

I N D E X T O W I T N E S S E S  
(For the Plaintiff)

<u>WITNESS</u>	<u>DIR.</u>	<u>CR.</u>	<u>RE-DIR.</u>	<u>RE-CR.</u>
Miller, Tim	177	191		
Scheiding, P.O. Dennis	199	206	220	223
Simpson, Deputy Mike	209	216		
York, Jerry	224	247	263	
Lehman, Dr. Lee	274	320	337	338
Smith, Roy	339	347	350	352
Clark, Melinda	353	369		
Cravens, Leroy	372	387	390	
Sutton, Donald	391	406	420	
Myers, Eric	421	437		
Hudgens, Sam	443	466		
Turner, Darrin	470	478	484	
Johnson, Robbie	495	502	511	
Longmire, Missy	514	522	527	529
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Riley, Thomas	535	543		
Walker, Kim	551	562		
York, Angie	569	576		
Powell, Carla	578	586		
Fugate, Roger	603	610	615	
Worley, Gary	616	624	636	
Jurden, Malissa	642			
Royer, Chelse	646	667		
Petitt, Deputy George	672	701	709	711
Young, Tony	716	745		
Ford, Deputy Frank	805	813	816	817
			1173	1176
Burkhart, Jason	818	843		
Swihart, Deputy Larry	852	870	888	891

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I N D E X T O W I T N E S S E S  
(For the Defendant)

<u>WITNESS</u>	<u>DIR.</u>	<u>CR.</u>	<u>RE-DIR.</u>	<u>RE-CR.</u>
Simcoe, Dr. Daniel	489	493	493	
Riley, Thomas			918	913
Barker, Dean	920	930		
Johnson, Ronnie	934	943	943	
Johnson, Lisa	945	950	951	953
Ford, Deputy Frank				953
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Abner, Mark	968			
Buckley, Mary	976	982	988	
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Scott, Cindy	1006	1036		
Scott, David	1040	1066	1069	1071
Melody, Alan	1072			
Killen, Myreta	1086	1099		
Melody, Philip	1101	1110		
Miller, Tim			1114	1115
Moore, P.O. Kent	1115	1121		
Scheiding, P.O. Dennis			1127	1122 1129
Brown, Mithc	1131			
Harris, Diana	1140	1147		
Horrigan, Dan	1148	1156	1156	

I N D E X T O E X H I B I T S  
(For the Plaintiff)

<u>EXHIBIT</u>	<u>INTRO.</u>	<u>REC.</u>
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10. Autopsy photograph	285	898
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I N D E X T O E X H I B I T S  
(For the Defendant)

<u>EXHIBITS</u>	<u>INTRO.</u>	<u>REC.</u>
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B. Group picture	1056	1166
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D. Photograph - Scott/Buckley	1031	1166
E. Photo - Scott, Johnson/Worley	1031	1166
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G. Tim Miller's report	196	WD
G. Aerial photo of the lake	873	1166
H. Photograph - people partying	478	1166
I. Photograph - Tom Riley	546	1166
J. Photograph - A. Melody/Powell	589	1166
K. Photograph - Gary Worley	627	1166
L. Photograph	628	1166
M. Gary Worley statement	633	1166
M. Diagram of lake	782	1166
N. Photograph of lake	784	1166
O. Aerial photo of lake - north side	871	1166
P. Aerial photo of lake - north side	871	1166
Q. Letter written by Mrs. Buckley	892	1166
R. Photograph - Ronnie Johnson	940	1166
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U. Photograph of lake	1126	1166
V. Photograph of lake	1126	1166
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X. Photograph - Billy Scott's truck	1129	1166
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1 BE IT REMEMBERED, that at the January Term A.D.  
2 1992, of the Court of Common Pleas, Butler County, Ohio,  
3 to wit: January 11, 1992, the HONORABLE GEORGE H.  
4 ELLIOTT, Judge Presiding, this cause came to be heard  
5 upon the following testimony and evidence:

6 BY THE COURT: Good morning, ladies and  
7 gentlemen.

8 How many of you have served on juries before?  
9 Well, there's a few.

10 For those of you who haven't, jury service is  
11 a civic duty. One of the most valuable and important  
12 obligations of citizenship. The right of trial by jury  
13 goes back to the year 1215 in England in the -- under the  
14 Magna Carta and it's preserved in our -- for us in our  
15 Federal and State Constitutions. The preservation of  
16 this right is strengthened by your willingness to  
17 participate in the administration as jurors. Now, the  
18 court recognizes and appreciates the fact that each of  
19 you has made some substantial sacrifice, in leaving your  
20 homes, business interests and your occupations and other

1 interests that you may have by being here today. On  
2 behalf of the court and the parties and the citizens of  
3 this county I commend you and thank you for your public  
4 spirited activity here today.

5 The jury is an arm of this court. The services  
6 you will render as jurors are just as important and  
7 essential to the administration of justice as those  
8 performed by the judge and the attorneys. Jury service  
9 is a high calling. It is an office of great public  
10 trust.

11 Now, my name is George Elliott. I'm the judge  
12 who will preside over this trial. On my left is Miss  
13 Robin Baxter, who is the bailiff. And those of you are  
14 selected to serve, why, Miss Baxter will be your liaison  
15 with the court, and your advisor and your guide through  
16 this trial. On my right is Miss Kim Proffit, who is the  
17 Deputy Clerk of Courts assigned for this court. And she  
18 will administer oaths and perform such other duties as  
19 may fall upon her office.

20 Now, we have a criminal trial. It's scheduled

1 to start today, and this may take several days. It may  
2 take the rest of the week as a matter of fact. It could  
3 very well. And if this creates any problems, why, when  
4 you are called upon to be questioned in this case, why,  
5 let us know.

6 The hours of the court are normally from 9:30  
7 in the morning, and we try to get started at that time,  
8 and we try to get out around 4:30. Now, depending upon  
9 the posture of the case we may get out a little earlier.  
10 We may get out a little later. And we may start earlier.  
11 We may start at 9:00, or even occasionally at 8:30. But  
12 9:00 would be normally an early time for us. The reason  
13 for this is we have other matters that must be disposed  
14 of everyday prior to commencing the trial.

15 We will take -- there's a noon recess, usually  
16 of an hour and there will be mid morning and mid  
17 afternoon breaks.

18 Now, if any of you receive any parking tickets  
19 by reason of your being here today, you deliver those to  
20 the bailiff and we'll arrange to have those excused.

1                   For those of you who are not familiar with  
2                   Hamilton, be assured that there a number of acceptable  
3                   restaurants within easy walking distance of the  
4                   courthouse and they cover the complete range of  
5                   gastronomical preferences from junk food to haute  
6                   cuisine. And the court personnel will be glad to advise  
7                   you in this regard, and of course, there's a snack bar on  
8                   the first floor of the building.

9                   And to avoid some confusion which we find crops  
10                  up, the ground floor is the first floor. And this is the  
11                  third floor here.

12                 Rest room facilities are available on each  
13                 floor and there's public telephone on the ground floor.

14                 Now, the State of Ohio and the defendant in  
15                 this case are entitled to jurors who approach this case  
16                 with open minds, and agree to keep their minds open until  
17                 a verdict has been reached. Jurors must be as free as  
18                 humanly possible from bias, prejudice or sympathy and not  
19                 influenced by any preconceived ideas either as to the  
20                 facts or as to the law.

1                    Now, there's no question that each and every  
2 one of you is fully qualified to serve as a juror.  
3 However, there just might be something that could  
4 disqualify you in this particular case.

5                    As part of the jury selection process, the  
6 court and the lawyers will ask you questions. This  
7 procedure is called voir dire which is a french term  
8 meaning to speak the truth.

