries to the  
24 brain, what was the extent of the brain injury?

25 A. There was hemorrhage overlying the brain and

1 wounds. Nothing here to make me believe that.

2 Therefore, the answer to your question is that I  
3 believe Mrs. Sheppard would have been dying as the  
4 wounds continued to be inflicted, but she would not  
5 have died in an instant. The vital centers of the  
6 brain that control cardiac and respiratory activity  
7 were not damaged.

8 On the other hand, she did not live a long  
9 period of time. I can tell that both from the brain  
10 and the lungs. There is some swelling of the brain  
11 and there is some fluid that collects in the lungs as  
12 the heart begins to fail. But these are not severe.  
13 They are not marked. The brain had a little chance to  
14 swell but not a lot of time. The lungs had a little  
15 time to collect fluid in, but not a whole lot. So she  
16 was dying as the injuries were being inflicted but she  
17 did not die in an instantaneous moment.

18 Q. Now you had indicated that there were wounds to  
19 her right arm; is that right?

20 A. Yes, the right forearm and wrist and hand.

21 Q. Was there any indication of what we call  
22 defensive wounds?

23 A. Yes. I would consider most possibly all of  
24 those wounds to be, could be characterized as  
25 defensive wounds. It's perfectly consistent with the

1 anatomic area on which these injuries were found.  
 2 Q. And defensive wounds would indicate some  
 3 consciousness on the part of the victim during the  
 4 course of the attack; is that right?  
 5 A. Yes. By definition you are talking about some  
 6 effort by the victim to ward off the blows.  
 7 Q. And that would indicate that she was aware and  
 8 conscious and struggling with the perpetrator; is that  
 9 right?  
 10 A. Yes.  
 11 Q. Can you offer an opinion as to when during the  
 12 course of this attack the victim would have lost  
 13 consciousness?  
 14 A. No, I cannot tell you that. Any blow to the  
 15 head that produces the kind of scalp laceration and  
 16 fracture that we see here would have led to  
 17 unconsciousness. On the other hand, sometimes someone  
 18 is not rendered immediately unconscious. I cannot  
 19 tell you specifically.  
 20 Q. And during the course of this attack, would the  
 21 victim been able to be audible?  
 22 A. Oh, yes, nothing wrong with the larynx from  
 23 which sounds emanate. None of this until  
 24 unconsciousness sets in would preclude verbalization.  
 25 Q. Now we have talked about the cause. Is there

1 penetrates more deeply. A wound can be stabbing and  
 2 incised simultaneously, the difference being the depth  
 3 of penetration.  
 4 Q. Showing you what has been marked as plaintiff's  
 5 exhibit 272, this model here, have you had a chance to  
 6 take a look at that?  
 7 A. Yes, I have seen it before, briefly.  
 8 Q. And how would something like that be created?  
 9 A. I believe it's a kind of a hard plastic  
 10 material. The person doing this then would take the  
 11 description by the pathologist, photographs of the  
 12 body, and then attempt to reproduce those injuries by  
 13 way of configuration, size, location and depth as  
 14 closely as possible.  
 15 Q. And is there, from what you have been able to  
 16 view from the photographs you have seen in this case  
 17 of the autopsy, and the description in the autopsy  
 18 report, is this a fair characterization of the  
 19 calvarium or head wounds that you have talked about?  
 20 A. Yes. Could you just turn it to me?  
 21 Q. You can come down.  
 22 A. Just turn it. Yes, it is a fair  
 23 representation.  
 24 Q. Can you tell from this and from all your review  
 25 in this case the type of object that would be

1 anything else about the cause of death that we haven't  
 2 covered, Doctor?  
 3 A. No, I don't believe so.  
 4 Q. Now the manner of death is obviously a  
 5 homicide?  
 6 A. Yes, quite obviously.  
 7 Q. I think both sides would agree with that.  
 8 The mechanism of death, what can you say about  
 9 that?  
 10 A. I would call this blunt force trauma of the  
 11 head. A little bit more specifically, or by way of  
 12 definition of what we mean in forensic pathology, when  
 13 we say blunt force trauma, we mean by something other  
 14 than a sharp cutting instrument.  
 15 If you have a sharp cutting instrument, you  
 16 then talk about stab wounds or incise wounds, cuts.  
 17 When you have something that is caused by anything  
 18 other than a sharp cutting instrument, we talk about  
 19 blunt force trauma.  
 20 If you hit me on the head with a microphone,  
 21 with the stenographer's equipment, the lectern you are  
 22 leaning on, that would be blunt force trauma from  
 23 whatever kind. If you stab me with a knife, that's a  
 24 stab wound, if you cut me with a knife, or a shard of  
 25 glass, that would be an incise wound, a stab wound

1 consistent with those injuries?  
 2 A. Only in a broad categorical sense, not with  
 3 specificity.  
 4 Q. Okay. Now were you aware of Dr. Paul Kirk's  
 5 report in 1955?  
 6 A. Yes.  
 7 Q. And when Paul Kirk did an analysis of this  
 8 case?  
 9 A. Yes.  
 10 Q. Did Paul Kirk offer a suggestion as to what a  
 11 possible weapon could have been in this case?  
 12 MR. DEVER: Object to  
 13 suggestion.  
 14 THE COURT: Sustained.  
 15 Q. Did the idea of a flashlight come up?  
 16 A. Yes.  
 17 Q. And in your 44 years experience in looking at  
 18 these kinds of injuries, could a flashlight be an  
 19 instrument that could have caused these injuries?  
 20 A. 39 years of forensic pathology. I had been in  
 21 pathology for five years before that.  
 22 Q. I don't want to make you older than you are.  
 23 A. Thank you. But I don't want anything on the  
 24 record that's not correct. I didn't do forensic  
 25 pathology except for some aircraft crashes in the Air

1 Force in 1961, but anyway, 39 years.

2 Yes, in my opinion those injuries could have  
3 been inflicted by a good sized heavy duty type of  
4 flashlight.

5 Q. Now showing what you has been marked as  
6 plaintiff's exhibit 110 and 110 B, have you seen these  
7 documents before?

8 A. Yes.

9 Q. And generally that relates to what?

10 A. The finding of a flashlight by a person who  
11 lived in the area where Dr. Sheppard and Mrs. Sheppard  
12 had lived. The flashlight was found I think on the  
13 property adjacent to theirs while he was swimming on  
14 August 1st, the evening of August 1st, 1955. It was  
15 about 20 feet, I think, from the shore line and it was  
16 in about 18 inches of water.

17 Q. This is 110 A. The second paragraph, and I  
18 will read it for you and tell me if this is what you  
19 recall the text. "This light is a three-cell  
20 flashlight and appears to be an Eveready. There is no  
21 glass in the reflector and the bottom cap is broken  
22 out. The light has been damaged by striking something  
23 repeatedly and the case has been dented on the side  
24 about where a person's thumb would come. Batteries

1 indenting of its casing, obviously -- I say obviously,  
2 for me it would have been something that would have  
3 had to be examined in great detail such as I have  
4 indicated.

5 Q. And showing you what has been marked as  
6 plaintiff's exhibit 110 B, which is a Cleveland police  
7 department report, the last paragraph --

8 THE COURT: What's the date  
9 on that one?

10 MR. GILBERT: That's August  
11 4th.

12 THE WITNESS: August 4th, Your  
13 Honor.

14 Q. Now what happened to that flashlight, can you  
15 tell from that report?

16 A. Yes. It's the concluding paragraph. Shall I  
17 read it?

18 Q. Yes.

19 A. "The above flashlight and the copy of Chief  
20 Eaton's report was conveyed to county coroner Gerber  
21 with a copy of this report turned over. The coroner  
22 Gerber," I guess the word "to" is missing, "for  
23 further examination. Respectfully Adelbert O'Hara,  
24 detective."

1 the water for sometime." Is that your recollection of  
2 that exhibit?

3 A. Yes, and that's what is written on the report,  
4 a copy of which you had sent to me.

5 Q. And in the course of your experience as a  
6 coroner, if in connection with a case that an  
7 instrument such as this would be turned over to the  
8 coroner's office, what steps would then be taken  
9 regarding that instrument?

10 A. It would be given in our situation to our  
11 division of laboratories, specifically to the  
12 criminalist for examination, a detailed examination to  
13 look for anything that might be adherent to the  
14 flashlight, to measure it, to weigh it, to identify  
15 it, to describe what kind of metal it is comprised of.  
16 All of these things would be done.

17 Q. And when you see the description of the  
18 condition of that flashlight that was found the night  
19 of August 1st, 1955, is there something about the  
20 condition of that flashlight in terms of its physical  
21 properties that would alert a trained forensic  
22 pathologist or a criminalist to want to follow-up on  
23 that in connection with this case, the Marilyn  
24 Sheppard case?

1 matter to you that there was already a conviction of  
2 the defendant in a case prior to the time that a  
3 suspected murder weapon might have come forward?

4 A. No.

5 Q. And why is that?

6 A. As a forensic scientist these are not matters  
7 for me to be influenced by. I might well be cognizant  
8 of them but it would be for others, namely the  
9 judicial system, the investigative system to determine  
10 what if anything is going to be done with newly  
11 acquired evidence. The disposition of a trial is a  
12 legal process and is separate and apart, essentially,  
13 then, from the forensic scientific investigative  
14 functions, duties and responsibilities.

15 Q. And all the materials that you have been  
16 provided, have you seen anything which will indicate  
17 that Dr. Gerber, or anyone else, for that matter, did  
18 any kind of examination of that flashlight or even  
19 preserved the flashlight for future tests?

20 A. No, not to my knowledge.

21 Q. Now were you aware of what Dr. Gerber had  
22 indicated at one time what the weapon might have been  
23 in this case?

24 A. Yes.

1 A. Dr. Gerber had stated that based upon the  
2 pattern of blood on the pillow case of the bed on  
3 which Mrs. Sheppard was found, he concluded that that  
4 pattern clearly and unequivocally denoted a surgical  
5 instrument.

6 Q. And you are aware that Dr. Sheppard was a  
7 surgeon, right?

8 A. Yes.

9 Q. Would you be able to say how significant such  
10 an assertion would be from a coroner in a case in  
11 which the accused doctor, an accused doctor is the  
12 defendant?

13 A. I think you have a coroner who is respected and  
14 has been in place in the community for sometime, such  
15 a statement would have great impact conveyed through  
16 the news media, upon the population generally.

17 Q. Are you aware as you sit here today whether or  
18 not any surgical instrument has ever been found that  
19 would be consistent with those injuries to Marilyn  
20 Sheppard?

21 A. To my knowledge no such instrument has ever  
22 been found.

23 Q. Now you indicated that the basis for Dr.  
24 Gerber's assertion was the examining blood patterns on  
25 a pillow case; is that right?

1 A. Not to my knowledge.

2 Q. You have already indicated he was not a  
3 pathologist?

4 A. That's correct.

5 Q. Yet he was going around telling people that it  
6 was a surgical instrument because of the pillow?

7 A. Yes, that's what the records and my memory  
8 indicate.

9 Q. Was that appropriate for a coroner, not a  
10 pathologist, not a criminalist, to offer such an  
11 opinion?

12 A. Speaking as coroner I believe it was not  
13 appropriate.

14 Q. Now did you have an occasion to look at the  
15 crime scene photographs in this case in terms of where  
16 the body of Mrs. Sheppard was found, the condition of  
17 the body, et cetera?

18 A. Yes.

19 Q. Could you describe to the jury what was  
20 depicted and what was the condition?

21 A. Mrs. Sheppard was lying supine, that is on her  
22 back on her bed, the body was down at the lower  
23 portion of the bed with the calves hanging down off  
24 the edge of the bed.

25 The upper pajamas top was rolled up toward and

1 A. Yes, that's my understanding.

2 Q. First of all, do forensic pathologists look at  
3 blood stain patterns?

4 A. Well, initially, and to a limited extent we  
5 would not ignore some things but the detail technical  
6 evaluation and analysis, in my opinion, would be more  
7 appropriately undertaken and performed by a  
8 criminalist.

9 If you were a large community you may have some  
10 subspecialist in your division of laboratories that  
11 deal with blood stain patterns, blood spatters, blood  
12 drops, and blood stains. So that's the kind of person  
13 that would evaluate those things.

14 The forensic pathologist might attempt to  
15 correlate those findings with the configuration of  
16 wounds as well as with other information perhaps  
17 submitted by detectives who may have found something.  
18 I'm not saying that the forensic pathologist ignores  
19 all these things, but the detailed analysis technical  
20 description with specific characteristics, et cetera,  
21 of blood stains in my opinion are within the realm of  
22 the criminalist.

23 Q. Was Dr. Gerber a criminalist?

24 A. No.

25 Q. As far as you know?

1 around the breast, the lower pajamas top was still on,  
2 I think the right leg. A portion of the chest, the  
3 abdomen, the pelvic area, the front of the left leg, a  
4 portion of the front of the right leg then were  
5 exposed.

6 The bed was a large bed and above her body at  
7 the foot of the bed was a post that ran from side to  
8 side of the bed that was located above the lower  
9 portion of her body.

10 Q. And in considering the state and position of  
11 the body and in the room that it was found, in  
12 addition to the clothing, were you -- would you be  
13 able to offer an opinion as to the motivation for this  
14 assault?

15 A. Yes, as a forensic pathologist and coroner  
16 going to the scene or reviewing materials by other  
17 people, I would have an opinion as to the likelihood.  
18 I could not state with absolute certainty, but I  
19 certainly would be moved toward an opinion based upon  
20 the position and location of the body and the state of  
21 undress.

22 Q. Now do you know whether this matter, this --  
23 the murder of Marilyn Sheppard was investigated from a  
24 perspective of a potential sexually motivated crime?

25 A. It's my understanding as I look through the

1 records that it was not. I can't tell you whether  
2 anybody ever thought about that. I have no way of  
3 knowing that. But overall I have the impression, as I  
4 sit here today, that it was not perceived, at least  
5 not eventually as any kind of a sex related or sex  
6 motivated crime.

7 **Q.** Now in terms of the autopsy itself, were there  
8 any detailed descriptions of the genitalia area and  
9 the area surrounding the genitalia?

10 **A.** There is not a detailed description, but to be  
11 complete and fair, so to speak, there is no mention of  
12 any injuries in the area. So those are the two parts  
13 of the answer. There is no detailed description of  
14 the anatomic structures that we consider to be  
15 external genitalia, the labia, the labia majora, the  
16 labia minora, the vaginal canal, the lower abdomen,  
17 the upper thighs, the buttocks, the peritoneum, that  
18 anatomic area between the vagina and the anus, the  
19 anus, rectal area itself. There is no such  
20 description but I also want to point out that no  
21 injuries are mentioned in any of these areas or in any  
22 of these structures.

23 **Q.** Now in your practice, even if there is nothing  
24 remarkable about the condition of those areas, do you  
25 note that nonetheless?

1 liver, kidney, placenta, umbilical cord as well.

2 **A.** Yes.

3 **Q.** By the way, she was pregnant; is that right?

4 **A.** Yes, a Dr. Adelson estimated the gestational  
5 age at four months.

6 **Q.** In that autopsy report, by the way is there a  
7 reference to the removal of the fetus and any  
8 examination or autopsy of the fetus?

9 **A.** No, there is not. Just a reference to the  
10 fetus. Well there is a measurement. There are  
11 measurements as we do from top of the head to the base  
12 of the buttocks and overall from top of the head to  
13 the heel. It is those measurements which enable you  
14 to estimate the gestational age. That's the only  
15 description I see that makes a reference to the  
16 amniotic sac in which the baby was enclosed and the  
17 placenta itself. Those are the statement.

18 **Q.** Does the autopsy make any reference to what  
19 happened to the fetus?

20 **A.** No.

21 **Q.** We will jump up here a few years now. You did  
22 see the fetus?

23 **A.** Yes.

24 **Q.** When did you see the fetus?

25 **A.** At the time of the exhumation of Mrs. Sheppard

1 **A.** In my opinion, in a case of this nature with a  
2 31 year old woman found in the state and condition  
3 which I have described, I would make a very detailed  
4 description of the entire pelvic region. I would  
5 believe that this would be important to do so as to  
6 deal with any subsequent questions as to whether or  
7 not there had been an attempted sexual assault of any  
8 kind.

9 **Q.** And there was no detailed description in this  
10 autopsy; is that correct?

11 **A.** Yes, as I have stated before.

12 **Q.** Now in terms of the microscopic description, do  
13 you know whether there were vaginal smears done at the  
14 time of the autopsy of Mrs. Sheppard?

15 **A.** Yes, a vaginal smear was made.

16 **Q.** We are going to throw on the machine exhibit  
17 59, the autopsy report, and call your attention to the  
18 vaginal smears. Can you see that there? Or you can  
19 look at your report.

20 **A.** Yes, I see that.

21 **Q.** Just to be complete there, do you see  
22 microscopic examinations of the lungs, thyroid,  
23 breast, ovary, uterus, vaginal smears, and brain?

24 **A.** Yes.

25 **Q.** And all the various sections of the heart,

1 October 5th of last year.

2 **Q.** And when you first saw the fetus, where was it?

3 **A.** As I recall it was lying next to Mrs. Sheppard  
4 when the body was exhumed, as I recall.

5 **Q.** And do you know if there had ever been any kind  
6 of autopsy of the fetus?

7 **A.** To my knowledge there had not been. I don't  
8 have any report and I don't recall ever seeing one.

9 **Q.** Now looking at the vaginal smears, what is --  
10 what did the examination reveal?

11 **A.** Just what it says, abundant epithelial cells  
12 and bacteria. Epithelial cells are the lining cells  
13 of the vaginal canal and from the cervix lower part of  
14 the uterus that is at the back of the vaginal canal,  
15 and bacteria which are frequently found within a  
16 vaginal smear.

17 **Q.** Based on your review of the case in the year  
18 1999 and now into 2000, have you become aware of  
19 whether or not there is a contrary finding regarding  
20 the vaginal smears?

21 **A.** Yes.

22 **Q.** And what did you learn?

23 **A.** The report from Dr. Tahir of the Indiana  
24 forensic science laboratory states he looked at these  
25 slides and he identified sperm heads. It is from



1 those sperm heads that he then did a DNA analysis.

2 Q. And can you put into perspective the absence of  
3 the discovery of sperm on a vaginal smear in 1954?

4 A. I can only say that it would have been a  
5 finding of interest and possible investigative  
6 relevance to the authorities at that time, especially  
7 in light of the location, position and condition of  
8 the body as it was found.

9 Q. And in terms of what a pathologist or forensic  
10 pathologist could have or should have done in the  
11 nature of the following up on the sexually motive  
12 crime issue, what would you say could have been done  
13 back then that wasn't done?

14 A. I have already stated what I consider would  
15 have been appropriate in terms of detail condition of  
16 the anatomic structures in the entire pelvic, lower  
17 abdominal, buttock and upper thigh regions.

18 In addition to that, it is customary and proper  
19 to obtain that fluid and have it typed. In those days  
20 there was no DNA but they did do typing, traditional  
21 blood typing, the ABO system. That's something that,  
22 to my knowledge, was not done in this case.

23 Q. Now Dr. Balraj, who is the coroner of this  
24 county, were you provided a report that she has done  
25 on this case?

1 A. Yes.

2 Q. She indicated, did she not, that the reasons  
3 that mouth and anus, rectum swabs were not done is  
4 because that was not the protocol in the '50s; is that  
5 your understanding, Dr. Wecht?

6 A. Is that my understanding of what she has  
7 indicated or my understanding of her statement?

8 Q. Do you agree with that assessment?

9 A. No, I do not.

10 Q. And you were around in the '50s, right?

11 A. Yes, I wasn't in forensic pathology in the  
12 '50s, although in 1960 I did attend a full-week  
13 program at the Armed Forces Institute of Pathology in  
14 forensic pathology. That was my first formal exposure  
15 aside from things that I might have read and so on.

16 So I cannot tell you that I was practicing  
17 because I wasn't practicing forensic pathology until  
18 '61, aside from the aircraft accident fatalities.

19 However, I have knowledge from the literature  
20 and I have knowledge from I believe some cases that I  
21 have reviewed back in those days, a few for historical  
22 purposes and others of medical/legal interest, based  
23 upon that knowledge, in my opinion, it is not correct  
24 to state that it was not the practice to take oral and  
25 rectal swabs also in cases of this nature. In my

1 opinion, it was done by the larger medical examiner  
2 and coroner's offices in particular in any case in  
3 which you thought that there might be any possibility  
4 of rape or sexual assault suggested by the condition  
5 and location of the body.