9                    Now, these questions are not designed nor are  
10 they intended to pry into your personnel affairs, but to  
11 discover if you have any knowledge of this case; if you  
12 have any preconceived opinion that you can lay aside; of  
13 if you've had any experience that might cause you to  
14 identify with either the State or the defendant. These  
15 questions are necessary to assure each side an impartial  
16 jury.

17                    Now, I ask you all to stand and raise your  
18 right hands and be administered the oath in preparation  
19 for the voir dire examination.

20                    Miss Clerk, will you please administer the

1 oaths to the venire.

2 AND THEREUPON, the jury was impaneled as  
3 follows:

4 Miss Proffit, will you seat twelve prospective  
5 jurors?

6 DEPUTY CLERK: Owen Rogers, Pamella Wheeler,  
7 Michael Keller, Wallace Blevins, Thomas Smith, Margaret  
8 Davis, Ronald Decker, Richard Wiedner, Steven Sullivan,  
9 James Gaughn, Madeline Moore and Orville Gross.

10 Now, all prospective jurors whether or not  
11 presently seated in the jury box should pay 'close  
12 attention to the voir dire questioning. In the event,  
13 one or more of those presently seated in the box are  
14 excused, their places will be filled from among those of  
15 you who are now seated back of the bar. And you should  
16 all be prepared to draw to the court's attention anything  
17 that might have elicited an affirmative response had the  
18 question been directed to you personally.

19 Now, you've been summoned today as prospective  
20 jurors in a criminal case. Now, this is a criminal case

1 that's been transferred to Butler County from Preble  
2 County, and it involves an alleged murder and an alleged  
3 rape said to have occurred on the 7th of July, 1990 at or  
4 near the American Aggregate Company Lake on Guy Murray  
5 Road near New Paris in Preble County, Ohio. The victim  
6 was Lesa Buckley of Eldorado, Ohio. And the defendant in  
7 this case, Guy Billy Scott, the gentleman in the blue  
8 shirt seated at counsel table, who at that time lived at  
9 -- in Richmond, Indiana, has been charged with murder,  
10 rape and felonious sexual penetration as a result of that  
11 incident.

12 Now, I only related this much information at  
13 this time in order to determine whether any of you has  
14 previous knowledge of this case. Have any of you read,  
15 heard or seen any accounts of this case in the news media  
16 or elsewhere, or have any knowledge or familiarity  
17 whatsoever concerning the incident I've just related?  
18 Any of you have any knowledge at all however remote?

19 I assume -- yes, sir, Mr. Smith?

20 MR. SMITH: I think I read something about it

1 in the paper back when it happened.

2 BY THE COURT: Have you formed any opinion  
3 about the case, sir?

4 MR. SMITH: No I haven't.

5 BY THE COURT: Would the fact that you -- that  
6 must have been some eighteen months ago or so; is that  
7 correct?

8 Have you thought about it since then?

9 MR. SMITH: No.

10 BY THE COURT: Do you feel it would in any way  
11 effect your judgment, your ability to be fair and  
12 impartial in this case?

13 MR. SMITH: No.

14 BY THE COURT: Anyone else?

15 And from the negative shaking of heads and the  
16 silence I assume that there -- no one else has any  
17 knowledge whatsoever about this case.

18 At this time we'll introduce the participants  
19 in this case.

20 The State of Ohio is represented by the Preble

1 County Prosecutor, Ms Rebecca Ferguson, the lady seated  
2 at the table here. Ms Ferguson, will you introduce your  
3 associate and identify the witnesses you expect to call  
4 in this case.

5 MS FERGUSON: Yes, Your Honor.

6 Ladies and gentlemen, my associate is Mr.  
7 Edmund Kalil. He's an Assistant Prosecutor serving in my  
8 office.

9 We would have a number of witnesses that we  
10 would anticipate calling at this trial. Those would be Mr  
11 Tim Miller, Eaton, Ohio, Sergeant Dennis Scheiding of the  
12 New Paris Police Department in New Paris, Ohio, Deputy  
13 Mike Simpson and Deputy George Petitt of the Preble  
14 County Sheriff's Office, Dr. Lee Lehman of the Montgomery  
15 County Coroner's Office in Dayton, Ohio, Mr. Roy Smith,  
16 a toxicologist with the Miami Valley Regional Crime  
17 Laboratory in Dayton, Ohio, Mr. Jerry York, who was  
18 formally, I believe, of Richmond, Indiana, now living in  
19 South Carolina, Mr. Leroy Cravens, Jr., living in New  
20 Paris, Ohio, Ms Melinda Clark living in the Richmond,

1 Indiana area, Mr. Donald Sutton of New Paris, Ohio, Mr.  
2 Sam Hudgens of the New Paris/New Hope, Ohio area, Mr.  
3 Eric Myers formally of New Paris, Ohio now living, I  
4 believe, somewhere around Salem, Indiana, Mr. Darrin  
5 Turner of New Paris, Ohio, Mr. Robbie Johnson of New  
6 Paris, Ohio, Ms Carla Powell of West Manchester, Ohio, Ms  
7 Kim Walker formally of New Paris, Ohio, now Columbus,  
8 Mississippi and Mr. Thomas Riley of Richmond, Indiana, Ms  
9 Elizabeth Helton of Eaton, Ohio, Mr. Gary Worley of  
10 Richmond, Indiana, Ms Chelse Royer of New Paris, Ohio, Ms  
11 Angie Stapleton York, formally of New Paris now in South  
12 Carolina, Mr. Tony Doe, a juvenile that was formally  
13 residing in New Paris and in Dark County -- the Greenville  
14 area. He's real name is Tony Young. Deputy Frank Ford  
15 of the Preble County Sheriff's Department, Deputy Larry  
16 Swihart of the Preble County Sheriff's Department, Ms  
17 Malissa Jurden of New Paris, Ohio, Mr. Roger Fugate of  
18 Eaton, Ohio, Mr. Jason Burkhart of Plainfield, Indiana,  
19 Ms Mary Buckley of New Paris, Ohio. Possibly Melissa  
20 Longmire of New Paris, Ohio and possibly Mr. Paris Ellis

1 of Middletown.

2 BY THE COURT: The defense, ladies and  
3 gentlemen, is represented by Mr. Steven Hobbs, an  
4 attorney from Lewisburg, Ohio.

5 Mr. Hobbs, will you identify your companions at  
6 your -- your client and your associate at the counsel  
7 table and, if you wish, identify the persons you expect  
8 to call in this case.

9 MR. HOBBS: I will, Your Honor.

10 Seated immediately to my right is my client,  
11 Billy Scott and to his right is my partner Steve Ruschau.

12 And the witnesses that we anticipate calling in  
13 this case are a Dr. Simcoe, who is a podiatrist from  
14 Richmond, Indiana, Mr. Donald Sutton, Mr. Eric Myers and  
15 Mr. Kevin Gray all from the New Paris area. Chelse Royer  
16 of New Paris, Carla Powell of West Manchester, Gary  
17 Worley who was of New Paris who now resides in Richmond,  
18 Mr. Tom Riley who is of the New Paris area who now  
19 resides in Richmond, Mary Buckley who resides in  
20 Eldorado, Robbie Johnson from New Paris, Cindy Scott from

1 New Paris, Philip Melody from New Paris, Melissa Longmire  
2 from Eldorado, Mitch Rose from New Paris, Officer Kent  
3 Moore formally with the Sheriff's Department now with the  
4 Lewisburg Police Department and Mitch Brown of New Paris.

5 BY THE COURT: Now, have any of you ladies and  
6 gentlemen had any business or social connection or any  
7 kinship with any of the persons who have been introduced  
8 or identified in this case?