6 I would say that in cases by the way of deaths  
7 involving men when there is some state of undress and  
8 so on, oral -- oral and rectal swabs are made.

9 Obviously there are no vaginal swabs, but for the same  
10 reason, to just make sure that there is no evidence of  
11 semen, seminal fluid in any of the body orifices.

12 Q. Now in terms of the vaginal material in a case  
13 such as this where there could be a possible sexually  
14 motivated crime, what more could have been done at  
15 that time with the secretions in the vagina?

16 A. Well, as I stated, the secretions could be  
17 submitted for typing, just as one would test blood.

18 About 82 percent or so of the population are  
19 what we call secretors, that is about five out of  
20 every six of us secrete in our saliva, in our semen,  
21 the men, et cetera, those substances which are  
22 identical with the substances that permit our blood to  
23 be typed, A, B, O, AB, and so on.

24 Also, acid phosphatase was a test that was done  
25 routinely in such instances because semen contains a

1 very high quantity, relatively speaking, of acid  
2 phosphatase. So that, too, was a test that could be  
3 done.

4 There was an exudate described by Dr. Adelson  
5 in the vaginal canal, I think he said creamy white  
6 exudate, and he described it as a -- it's on page five  
7 under "Internal Genitalia" and he says, "Within the  
8 vagina there is a moderate quantity of creamy white  
9 exudate." I can't tell you how much there was, what  
10 he meant by moderate quantity, but obviously something  
11 that he could see and not just a drop or so. So there  
12 was material there to be examined for whatever it may  
13 have contained. I can't tell you what it contained.

14 Q. Now creamy white exudate, can that be seminal  
15 fluid?

16 A. It could be. Exudate to a pathologist is, I  
17 want to make clear, is not synonymous with what we  
18 would call seminal fluid. However, seminal fluid can  
19 be, I have discussed that, have a thick kind of  
20 consistency, not just a liquid that will pour or flow  
21 easily, it can be described as white or whitish.

22 I do not want to suggest that this was seminal  
23 fluid. You asked me could it be? The only thing I  
24 can tell you is this kind of a description is not  
25 exclusive, does not exclude the kind of description

1 that somebody might give to a significant deposit of  
2 seminal fluid.

3 Q. And would there have been a methodology to be  
4 able to examine that material to determine if it was  
5 seminal fluid back in 1954?

6 A. Yes, as I have said, acid phosphatase was one  
7 test, I think that others that existed weren't around,  
8 another one came into being in '78. So acid  
9 phosphatase as well as the examination of the smears  
10 and the, as I have said, the attempt to type as you  
11 would type a blood stain.

12 Q. And would the presence -- if there was the  
13 presence of seminal fluid in that vagina, as a result  
14 of examining it, if it had been examined, would that  
15 be evidence of recent sexual involvement?

16 A. Yes. If this had been semen that would have  
17 been evidence of recent involvement. Semen would not  
18 remain identifiable quantitatively such as was  
19 described in this case had it been present beyond some  
20 hours.

21 Q. In an effort to -- you have read Dr. Balraj's  
22 report. She seems to think that because Dr. Adelson  
23 didn't see the sperm that the sperm was old because  
24 the tails had disappeared; do you recall that?

1 Overruled.

2 Q. Dr. Balraj states that because there were no  
3 sperms present and no injury to the genitalia, she  
4 does not believe there was a sexual assault. She also  
5 states that the position of the body with the  
6 overlying horizontal bar would not have been, her  
7 words, physically conducive to sexual intercourse. So  
8 I think that those are the reasons that she bases her  
9 opinion on as far as I can deduce from her report. Do  
10 you agree with that?

11 A. No.

12 Q. And why do you not agree with that?

13 A. Well, in so far as the presence of sperms is  
14 concerned, you can have a sexual assault without  
15 emission of an ejaculate. The person who is  
16 assaulting the victim may not necessarily have an  
17 ejaculation. You don't need an ejaculation to have a  
18 sexual assault. Sexual assault also has a beginning  
19 and it has an end. It doesn't just take place in a  
20 split second like a gunshot wound. You are shot or  
21 you are not shot. Sexual assault begins and it just  
22 may not ever come to fruition, it may not be  
23 consummated by the perpetrator.

24 As far as injuries to the genitalia are

1 Q. Do the tails of spermatozoa disappear over  
2 time?

3 A. Yes, the tails do fall off and the heads can be  
4 identified after the tails are gone. By the way, the  
5 shape of a tadpole, the big head and a very long  
6 slender tail. So the tail does disintegrate, go away,  
7 and the heads of the sperms can be seen longer.

8 Q. Now Dr. Balraj also suggested that this crime  
9 did not -- did not involve a sexual assault; do you  
10 know that?

11 A. Yes, I recall that statement.

12 Q. You can pull that report out if you want.

13 A. Yes, all right.

14 Q. And --

15 A. I have it.

16 Q. Page five.

17 A. Yes.

18 Q. Why is she saying, and what's her opinion based  
19 on as far -- as why this did not involve a sexual  
20 assault?

21 MR. DEVER: I'm going to  
22 object, Your Honor.

23 THE COURT: It's Dr. Balraj's  
24 opinion. He acknowledged that in his question,

1 to assault somebody, but that doesn't mean that you  
2 are going to damage the genitalia. If there is no  
3 forceful penetration there may not even be a touching.  
4 Again, it is a dynamic continuum and to say because  
5 there is no injury, there is no sperm, that therefore  
6 there is no sexual assault, I believe, is not a  
7 logical inference.

8 One can say that there is no evidence of a  
9 sexual assault. I have no problem with that alone  
10 based upon the absence of sperms and the absence of  
11 injuries to the external genitalia, but that doesn't  
12 mean that a sexual assault may not have been  
13 initiated. When you juxtapose those findings with the  
14 location, position of the body on the bed and the  
15 state of undress, you must still take those things  
16 into consideration.

17 Insofar as the horizontal bar, here, again, if  
18 I understand correctly, and I think I do, that Dr.  
19 Balraj is saying someone could not have had  
20 intercourse by getting underneath the bar, I agree.  
21 There is no room. But this is again a struggle.

22 Mrs. Sheppard is down at the lower part of the  
23 bed. We have talked about defensive wounds, we have  
24 talked about the number of injuries. It's a very

1 presume, in this kind of a struggle within a matter of  
2 seconds.

3 So that doesn't mean that this is the position  
4 that the assailant had in mind in which he was going  
5 to engage in intercourse. Clearly he could not have  
6 engaged in intercourse in that position, normal face  
7 to face intercourse. I don't disagree with that. But  
8 how can anybody know what the person had in mind and  
9 where things started and where things would have  
10 ended. I can't know that.

11 Q. So what you're saying is that the attempt of  
12 sexual activity could have occurred long before the  
13 legs got under the horizontal bar; is that right?

14 A. I wouldn't say long.

15 Q. Not long. But at some point?

16 A. Seconds, minutes, sure.

17 Q. Now in the autopsy report there was a  
18 mention -- let's refer to page, I think the third  
19 page, number 35, wound number 35.

20 THE COURT: What page is that  
21 on?

22 THE WITNESS: It's on the third  
23 page, very bottom.

24 Q. It says there is a partial evulsion of the  
25 fingernail of the left fourth finger with the root of

1 You can see the nail bed looks rather  
2 congested. If you contrast that with the number, you  
3 can see a little bit of -- and the index finger much  
4 more clearly, it looks like there is some hemorrhage  
5 beneath the nail of the fourth finger. It has a dull  
6 pinker-red color. I don't disagree with Dr. Adelson's  
7 description, partial evulsion of the fingernail with  
8 the root of the nail exposed. It's a correct  
9 description.

10 Q. Now that type of injury, Dr. Wecht, is that  
11 consistent with gouging into the soft tissue of  
12 another person?

13 A. It could be. As the nail digs into the soft  
14 tissues and both from the pulling, tearing or twisting  
15 of this case Mrs. Sheppard, as well as any movement of  
16 the person whom she was attempting to ward off, you  
17 could have then a pulling of the nail from its base.  
18 You don't have to have necessarily a broken off  
19 portion of nail from its tip. If the nail gets in  
20 there and just gets snagged, either on skin or  
21 clothing, whatever, you can have then some pulling out  
22 of the nail from its root.

23 Q. Now, Dr. Elizabeth Balraj, who is the Cuyahoga  
24 County coroner, said in her report, you can refer to  
25 it on page six.

1 the nail exposed. Do you see that?

2 A. Yes.

3 MR. CARR: This is exhibit  
4 2015.

5 Q. Do you see that, Dr. Wecht?

6 A. Yes.

7 Q. Is that the nail that we are speaking of?

8 A. Yes, the left fourth finger.

9 Q. And based on the description that was given and  
10 what you -- could see from that photograph, what can  
11 you say about that injury?

12 A. I would agree with the description as partial  
13 evulsion, which means a tearing away from, a tearing  
14 out of, that's what evulse means, to tear from, to  
15 pull away from. You can see that the skin is torn at  
16 the base of the nail and there is an obvious injury in  
17 that region. There is, by the way, a little abrasion,  
18 too, back on the top of the fourth finger, a little  
19 scratch mark.

20 Q. So when you say evulsion, does that mean that  
21 the nail is torn off away from the finger?

22 A. Part of the nail is pulled out at the root or  
23 base of the nail and it looks like the nail is a  
24 little separated from the underlying soft tissue, the  
25 subungual bed as it is called.

1 A. Yes, I have it.

2 Q. She did not -- she does not agree with that.  
3 She says that the evulsion injury to the left fourth  
4 finger is not due to inflicting gouging type injury to  
5 the assailant, but due to blunt trauma to the hand.  
6 Do you agree with Dr. Elizabeth Balraj of the Cuyahoga  
7 County coroner's office?

8 A. I don't agree with her statement. I cannot  
9 with 100 percent certainty rule out the possibility of  
10 blunt force injury. However, in the absence of more  
11 extensive injuries on that finger and on the  
12 surrounding fingers I lean more toward a tearing, an  
13 evulsion, then to direct blunt force trauma.

14 It is interesting and I think relevant to note  
15 that Dr. Adelson used the word evulsion. He does not  
16 use the word abrasion or contusion or laceration, he  
17 uses the word evulsion. To a forensic pathologist to  
18 use the word evulse or the nonevulsion is to describe  
19 something which is torn from, quite different from  
20 being struck by something.

21 So I am not -- I don't want to suggest I can  
22 speak for Dr. Adelson. I can just tell you what  
23 evulsion means to a forensic pathologist. You have no  
24 injuries on the other fingers so is it possible that  
25 somehow the one finger got in there and was struck, I

1 can't rule out that possibility, but I mean more  
2 toward, much more strongly toward a tearing as from a  
3 forceful pulling out as the nail is snagged or  
4 attached to something that is tearing and twisting as  
5 contrasted with direct blunt force injury, especially  
6 from the kind of instrumentality that was used in this  
7 case.

8 Q. So Dr. Adelson doesn't say it's blunt force,  
9 does he?

10 A. No, he doesn't.

11 Q. So she disagrees with her own pathologist?

12 A. Well I can't say that. I don't want to put  
13 words in Dr. Balraj's mouth, whether she disagrees or  
14 not. You would have to ask her. I'm just dealing  
15 with the words that are there.

16 Q. She also says that if the fingernail was used  
17 to cause a gouging type injury or scratch type injury  
18 of the assailant, I would expect the tip or the free  
19 end of the nail to be damaged.

20 MR. DEVER: I'm going to  
21 object, Your Honor.

22 Q. And not the base portion of the fingernail.

23 MR. DEVER: Objection. Can  
24 we approach?

25 MR. GILBERT: There is no

1 reason for that objection. It is in the  
2 report.

3 THE COURT: I will try and  
4 determine that. Overruled.

5 MR. GILBERT: Thank you.

6 THE COURT: Proceed.

7 Q. She says that the fingernail, because the tip  
8 here is not broken, that it couldn't have caused a  
9 gouging type injury. Do you agree with that?

10 A. No. For the reasons that I have said. You can  
11 have the nail held in place and the force is directed  
12 toward the base of the nail with a tearing out, but  
13 the tip of the nail does not necessarily have to be  
14 broken off. It's a matter of the lines of force, how  
15 they are directed.

16 Q. Now there was a report -- Dr. Balraj retained  
17 the services of a forensic -- an anthropologist.

18 MR. DEVER: I'm going to  
19 object, Your Honor. If I could approach the  
20 bench and we could discuss it.

21 THE COURT: Maybe you better.  
22 (Thereupon, a discussion was had  
23 between Court and counsel at sidebar.)

24 THE COURT: Overruled.

25 Q. Dr. Wecht, were you aware of the Dr. Lovejoy

1 report?

2 A. Yes.

3 Q. And Dr. Lovejoy did some tests for Dr. Balraj,  
4 did he not?

5 A. Yes.

6 Q. What did he do?

7 A. He got a skull, which he referred to as a young  
8 adult anatomical specimen with no previous injury, he  
9 put suet, what is it, it is fat from meat, S-U-E-T,  
10 inside to simulate the brain. He attached a dowel  
11 through the hole in the back of the skull called the  
12 foramen magnum to stabilize the skull, then he covered  
13 it with a synthetic clay and then covered that with a  
14 thin layer of a yellow acrylic enamel.

15 He then positioned it and he struck it with  
16 some different instrumentalities. One of these was a  
17 flashlight which he held with his rubber gloved hand,  
18 then he took off the glove and struck it with that  
19 again. So those are the things he did. He struck the  
20 head a couple or few times, a couple times, I think,  
21 in that fashion.

22 He also did an experiment with a fireplace  
23 poker in the same fashion and he also did one with a  
24 heavy adjustable wrench in the same fashion. I think  
25 those are the three instrumentalities that he used.

1 Q. So that we get this right, did he get an actual  
2 human skull?

3 A. That's my understanding.

4 Q. And so the actual human skull is then -- then  
5 there is all that material you were talking about put  
6 over the skull; is that right?

7 A. Yes. The clay first and then the enamel  
8 overlying the clay.

9 Q. This experiment was designed to do what?

10 A. To see if a flashlight could produce fractures  
11 of the skull --

12 Q. And --

13 A. -- such as were seen in the case of Mrs.  
14 Sheppard.

15 Q. And does he describe the flashlight at all?

16 A. Let's see. Yes, that's what I am looking at.  
17 I'm not finding his description.

18 I know Dr. Balraj refers to a 1950s vintage  
19 flashlight, whatever that means I can't tell you.  
20 Please direct my attention, Mr. Gilbert, but I'm  
21 looking at his report and I am not finding a  
22 description of the flashlight in terms of its size,  
23 weight, physical composition. I do not see it.

24 Well, he does on page three under -- below  
25 four, now here he does refer to the aluminum. So

1 there is a reference to constituency, aluminum. He  
 2 does talk about lens and light end so we obviously  
 3 know this is a glass. That's all I'm seeing.  
 4 Q. So in the report we don't know the dimensions  
 5 of the flashlight, the size or the weight of the  
 6 flashlight, whether there is even batteries in the  
 7 flashlight, do we?  
 8 A. I'm not seeing it.  
 9 Q. How many times did he strike that figure?  
 10 A. The first one was a glancing blow. He  
 11 essentially missed it. The second one he took the  
 12 glove off to get a better grip and he struck it and  
 13 then he struck it again and then he struck it a third  
 14 time. So it looks to me, not counting the glancing  
 15 blow, that he struck it three times.  
 16 Q. Does he come to any conclusions about whether  
 17 the flashlight test excludes a 1950s vintage  
 18 flashlight?  
 19 A. Yes, he does.  
 20 Q. And what did he say?  
 21 A. His conclusion was that, I want to use his  
 22 words, he did not feel that the flashlight could have  
 23 produced those fractures. By the way, I see he also  
 24 used pliers. I want to add pliers to fireplace poker  
 25 and wrench as additional instrumentalities. I think

1 less force once the structural integrity of that bony  
 2 skull has been compromised.  
 3 Q. Dr. Wecht, you described how this test was done  
 4 in terms of the material. Is there anything about the  
 5 way that Dr. Lovejoy prepared this model for the  
 6 purposes of using it to strike various weapons that  
 7 you find to be unlikely in terms of similarities to an  
 8 actual real life assault?  
 9 MR. DEVER: Objection.  
 10 THE COURT: Sustained.  
 11 Q. What did you find wrong with this test?  
 12 MR. DEVER: Objection.  
 13 THE COURT: Overruled. Let  
 14 me just see there one minute.  
 15 THE WITNESS: Yes, Your Honor.  
 16 THE COURT: You can answer.  
 17 A. Well, simply put, clay and enamel are not  
 18 synonymous structurally from a physical standpoint  
 19 with human tissue. A live person with healthy  
 20 tissues, 31 year old person, so on, a scalp with hair  
 21 and so on are not the same as clay and enamel.  
 22 Q. Also in terms of the Dr. Balraj report, she  
 23 offered an opinion as to the time of death; is that  
 24 correct?  
 25 A. Yes.

1 basically he concluded that the flashlight could not  
 2 have produced the fractures that were visualized and  
 3 described in Mrs. Sheppard's case.  
 4 Q. And as a forensic pathologist with 39 years  
 5 experience and 14,000 autopsies and seeing blunt force  
 6 injuries, do you agree with him?  
 7 A. No, I do not.  
 8 Q. Why is it that you don't agree with him?  
 9 A. Well, first of all I don't know what kind of  
 10 flashlight. I'm not a flashlight expert but I have  
 11 seen some very heavy, industrial type flashlights and  
 12 I have seen some very flimsy flashlights. I don't  
 13 know the weight, I don't know the length, if batteries  
 14 were inside it would certainly make it heavier but  
 15 that would get to the description of weight.  
 16 In my opinion, taking a battery that is let's  
 17 say ten inches or longer, something along that --  
 18 Q. You mean a flashlight?  
 19 A. Did I say battery? Flashlight, thank you, and  
 20 smashing a skull with force, I do not hesitate to  
 21 express the opinion that an adult person using that  
 22 flashlight with force could fracture someone's skull.  
 23 Once the skull has been fractured, subsequent blows  
 24 would produce additional fractures, each of which  
 25 theoretically could be produced with even a little

1 Q. And what was her opinion?  
 2 A. Her opinion?  
 3 Q. Yes.  
 4 A. Dr. Balraj's opinion was that death occurred  
 5 between three and 4:00 in the morning, and that was  
 6 based upon the gastric contents. As I recall --  
 7 Q. That's page three, by the way?  
 8 A. Yes. That was the -- that was the basis upon  
 9 which she arrived at her opinion. I think the sole  
 10 basis, relating to a time that the meal had been  
 11 ingested, the kind of food that had been ingested.  
 12 Q. Do you want to see my copy?  
 13 A. No, I'm okay with the Judge's. I'm okay.  
 14 THE COURT: Let me see this.  
 15 THE WITNESS: Yes, Your Honor.  
 16 Q. Is it --  
 17 A. I see it. It's on page three, time of death,  
 18 bottom of page three.  
 19 Q. How precise is the process of examining the  
 20 contents of a stomach or the gastric contents of a  
 21 stomach in predicting the time, the actual time of  
 22 death in an autopsy?  
 23 A. I would say in forensic pathology it's probably  
 24 the least precise of all the indices or criteria that  
 25 we employ. Rigor mortis, livor mortis, body

1 stiffening, that's rigor, the gravitational settling  
2 of blood, that's livor, algor mortis, body  
3 temperature, and a variety of other things.

4 Gastric contents vary greatly and the medical  
5 literature is replete with this. However, again, to  
6 be fair about this, what Dr. Balraj has done here is  
7 not extremely atypical, it is not illogical, it is not  
8 a great deviation from norms that one might read. I  
9 would just say that I think her estimate of tying it  
10 into three to four is very tight.

11 You can have this kind of a meal, which  
12 included some meat, ham, vegetable, blueberry pie and  
13 so on. I would say generally a meal like that will  
14 pass in about four to seven hours, something like  
15 that. Dr. Balraj says four or five. I just think  
16 that's a little tight. Four to seven, four to six,  
17 based upon what we know, especially where you have  
18 meat and so on. So, again, I am not in great  
19 disagreement with her but I would expand those  
20 temporal parameters somewhat.

21 Q. So she said three to four a.m. on July 4th.  
22 What would you say?

23 A. I would say -- well of course I have some  
24 knowledge of when a call went in, too, so I would say

1 specificity for gastric emptying time, would be  
2 somewhere between three and five a.m. I think that  
3 would be -- that would cover probably 90 percent or so  
4 of normal people.