9 Again, from the shaking of heads and the  
10 silence I assume that you have not.

11 Ladies and gentlemen, the fact that the  
12 defendant has been indicted is not effect the presumption  
13 of innocence. The indictment is only a formal charge,  
14 that is an accusation and it is not evidence of guilt and  
15 you must not consider it as such. The defendant is  
16 presumed to be innocent and that presumption stays with  
17 him throughout the trial. It is the burden of the State  
18 to prove his guilt beyond a reasonable doubt.

19 You will be instructed on these matters at much  
20 greater length later in the trial.

1                    Now, have any of you ladies and gentlemen have  
2 any bias or prejudice either for or against law  
3 enforcement officers? Any of you ever had any unpleasant  
4 experience with a law enforcement officer? Or had any  
5 reason -- thing that might cause you to hold the -- a  
6 police officer or a law enforcement officer to either a  
7 higher or a lower standard than any other witness merely  
8 because he happens to be a law enforcement officer?  
9 Anybody have any feelings along those lines? Any  
10 prejudices or tendencies one way or the other for or  
11 against law enforcement officers?

12                    Again, by your silence and the shaking of the  
13 heads, why, we assume that you do not.

14                    I think I previously asked, but we'll go over  
15 it again. Have any of you formed any opinion -- formed  
16 or expressed any opinion on the guilt or the innocence of  
17 the defendant in this case?

18                    I've asked you whether you've had any knowledge  
19 and I assume that you don't.

20                    That should take care of that question.

1                    Now, do you have any bias -- any of you have  
2                    any bias or prejudice either for or against the State of  
3                    Ohio, or the defendant which would prevent you from  
4                    rendering a fair and impartial verdict in this case? Any  
5                    prejudices against the State? Have any of you had any  
6                    tax problem or something like that, that might cause you  
7                    sour on the State somewhere that you would not give them  
8                    a fair deal?

9                    Remember, our purpose here is to get a fair  
10                    jury. And that means fair for both sides.

11                    Now, do any of you have any physical  
12                    disability? And I'm talking about something like  
13                    impaired hearing or vision which might prevent you from  
14                    receiving the evidence in this case? Anybody have any  
15                    problems of that nature?

16                    Do any of you have any personal problems? Now,  
17                    I'm talking about any business -- pending business deal,  
18                    or some family crisis or anything which would distract  
19                    you, might prey on your mind or other wise impair your  
20                    ability to give this case your full and undivided

1 attention? Anybody have any problems of that nature?

2 Yes, sir, Mr. Keller.

3 MR. KELLER: I don't know if it would matter,  
4 but my wife was mugged and attacked recently.

5 BY THE COURT: Well, I'm sure counsel will get  
6 into this, but I'll ask you, sir, do you feel that would  
7 effect your ability to be fair and impartial in this  
8 case?

9 MR. KELLER: Yes.

10 BY THE COURT: You do?

11 MR. KELLER: Yes.

12 BY THE COURT: You...

13 MR. KELLER: I've formed opinions about that,  
14 yes.

15 BY THE COURT: You -- general opinions about --  
16 about this?

17 Mr. Keller, you will be excused. Thank you for  
18 your candor.

19 Please check in with the Clerk's Office before  
20 leaving the building. And this applies to anyone who may

1 be excused in this case. Be sure you check in with the  
2 Clerk's Office before leaving the building.

3 DEPUTY CLERK: Karen Powers.

4 BY THE COURT: Have you heard my questions so  
5 far this morning, Ms Powers?

6 MS POWERS: Yes.

7 BY THE COURT: Would any of those questions  
8 have gotten an affirmative response from you?

9 MS POWERS: No.

10 BY THE COURT: You don't have anything to bring  
11 to the court's attention in the light of those questions;  
12 is that correct?

13 MS KELLER: No.

14 BY THE COURT: Now, ladies and gentlemen, the  
15 circumstances of this case, like any case, may arouse  
16 sympathy for one side or the other. Sympathy is a common  
17 human emotion, and the law doesn't expect you to be free  
18 from normal reactions.

19 However, the law, and your oath as jurors  
20 require you to disregard sympathy and not to permit it to

1 influence your judgment and verdict.