5 Q. Now there was an exhumation that occurred that  
6 you attended; is that right?

7 A. Yes.

8 Q. What was the purpose of the exhumation as far  
9 as you understood it to be?

10 A. As I understood it, and I was not involved in  
11 any of the discussions, it was, one, to examine the  
12 wounds of Mrs. Sheppard and, two, to obtain DNA  
13 analyses perhaps of any materials or tissues of her as  
14 well as of the fetus.

15 Q. In terms of the nature of the wounds, were you  
16 able to view the skull of Mrs. Sheppard and any  
17 follow-up reports concerning the examination of the  
18 skull?

19 A. Yes, I saw some things and then subsequent  
20 reports in more detail.

21 Q. Do you have an opinion as to whether anything  
22 that was determined by the exhumation in connection  
23 with the natures of the wounds was significant?

24 A. Not for me, no. I cannot speak for others.

1 there were a couple more fractures or so that Dr.  
2 Adelson did not specifically describe. It is of no  
3 consequence, of no relevance.

4 The 16 blows to the head, so if there is 17 or  
5 18 or if a couple more bones are fractured, it just  
6 doesn't make any difference. This unfortunate woman  
7 was struck repeatedly with a blunt force  
8 instrumentality breaking many bones of her calvarium  
9 and of her face. So it just doesn't make any  
10 difference.

11 Q. Now I have here an Eveready Captain flashlight.  
12 Can you take a look at that?

13 A. Yes.

14 Q. Would you come down for a second?

15 THE WITNESS: Your Honor?

16 THE COURT: Yes, you may.

17 Q. Show the ladies and gentlemen of the jury how  
18 it is that you -- these crescentic kinds of injuries  
19 could be inflicted with that kind of object.

20 A. Well, crescentic, again, a little curved. When  
21 you are struck by a blunt force instrument that is  
22 rounded, then depending upon how the instrumentality,  
23 in this case the flashlight, would strike your head,  
24 that would determine the configuration of the wound.

1 a flat surface. We all have contours. The forehead,  
2 the sides of the head, the top of the head, these are  
3 contours, our eyebrows, our ridges. So you have a  
4 curved surface of the flashlight, you have curvature  
5 of the top of the skull and the forehead. So you can  
6 have then a crescentic laceration.

7 If it strikes with the head of the flashlight  
8 where the lens is, then you can see that that could  
9 easily give you a crescentic laceration because of the  
10 curvature of the head or lens portion of the  
11 flashlight. Crescentic lacerations are not  
12 particularly atypical in individuals who have been  
13 struck by a rounded, relatively smooth type of  
14 instrumentality.

15 Q. Okay. You can sit down.

16 MR. CARR: I will mark that  
17 flashlight as plaintiff's exhibit 273.

18 Q. Dr. Wecht, I believe that you, one of the areas  
19 that I asked you to look at was the role of Dr. Gerber  
20 and how he handled this case.

21 Tell the ladies and gentlemen of the jury your  
22 opinion as a coroner, as a forensic pathologist, as a  
23 forensic scientist in this field, what was it about  
24 Dr. Sam Gerber that you found to be inappropriate in

1 MR. DEVER: Objection.

2 THE COURT: Overruled.

3 A. I will try to state this succinctly and refer  
4 to some things that have already been commented upon.

5 In a case of obvious homicidal violence with  
6 blood spatters and stains, injuries of a multiple  
7 nature, evidence of some kind of a dynamic struggle,  
8 all of these things, or indeed any of them  
9 individually would have required a trained  
10 criminalist, people who look for trace evidence, hair,  
11 fibers, fingerprints, footprints, identify the  
12 location, the size, the shape of blood spatters, of  
13 blood stains, make observations and measurements,  
14 diagrams of the body, do all of these things as  
15 quickly, as thoroughly, as meticulously as possible.  
16 You are in no hurry.

17 I believe that a forensic pathologist should go  
18 to a scene like this, too, as quickly as possible to  
19 check for rigor mortis, body stiffening, look for  
20 livor mortis, the settling of blood, to get some idea  
21 of the time of death. The faster you can do this upon  
22 discovery of the body, the more reasonably accurate  
23 would be your estimate.

24 Since Dr. Gerber was neither a criminalist nor  
25 a forensic pathologist and for his reasons, which I

1 cannot speak to, chose not to summon such people from  
2 his office, then I believe his actions were quite  
3 inappropriate. He had criminalists and he had  
4 forensic pathologists. Cuyahoga County had a good  
5 medical/legal investigative office and such people  
6 were available. They should have been utilized.

7 There were findings of tooth injuries with  
8 pieces of teeth then found by Dr. Gerber. It would  
9 have been good to have a forensic odontologist look at  
10 the body in relationship to where the pieces of teeth  
11 were found to get a better idea as to how the teeth  
12 were broken.

13 Then to continue from that point of my  
14 critique, to follow the route of Dr. Gerber to go to  
15 the hospital, to question and examine Dr. Sheppard, go  
16 back to the scene, still not calling upon the  
17 specialist, to make determinations of blood stain  
18 patterns, et cetera, I must tell you that I just don't  
19 know of this being done.

20 I don't mean to be flippant in referencing  
21 this, but the best way to get the point across is that  
22 this is not Quincy, this is not Jack Klugman playing  
23 Quincy in which he is, for purposes of that character,  
24 everything wrapped into one. He is a criminalist, he  
25 is a pathologist, he is an odontologist, he is an

1 anthropologist, he is an investigator, he is an  
2 attorney, he is everything in the world as well as a  
3 philosopher and a psychiatrist.

4 In real life we have all of these specialists  
5 and we call upon them. Especially keeping in mind in  
6 the coroner system as you have it here, and I have got  
7 no problem with it, ours is very similar, maybe even  
8 in some respects more extensive in terms of inquest  
9 and arraignments because they are all handled by our  
10 office, you are going to be sitting in a quasi  
11 judicial capacity. We are not quite a judge, with all  
12 due respect to his Honor, and I don't think of myself  
13 as a judge, but I think it can be said and it has been  
14 so described as a coroner or the coroner solicitors if  
15 he designates, sitting in a quasi judicial position,  
16 something like a judge.

17 You are going to be there as a fact finder.  
18 You are not then issuing statements as to someone's  
19 guilt or even getting into extensive details, that  
20 should be forthcoming from the homicide detectives who  
21 are investigating the case. There are some things  
22 that you don't just give out to anybody, the homicide  
23 detectives and the district attorney's office want to  
24 play close to their vest. When they get somebody they  
25 will want to know things that nobody but the

1 perpetrator might know.

2 So you maintain an unbiased position, just as  
3 his Honor in this case and all qualified judges do.  
4 You don't address it and you don't make comments  
5 affirming guilt, otherwise then why go through the  
6 inquest. Just finish it and say you have already made  
7 the determination and save everybody time and effort  
8 and not have a whole big public production.

9 I am not here to posthumously attack Dr.  
10 Gerber, he was friendly and gracious to me, never did  
11 anything to me and we never had any conflicts or run  
12 ins, but you ask a question and that's my answer. It  
13 was just not handled appropriately and the available  
14 expertise was not utilized as it should have been in  
15 this case.

16 Q. And you have indicated about the inquest being  
17 already predictable, forgone conclusion to some  
18 extent?

19 A. That's my understanding from the news media  
20 reports and so on. That's my overall take on the  
21 case.

22 Q. Do you remember when Dr. Gerber decided that  
23 Dr. Sam Sheppard was guilty of this crime?

24 A. Gee, I did see that date and I don't remember  
25 the exact date now. I better not express it.

1 Q. If I told you it was July 4th, 1954 --  
 2 MR. DEVER: Objection.  
 3 Q. -- what would you have to say about that, Dr.  
 4 Wecht?  
 5 MR. DEVER: Objection.  
 6 THE COURT: Is that the date?  
 7 MR. DEVER: That's not the  
 8 date.  
 9 THE COURT: There is a  
 10 dispute.  
 11 MR. GILBERT: It is in the  
 12 Supreme Court decision, Steve.  
 13 THE COURT: Overruled. I  
 14 will allow the question. You will have a  
 15 chance to examine, assuming that was the date,  
 16 I guess, at this point.  
 17 A. I won't repeat what I have said. It just makes  
 18 it more bizarre, more unacceptable. July 4th, well,  
 19 the death occurred on July 4th, the death occurred  
 20 after midnight of July 3rd into the morning hours of  
 21 July 4th. I'm not saying that he was not entitled to  
 22 his personal opinion or that I never have an opinion  
 23 in a homicide case as to who I think might have done  
 24 it, but I would never, and have never, and nobody in  
 25 my office certainly while I have been coroner would

1 with your lawyer, I don't want you to discuss  
 2 your testimony with him.  
 3 MR. GILBERT: Your Honor, I'm  
 4 not his lawyer.  
 5 THE COURT: The lawyer who  
 6 brought you in here, Mr. Gilbert.  
 7 (Thereupon, a luncheon recess was  
 8 had.)

9 - - - -

1 express an opinion, I don't care what the police say,  
 2 until somebody is arraigned in my office and the  
 3 inquest has then been conducted. And in Cuyahoga  
 4 County inquests were conducted. How can you make a  
 5 statement and then you are going to be sitting  
 6 conducting an inquest? You don't have to, my opinion,  
 7 be a coroner to understand that.  
 8 MR. GILBERT: Thank you, Dr.  
 9 Wecht.  
 10 THE COURT: Ladies and  
 11 gentlemen, we will break for lunch. I remind  
 12 you, of course, do not discuss this case among  
 13 yourselves, do not permit anyone to discuss it  
 14 with you or in your presence. You are  
 15 instructed not to form or express an opinion on  
 16 this case until it is finally submitted to you.  
 17 Be ready to be called into the  
 18 courtroom at 1:30 and we will have cross  
 19 examination of this witness.  
 20 And to the witness, you are in the  
 21 middle of your testimony, do not discuss this  
 22 case.  
 23 THE WITNESS: Not with the  
 24 attorney either, Your Honor?  
 25 THE COURT: Well you may talk



1 MONDAY AFTERNOON SESSION, FEBRUARY 28, 2000

2 THE COURT: I think this is  
3 the second time we have been waiting for you.  
4 We have completed the direct  
5 examination by Mr. Gilbert and now we are ready  
6 for cross examination by Steve Dever.

7 MR. DEVER: Good afternoon,  
8 Your Honor. May we approach the bench for one  
9 moment?

10 THE COURT: Yes.  
11 (Thereupon, a discussion was had  
12 between Court and counsel at sidebar.)  
13 - - - -

14 CROSS EXAMINATION OF CYRIL H. WECHT, M.D.

15 BY MR. DEVER:

16 Q. Good afternoon, Dr. Wecht.

17 A. Good afternoon.

18 Q. The last time I saw you was on a cold day in  
19 Pittsburgh on January 21st when I had the opportunity  
20 to take your deposition; do you recall that, Doctor?

21 A. Yes, I do.

22 Q. The sun is starting to shine.

23 A. That's because we are in Cleveland.

24 Q. Yes. You got it.

25 First of all --

1 A. Yes, that has been for some news media people,  
2 not formally by the attorneys.

3 Q. And would it be fair to say that some of the  
4 opinions that you have drawn or made over the years  
5 would be categorized to be outside of traditional  
6 views?

7 A. You would have to be more specific. Certainly  
8 there are differences of opinion. For example, on the  
9 John F. Kennedy assassination the last poll that was  
10 taken about 85 percent of Americans felt as I do. In  
11 the Jon Bonet Ramsey I think maybe 85 to 90 percent  
12 feel as I do. I don't know which one you are talking  
13 about.

14 Q. First dealing with the assassination of  
15 President Kennedy, it is your belief or your view  
16 based on your evaluation of the evidence that Lee  
17 Harvey Oswald did not act alone; is that correct?

18 A. Yes, that's correct. There was a conspiracy  
19 that there were two shooters, that's correct.

20 Q. And you provided assistance to some -- a film  
21 that was made by Oliver Stone relating to the  
22 assassination of President Kennedy?

23 A. Yes, I was a technical adviser to Oliver Stone  
24 in the movie called JFK.

25 Q. The view that was presented in the movie JFK

1 THE COURT: Thank you for  
2 that.

3 Q. You function or you are an elected public  
4 official in Pittsburgh; is that correct?

5 A. Yes, Allegheny County.

6 Q. And the title of your office is coroner for  
7 Allegheny County; is that correct?

8 A. Yes.

9 Q. Now over the years you have researched into  
10 issues or been involved in matters outside of your  
11 responsibilities within the Allegheny County coroner's  
12 office; is that correct?

13 A. Yes.

14 Q. And you had indicated that you had provided  
15 some assistance to the House Committee on  
16 assassinations; is that correct?

17 A. Yes, I was a member of the Forensic Pathology  
18 Panel.

19 Q. And you have also had an opportunity to look  
20 into the matter concerning the death of Senator Robert  
21 Kennedy; is that correct?

22 A. Yes.

23 Q. As well as had an opportunity to look into most  
24 recently the death of a girl out in Colorado, Jon  
25 Bonet Ramsey; is that correct?

1 essentially alleged that this was a massive conspiracy  
2 involving CIA as well as Mafia as well as individuals  
3 who were associated with anti Castro forces; is that  
4 correct?

5 A. Yes, as far as the movie is concerned. Of  
6 course, I was not the script or screen -- you know,  
7 the writer. I was a technical advisor on the matters  
8 that related to the forensic scientific findings. I  
9 think your summary is basically correct --

10 Q. Okay.

11 A. -- what the movie portrayed.

12 Q. In addition, you have made the claim, have you  
13 not, that Sirhan Sirhan did not fire the fatal shot  
14 that killed Robert Kennedy; is that correct?

15 A. That's correct. There was a shot fired with a  
16 bullet entering behind the right ear from a distance  
17 of about one inch away from the right scalp which is  
18 agreed to by 12 forensic pathologists, including three  
19 from the military of the United States Government. So  
20 based upon where Senator Kennedy was and where Sirhan  
21 was, I have concluded, as have many other people that,  
22 a shot was fired behind and, as I said, much closer to  
23 his head.

24 Q. You are aware that Sirhan Sirhan is doing life  
25 in prison for the death of Senator Kennedy?

1 A. Yes.  
 2 Q. Is it your claim that Sirhan Sirhan had then  
 3 acted as part of a conspiracy?  
 4 A. I don't know what Mr. Sirhan knew. He shot his  
 5 gun. He may not have been part of a conspiracy in so  
 6 far as his own knowledge is concerned, but I think  
 7 there was an conspiracy on somebody's part, yes.  
 8 Q. Now you also have indicated, I believe, that  
 9 there is some recent writings of yours where you  
 10 allege that the death of Jon Bonet Ramsey was caused  
 11 by someone in the immediate family, family member; is  
 12 that correct?  
 13 A. That's correct, one or both of the parents,  
 14 that is correct.  
 15 Q. Okay.  
 16 A. I have written a book with Charles Bosworth,  
 17 formerly of the St. Louis Post Dispatch, setting forth  
 18 my theory.  
 19 Q. And you understand that there hasn't been any  
 20 trial on the death of Jon Bonet Ramsey?  
 21 A. That's correct.  
 22 Q. You also understand that there was a grand jury  
 23 proceeding that evaluated the evidence concerning the  
 24 death of Jon Bonet Ramsey?  
 25 A. Yes.

1 Q. You are aware that the grand jury chose not to  
 2 go forward with any specific charges; is that correct?  
 3 A. That's not quite correct. It was not the grand  
 4 jury's decision. If you would check into it you will  
 5 find that it was the district attorney's decision. He  
 6 never polled the grand jury. They never actually  
 7 voted.  
 8 Q. So the prosecutor never asked the grand jury to  
 9 return an indictment?  
 10 A. That's correct.  
 11 Q. Now you would acknowledge that the coroner,  
 12 especially in the State of Ohio, has some duties and  
 13 responsibilities as they relate to an event of death;  
 14 is that correct?  
 15 A. Yes.  
 16 Q. And you would agree that the coroner has the  
 17 power to issue subpoenas to make inquiry concerning  
 18 the matters arising to a death; is that correct?  
 19 A. Yes.  
 20 Q. And, as a matter of fact, I think you indicated  
 21 to me during your deposition that in Pittsburgh or  
 22 Allegheny County you have the power to call what is  
 23 known as a coroner's inquest; is that correct?  
 24 A. Yes.  
 25 Q. You have the power to preside over a public

1 hearing where information may be gathered pursuant to  
 2 subpoena revolving around all of the circumstances  
 3 concerning a particular death?  
 4 A. Yes.  
 5 Q. So when we go back and evaluate the conduct of  
 6 Dr. Gerber, Dr. Sam Gerber, as far as his duties and  
 7 his responsibilities back in 1954, you would  
 8 acknowledge, first of all, that Dr. Gerber had the  
 9 power, the responsibility, and the duty to ascertain  
 10 the cause and manner of death?  
 11 A. Yes.  
 12 Q. And you would also acknowledge that Dr. Gerber  
 13 would be permitted to issue subpoenas and to call  
 14 witnesses before a public hearing who would be  
 15 compelled to give testimony concerning the events  
 16 surrounding the death?  
 17 A. Yes.  
 18 Q. That, in fact, occurred in this particular  
 19 case, did it not?  
 20 A. Yes.  
 21 Q. And you were aware of the type of laboratory or  
 22 the facilities of the Cuyahoga County coroner as it  
 23 existed back in 1954?  
 24 A. Yes, an overall idea. I didn't know the  
 25 specifics. I hadn't been there until -- I did not go

1 there until 1961 or '62. But I have some idea of what  
 2 existed there.  
 3 Q. And you were aware that the facilities that you  
 4 had visited in 1961, '62 on Adelbert road were in fact  
 5 the same facilities that existed back in 1954?  
 6 A. Yes, that's my understanding.  
 7 Q. You were aware of the reputation as far as Dr.  
 8 Lester Adelson, as far as his competence as a forensic  
 9 pathologist; is that correct?  
 10 MR. GILBERT: Objection.  
 11 THE COURT: Overruled.  
 12 A. Yes.  
 13 Q. And what was your opinion, sir?  
 14 A. Competent, experienced, respected forensic  
 15 pathologist.  
 16 Q. You knew him over a number of years, did you  
 17 not?  
 18 A. Yes, I would see him at occasional meetings.  
 19 It wasn't like a close personal friendship but I  
 20 certainly saw him from time to time.  
 21 Q. And you were also aware of the trace evidence  
 22 laboratory that was housed at the Cuyahoga County  
 23 coroner's office, were you not?  
 24 A. Yes, to a lesser extent, but I was aware that  
 25 it was there.

1 Q. Were you aware of an individual by the name of  
2 Mary Cowan?

3 A. Yes. I don't know exactly when I came to meet  
4 Ms. Cowan, later I guess, '61, '62, for the first  
5 time. I may have heard her name in conjunction with  
6 that trace evidence laboratory before then.

7 Q. Did you come to meet Mary Cowan over the years?

8 A. Yes, I would see her again at the American  
9 Academy of Forensic Science meetings usually on an  
10 annual basis.

11 Q. Was Mary Cowan a member of that academy?

12 A. Yes.

13 Q. Was Dr. Adelson a member of the academy?

14 A. Yes.

15 Q. And was Dr. Gerber a member of the academy?

16 A. Yes.

17 Q. Did you formulate an opinion in the years that  
18 you have dealt with Mary Cowan as far as her  
19 competence, expertise and honesty?

20 MR. GILBERT: Objection.

21 THE COURT: Overruled.

22 A. As far as I knew, Ms. Cowan was considered to  
23 be a trained, experienced and competent criminalist  
24 and I never heard anything and had no personal

1 testimony of Dr. Gerber and that's it from the 1954  
2 trial.

3 Q. And then you had no part of the inquest then?

4 THE COURT: The question  
5 is --

6 A. No, Your Honor, I did not, except for the  
7 autopsy report, Dr. Kirk's affidavit which came later.  
8 The inquest, no, sir, I did not.

9 Q. So as far as how the inquest was conducted, the  
10 method of questioning, the particular witnesses, you  
11 can't speak to how that transpired; is that correct?

12 A. No, I have no knowledge and no opinion about  
13 that.

14 Q. But, again, you would acknowledge that a  
15 coroner indeed has the responsibility and the duty to  
16 ascertain cause and manner of death?

17 A. Oh, yes.

18 Q. And you yourself over the years have used a  
19 coroner's inquest, have you not?

20 A. Yes. In Allegheny County every homicide where  
21 charges have been filed results in an inquest at our  
22 office. In addition to those we have the power and do  
23 from time to time conduct what we call open inquests  
24 where no charges have been filed but we feel that

1 honesty.

2 Q. In evaluating this particular case, did you  
3 have an opportunity to review the testimony of Mary  
4 Cowan?

5 A. No. That was not sent to me, I don't believe.

6 Q. Did you have an opportunity to review the trace  
7 evidence report generated by the Cuyahoga County  
8 coroner's office?

9 A. Yes, I did get that.

10 Q. Did you have an opportunity to review the  
11 testimony of Dr. Lester Adelson?

12 A. No.

13 Q. Did you have an opportunity to review the  
14 testimony of the information that was presented during  
15 the coroner's inquest that was held by Dr. Samuel  
16 Gerber?

17 A. Yes. I'm sorry, which testimony during the --

18 Q. The entire transcript of the coroner's inquest.

19 A. Not the entire transcript. Not the entire  
20 transcript, no, not everyone.

21 Q. What portions of the transcript did you read?

22 A. I was just looking for the sheet. Here it is.

23 I had the trial testimony -- I beg your pardon, I  
24 correct myself of an answer a moment ago. I did have

1 public's attention.

2 Q. So would you categorize these open type  
3 inquests as a public accounting for a particular  
4 death?

5 A. Yes, public accounting, a need to extract more  
6 information and sometimes more desire to bring to the  
7 public's attention a matter that we think might be of  
8 interest and relevance to the public's safety and  
9 welfare.

10 Q. And from time to time have you had open  
11 inquests relating to say policemen shootings?

12 A. Yes, we have made a policy of having an open  
13 inquest in every instance in which a death has  
14 occurred as a result of a policeman shooting a  
15 civilian.

16 Q. And from time to time do you find -- the  
17 findings that you make as far as cause and manner of  
18 death are not necessarily agreed upon by the  
19 prosecuting attorney for Allegheny County; is that  
20 correct?

21 A. Yes, that has happened a couple of times over  
22 these past five years.

23 Q. So from time to time there are issues that are  
24 of such great interest to the public, surrounding

1 known as an open inquest; is that correct?  
 2 **A.** Well, we feel it is necessary. I just want to  
 3 make it clear, it is not legally mandated but we feel  
 4 it is necessary in these police shootings to have them  
 5 aired.

6 **Q.** Based upon your authority and your  
 7 responsibility?

8 **A.** Yes.

9 **Q.** Is that correct?

10 So would it be fair to say then, Doctor, from  
 11 time to time a prosecuting attorney might not  
 12 necessarily agree that a crime has been committed or  
 13 that a death should be ruled a homicide, and you have  
 14 chose to go forward and produce information by way of  
 15 subpoena so that there is a full accounting in the  
 16 public view of a particular death?

17 **A.** Your statement is correct, except that it needs  
 18 to be reversed in the order in which you stated it.  
 19 The district attorney in our county, to my knowledge,  
 20 has not voiced an opinion before our inquest was  
 21 conducted.

22 It is correct, as you stated before, that after  
 23 the inquest has been conducted there have been a  
 24 couple of instances where the district attorney's  
 25 office did not continue forward with our

1 recommendation that a homicide charge be filed.  
 2 That's all we can do is recommend or suggest. It's  
 3 not binding. But the district attorney doesn't make  
 4 the decision first and then we go ahead with the  
 5 inquest nevertheless. It works in reverse order.  
 6 Everything starts with our office in these matters and  
 7 then the district attorney can do what he wishes.

8 **Q.** You would acknowledge then that there are  
 9 appropriate checks and balances in our system of  
 10 government as it relates to a death whereas the  
 11 coroner is not bound by decisions made by the  
 12 prosecuting attorney as to the sufficiency of a death  
 13 being adequately investigated?

14 **A.** Yes. I haven't heard it referred to as checks  
 15 and balance, but I have no problem with that. Two  
 16 different entities reviewing it from two different  
 17 perspectives.

18 **Q.** If, for instance, you had a corrupt or a gun  
 19 shy prosecutor who was not willing to take on a case  
 20 of great public interest, the coroner could in turn  
 21 call for a coroner's inquest and give a public  
 22 accounting of that particular death?

23 **A.** Yes. And I don't mean, really, I am not  
 24 arguing, I just want to make it clear that our office  
 25 proceeds before the district attorney's office has

1 made any statements or pronouncements or official  
 2 rulings, then they decide what they are going to do  
 3 afterwards. They are not bound by the findings of our  
 4 inquest.

5 **Q.** But as a general principle, the function of the  
 6 coroner, say for instance in looking at the death of  
 7 Jon Bonet Ramsey, should that crime have occurred in  
 8 your jurisdiction and you are dissatisfied with the  
 9 presentation of the evidence before the grand jury or  
 10 the conduct of the prosecuting attorney, you could  
 11 call your own inquest and present and demand all of  
 12 those witnesses come before you and answer questions  
 13 surrounding that child's death; isn't that correct?

14 **A.** Yes, that would be true.

15 **Q.** All right.

16 **A.** Except there, again, we would have conducted  
 17 the inquest, then what the district attorney's office  
 18 would have done would have been their interest. I  
 19 wouldn't wait. That's never happened, by the way,  
 20 where the district attorney's office has failed to  
 21 move and then we have gone ahead and conducted an  
 22 inquest in opposition or in contrast to their  
 23 decision. It's always we making the move first and  
 24 then they doing what they want to do.

25 **Q.** You are familiar with that that has happened,

1 instances such as that where a prosecutor has chose  
 2 not to bring charges against an individual, chose not  
 3 to go forward for an accounting of that particular  
 4 crime, and then a coroner has taken up the issue and  
 5 called for a coroner's inquest?

6 **A.** I imagine it has happened, sure.

7 **Q.** All right. So what I am referring to in all of  
 8 these questions, Dr. Wecht, as far as how far out of  
 9 bounds was Dr. Gerber in his conduct back in 1954.  
 10 What you have told us so far is that his  
 11 responsibilities allow for him and his duties allow  
 12 for him to force witnesses to appear before him to  
 13 provide information for him to make a determination as  
 14 to method and manner of death; isn't that correct?

15 **A.** Yes, I agree.

16 **Q.** Now the American Academy of Forensic Sciences  
 17 is a body of -- why don't you tell us what that is,  
 18 first of all.

19 **A.** It was founded in 1948 by a small number of  
 20 eminent forensic scientists, mostly forensic  
 21 pathologists, and I think one forensic toxicologist,  
 22 and continued from that time to the present, half a  
 23 century later, in which we find the American Academy  
 24 of Forensic Sciences to be the largest such group in  
 25 the world.

1 It started with six sections and now has, I  
2 think, ten sections. These are the ones we have  
3 talked about, pathology, toxicology, anthropology,  
4 odontology, psychiatry, criminalistics, juris prudence  
5 for attorneys, a general section, engineering. They  
6 have a publication which is a journal that comes out,  
7 I believe, monthly. They have the big annual meeting  
8 every year in late February.

9 They do other things as a foundation. They try  
10 to help educate and inform young people in high school  
11 and college who are interested in forensic sciences.  
12 These are the things that they do.

13 **Q.** And how is admission governed to the -- to  
14 become a member of the American Academy of Forensic  
15 Science?

16 **A.** You submit an application, it's reviewed by the  
17 membership committee. Everybody first is granted  
18 nowadays what is called provisional membership, then  
19 after you do certain things you can become a member.  
20 After you do certain things you can become a fellow,  
21 which is the highest level of active membership, and  
22 after you get old and retire then you're an emeritus  
23 member.

24 **Q.** Now to understand the term science, what do you  
25 define that term to mean, science?

1 procedure, time and time again you should come up with  
2 the same result every time as far as testing  
3 mechanisms?

4 **A.** I think if you follow the same procedure time  
5 and time again you would come up with similar results,  
6 sometimes identical. There, again, it depends. If  
7 it's chemistry and you put a certain number of  
8 ingredients into a test tube it should be the same.  
9 If you talk about a human being, two of us gets shot  
10 in the chest, one of us drops down immediately and the  
11 other one makes it to the elevator and even down to  
12 the lobby. There is no predictable way. So that's  
13 what I am saying, there are so many variations with  
14 the human body and in the field of medical science as  
15 with the practice of medicine, by the way.

16 Why did one person have a heart attack and die  
17 in an instant and another person live forever and you  
18 look at the autopsy and the heart is nothing but a  
19 massive scar tissue. There is -- cancer moves in  
20 three months here and same kind of cancer four years  
21 in another person. I just don't know.

22 **Q.** Now relating to the death of Mrs. Sheppard, if  
23 you take a moment and look at the autopsy protocol.

24 **A.** Yes.

25 **Q.** Now the autopsy protocol is in fact the

1 **A.** Science means the study of all kinds of  
2 disciplines ranging from the absolute science of  
3 physics, astronomy and chemistry, to a much more  
4 subjective science of psychiatry, with all of the  
5 other medical sciences in between. But engineering is  
6 a science, I guess technology today, all the computer  
7 business, that's science. All kinds of things are  
8 science.

9 **Q.** Would you agree the common characteristic of  
10 science is the ability to replicate or reproduce  
11 results?

12 **A.** I think that's a part of a definition that  
13 could logically be applied. I think it would be more  
14 applicable with some scientific endeavors than with  
15 others.

16 **Q.** The common practice in a particular field that  
17 you're involved in, pathology, you were able to verify  
18 results by reproducing the conditions time and time  
19 again; isn't that correct?

20 **A.** Sometimes, but not always, and not easily and  
21 not predictably because in the biological sciences  
22 involving human beings there are so many variables.

23 **Q.** But under the objectives or the purpose of your  
24 organization, the American Academy of Forensic  
25 Science, you would agree that if you follow a certain

1 official record by the Cuyahoga County coroner's  
2 office; is that correct?

3 **A.** Yes.

4 **Q.** That protocol, which is pursuant to the Ohio  
5 Revised Code, will detail the method and manner of  
6 death; is that correct?

7 **A.** I haven't checked your revised code but I will  
8 take your word for it.

9 THE COURT: Actually this  
10 protocol was generated when Ohio had the  
11 General Code, 1954.

12 MR. DEVER: Before the  
13 Revised Code.

14 THE WITNESS: Thank you, Your  
15 Honor.

16 **Q.** But pursuant to the laws of the State of Ohio?

17 **A.** I'm sure it is official, yes.

18 **Q.** Now, Dr. Lester Adelson performed the autopsy  
19 on the remains of Mrs. Sheppard; is that correct?

20 **A.** Yes.

21 **Q.** And the body was received sometime around 12:30  
22 p.m. on July 4th 1954?

23 **A.** Yes.

24 **Q.** Is that correct? And then Dr. Adelson at that  
25 point in time began with an external examination on

1 the body; is that correct?  
 2 **A.** Yes.  
 3 **Q.** And that would be the normal way that you would  
 4 go ahead and perform an autopsy, would it not?  
 5 **A.** Yes.  
 6 **Q.** It would take a full view of the body and make  
 7 notes as far as any particular defects that were found  
 8 on the external portion of the body; is that correct?  
 9 **A.** Yes.  
 10 **Q.** Now this particular body at the time that it  
 11 arrived at the coroner's office was blood soaked, was  
 12 it not?  
 13 **A.** Yes. There was a great deal of blood,  
 14 especially around the entire head area and some blood  
 15 on other parts of the body.  
 16 **Q.** And Dr. Adelson goes through and lists  
 17 essentially 35 particular type of wounds that he finds  
 18 on the body; is that correct?  
 19 **A.** Yes.  
 20 **Q.** Did you find that to be complete as far as his  
 21 notation of the injuries or defects to the external  
 22 portions of Mrs. Sheppard's body?  
 23 **A.** Yes.  
 24 **Q.** Now those particular injuries that were  
 25 sustained to the head of Mrs. Sheppard, you have

1 indicated that the type of object that would have been  
 2 used to cause that death had to be something other  
 3 than a fist, would that be correct?  
 4 **A.** Yes.  
 5 **Q.** Now were you able to ascertain as far as the  
 6 frequency of the blows that were sustained to Mrs.  
 7 Sheppard's head, as far as how many?  
 8 **A.** How many?  
 9 **Q.** Yes.  
 10 **A.** No. As I have said, there would appear to be  
 11 at least 15 to the head, 16, actually, 16 based upon  
 12 Dr. Adelson's descriptions.  
 13 **Q.** Of those particular 16 wounds that Dr. Adelson  
 14 describes, how many of those would you have viewed to  
 15 be life threatening or life ending?  
 16 **A.** I think many of them in the absence of  
 17 treatment could have resulted in death. Because of  
 18 the extensive nature of the fractures, it's not  
 19 possible to associate in a definitive fashion the  
 20 underlying fractures in each and every instance with  
 21 16 head wounds. Therefore, I can't say that each  
 22 wound produced fractures. Those wounds that did not  
 23 produce fractures would not necessarily then have been  
 24 life threatening. I could say that many of these in  
 25 the absence of treatment could have been life

1 threatening, not necessarily all.  
 2 **Q.** Can you give us a definitive amount of -- as  
 3 opposed to many? More than ten?  
 4 **A.** It's difficult to do for the reason that I  
 5 said, probably around ten, whether it is eight or 11  
 6 or so on I can't really be sure because of the  
 7 multiplicity and the redundancy typographically, that  
 8 is to say some injuries were sustained in an immediate  
 9 close proximity to others and you just can't be sure  
 10 which injury produced which fracture and which injury  
 11 produced the hemorrhage overlying and within the  
 12 brain. I can't cleave them out in that fashion.  
 13 **Q.** You will agree that since the injuries are  
 14 close in proximity, it would be fair to assume that  
 15 they were close in time as far as being struck to the  
 16 head and face of Mrs. Sheppard?  
 17 **A.** Yes, and even the one that's a little farther  
 18 back in the right occipital region, I have no basis to  
 19 believe that there was some lapse in time between and  
 20 among the injuries inflicted upon Mrs. Sheppard.  
 21 **Q.** How many of those particular injuries would  
 22 have rendered Mrs. Sheppard unconscious?  
 23 **A.** I would say that any of the 16 blows to the  
 24 head could have rendered her unconscious. Any time  
 25 you have a severe blow to the head you are going to

1 have what you call a concussion. So even in the  
 2 absence of any hemorrhage or fracture, if you get a  
 3 disruption of the normal nerve pathways that control  
 4 consciousness, you can have a state of  
 5 unconsciousness. Any one of the 16 could have  
 6 resulted in a concussion, could have therefore  
 7 resulted in unconsciousness.  
 8 **Q.** Would it be fair to say then that after blow  
 9 number one struck to the head, Mrs. Sheppard was  
 10 rendered unconscious?  
 11 **A.** No, only that she could have been. I cannot  
 12 say that she was. I just don't know.  
 13 **Q.** Would after blow number two have rendered her  
 14 unconscious?  
 15 **A.** I just don't know that.  
 16 **Q.** You would agree that the more -- that as the  
 17 blows are applied to Mrs. Sheppard's head, to her  
 18 skull, the more blows that are applied, the more  
 19 likely that it is that she is unconscious prior to  
 20 blow number 15 striking her head?  
 21 **A.** Yes.  
 22 **Q.** Now you have indicated that they appear to be  
 23 in somewhat of a rapid order of succession; is that  
 24 correct?  
 25 **A.** Yes, I think the nature of the wounds, the

1 anatomical location all are consistent with the blows  
2 being inflicted in fairly rapid succession.

3 Q. You would also agree that since they are to the  
4 frontal portion, except for the left side of the head,  
5 it would be consistent that Mrs. Sheppard was facing  
6 her assailant at the time that these blows were  
7 struck?

8 A. Yes, and one I think farther back on the right  
9 that would be suggestive of that, yes.

10 Q. And would it also be consistent by the markings  
11 on the head as far as the various --

12 THE COURT: Does that exhibit  
13 have a number?

14 MR. DEVER: That's 272, Your  
15 Honor.

16 THE COURT: Proceed.

17 Q. Would it also be consistent that the head  
18 wasn't moving during the period of time that the blows  
19 were being struck, would that be fair to say?

20 A. Well, I would agree that there is nothing to  
21 suggest any extensive movement except for the one  
22 further on the left and farther on the back of the  
23 right side. But the relative closeness is more  
24 consistent with a minimal amount of movement of the  
25 victim of Mrs. Sheppard.

1 this finger here?

2 A. No, 34 actually is talking about the left ulna  
3 which is back on the forearm. He says ten inches  
4 proximal to the tip of the left middle finger. You  
5 would have to go back ten inches from the tip of your  
6 third finger. Somewhere around in here.

7 Q. As you are demonstrating on your left hand?

8 A. I am demonstrating on I would say the lower  
9 third of the forearm is the best that I can do for you  
10 in approximating ten inches back from the tip of my  
11 finger.

12 Q. It is clear there is some additional trauma  
13 caused to the left arm, left hand of Mrs. Sheppard  
14 other than the evulsed left ring fingernail?

15 A. It was an abrasion, that's correct, on the back  
16 part of the left forearm.

17 Q. Okay. And looking at that photograph of the  
18 left ring finger, there was a substantial amount of a  
19 fingernail protruding over the tip of the finger; is  
20 that correct?

21 A. Yes.

22 Q. I think you told us on direct testimony that  
23 the nature of that particular wound is consistent with  
24 Mrs. Sheppard either scratching her assailant or  
25 getting caught up in some clothing; is that correct?

1 Q. And it would be fair to say, wouldn't it,  
2 Doctor, that death came to Mrs. Sheppard in a very  
3 short period of time?

4 A. Yes. I think a matter of a few to several  
5 minutes, but not instantaneous.

6 Q. And it would also be fair to say that prior to  
7 death coming to Mrs. Sheppard, she was in fact  
8 unconscious?

9 A. Yes.

10 Q. Now you had indicated that you had made some  
11 observations of the 35 or so defects that were  
12 described by Dr. Lester Adelson in the autopsy  
13 protocol. If you go to item number 35, the evulsed  
14 left fingernail.

15 A. Yes.

16 Q. That's the ring finger; is that correct?

17 A. Yes.

18 Q. Now you indicate that that indicates that it is  
19 partially evulsed, is that the correct term?

20 A. That's the term that Dr. Adelson used, partial  
21 evulsion.

22 Q. And then in defect number 34, just above that  
23 particular notation there is also noted an abrasion to  
24 the left ulna of the left middle finger; is that  
25 correct? I don't want to give you the finger, but

1 A. Yes, having it snagged and kind of pulled out  
2 from its root.

3 Q. And you would expect then if there had been any  
4 type of contact that Mrs. Sheppard had with either her  
5 assailant by scratching her assailant or tearing some  
6 clothing, that you would expect a microscopic analysis  
7 of that particular fingernail to find some material  
8 that could corroborate that belief, would you not?

9 A. In many instances, yes, in others, no. It  
10 would depend upon whether or not such foreign material  
11 was picked up and remained adherent to the  
12 undersurface of the nail.

13 Q. You were aware that there were certain  
14 scrapings done on the fingernails of Mrs. Sheppard by  
15 Mary Cowan, were you not?

16 A. Yes.

17 Q. Were you aware of what the results were  
18 concerning those fingers?

19 A. I believe nothing was found.

20 Q. As far as your opinion concerning that Mrs.  
21 Sheppard in fact scratched her assailant, that's how  
22 that injury was sustained to her, that is just  
23 speculation on your part, is it not, Doctor?

24 A. Well, it's forensic scientific speculation.  
25 You can call it that. It is my analysis of the nature

1 of that injury in conjunction with the other injuries  
2 and the amount of blunt force trauma produced when the  
3 instrumentality used in this murder struck other parts  
4 of the body. So -- well, anyway, that's the basis of  
5 my reason.

6 **Q.** You cannot rule out the possibility that that  
7 evulsed fingernail is a result of blunt force trauma  
8 striking the top of the nail?

9 **A.** I can't rule it out, no. I said before that it  
10 is a possibility.

11 **Q.** Now dealing with the external examination, did  
12 you find in your review of these particular records in  
13 looking at the photographs of the body of Mrs.  
14 Sheppard, did you find any evidence of any type of  
15 biting, scrapes, cuts, to the breast area of Mrs.  
16 Sheppard?

17 **A.** No.

18 **Q.** Did you find any evidence of any type of burns  
19 on her body?

20 **A.** Burns? No.

21 **Q.** Did you find any evidence in the vaginal or  
22 pubic area, any evidence of trauma?

23 **A.** No.

24 **Q.** Did you find that Dr. Lester Adelson's

1 reading his testimony, that this was in fact a  
2 thorough and competent autopsy?

3 **A.** I would accept it as a thorough and competent  
4 autopsy with the caveats or with the specific  
5 exceptions that I noted earlier about certain things  
6 that I believe should have been done in a case of this  
7 nature. But I don't question the competency of the  
8 autopsy or the thoroughness in so far as his  
9 identification of the injuries was concerned.

10 **Q.** Okay. So as far as any trauma to the breast or  
11 vaginal region areas, there is no evidence to suggest  
12 that that occurred; is that correct?

13 **A.** No, not to my knowledge.

14 **Q.** As far as any type of force, forceful sexual  
15 act perpetrated against Mrs. Sheppard, there is no  
16 evidence that has been provided to you to suggest that  
17 in fact occurred, as far as injuries to the body?

18 **A.** As far as the injuries to the body are  
19 concerned, that is correct.

20 **Q.** Now what you did observe, Doctor, was the fact  
21 of the way that the body was displayed at the time  
22 that she was found, that her breasts were exposed?

23 **A.** Yes, pretty much.

24 **Q.** Did you learn whether or not that clothing was

1 **A.** I don't recall any description of it being torn  
2 or ripped. As I recall the top part was pushed up,  
3 the pajama bottom was off on the left leg and still on  
4 the right leg. I don't recall and I don't have the  
5 report in front of me to say whether there were any  
6 rips or tears. I don't recall any offhand.

7 **Q.** If there was no evidence of any type of rips or  
8 tears, would it be fair to say that there is no  
9 evidence as far as the clothing itself to suggest a  
10 sexual assault?

11 **A.** Well, the position of the clothing, the absence  
12 of tearing, but of course pajamas tops can be pushed  
13 up and pajama bottoms can be pulled off a leg, you  
14 don't have to have them torn in some kind of an  
15 assault.

16 **Q.** And then as far as the bottom pajamas, the  
17 pajama half, one leg is on and one leg is off; is that  
18 right?

19 **A.** Yes, that's my recall.

20 **Q.** Did you learn whether or not any portion of  
21 that clothing was torn, ripped in any way?

22 **A.** As I said, I don't recall any tears.

23 **Q.** Now you indicated that you had learned from Dr.  
24 Tahir that he evaluated vaginal smears that were

1 were placed onto microscopic slides; is that correct?

2 **A.** That's a written report of his which I read and  
3 I think that I do state it correctly based on his  
4 written report. I haven't discussed this with Dr.  
5 Tahir but my recollection of the written reports was  
6 that he examined it, saw some sperm heads, extracted  
7 them, and saved some of the other material.

8 **Q.** If Dr. Tahir was to come in and testify that he  
9 visually looked at those particular slides and did not  
10 see any sperm heads, would that be a surprise to you?

11 **A.** Well it would be inconsistent with what is on  
12 paper. So, yes, a surprise in which case I would then  
13 infer that he made his determination of sperm heads  
14 based upon DNA extraction. I can't speak for him. I  
15 can only tell you what I know from his written report.  
16 I have not discussed this with him.

17 **Q.** Let's talk about these vaginal smears and how  
18 even today if we wanted to -- if those smears still  
19 existed, those microscopic slides still existed we  
20 could put them on a microscope right here in the  
21 courtroom, could we not, and take a look to see if  
22 there are sperm heads on them?

23 **A.** Yes, it would -- I don't know what state they  
24 would be in of deterioration, it's a long, long time,



1 absence of special stains it would have been very  
 2 difficult. It would be difficult today.  
 3 **Q.** So you would acknowledge that these particular  
 4 slides could have deteriorated over the 46 years that  
 5 they have been in existence; is that correct?  
 6 **A.** Yes, to some degree of deterioration,  
 7 biological degradation will occur. Things don't  
 8 remain intact forever.  
 9 **Q.** You would also agree with contamination as  
 10 well?  
 11 **A.** You shouldn't have contamination on a slide if  
 12 the cover is properly affixed. If it has been  
 13 preserved in an appropriate fashion there should not  
 14 be actual contamination of the material on the slide.  
 15 **Q.** There are a couple of ifs that you put in  
 16 there.  
 17 **A.** Yes, that's right, how it was preserved.  
 18 **Q.** And if you were to do a vaginal smear, that's  
 19 essentially taking a Q-Tip material and swabbing the  
 20 vaginal area of a female; is that correct?  
 21 **A.** Yes, that's correct.  
 22 **Q.** And then placing that onto a slide itself; is  
 23 that correct?  
 24 **A.** Yes.  
 25 **Q.** And then putting a cover over this particular

1 encounter?  
 2 **A.** Yes. Depending upon how many sperms, whether  
 3 they are motile, they are moving, whether they still  
 4 have tails and so on.  
 5 **Q.** Now once the sperm is deposited into the  
 6 vagina, it goes through a process where it becomes  
 7 degraded; is that correct?  
 8 **A.** Yes.  
 9 **Q.** Those sperm heads, the tails essentially  
 10 disintegrate, do they not?  
 11 **A.** The tails drop off first and disintegrate.  
 12 **Q.** Isn't it fair to say that tails only remain  
 13 intact with sperm heads up to a matter of several  
 14 hours; is that correct?  
 15 **A.** Generally that's correct. A few hours, unless  
 16 the woman has been in a very, very cold environment.  
 17 Cases have been reported where the body had frozen and  
 18 the vaginal canal is filled with ice and so forth.  
 19 Obviously that's very atypical. In the great majority  
 20 of cases you are talking about a few hours, that's  
 21 correct.  
 22 **Q.** And the existence of sperm heads can remain  
 23 inside the vagina for up to four or five days, can  
 24 they not?  
 25 **A.** Yes, that's correct. There again it depends

1 slide, right?  
 2 **A.** Yes.  
 3 **Q.** And then looking through a microscope at the  
 4 particular slide; is that correct?  
 5 **A.** Yes.  
 6 **Q.** And then if there was evidence of recent sexual  
 7 encounter, you would find contained within that slide,  
 8 once magnified you would observe sperm with intact  
 9 tails; is that correct?  
 10 **A.** If there had been an ejaculation. Keep in mind  
 11 you can have actual sexual activity without  
 12 ejaculation. As you can have a sexual assault without  
 13 penetration. So it just depends. But if you are  
 14 asking me if there is an ejaculate, would you then see  
 15 sperms in someone who is not, for medical reasons we  
 16 say azoospermic, he is able to have an ejaculate but  
 17 it doesn't contain sperms, there are such people, it's  
 18 not rare, that's why some men can't have sexual  
 19 intercourse, they have the ability to be potent for an  
 20 erection, but don't have the ability to procreate  
 21 because they have too few sperms, or in some instances  
 22 almost none. But taking 98 percent or 99 percent of  
 23 the male population that can have an ejaculation, yes,  
 24 I would expect there to be sperms.  
 25 **Q.** And that would be evidence of recent sexual

1 upon the environment, the temperature. They remain  
 2 visible longer in a dead body than in a live body. In  
 3 a live body the woman's enzymes and secretions will be  
 4 breaking down the sperms faster than in a dead body  
 5 where that kind of enzymatic activity is no longer  
 6 occurring. So there are variations. But you're  
 7 right, a few days, and then it is, generally speaking,  
 8 three, four, five days in the majority of instances  
 9 and then they will be gone.  
 10 **Q.** And you were aware that Dr. Lester Adelson  
 11 testified that he performed, gathered two vaginal  
 12 smears from the vagina of Mrs. Sheppard that he  
 13 microscopically analyzed and found them to be absent  
 14 of sperm; is that correct?  
 15 **A.** That's correct.  
 16 **Q.** So then when Dr. Tahir, 45 years later, looks  
 17 at those particular slides, or I won't say look,  
 18 performs a chemical test on those particular slides,  
 19 he comes of the opinion that there is in fact sperm,  
 20 not tails, but sperm heads; is that correct?  
 21 **A.** Yes. He uses the term sperm head.  
 22 **Q.** So based upon that information, wouldn't you  
 23 agree, Dr. Wecht, that if there is evidence of semen  
 24 found on those particular slides, you cannot say that  
 25 that semen was deposited contemporaneous or close in

1 time to Mrs. Sheppard's death; is that correct?  
 2 **A.** That's correct.  
 3 **Q.** So as far as whether or not that semen is  
 4 related to the death of Mrs. Sheppard, it's more  
 5 likely, sir, that that semen is two, three, four days  
 6 of age; is that correct?  
 7 **A.** If the findings in 1999 were those which  
 8 existed in 1954, then it is more likely that the sperm  
 9 heads were from a previous sexual act rather than a  
 10 sexual act on the night that Mrs. Sheppard was  
 11 murdered.  
 12 **Q.** And if they were consistent with a sexual act  
 13 on the night that Mrs. Sheppard was murdered, you  
 14 would expect to find sperm heads as well as tails at  
 15 the time that Dr. Adelson gathered those slides, would  
 16 you not?  
 17 **A.** Yes. Well, Dr. Adelson's examination at 12:30,  
 18 death some eight hours or so before, a full ejaculate  
 19 probably still would have been seen, some with tails,  
 20 but others would have lost the tails already.  
 21 **Q.** Well if it was full ejaculate then Dr. Adelson  
 22 should have been able to discover that type of  
 23 material, that type of liquid in the vaginal cavity of  
 24 Mrs. Sheppard, wouldn't you agree?  
 25 **A.** Yes. If you have a full ejaculate of five cc's

1 have disguised or hidden evidence of semen?  
 2 **A.** That's possible. I can't remember a case by  
 3 name offhand, but the concept is a possibility.  
 4 **Q.** I just have some questions concerning the scene  
 5 of the murder itself. What's the number on this,  
 6 76-47? This, Doctor, if you can see it, this is  
 7 marked as state's exhibit 76-47. Can you see it okay?  
 8 **A.** Yes.  
 9 **Q.** First of all, Doctor, can you tell us, based  
 10 upon a reasonable degree of medical certainty or  
 11 scientific certainty, whether or not Mrs. Sheppard,  
 12 the assault that eventually culminated in her death  
 13 began and ended in that particular location?  
 14 **MR. GILBERT:** Objection.  
 15 **THE COURT:** If you can tell  
 16 us.  
 17 **A.** Yes, I believe that it did. I have no  
 18 knowledge of information and have made no analysis of  
 19 the facts available to me to indicate otherwise.  
 20 **Q.** And you would agree that there is massive  
 21 trauma to the head area of Mrs. Sheppard; is that  
 22 correct?  
 23 **A.** Yes.  
 24 **Q.** Blood soaked; is that correct?  
 25 **A.** Yes.

1 or more, that's correct.  
 2 **Q.** Now in addition to that there are what are  
 3 known as epithelial cells that are contained within  
 4 the woman; is that correct?  
 5 **A.** Yes.  
 6 **Q.** What are those?  
 7 **A.** The epithelial cells are the cells that line  
 8 the inner tracks of our body, whether it be the GI  
 9 tract or the genitalia or so on. The inner surface of  
 10 these structures that are referred to as epithelial  
 11 cells.  
 12 **Q.** Do epithelial cells disguise sperm heads with  
 13 tails?  
 14 **A.** They can on occasion.  
 15 **Q.** Now as a forensic pathologist you from time to  
 16 time have had cases involving -- or a young woman has  
 17 met her death by way after sexual assault; is that  
 18 correct?  
 19 **A.** Yes. Well the sexual assault did not kill her,  
 20 but you mean death in which there had been sexual  
 21 assault.  
 22 **Q.** Contemporaneous with.  
 23 **A.** Yes. Whatever injury was inflicted, yes.  
 24 **Q.** Have you found in those various microscopic  
 25 analysis that you have done where epithelial cells

1 **Q.** And you would also agree that there is a  
 2 covering that apparently has some spatter on it that  
 3 is covering the lower portion of her body; is that  
 4 correct?  
 5 **A.** Yes.  
 6 **Q.** Did you find in your evaluation in looking at  
 7 all these photographs, did you find evidence of blood  
 8 smears on the abdomen of Mrs. Sheppard?  
 9 **A.** I don't recall blood smears and I can't recall  
 10 Dr. Adelson describing any blood smears on the  
 11 abdomen.  
 12 **Q.** And would you call -- in defining blood smears,  
 13 those are wiping of blood; is that correct?  
 14 **A.** Well, yes, if you say a smear, then you are  
 15 talking about wiping. On page two of his autopsy  
 16 report -- maybe it's a good time to put in what Dr.  
 17 Adelson noted. Abundant dry blood over the entire  
 18 face, neck, upper chest and hands. Bloody crust in  
 19 the nostrils and in the mouth. You asked me about the  
 20 abdomen and I said I don't see any reference to blood  
 21 on the abdomen.  
 22 **Q.** And then in addition you have indicated that  
 23 the legs were straddling this bar down in this area?  
 24 **A.** No, they were beneath the blanket rail as I  
 25 believe it is called. Not straddling it, beneath it.

1 They were down off the edge of the mattress but  
 2 beneath that blanket rail.  
 3 **Q.** And is it your opinion that or your belief that  
 4 the sexual assault began in this particular location  
 5 as well?  
 6 **A.** I can't tell you exactly where the attempted  
 7 assault began. This is a dynamic process, somebody  
 8 obviously who is going to be fighting for her life,  
 9 movement to some extent. I just cannot tell you to  
 10 the extent as you asked me earlier. Do I have any  
 11 reason to believe that the assault took place  
 12 somewhere else or began somewhere else? I don't. So  
 13 I believe that it occurred while Mrs. Sheppard was on  
 14 the bed. Can I tell you that it occurred exactly with  
 15 her in that position? I cannot.  
 16 **Q.** Can you tell us whether or not she was standing  
 17 or sitting at the time that this assault began?  
 18 **A.** No. She has the injury to the back of the  
 19 head, one could conjecture, and it is only conjecture,  
 20 that someone struck her in the back of the head  
 21 causing her to then fall backward and then inflicted  
 22 the blows on the front. As a matter of fact, that's  
 23 interesting, I just said that as I -- as I'm sitting  
 24 here now you have all the injuries in the front and  
 25 then you have the head back, how do you get an injury

1 isn't that correct?  
 2 **MR. GILBERT:** Wait a second.  
 3 The question was unclear and I am objecting to  
 4 it in relationship to the previous question.  
 5 **THE COURT:** I will sustain  
 6 it. Ask another question.  
 7 **Q.** Apparently this is how Mrs. Sheppard was found  
 8 when the authorities got there, when the photograph  
 9 was taken.  
 10 **MR. GILBERT:** Objection. Don't  
 11 assume anything, Judge.  
 12 **THE COURT:** I'm not assuming  
 13 anything, but he is asking this expert on cross  
 14 examination. Overruled.  
 15 **Q.** You would agree --  
 16 **A.** As far as I know this is the position in which  
 17 she was found.  
 18 **Q.** You would agree that the injury that was  
 19 sustained to the back of her head could not have been  
 20 accomplished in this particular type of position?  
 21 **A.** Well, no, not completely. I gave you one  
 22 scenario before, I will give you another scenario that  
 23 her head is facing over to the right and one of the  
 24 blows -- to the left, facing to the left, and one of  
 25 the blows comes down and hits the back of the head as

1 in the right back of the head? I just don't know.  
 2 There are different scenarios you could postulate.  
 3 **Q.** And as far as scenarios of the position of the  
 4 assailant, is he sitting, is he kneeling, I won't even  
 5 use the term he. Is the person that -- first of all,  
 6 based upon your evaluation of this case to a  
 7 reasonable degree of medical or scientific certainty,  
 8 can you tell us whether or not there is more than one  
 9 assailant involved here?  
 10 **A.** I can't do that. I have no reason to believe  
 11 that there is more than one assailant, but there is no  
 12 basis for me to rule out a second person being there.  
 13 **Q.** You would agree that the position of the body  
 14 is consistent with someone pushing the shirt up after  
 15 Mrs. Sheppard has come to this particular type of a  
 16 position; is that correct?  
 17 **A.** Yes. After she has come to that position. At  
 18 what point in the attempted assault is it pushed up, I  
 19 don't know. But I would agree that it is pushed up  
 20 when she is in that position as opposed to if you mean  
 21 could she have been standing or sitting with it in  
 22 that position, I don't think so. Gravity alone would  
 23 cause it to fall down.  
 24 **Q.** And would it also be fair to say that she has  
 25 already sustained that blow to the back of the head;

1 she is lying there. This process, whether it is the  
 2 first or the third or the fourth or whatever, again I  
 3 don't know. It is a dynamic process. I think of it  
 4 as a continuum. It is flowing, it is moving.  
 5 It's not as if somebody is necessarily  
 6 immobilized from the first moment and all kinds of  
 7 movements can occur, especially when there is a  
 8 violent situation with injuries that produce pain,  
 9 that engenders great fright, obviously, panic,  
 10 hysteria, call it what you wish. And the head is a  
 11 swivel, you can picture different things.  
 12 **Q.** Okay.  
 13 Now also with the legs underneath the rail of  
 14 the bed, in order for sexual penetration to have taken  
 15 place, the assailant had to straddle the rail or fit  
 16 in under the rail in order for that to be  
 17 accomplished; isn't that correct?  
 18 **A.** If there had been sexual penetration, number  
 19 one. Number two, if it occurred down there. I have  
 20 already said I don't believe that anybody could have  
 21 been accomplishing sexual penetration with the body in  
 22 that position in the traditional missionary fashion or  
 23 position which would have required the assailant to be  
 24 underneath the blanket rail also on top of Mrs.  
 25 Sheppard. I don't believe that.

1 Q. As far as then my question, there is no  
2 evidence of sexual penetration here, is there?

3 A. I find no evidence of sexual penetration  
4 anatomically.

5 Q. And is it your opinion based upon your review  
6 of all of the items that were submitted to you that  
7 Mrs. Sheppard was sexually penetrated on the morning  
8 of her death?

9 A. I have no evidence that would permit me to  
10 state that conclusion.

11 Q. Okay. Now looking at the remaining portions of  
12 her body, looking at the photographs and based upon  
13 the autopsy protocol, was there any evidence of any  
14 type of cuts, scrapes, tears, burns, bruising, to any  
15 of the genital areas at all?

16 A. No.

17 Q. You had an opinion that the object that was  
18 used to cause these injuries to Mrs. Sheppard's head  
19 and face, that it had to be somewhat of a heavy  
20 object; is that correct?

21 A. Yes. Some firm composition which would not  
22 likely have broken, fragmented or splintered in the  
23 course of its striking the head multiple times.

24 Q. And had the object either fragmented,  
25 splintered, broken, or anything of that nature, you

1 inches at least, maybe four, I have kind of small  
2 hands. Then you have got a couple more inches coming  
3 out before you reach the victim's head and then you  
4 have got a couple of inches striking the victim's  
5 head. So I come in somewhere I would say eight inches  
6 would be the minimal length and it could be  
7 considerably longer than that. I can't give you an  
8 outside limit.

9 You could have something in theory that would  
10 be much, much longer that you are wielding and  
11 striking only at the very end. I don't think that's  
12 real likely. But I mean somewhere certainly beyond  
13 eight inches, ten, 12 inches, a little bit more.  
14 Something like that.

15 Q. The nature of the injuries themselves, the size  
16 of these particular defects to the head, some of them  
17 measured in excess of two and a half inches; is that  
18 correct?

19 A. Let's see. Here is one that was two inches,  
20 here is one that's two inches, another one that's two  
21 and a half, another one that's two and a quarter.  
22 Yes, so you have one two and a quarter and one two and  
23 a half.

24 Q. With a two and a half inch side defect, is it  
25 fair to say that the surface of the object while

1 would have found evidence of that either in the bed  
2 sheets, the floor, or in the wounds themselves; is  
3 that correct?

4 A. Yes. If a thorough search had been done of all  
5 of those materials and of all the blood on her scalp,  
6 in her hair and face and so on, if that was thoroughly  
7 examined then I would expect some evidence to be  
8 found.

9 Some of this can be extremely minute, which is  
10 where we get that term trace evidence, things that are  
11 so small they can't perhaps even be seen with the  
12 naked eye. If such an examination had been performed,  
13 then I would have expected something to be found, if  
14 it could come from an object that would fragment or  
15 splinter.

16 Q. If the object fragmented or splintered, a good  
17 trace evidence department would have found that  
18 particular item; is that correct?

19 A. Yes.

20 Q. Now as far as the type of object or some people  
21 have used the word instrument, and I will stay away  
22 from that, the type of object, can you give us a  
23 minimum size that that object would be?

24 A. Well, the assailant would have had to have  
25 clutched it in his hand which would be about three

1 striking or causing the blow to Mrs. Sheppard's head  
2 had to be at least that length in inches, that  
3 particular surface area?

4 A. No, pretty close to it. You can inflict a  
5 laceration from some kind of object that doesn't cover  
6 the full length. The tissues as they tear can tear a  
7 little bit more. I would say, I would agree at least  
8 two inches but you can have a little longer tear than  
9 the actual length of the object producing the injury.

10 Q. Okay. In looking at the hands, the arms of  
11 Mrs. Sheppard, did you ascertain that there is  
12 definitive type wounds caused to her hands and arms?

13 A. Yes, the right arm and hand more so.

14 Q. So it would be fair to conclude then that she  
15 put up some sort of struggle or fight prior to her  
16 death?

17 A. Yes, I would agree.

18 Q. And can you quantify how many defective type  
19 blows or defensive type blows were caused to her  
20 hands, to her arms?

21 A. Let me see. I would say at least a half dozen  
22 probably on the right and a couple on the -- well one  
23 or two superficial in nature on the left.

24 Q. So essentially eight blows in which she was  
25 defending herself?

1 **A.** Yes. Keep in mind, as I said before, that some  
 2 of these could have been a component of injuries  
 3 inflicted to the head. If you raise your hand as I am  
 4 doing thusly, your forearm to your head, you can see  
 5 an instrument or object coming down and striking the  
 6 head and catching a part of the hand or the wrist or  
 7 so on. But I would say that you have got that number  
 8 of injuries to the right forearm, wrist and hand and a  
 9 couple of lesser injuries on the left side.

10 **Q.** So that for at least eight particular blows,  
 11 although some could have deflected and hit her in the  
 12 face and been -- one single swing could have produced  
 13 a number of injuries, at least for eight particular  
 14 blows the victim, Mrs. Sheppard, hands are in a  
 15 defensive type posture close in proximity to her head  
 16 or face; is that correct?

17 **A.** Yes, I think that's a reasonable number.

18 **Q.** And yet we know at the time that the body is  
 19 found, or at least this photograph was taken, that the  
 20 hands are along side the abdomen and another along the  
 21 side; is that correct?

22 **A.** Yes.

23 **Q.** It would be fair then to indicate, would you  
 24 agree, Doctor, that at the beginning of this assault

1 substantial amount of strength inflicting blows with a  
 2 significant degree of force.

3 **Q.** Okay. Now the noise that would be produced  
 4 from this type of a particular assault, especially  
 5 these cracks to the head, this would produce some  
 6 level of noise, would it not?

7 **A.** Yes, I think there would be like a thud as you  
 8 impact the object against Mrs. Sheppard's head. A  
 9 thud is the best word I can think of. A kind of a low  
 10 keyed obviously nonshrilled type of noise as one firm  
 11 object strikes against another.

12 **Q.** In this particular instance we have talked  
 13 about at least 20 particular thuds being produced by  
 14 way of this assault; is that correct?

15 **A.** Yes, in so far as bony structures are  
 16 concerned.

17 **Q.** And the level of noise that would be produced,  
 18 if I was standing at the back of the room within  
 19 normal hearing and the instrument that was applied  
 20 caused the death, the object that was used to sustain  
 21 these injuries to Mrs. Sheppard, certainly would be  
 22 within earshot of me standing back here, would it not?

23 **A.** I think some, perhaps many of them would be.  
 24 Not necessarily all.

1 was alert, that she was in a standing position?

2 **A.** No, not necessarily. One can be lying down and  
 3 being struck and holding up one's right arm so as to  
 4 deflect the blows. You could be sitting. You don't  
 5 have to have been standing for that to happen.

6 **Q.** But based upon the position of the hands as  
 7 that photograph depicts, wouldn't you expect then if  
 8 her hands were in this position as she was lying down  
 9 that you would find the hands up along the side of the  
 10 head, would you not?

11 **A.** Oh, no, not necessarily. You are being struck  
 12 and then you are knocked unconscious, as you are going  
 13 into unconsciousness and then down come the hands in  
 14 this fashion as I am depicting and just plop down.  
 15 One could be along side the body, one could then come  
 16 across the cleft to the abdomen. You don't lose all  
 17 mobility either of a conscious or a subconscious  
 18 nature in an instant in a millisecond.

19 **Q.** You also indicated that the assailant had to be  
 20 someone who had at least some measure of strength as  
 21 opposed to a boy or a small woman; is that correct?

22 **A.** Yes. I didn't say a boy or a small woman. I  
 23 don't know what your definition of a boy would be and  
 24 a small woman could be someone who is very strong and

1 rapid, rapid assault; is that correct?

2 **A.** Yes, I believe that the blows were in quick  
 3 succession.

4 **Q.** Did you find any evidence of strangulation?

5 **A.** No.

6 **Q.** What normally would be found to substantiate  
 7 strangulation?

8 **A.** Most likely some markings and injuries around  
 9 the neck. Then externally some pinpoint hemorrhages  
 10 in the eye grounds, sometimes on the face, sometimes  
 11 on the inner aspect of the cheeks. And then  
 12 internally upon dissection of the neck with refraction  
 13 of the skin going down in layered fashion at least  
 14 some focal hemorrhage, albeit perhaps quite small. In  
 15 one or more of those muscles or fascia structures you  
 16 might or might not find some fracture of the hilal  
 17 bone, a small U-shape bone high up in the neck beneath  
 18 the open jaw, with the open end of the U directed  
 19 backward, or the thyroid cartilage, the Adams apple or  
 20 another cartilage just below that.

21 You can have strangulation, however, without  
 22 any fractures of this cartilage structure or of the  
 23 bone. In order to determine that someone has been  
 24 strangled you have got to have some markings

1 Sometimes you may have very little on the skin, more  
2 inside. But you have got to have some findings in  
3 order to say there is strangulation.

4 Q. In your review of all the records and the  
5 photographs, did you find any evidence that Mrs.  
6 Sheppard was gagged?

7 A. No.

8 Q. Did you find any evidence that she was bitten,  
9 any kind of bite markings on her?

10 A. That she was bitten?

11 Q. Yes.

12 A. No.

13 Q. Did you find any evidence to suggest that she  
14 was tied up or that she was restrained?

15 A. No.

16 Q. Now in summary, then, of all the things that  
17 you told us concerning the death of Mrs. Sheppard,  
18 when you say she was rendered unconscious fairly  
19 rapidly, what would you pinpoint as the minimum amount  
20 of time?

21 A. Oh, I would say here with these injuries  
22 probably a couple of minutes.

23 Q. A couple of minutes?

24 A. Yes.

25 Q. Did you find any evidence of torture?

1 A. Yes, I believe so.

2 Q. And it could be a number of things, a  
3 flashlight, a pipe, pliers; is that correct?

4 A. It could be any number of things that would  
5 have a fairly smooth, somewhat rounded or curved  
6 surface as opposed to anything that would have a sharp  
7 or reasonably sharply angled bend.

8 Q. So anything rounded, would it have to be a  
9 metal object?

10 A. No. There are some woods which are extremely  
11 firm and there are some very hard plastics that are  
12 extremely firm.

13 Q. I mean back in 1954.

14 A. Are we in the preplastic era? I don't know  
15 whether plastic was discovered, I'm embarrassed to  
16 say.

17 THE COURT: I'm not sure that  
18 Mr. Dever does either.

19 Q. I thought about that possibility.

20 A. I'm sure any man who did work in the kitchen  
21 would know. If there were no hard plastics, then  
22 obviously no hard plasticizing. Some very firm smooth  
23 wood or metal.

24 Q. Metal object. Okay. So it could be a number  
25 of things, at least being eight to ten inches in

1 A. No.

2 Q. Did I find any evidence of any type of  
3 sadomasochistic attack here?

4 A. Not sadomasochistic, but I wouldn't hesitate to  
5 use the term sadistic. This number of injuries  
6 inflicted on a defenseless woman, multiple, multiple  
7 injuries, I would have no problem using the word  
8 sadistic. Although I wouldn't put that in an autopsy  
9 report but as a descriptive term I would use it.

10 So I think that the nature, extent,  
11 multiplicity of the injuries would qualify for  
12 someone's characterization of this death as having  
13 been a sadistic killing.

14 Q. Did you find any evidence of overkill?

15 A. Well any time you strike somebody on the head  
16 16 times, one can certainly say this is overkill.  
17 Again, I would have no problem if someone wished to  
18 characterize this case in that fashion.

19 Q. Did you find any of the injuries to be post  
20 mortem, or to come after Mrs. Sheppard's death?

21 A. No, there is nothing I can say here was post  
22 mortem.

23 Q. All right. Now as far as the object, you told  
24 us it had to be greater than eight inches in length;  
25 is that correct?

1 length, and could be longer; is that correct?

2 A. Yes, I think about that, yes.

3 Q. Anything from pipe, flashlight, table lamp?

4 A. Yes.

5 Q. Those could be the type of weapons; is that  
6 correct?

7 A. Yes, one of those --

8 Q. Thingamajigs.

9 A. The legs of the table, sure.

10 Q. So you are not suggesting for a moment here  
11 that exhibit 273 is in fact the murder weapon, are  
12 you?

13 A. I did not say that it is. I said that it would  
14 be consistent with a murder weapon or another kind of  
15 a flashlight would be quite consistent with in terms  
16 of its physical structure and so on.

17 Can I say that that flashlight or really a  
18 prototype of that flashlight, because the flashlight  
19 that was found is not here, was the murder weapon?  
20 No, I don't say that.

21 Q. You are not saying that that flashlight that  
22 was fished out of Lake Erie 13 months after the  
23 homicide is related to this murder?

24 A. I can't say that and we will never know.

25 Q. You can't say that whatever defects were caused

1 to that particular flashlight are related to the  
2 murder as well, can you?  
3 A. The same thing would also be true.  
4 Q. You are aware of how ferocious Lake Erie can  
5 be, aren't you?  
6 A. Yes, from song and saga, yes.  
7 Q. You can't tell us where that flashlight went  
8 into the water or when it went into the water; is that  
9 correct?  
10 A. No, I don't know.  
11 Q. Were you aware that there were a number of  
12 objects that were submitted to the coroner's office  
13 over the years relating to possible weapons or for  
14 purposes of examining for pinpointing as a possible  
15 weapon?  
16 A. No, I have no such information or list.  
17 Q. Now you are aware that Dr. Lovejoy, he is an  
18 anthropologist over at the coroner's office, did some  
19 particular tests involving flashlights and whacking  
20 them on a skull at least the way that that experiment  
21 was conducted?  
22 A. Yes.  
23 Q. And his opinion was that the flashlight  
24 wouldn't stand up for the number of blows, that it  
25 would essentially fall apart, are you aware of that?

1 A. I think that's what he said.  
2 Q. You don't agree with that because it was not  
3 done under correct scientific principles?  
4 A. Yes, and for the reasons that I stated.  
5 Q. Are you aware that Dr. Paul Leland Kirk  
6 performed tests back in 1955 after Dr. Samuel Sheppard  
7 was convicted?  
8 A. Yes.  
9 Q. You read the affidavit that he prepared  
10 concerning the experiment's that he conducted?  
11 A. Yes.  
12 Q. You are aware of the compelling testimony that  
13 he gave in 1966 concerning the various tests that he  
14 performed?  
15 A. Yes. I don't have that but I'm aware of it.  
16 Q. You were aware that Dr. Kirk's opinion was that  
17 Mrs. Sheppard bit her assailant?  
18 A. Yes.  
19 Q. Are you still -- do you share that opinion?  
20 A. No.  
21 Q. Why is it that you no longer share that  
22 opinion?  
23 A. Not no longer, I never said that. I haven't  
24 changed my mind. My review and evaluation led me to  
25 believe that it was blunt force injury to her mouth

1 that broke off parts of her upper right and upper left  
2 medial incisors, the two fang teeth.  
3 Q. And you were present during the time of the  
4 exhumation of Mrs. Sheppard where there was some  
5 evaluation done by two odontologists on the teeth?  
6 A. Yes.  
7 Q. And that was Dr. Sobel, who is your colleague;  
8 is that correct?  
9 A. Yes.  
10 Q. And then Dr. Levine from New York State?  
11 A. Also a friend and a colleague but on the other  
12 side.  
13 Q. So everybody agrees that Mrs. Sheppard didn't  
14 bite anyone, right?  
15 MR. GILBERT: Objection.  
16 THE COURT: Sustained.  
17 Q. You were of the understanding that Mrs.  
18 Sheppard didn't bite anyone during the -- that Mrs.  
19 Sheppard -- it is your opinion, Dr. Wecht, that Mrs.  
20 Sheppard did not bite her assailant; is that correct?  
21 MR. GILBERT: Objection.  
22 THE COURT: Overruled.  
23 A. It is my opinion that her teeth were not broken  
24 as a result of a bite inflicted upon her assailant.  
25 Q. Okay. Now were you aware that Dr. Paul Leland

1 Kirk in his affidavit made that claim?  
2 A. Yes.  
3 Q. Now were you aware also that Dr. Paul Leland  
4 Kirk made the claim that the assailant of Mrs.  
5 Sheppard was in fact left-handed?  
6 A. Yes.  
7 Q. Do you share that opinion?  
8 A. Yes, with reasonable medical probability based  
9 upon the majority of the defensive wounds being on her  
10 right arm and hand. I believe that it is more likely  
11 than not that the assailant was left-handed. I can't  
12 state that with certainty, that is just more likely  
13 than not. It more likely fits in with a left-handed  
14 person than with a right-handed person, but it is  
15 nothing that is definitive.  
16 Q. Have you said on previous occasions that you  
17 can't tell whether it is a left-handed assailant or  
18 right-handed?  
19 A. In this case?  
20 Q. Yes.  
21 A. Gee, I don't know. In my written opinion I  
22 think I said I thought it was left-handed. I don't  
23 know if I have ever said otherwise. I don't know.  
24 It's possible.  
25 Q. Refreshing your recollection, do you recall on

1 the date of October 5th of last year at the conclusion  
2 of the exhumation that you appeared on CNN as far as  
3 giving an opinion as to the left-handedness of the  
4 assailant?

5 **A.** I remember being on CNN but I don't remember  
6 the day.

7 **Q.** Why don't you watch this for a second.

8 **MR. GILBERT:** Objection, Your  
9 Honor.

10 (Thereupon, the following is from the  
11 videotape that was played to the  
12 jury.)

13 "Question: Dr. Wecht, one of the positions in  
14 this case is whether or not her stab wounds were  
15 caused by a left-handed person or caused by a  
16 right-handed person. Was there any way of discovering  
17 that piece of evidence yesterday?

18 "Answer: Well, I would rather not comment on  
19 that at this time. I don't think it would be  
20 appropriate for me to express opinions. Things have  
21 to be studied.

22 "Question: Let me say this, was there evidence  
23 there for that kind of conclusion to be made?

24 "Answer: I think it is very doubtful that it  
25 is. And in the best of conditions this handedness is

1 is reaching up, because it is closer.

2 If she is reaching over from this arm here, it  
3 doesn't fit in. But, again, I -- it is an opinion of  
4 a conjectural nature based upon what I have just said,  
5 which arm is more likely to have come up by the  
6 victim, and I believe it's the arm closer to the arm  
7 of the assailant.

8 **Q.** Would you say conjecture, then, that means  
9 speculation?

10 **A.** Well, it is speculation. You could call it  
11 that, I'm not offended. Opinions that experts give  
12 are that many times, but as long as they are based on  
13 something that is not scientifically impossible or  
14 something that is illogical, then I think it's quite  
15 reasonable for that opinion to be expressed.

16 I repeat, I think it's a tight call, but as  
17 between the two I'll stick with that because of what I  
18 have said. You are going to try to use the arm that's  
19 closer to the inflicting weaponry, in this case some  
20 object in the hand of the assailant, and it just seems  
21 to me more likely than not that you will reach up  
22 closer and you will have more strength, better fulcrum  
23 then you will by reaching over. That's all it's based  
24 on.

25 **Q.** Doctor, how do you explain the fact that the

1 more a matter of fiction than it is of reality.

2 "If I stab you, Roger, from the rear, as a  
3 right-handed person, think of the directionality. If  
4 I stab you when you are facing me as a right-handed  
5 person, think of the directionality. How was I  
6 holding you when the police come and find your body,  
7 do they know whether I was holding you touching your  
8 back to my bosom or that I was lunging at you as you  
9 face me. This business about right-handed or  
10 left-handed, this is more in the realm of the novelist  
11 than it is in real life."

12 **Q.** Doctor, are you writing a novel up here on the  
13 witness stand?

14 **A.** Am I what?

15 **Q.** Are you writing a novel up here on the witness  
16 stand?

17 **A.** No, I don't have time.

18 I don't disagree with what I said, but I stand  
19 by what I have said today. That if it is put to me  
20 which is more likely in a tight call, thinking of Mrs.  
21 Sheppard lying there, if a person is coming down, the  
22 assailant, with the right arm, then it seems to me  
23 that it's just a little bit more anatomically likely  
24 that she is going to reach up with her left arm. The  
25 assailant is coming down with his left arm, that she

1 left side of Mrs. Sheppard' head sustains most of the  
2 injuries if the assailant is left-handed? Wouldn't it  
3 normally seem to reason that the injuries would be  
4 then to the right side of her face if she was  
5 confronting and facing her assailant at the time that  
6 she sustained these injuries?

7 **A.** This is totally unpredictable for this reason,  
8 that if she is struck on the right side and struck  
9 then a second and third time and then she begins to  
10 lose consciousness and her head rolls to the right and  
11 then the remaining blows in this fashion are inflicted  
12 on the left side, you have got kind of scenarios that  
13 are possible.

14 **Q.** Exactly. As the target being the top of her  
15 head moves, or the assailant moves from side to side,  
16 or the assailant switches hands, there is a number of  
17 scenarios that can produce this particular type of  
18 result other than the left-handed assailant; isn't  
19 that correct?

20 **A.** Yes, there are other possibilities. I am not  
21 so sure about the ambidextrous nature of somebody  
22 doing this. Some people have a lot of force with the  
23 opposite hand, not very many people. So leaving out  
24 that part that you said, but the rest of it that you  
25 commented upon is reasonable and possible.



1 Q. But you are aware that Dr. Kirk gave testimony  
2 in 1966 that it was his opinion to a reasonable degree  
3 of scientific certainty that the assailant of Mrs.  
4 Sheppard was left-handed?

5 A. But to be fair on a matter that I am not  
6 addressing, and you will correct me if I'm wrong, I  
7 believe that his opinion was predicated upon the  
8 location of certain blood spatters in different places  
9 from which he then deduced that individual was  
10 standing in a certain way. I don't think that Dr.  
11 Kirk based his opinion of left-handedness on the same  
12 scenario that I have just set forth. That's my  
13 recollection of his testimony.

14 Q. I want to be fair, Doctor, as far as Dr. Kirk's  
15 blood spatter testimony or evidence, are you prepared  
16 to address those issues as well?

17 A. No, I'm not dealing with those.

18 Q. That would be left to Dr. Epstein --

19 A. Well, whomever.

20 Q. -- and those individuals?

21 A. Yes.

22 Q. My question to you is that Dr. Paul Leland Kirk  
23 in 1966 gave the opinion from the witness stand that  
24 Marilyn Sheppard's assailant was left-handed, are you

1 between Court and counsel at sidebar.)  
2 THE COURT: Ladies and  
3 gentlemen, we are going to take a short break.  
4 I remind you do not discuss this case among  
5 yourselves, do not permit anyone to discuss it  
6 with you or in your presence. You are  
7 instructed not to form or express an opinion on  
8 this case until it is finally submitted to you.  
9 If you do go to the fourth floor, just come  
10 right back up.

11 (Thereupon, a recess was had.)

12 THE COURT: You may continue

13 BY MR. DEVER:

14 Q. Just a few more questions on that. You would  
15 agree, Doctor, that the injuries were all consistent  
16 with a single type of object being used; is that  
17 correct?

18 A. Yes. Again, I have no pattern delineation that  
19 would permit me to suggest two different objects  
20 having been used.

21 Q. Would it be fair to say, also, Doctor, that you  
22 cannot rule as a possible object a surgical instrument  
23 as producing these particular injuries?

24 A. Well, I would unless you were to show me

1 A. Yes, I understand that.

2 Q. And were you aware that Dr. Sam Sheppard was  
3 right-handed?

4 A. Yes. I have asked that and I'm told he was  
5 right-handed.

6 Q. Were you aware of that evidence,  
7 left-handedness, as well as Mrs. Sheppard bit her  
8 assailant, you were aware of those two items, were you  
9 not?

10 A. Yes.

11 Q. Were you also aware of some claim that Dr. Kirk  
12 made concerning a stain of blood that was found on the  
13 wardrobe door?

14 A. I don't recall. I haven't really addressed  
15 that so I -- I know there have been analyses of  
16 different stains, but exactly who said what and which  
17 opinions have been expressed upon such findings, I  
18 have not delved into that because it is my  
19 understanding that is being addressed by other people.

20 Q. You won't talk about the blood typing  
21 controversy?

22 A. That's correct.

23 MR. DEVER: May I approach  
24 the bench for a minute, Your Honor?

1 There is nothing here to suggest a patterned injury  
2 such as would be expected with a surgical instrument  
3 or with other kinds of specific tools. I would expect  
4 much similarity among wounds were something like that  
5 to be used.

6 Certainly there is nothing of a bilaterally  
7 symmetrical nature here to suggest some kind of a  
8 surgical instrument. So I don't know offhand, I'm not  
9 a surgeon. I have been in surgical suites but I don't  
10 know every surgical instrument in the world, that's  
11 for sure.

12 Q. You were aware that a set of pliers was tested  
13 by the coroner's office, were you not?

14 A. Yes, that was one of the objects they used.

15 Q. Were you aware that surgical type instruments  
16 in the pliers type of functioning was also used as far  
17 as testing?

18 A. I did not know that it was surgical pliers, but  
19 if you tell me that, then I accept it. I just saw, as  
20 I recall, pliers. But if you say they were surgical  
21 pliers, then I will accept it.

22 Q. Did you go through all of the autopsy that you  
23 performed over the years to see if you could find any  
24 type of similarities as far as the nature and extent

1 where you had previous cases that they have similar  
2 type wounds?

3 **A.** You mean cases that I have done where the  
4 wounds in those cases were similar to the wounds in  
5 Marilyn Sheppard's case.

6 **Q.** Yes.

7 **A.** I have not gone through cases. I have had  
8 cases of people who have been struck on the head with  
9 instrumentalities that have produced various kinds of  
10 lacerations. Some of them were similar, I'm sure,  
11 over the years, they had to have been.

12 **Q.** In those cases where there may have been  
13 similar over the years, have you in those particular  
14 cases been able to identify the type of object that  
15 caused the wounds to that particular individual?

16 **A.** Sometimes you can if there is a pattern, other  
17 times you can only do it categorically, such as I have  
18 done here today.

19 **Q.** So you have not gone through and made a  
20 systematic search of all of the autopsies that you  
21 performed over the years to try and narrow down to the  
22 type of object that would produce the wounds that are  
23 on the body of Marilyn Sheppard; is that correct?

24 **A.** No, I have not.

25 **Q.** Now there came a point in time that there --

1 the opinion and my recollection is that his objections  
2 were indeed related to this case, but I don't know the  
3 specifics of his allegations.

4 **Q.** So you could not tell the ladies and gentlemen  
5 of the jury whether or not Dr. Gerber's objections to  
6 Dr. Kirk being admitted into the American Academy of  
7 Forensic Sciences were legitimate concerns or  
8 legitimate complaints; is that correct?

9 **A.** Well, I can for this reason, sir: That Dr.  
10 Kirk was subsequently admitted. If someone had done  
11 something that was professionally unethical and  
12 dishonest, that doesn't change with time. It's not  
13 like somebody goes to jail for 30 days or two years  
14 and they come out and they start from square one. If  
15 he had done something that was unethical and dishonest  
16 within his profession, that would have remained fixed  
17 in place and would not in any way have diminished in  
18 its adverse consequences and negative ramifications.  
19 Those objections would have been there and he would  
20 not have been admitted later. It's not like he was on  
21 probation.

22 **Q.** But you have indicated that you do not know the  
23 reasons why Dr. Gerber voiced objection to Dr. Kirk's  
24 admission into the American Academy; is that correct?

25 **A.** Well, that's correct, except that they were

1 you told us about the difficulty that Dr. Paul Leland  
2 Kirk had in gaining admission to the American Academy  
3 of Forensic Sciences; is that correct?

4 **A.** Yes.

5 **Q.** Were you present for those statements that were  
6 made by Dr. Samuel Gerber?

7 **A.** I was present on some occasion, I'm sure not  
8 all. I became a member of the executive committee and  
9 then I was an officer working my way up to the  
10 presidency. There were private or group discussions.  
11 I don't remember specifically. I have no reason to  
12 believe, and I'm sure that I was not privy to all the  
13 deliberations that occurred, only to some at some  
14 point in time.

15 **Q.** Now admission to the American Academy of  
16 Forensic Sciences requires you, in the various work  
17 that you do, to be honest with the work, do you not?

18 **A.** Yes.

19 **Q.** Were you aware that Dr. Gerber's objections to  
20 Dr. Paul Leland's Kirk's admission into the American  
21 Academy of Forensic Sciences were based upon the  
22 opinions and the testimony that he gave in the 1966  
23 trial of Dr. Sam Sheppard?

24 **A.** I do not recall the specific focus of Dr.  
25 Gerber's attention and criticism of Dr. Kirk. I am of

1 related to this case.

2 **Q.** Were you aware of the testimony that Dr. Kirk  
3 gave concerning blood spatter and blood stains found  
4 on the wardrobe door?

5 **A.** Only in the sense -- to the extent that he gave  
6 such testimony. I have not addressed those matters  
7 because I am not dealing with them in my role here.

8 **Q.** Were you aware that a portion of the quarrel or  
9 the objections that Dr. Gerber had concerning Dr.  
10 Kirk's admission related to the blood spatter and the  
11 blood testing, blood stain testing on that wardrobe  
12 door?

13 **A.** Yes, vaguely. Not with specificity.

14 **Q.** Okay. So you can't tell us whether or not  
15 these concerns as raised by Dr. Gerber were in fact  
16 legitimate?

17 **A.** That's correct.

18 **Q.** Okay. Now there came a point in time that you  
19 appeared on a television program known as NOVA; is  
20 that correct?

21 **A.** Known as what?

22 **Q.** NOVA?

23 **A.** The NOVA program, yes. I have been on more  
24 than one NOVA. You mean the NOVA for this case?

25 **Q.** Right.

1 A. Yes, sir, that's right.  
 2 Q. When did you become involved with that  
 3 production?  
 4 A. When or why?  
 5 Q. When.  
 6 A. Gee, I don't know the day. I was contacted, I  
 7 guess, by Mr. Gilbert or then by Mr. Marcinsky, it  
 8 could have been visa-versa. If Mr. Marcinsky  
 9 contacted me first, I would have contacted Mr. Gilbert  
 10 because I would never do anything in a case of which I  
 11 have been consulted without the attorney's knowledge  
 12 and approval. So which came first I don't know.  
 13 When, I think in 1998, if I am not mistaken. I  
 14 think I met Mr. Marcinsky with Mr. Gilbert, he came  
 15 with Mr. Gilbert to the American Academy of Forensic  
 16 Science's annual meeting and I think it was February  
 17 of '98.  
 18 Q. At that time had you been retained as expert on  
 19 behalf of the Sheppard estate?  
 20 A. I don't think I had formally. We had had  
 21 contact back in '97. I think I did not get materials  
 22 and formal involvement until after that meeting when  
 23 Mr. Gilbert followed through with a letter, then  
 24 either later in February or early March of '98.  
 25 Q. Okay. And Marion Marcinsky was the producer or

1 director of the NOVA program; is that correct?  
 2 A. Something like that, producer, director.  
 3 That's what I was told.  
 4 Q. And you appeared on that program, did you not?  
 5 A. Yes, I did.  
 6 Q. And on that program did you indicate, at least  
 7 for the portion that was filmed of you, did you  
 8 indicate that there was in fact evidence of sexual  
 9 assault on Marilyn Sheppard?  
 10 A. I don't remember exactly what. It was an  
 11 interview in Pittsburgh. I was not present in  
 12 Cleveland when everybody else was. So my involvement  
 13 was very limited. I don't recall what I said. If  
 14 you -- whatever I said, I said.  
 15 Q. Okay. But it would be clear based on your  
 16 testimony today that the only evidence of a sexual  
 17 assault or sexual related crime is the display of the  
 18 body as far as the breast and the pubic region being  
 19 open; is that correct?  
 20 A. Yes. And I said that there is the suggestion  
 21 of sexual assault, I have not said that there was a  
 22 sexual assault. I have said that the position, the  
 23 location, the state of dress, et cetera, all were  
 24 suggestive of that and that therefore certain things  
 25 were required by way of then immediate and subsequent

1 investigation. I have never stated that there --  
 2 today I haven't -- that there was definitive evidence  
 3 of sexual assault. I don't believe I have ever stated  
 4 that because there is no, you know, definitive  
 5 scientific evidence that Marilyn Sheppard was sexually  
 6 assaulted.  
 7 Q. Can you exclude the possibility that the  
 8 display of the body was staged?  
 9 A. Can I exclude it? I cannot exclude it in a 100  
 10 percent fashion. I can only say that based upon my  
 11 experience, over three and a half decades of  
 12 medical/legal investigation, going to scenes, doing  
 13 autopsies, many hundreds of other cases and  
 14 consultation, probably thousands, maybe -- well let's  
 15 say several hundred is good enough, in these 35, 37  
 16 years, whenever I began to do it, that based upon all  
 17 of that experience I just don't see anything here that  
 18 would permit me to make such a statement to arrive at  
 19 such a conclusion that this was staged.  
 20 Q. You cannot exclude the possibility that the  
 21 shirt was lifted up above the breast after death came  
 22 to Marilyn Sheppard, can you?  
 23 A. No.  
 24 Q. What significance do you attach of smears found  
 25 on the ankle areas of Marilyn Sheppard's body?

1 A. Oh, that could be in any number of ways. Blood  
 2 from the assailant transferred from his bloody hand  
 3 holding the instrument, the instrument or object  
 4 brushing against the ankle. Different possibilities.  
 5 I don't know.  
 6 Q. Smear would indicate touching, would it not?  
 7 A. Yes, a touching of some kind by object, by  
 8 hand, by body, by clothing. Smear could be caused in  
 9 any way.  
 10 Q. So you cannot exclude the possibility then,  
 11 Doctor, that the body was pulled down to the position  
 12 in which it was found?  
 13 A. Can I state to you today that I am able in some  
 14 way to physically determine that someone could not  
 15 have pulled the body down? There is no way I can do  
 16 that.  
 17 Q. Okay. Doctor, you also indicated that there  
 18 was some information that you reviewed concerning Dr.  
 19 Samuel Sheppard's watch; is that correct?  
 20 A. Yes. That was limited. It had to do with a  
 21 report that was sent to me by Mr. Wentzel, the  
 22 photographer -- well, it wasn't sent to me by him, it  
 23 was a report that Mr. Wentzel, a photographer,  
 24 submitted to Dr. Balraj. Mr. Gilbert sent that to me  
 25 and asked me to look it over.

1 Q. Based upon the information that was provided to  
2 you, was it your understanding that the watch was  
3 removed from Dr. Samuel Sheppard after his first  
4 confrontation with the assailant, it occurred in the  
5 bedroom where Marilyn Sheppard's body was found?

6 A. You asked me was it my understanding in  
7 relationship to whose determination or analysis or are  
8 you asking me about mine?

9 Q. Your analysis.

10 MR. GILBERT: Objection.

11 THE COURT: Overruled.

12 A. Let me go back if I may, then, please, to my  
13 own report and I will tell you then what I said.

14 You have, as I recall, Mr. Dever, when we met  
15 in Pittsburgh and with regard to the watch I stated  
16 that the watch had been found, as I understood, in a  
17 green bag near the house and I did express the opinion  
18 in that report that the watch had been removed after  
19 Dr. Sheppard was first struck on the head in the  
20 house. I mentioned that the description of the watch  
21 by Dr. Kirk indicated some damage suggestive of or  
22 consistent with its having been forcefully taken from  
23 Dr. Sheppard's wrist, and I referred to Dr. Kirk's  
24 disagreement with Mr. Wentzel's interpretation

1 the watch on? You can't exclude that, can you?

2 A. That's possible, although, and I don't know,  
3 but if Dr. Sheppard as a right-handed person such as I  
4 am, wore his watch on the left hand, then I -- then I  
5 find it hard to believe that this right-handed man  
6 would have been using his left hand to inflict such  
7 powerful blows. Is it physically impossible? No. Is  
8 it likely, is it logical? No.

9 Q. Okay. You, from time to time, I know that you  
10 are a pathologist, do you ever do any type of home  
11 carpentry or anything like that?

12 A. No.

13 Q. You don't drive any nails ever?

14 A. No, my wife does that.

15 Q. You would agree that hammering or using that  
16 type of a movement, if you had a watch on, can be  
17 sufficient enough force to break a watch band, would  
18 you agree with that?

19 A. Gee, I have hit a few nails over the years. I  
20 have never thought of that breaking a watch band. I  
21 don't know. You better get a watch -- I can't express  
22 an opinion. I find it hard to imagine that a watch  
23 band would break, but I am no expert on that.

24 Q. You would have to ask a carpenter.

1 that there were smears or contact blood rather than  
2 spatter.

3 So based upon those opinions, those findings, I  
4 felt that the watch had been removed after the first  
5 altercation involving Dr. Sheppard. I also made the  
6 comment that to my knowledge the blood on the watch  
7 hadn't been typed. So nobody could even know whose  
8 blood it was on the watch.

9 Q. Well did you read Mary Cowan's testimony and  
10 her -- in both trials?

11 A. No, I did not have her trial testimony.

12 Q. As far as her efforts to type and the M and N  
13 factor as far as ABO?

14 A. No. You mean she explained why it wasn't done?  
15 I don't know.

16 Q. You don't know what she said or what she did?

17 A. No, I don't.

18 Q. Now you say that the breaking of the watch is  
19 consistent with it being pulled from Mr. Sheppard?

20 A. Some damage. I didn't say breaking, some  
21 damage.

22 Q. You would agree, also, that the damage that was  
23 sustained to the watch was also consistent with it  
24 being broken or the band being broken through a

1 you, Dr. Sam Sheppard's claim that the watch was  
2 removed while he was in the murder room after his  
3 first assault; is that correct?

4 A. Yes, that's my understanding.

5 Q. Were you aware that Dr. Sam Sheppard provided  
6 information and claimed that the watch --

7 MR. GILBERT: Objection.

8 Q. -- was removed while he was on the beach?

9 MR. GILBERT: Objection.

10 THE COURT: Overruled.

11 A. Well, I said removed after he was struck on the  
12 head. Whether it was in the room or on the beach  
13 after he had been struck the first time, I don't know  
14 exactly where and I don't know if in the testimony  
15 anywhere it was indicated. I have not read Dr.  
16 Sheppard's testimony.

17 Q. So you wouldn't know?

18 A. No. Where exactly he says, it was found in a  
19 green bag near the house is all I know.

20 Q. Depending on what Dr. Sam Sheppard said that  
21 would provide us a lot of information as to how blood  
22 got on his watch; is that correct?

23 A. Well, some information, yes, and then the  
24 subjective interpretation, the opinions from different

1 resemble, smear or spatter.  
 2 Q. All right. You can distinguish between a smear  
 3 and a spatter, can you not?  
 4 MR. GILBERT: Objection.  
 5 A. Yes.  
 6 THE COURT: Overruled.  
 7 A. Generally.  
 8 Q. But --  
 9 A. But I would not be the one to do it  
 10 professionally. I might have some thoughts but I  
 11 would not give that testimony in a courtroom in a case  
 12 in which I am involved. I would defer to the  
 13 criminalist.  
 14 Q. What are the common characteristics of a  
 15 spatter as opposed to smear?  
 16 MR. GILBERT: Objection.  
 17 THE COURT: This witness has  
 18 indicated he is not an expert in this area. He  
 19 is called here as an expert witness. I will  
 20 allow this question but I take it this is not  
 21 his expertise. You can answer it. Overruled.  
 22 A. Thank you, Your Honor.  
 23 I would hesitate to respond because I don't  
 24 want to be inconsistent or to waffle on the area. I  
 25 have previously given that these are not opinions that

1 A. I would not express an opinion. If this came  
 2 to me I would give it to our criminalist and ask him  
 3 to look it over.  
 4 Q. You wouldn't call it a spatter?  
 5 A. I would not express an opinion.  
 6 Q. What would you describe --  
 7 MR. GILBERT: Objection.  
 8 THE COURT: I will sustain  
 9 it.  
 10 Q. Between 1 --  
 11 MR. GILBERT: Objection.  
 12 THE COURT: If you want to  
 13 describe it, we are playing with words here  
 14 now.  
 15 Q. What would you describe to be the size,  
 16 approximately, of that spot?  
 17 A. I'm not seeing anything where you are pointing.  
 18 Q. Right here.  
 19 A. You mean this round object right here?  
 20 Q. Yes.  
 21 A. It looks to me like it has the color of blood.  
 22 Whether it's a droplet or whether it's a small smear,  
 23 I simply would not express an opinion.  
 24 Q. Okay.  
 25 THE COURT: Where is this

1 I would express. A smear is something that does not  
 2 denote any kind of a forceful thrusting of the blood,  
 3 it does not have any kind of configuration that would  
 4 suggest that it has been hurled.  
 5 Q. Do you need to have expertise in identifying  
 6 spatter versus smear?  
 7 A. I think in the definitive situation involving  
 8 something as important as homicide in modern days,  
 9 yes.  
 10 Q. Showing you what has been marked as state's  
 11 exhibit 124, look at that -- you looked at Mr.  
 12 Wetzel's photographs, did you not?  
 13 A. Yes.  
 14 Q. And looking at this particular photograph, do  
 15 you observe any evidence of spatter on that watch?  
 16 A. I would not express an opinion on that.  
 17 Q. What would you describe the object at the 11:00  
 18 range on the watch, on the gold portion of the face of  
 19 the watch?  
 20 A. What would I describe? It looks to me like  
 21 it's blood.  
 22 Q. Would you call it a spatter or a smear?  
 23 MR. GILBERT: Objection, Your  
 24 Honor.  
 25 THE COURT: Overruled.

1 last question, you are pointing to where?  
 2 MR. DEVER: At 11:00 on the  
 3 face of the watch.  
 4 Q. Down to the area between six and 7:00, what do  
 5 you observe to be in that particular area?  
 6 A. It looks to me like there is pale, dulled  
 7 reddish discoloration strongly suggestive of blood.  
 8 Q. Now you are telling us you can't distinguish  
 9 between a smear, which would be wiping, as opposed to  
 10 a spatter, which would be a droplet of blood applied  
 11 to a surface; is that correct?  
 12 A. I would not express opinions in a homicide case  
 13 differentiating between the two, for one thing. I see  
 14 no reason that you could not have both. You could  
 15 have a spatter which subsequently, perhaps  
 16 inadvertently, has been smeared in its handling. I  
 17 would not get into that. That's why we have  
 18 criminalists.  
 19 Q. Have you in the past ever expressed an opinion  
 20 as to what is spatter as opposed to smear?  
 21 A. Probably years ago to some extent. Maybe in  
 22 some cases I have to a limited extent. I think I  
 23 probably have.  
 24 Q. But you don't want to do it today?  
 25 A. I would not do it today for a couple reasons.

1 Number one, I have not addressed it, I have not  
2 studied it, I have not analyzed it, I have spent no  
3 time on it. I only have seen written references to  
4 it. It was clear from the very beginning I would not  
5 be addressing those issues. That alone would preclude  
6 me from rendering any opinions.

7 Secondly, I do know that experts who deal with  
8 these matters have been retained on both sides so that  
9 the matter is being addressed. It is not as if I  
10 don't talk about it, it's not going to have any light  
11 shed upon that subject. So for those reasons, plus  
12 the fact that, oh, in the last ten years or more there  
13 has been growing expertise in the field of blood  
14 spatter. It has developed into a whole subspecialty  
15 of its own. It's no different than in the field of  
16 medicine. There was a time when a general surgeon  
17 removed lungs. Today he would not dare go above the  
18 diaphragm. These things change so they change in the  
19 forensic sciences.

20 Q. I refer you to your supplemental report that  
21 you dated January 14th, 2000.

22 A. Yes.

23 Q. Do you go to -- you make some comments  
24 concerning paragraph three, the wristwatch worn by Dr.  
25 Samuel Sheppard?

1 object being used to strike someone. Yes, anything  
2 like that. Whereas a smear then would be a deliberate  
3 or inadvertent or fortuitous brushing of one object  
4 against another, a person against blood. Some object,  
5 anything that would produce some kind of a staining  
6 without a projectile component.

7 Q. And the velocity of the blood, say for instance  
8 in the area of gunshot wounds, is what you would call  
9 high velocity spatter; is that correct?

10 A. Yes, that would be high velocity.

11 Q. And the size of those blood droplets  
12 essentially become a fine mist; is that correct?

13 A. Yes, it can go to a fine mist.

14 Q. And they don't travel very far, do they?

15 A. No, the mist would not travel far.

16 Q. And then what is known as medium velocity  
17 spatter, which is from accelerating blood not as fast  
18 as a gunshot wound but say for instance from blunt  
19 trauma, those blood droplets are a little bit larger  
20 in size than the mist; is that correct?

21 A. Yes.

22 Q. They also have certain characteristics such as  
23 how far they travel?

24 A. Yes, they can be measured and calculated.

25 Q. Also by measuring them that would be the

1 A. Yes, that's from the part that I referenced and  
2 read from previously.

3 Q. Now you have indicated that Dr. Kirk felt that  
4 these particular objects that were found on the watch  
5 were smears as opposed to spatter; is that correct?

6 A. Yes, that's right.

7 Q. Yet today you are not prepared to give an  
8 opinion as to whether or not that was accurate; is  
9 that correct?

10 A. No. I stated in my report and I am so stating  
11 here today, that the opinion I expressed was  
12 predicated upon Dr. Kirk's analysis.

13 Q. In the years that where you were doing blood  
14 spatter testimony, you were giving an opinion as to  
15 blood spatter, did you ascertain the size of a  
16 particular spot of blood as far as how big of a spot  
17 of blood could there be to indicate that it was a  
18 blood spatter as opposed to smear?

19 A. I don't recall. It's possible, but offhand I  
20 don't have any specific recollection.

21 Q. You would agree and you have indicated already  
22 that blood spatter comes into existence by  
23 accelerating blood, does it not?

24 A. Yes, blood splatter, blood dropping from you or  
25 me bleeding, blood dropping or being hurled from some

1 diameter of the particular blood droplet; is that  
2 correct?

3 A. Yes, the diameter and the configuration, does  
4 it have a teardrop appearance, things like that.  
5 These are all very scientific matters, as I say, of  
6 quite sophisticated nature in relatively recent years.

7 Q. But they all apply to common physics of fluids  
8 and fluid dynamics, do they not?

9 A. Yes, fluid, fluid dynamics, yes.

10 Q. It would be fair to say that medium velocity  
11 spatters can only be to a certain size; is that  
12 correct?

13 A. No. You are getting into some detail technical  
14 terms. It seems to me that as a generalization that  
15 would be correct. If you are talking about medium  
16 size, there probably are some diametric parameters  
17 that would be applied. But I don't know what they  
18 are.

19 Q. So in the time that you have given opinions in  
20 the past as to identifying blood spatter, you were not  
21 aware at that time as far as the maximum size of  
22 dimension or diameter of a particular object of blood?

23 A. I can't tell you what I would have been aware  
24 of 30, 20, 15 years ago. I really don't know. I  
25 don't recall giving testimony of a precise technical

1 nature. I do vaguely recall in some instances with  
2 gunshot wounds some question of the direction of the  
3 blood. I do recall vaguely sometimes having testified  
4 when an object was used to strike someone on the head  
5 and blood was thrown backward onto the ceiling or so  
6 on. I have some vague recollections of those. But I  
7 don't recall getting into precise measurements and  
8 things of a calculated physical nature.

9 Q. You would agree, Doctor, at least that the size  
10 of the diameter of a droplet of blood can be telling  
11 concerning whether or not it's a spatter as opposed to  
12 a smear?

13 A. I would not answer that. I just don't know.

14 Q. Okay.

15 A. I just don't know.

16 Q. What is a basal brain concussion?

17 MR. GILBERT: Judge, can we  
18 approach?

19 THE COURT: Yes.

20 (Thereupon, a discussion was had  
21 between Court and counsel at sidebar.)

22 THE COURT: Overruled.

23 A. A concussion is a disruption of the neural  
24 pathways from one neuron to another. The basal brain

1 structure, to the vertebrae, those type of things,  
2 would that remain constant over time?

3 A. Yes. If you have a body that has not been dead  
4 so long as to have led to a loss of the perivertebral  
5 soft tissues so that you then can be sure what the  
6 structural alignment of the vertebrae was. If you  
7 think the body is still intact, and if there was no  
8 analysis of the vertebrae, then you might be able to  
9 learn something if you are looking for a fracture or a  
10 significant dislocation.

11 Q. And you could by way of x-ray or MRIs, those  
12 type of tests, be able to ascertain fracture even  
13 after a number of years?

14 A. If there is a fracture there and the bones have  
15 not disintegrated, then you would be able to pick it  
16 up unless it is a very subtle fracture.

17 Q. A C2 chip fracture of the spine?

18 MR. GILBERT: Objection, Your  
19 Honor.

20 Q. Would that remain present throughout your life,  
21 first of all?

22 THE COURT: Is this the same  
23 type of question?

24 MR. DEVER: No, it is not.

1 from that that something happens to the lower part of  
2 the brain, the inferior part of the brain that leads  
3 to a concussion.

4 Q. Would you categorize that to be a life  
5 threatening injury?

6 MR. GILBERT: Objection.

7 THE COURT: Sustained.

8 Q. How would you categorize that particular kind  
9 of injury as far as severity?

10 MR. GILBERT: Objection.

11 THE COURT: Sustained.

12 Q. Have you, from time to time, exhumed bodies for  
13 purposes of performing an autopsy after they have been  
14 buried?

15 A. Yes.

16 Q. Now even over a many year period of time have  
17 you done that, Doctor?

18 A. Yes.

19 Q. Now is there still evidentiary value that you  
20 can find even after exhuming a body over a great  
21 number of years?

22 A. It depends what you're looking for. Some  
23 instances, yes, and some forget about it, there is  
24 nothing to be obtained.

1 A. It would depend on how big the chip is. By  
2 definition, a chip fracture can be extremely minute  
3 and even trained radiologists disagree many times on  
4 whether or not there is a chip fracture. So I  
5 couldn't tell you. It would depend on how big it is  
6 and how good the x-rays are and perhaps even the  
7 anatomic dissection to remove the vertebrae and study  
8 it.

9 Q. Doctor, I'm about done. It is fair to say that  
10 you do not conclude or share the opinion that Dr. Kirk  
11 gave that Mrs. Sheppard bit her assailant; is that  
12 correct?

13 MR. GILBERT: Objection. It's  
14 already been asked.

15 THE COURT: It's a  
16 summarizing question. Overruled.

17 A. That's correct.

18 Q. And after your review of all of the evidence  
19 that was provided to you in this case, you would agree  
20 that the nature and extent of the injuries that were  
21 sustained to the body of Mrs. Sheppard are consistent  
22 with a rage-type killing; is that correct?

23 A. Well, yes, that someone manifested rage, and  
24 more than rage as I have said before. It's a sadistic

1 rage of a fleeting transient nature.

2 Q. Finally, are you familiar with the DSM number  
3 four, Diagnostic Statistical Manual of the American  
4 Psychiatric Association?

5 A. No. Only that I heard the term. Do I have it  
6 or seen it or studied it? No.

7 MR. DEVER: One moment,  
8 please.

9 Thank you, Doctor.

10 THE WITNESS: Thank you.

11 MR. GILBERT: Just a few  
12 questions.

13 - - - -

14 REDIRECT EXAMINATION OF CYRIL H. WECHT, M.D.

15 BY MR. GILBERT:

16 Q. You indicated that while there was no,  
17 necessarily, evidence of a physical sexual attack,  
18 assault, in terms of trauma, you also indicated that  
19 you believe this was a sexually motivated crime; is  
20 that correct?

21 A. Yes. Putting it all together as a forensic  
22 pathologist, viewing everything that we have talked  
23 about and has been demonstrated here today, that would  
24 be my take on the case as the most likely motivation,  
25 that's right.

1 of how long this beating went on for?

2 A. I would say when you are talking about these 35  
3 enumerated injuries, whether they were 35 or 30 or  
4 even 25, with a dynamic process of movement and so on,  
5 I would say probably two and a half, three minutes as  
6 a minimum, and it could have been a little bit longer,  
7 depending upon how much fighting off and so on. But  
8 it has got to take more than a couple of minutes just  
9 to do this physically.

10 Q. And as you indicated there was, in the process  
11 of this attack, in this assault there was a period of  
12 time where Mrs. Sheppard fought back?

13 A. Yes. You have the injuries on the right arm.  
14 They, in my opinion, denote a conscious effort on her  
15 part to fight back and a couple on the left. The  
16 hands are not in this position when she is rendered  
17 unconscious. So these injuries are inflicted while  
18 she has some degree of consciousness.

19 Q. And is it consistent with your findings that an  
20 attempted sexual contact with Mrs. Sheppard could have  
21 occurred prior to any actual blows that were inflicted  
22 on her?

23 A. Yes. It's a possibility. I can't tell you  
24 definitely. It's not an unreasonable possibility.

25 Q. In terms of the blood spatter, what was Dr.

1 Q. And have you indicated that this episode with  
2 Marilyn Sheppard was a dynamic process?

3 A. Oh, yes. Any struggle in which somebody is  
4 beaten and battered and fighting for her life is a  
5 dynamic process. You don't just sit there. The  
6 normal biological response to pain, to injury, is you  
7 are going to be -- to cause you to struggle, to move,  
8 to evade, to thwart and fight off. Absolutely it is a  
9 dynamic process.

10 Q. And as far as the position of the body, we  
11 don't know where the body would have been before the  
12 culmination of the assault, do we?

13 A. I don't know, no.

14 Q. You can't tell that from looking at the  
15 autopsy; is that right?

16 A. No, I cannot tell that from the autopsy.

17 Q. And you cannot tell that from the position of  
18 the body where it finally rested after she expired?

19 A. No. For the reason then juxtaposing or  
20 correlating this to the previous question, since it is  
21 a dynamic process, a continuum, I can't tell where  
22 somebody was a second or a few seconds before. There  
23 is no way to know that.

24 Q. Dr. Wecht, considering the number, the multiple  
25 number of blows in this case, can you give us an idea

1 Kirk's contribution, if you know, to the area of  
2 forensic science?

3 A. Well, it was overall in the field of  
4 criminalistics. I know he did a lot of work with  
5 blood stains and blood spatters, whether that would be  
6 considered his principal field I really don't know. I  
7 haven't studied his career.

8 He was a professor, he taught all aspects of  
9 criminalistics, lectured widely, wrote extensively. I  
10 do know that the evaluation and study of blood stains  
11 and blood spatters was an area that he addressed,  
12 whether it was his principal one I do not know.

13 Q. And would you say that the expert, that the  
14 expertise in blood spatter is a specialized field in  
15 forensic science?

16 A. Oh, yes. Quite definitely. More and more  
17 symposia are being offered by various offices,  
18 individual coroner, medical examiner's offices. It's  
19 just been an incredibly expanding area over the past  
20 decade and a half to something like that.

21 Q. And --

22 A. It was around before. It's not like nobody  
23 thought of it. In fact, there was work done in Europe  
24 by some eminent scientists in Germany and elsewhere  
25 last century. I don't want to say it was discovered



1 like somebody discovered a new planet or meteor, but  
2 as a forensic science subspecialty with books and  
3 monographs and so on, you are talking a couple of  
4 decades pretty much.

5 Q. And just because you see some blood, even a  
6 spot of blood on a surface, that doesn't just mean,  
7 necessarily, that it's from spatter, does it? There  
8 could be many reasons why you see a spot of blood on a  
9 surface; is that right?

10 A. Yes, that's right.

11 Q. You would defer to a forensic scientist or a  
12 criminalist in specializing in this area for opinions  
13 in that regard, would you not?

14 A. Yes. What I am telling you today is what I  
15 practice in my own jurisdiction. I leave this to the  
16 criminalist. We, whether there was a gunshot case, we  
17 have had cases like this quite recently. I did not  
18 address those matters.

19 Q. Now when you wrote your supplemental report on  
20 January 14th, 2000, were you commenting on some  
21 opinions that were written by a James Wentzel?

22 A. Yes.

23 Q. Regarding blood on the watch; is that right?

24 A. That's correct.

1 Kirk's opinions rendered some decades ago, and that's  
2 correct, I -- I expressed my thoughts about that.

3 Q. And were you aware as to whether or not Dr.  
4 Kirk, back in 1955, actually saw the watch?

5 A. Yes, that's my understanding, that he did.

6 Q. As opposed to somebody coming in and looking at  
7 a 45 year old photograph?

8 A. That's my understanding.

9 Q. And as a forensic scientist, as a scientist,  
10 would it not be the ideal condition to render opinions  
11 to have the ability to actually inspect, analyze,  
12 examine and review the actual item that you're going  
13 to be offering opinions on?

14 A. Well, yes, that's preferable. In fairness, of  
15 course if something is no longer available, it's not  
16 the subsequent expert or reviewer's fault. But  
17 obviously it's better if you have the original, the  
18 real McCoy than some photographic depiction later on.

19 MR. GILBERT: I have no further  
20 questions.

21 MR. DEVER: A couple of  
22 questions.

23 - - - -

24 RE-CROSS-EXAMINATION OF CYRIL H. WECHT, M.D.

1 A. It's my understanding he is a photographer in  
2 the office of the Cuyahoga County coroner.

3 Q. A photographer?

4 A. That's what I believe he is.

5 Q. Do you commonly consult with photographers on  
6 the matters pertaining to complex issues of blood  
7 smear and blood spatter and blood contact?

8 A. No, unless he also happens to be a criminalist.  
9 I guess you can be both. But we have had forensic  
10 photographers always and other offices do, I'm sure.

11 I can only tell you that never has the  
12 photographer been the person to evaluate and analyze  
13 blood spatters. He or she takes the pictures at the  
14 direction of the pathologist doing the autopsy or the  
15 criminalist at the scene or later, but I have never  
16 heard of a photographer expressing expert opinions on  
17 blood spatters and stains. That's foreign to me.

18 Q. When you were answering questions by Mr. Dever,  
19 essentially you were just saying that Dr. Kirk, who  
20 was a blood spatter expert, was disagreeing with Mr.  
21 Wentzel, who is a photographer, regarding the  
22 interpretation as to blood on the watch; is that  
23 right?

24 A. I would turn it around. That is Mr. Wentzel,

1 Q. It's clear from the nature of the severity of  
2 the injuries that were sustained to Mrs. Sheppard that  
3 she was in a fight for her life prior to her death; is  
4 that correct?

5 A. Yes, I would agree with that.

6 Q. And as far as evidence of a sexually motivated  
7 attack, the only evidence that you have is based on  
8 the display of the body as far as how the clothing  
9 appears; is that correct?

10 A. Yes, an attractive 31 year old woman not  
11 involved in a kidnapping or organized crime or to my  
12 knowledge kind of robbery or burglary or so on, this  
13 is what I would think of as a medical/legal  
14 investigator.

15 Q. And you cannot rule out the possibility that  
16 there was staging that took place after her death?

17 MR. DEVER: Objection.

18 A. With scientific certainty -- I'm sorry.

19 THE COURT: Overruled.

20 A. With scientific certainty I can't rule out  
21 that. As I have already said, I have no reason at all  
22 to think that and I have no basis that I can think of  
23 scientifically.

24 Q. And then, finally, the sperm, if there in fact

1 the ladies and gentlemen of the jury to a reasonable  
2 degree of scientific or medical certainty that there  
3 is no evidence of sexual penetration contemporaneous  
4 with Mrs. Sheppard's death; is that correct?  
5 **A.** That's right. There is evidence of presumably  
6 consensual conjugal sexual relations between husband  
7 and wife some days before is the most that I would be  
8 able to say in a case like this involving this married  
9 woman.  
10 **Q.** So those vaginal smears and what results are or  
11 nonresults appear on those smears are essentially a  
12 red herring; is that correct?

13 **MR. GILBERT:** Objection.

14 **THE COURT:** Sustained.

15 **MR. DEVER:** Thank you,  
16 Doctor.

17 - - - -  
18 **FURTHER REDIRECT EXAMINATION OF CYRIL H. WECHT, M.D.**

19 **BY MR. GILBERT:**

20 **Q.** Just to follow-up on that, Dr. Wecht, is there  
21 any evidence that you have that there was not sperm  
22 taken from her vagina, put on a slide and examined 45  
23 and a half years later through Dr. Tahir?

24 **A.** That's right. I'm not aware of any  
25 experiments. It would be an interesting one to do, to

1 take a slide with definite spermatozoa heads only,  
2 heads and tails, and so on. You could obtain them  
3 with human volunteers and no fixed times and then put  
4 them away and come back in five and ten and 30 and 40  
5 years. I'm not aware that any such experiment has  
6 ever been done. I cannot tell you what would happen  
7 to biological degradation in 45 years.

8 **Q.** And assuming that there is sperm that was  
9 identified through DNA evidence, and assuming for the  
10 moment that that sperm was over 24 hours, 12 to 24  
11 hours, because it didn't have tails on it, okay, are  
12 you with me so far?

13 **A.** Yes.

14 **Q.** Then this woman, who was four months pregnant,  
15 would have had to have sexual activity with someone a  
16 day or two early -- a day or two days earlier from  
17 when she was murdered; is that right?

18 **A.** Yes, one flows from the other.

19 **Q.** And if it was her husband a day or two days  
20 earlier that she had a conjugal contact with, this  
21 four months pregnant woman, would that indicate good  
22 relations with his wife?

23 **MR. DEVER:** Objection.

24 **THE COURT:** Sustained.

25 **MR. GILBERT:** No further

1 questions.

2 **THE COURT:** I think you are  
3 excused, Doctor. Yes, you are.

4 **THE WITNESS:** Thank you, Your  
5 Honor.

6 **THE COURT:** You may return to  
7 Pittsburgh with our blessing.

8 **THE WITNESS:** Thank you, Your  
9 Honor, I appreciate that.

10 Counsel, approach.

11 (Thereupon, a discussion was had  
12 between Court and counsel at sidebar.)

13 **THE COURT:** Ladies and  
14 gentlemen, we do have a witness ready.

15 However, rather than hold you over I think she  
16 can be available first thing in the morning, we  
17 will take her at that time so that you will be  
18 excused for the day.

19 You had a long -- we were in the box a  
20 long time here today. I would ask you to get a  
21 good night's rest and be ready at 9:00 tomorrow  
22 morning.

23 Do not discuss this case among  
24 yourselves, do not permit anyone to discuss it  
25 with you or in your presence. You are

1 instructed not to form or express an opinion on  
2 this case until it is finally submitted to you.

3 As I am looking at you I can see you  
4 are tired today. I just remind you, too, as  
5 you go home the normal admonitions I give you,  
6 do not read about this case, watch it on  
7 television, listen to the radio, go on your  
8 computer on this case. Explain this rule,  
9 don't discuss it with anyone else.

10 With that, get a good night's rest and  
11 be ready to be called into the courtroom at  
12 9:00 tomorrow.

13 (Thereupon, the following proceedings  
14 were had out of the presence of the  
15 jury.)

16 **THE COURT:** We are on the  
17 record. The jury has been excused. We had a  
18 sidebar conference where assistant county  
19 prosecutor Steve Dever wanted to place  
20 something on the record at the end of the  
21 direct examination of Dr. Wecht and I told him  
22 just to wait and we would put it on the record  
23 afterwards, and now I recognize Mr. Dever.

24 **MR. DEVER:** Your Honor, could  
25 you allow me the opportunity to consult my

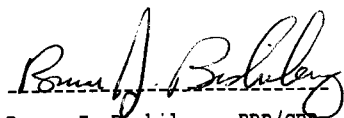
1 notes and proffer this on the record in the  
2 morning? I'm at a loss as to what I was  
3 objecting to at that time.

4 THE COURT: It had to do with  
5 what should have been a rebuttal witness in  
6 part of the testimony of Dr. Gerber and others,  
7 I think. But I will take it in the morning.

8 MR. DEVER: Thank you, Judge.  
9 (Thereupon, Court was adjourned.)  
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1 C E R T I F I C A T E

2 I, Bruce J. Bishilany, Official Court  
3 Reporter for the Court of Common Pleas,  
4 Cuyahoga County, Ohio, do hereby certify that  
5 as such reporter I took down in stenotype all  
6 of the proceedings had in said Court of Common  
7 Pleas in the above-entitled cause; that I have  
8 transcribed my said stenotype notes into  
9 typewritten form, as appears in the foregoing  
10 Partial Transcript of Proceedings; that said  
11 transcript is a partial record of the  
12 proceedings had in the trial of said cause and  
13 constitutes a true and correct Partial  
14 Transcript of Proceedings had therein.  
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Bruce J. Bishilany, RDR/CRR  
Official Court Reporter  
Cuyahoga County, Ohio

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