2 Do any of you have any problems with that? Is  
3 there anyone who feels they could not judge this case  
4 solely upon the evidence that's presented in this  
5 courtroom and the instructions of law that the court will  
6 give you? Anybody feel that they would not be able to do  
7 that?

8 Again, from your silence we must take it that  
9 you do not.

10 Now, aside from the matters that I've brought  
11 up do any of you have any reason of your own that would  
12 prevent you from being a fair and impartial juror in this  
13 case? Now's your chance.

14 Now, is there any reason why any of you would  
15 not be willing to follow the law as given to you by the  
16 court notwithstanding the fact that you might not agree  
17 with what the law might be on a given matter as it  
18 pertains to this case. Everybody's got some idea about  
19 the law, and quite frequently it is not correct or it is  
20 not applicable under the facts of a particular case.

1                    Now, I will instruct you on the law in this  
2 case. And it will be your duty to follow that law even  
3 though you may not agree with it. It may not conform to  
4 what your idea of the law is. Does anybody think they  
5 would have any problem following the instructions of your  
6 court? Would not be willing to do that?

7                    Again, from the silence I take it you're  
8 willing to abide by the court's instructions.

9                    I'll ask you one question right at this point.  
10 If you were on trial here today, I'm going to ask you  
11 each now to examine your own conscious. If you were  
12 trial here today, would you be willing, would you be  
13 comfortable in having your case decided by twelve people  
14 each of whom has the same frame of mind that you do now?  
15 Anybody have any problems?

16                    Now, ladies and gentlemen, the lawyers are  
17 advocates and their questions to you on voir dire may  
18 infer the righteousness of their respective causes.  
19 Don't let their questions during this voir dire  
20 examination give you any preconceived idea as to the

1 relative merits of their cases. The merits will be  
2 developed by the evidence. That is by the physical  
3 evidence submitted to -- or admitted by the court during  
4 the course of the trial and the testimony from the  
5 witness stand.

6 Now, at this time counsel are permitted to  
7 continue the voir dire questioning. The counsel for the  
8 State of Ohio has the right under the rules which govern  
9 these proceedings to inquire first, followed by counsel  
10 for the defendant.

11 I caution all of you, please do not speculate  
12 as to why any prospective juror is excused. Be assured  
13 there is absolutely nothing personal in it.

14 Ms Ferguson.

15 MS. FERGUSON: Thank you, Your Honor.

16 Ladies and gentlemen, as -- as Judge Elliott  
17 indicated to you we're not trying to pry into your  
18 private lives. We're not trying to embarrass you by some  
19 of the questions that we might ask. But we are  
20 attempting to do is to avoid the potential for future

1           embarrassment if it would come out later on that there  
2           might be some reason it would be inappropriate for you to  
3           sit on this particular case.

4                         Now, during this trial you may also see the  
5           attorneys and possibly prospective witnesses for one side  
6           of the case or the other outside in the hallway, around  
7           the courthouse, in the vicinity of this area and I'd like  
8           for you to please understand that we cannot talk with  
9           you. This is not because anyone connected with the court  
10          proceedings is snooty or that they don't care, but  
11          because everyone wishes to avoid the appearance even of  
12          impropriety. And none of us wish to have it appear that  
13          we're discussing the case with you, or that we might be  
14          giving you information that you haven't heard it in the  
15          courtroom with everyone else.

16                        Now, if you would be picked as a juror in this  
17          case you might note at certain times that either myself  
18          or my co-counsel might make certain objections. And the  
19          purpose of these objections is because there is a  
20          question of law involved...

1

BY THE COURT: Excuse, Ms Ferguson.

2

The court will instruct the jury on the law.

3

I'd appreciate it if you would confine your questions to

4

obtaining a fair and impartial jury.

5

MS FERGUSON: Would all of you agree that you

6

will not hold it against my client, the State of Ohio, if

7

we make objections that end up preventing you from

8

hearing the answers to certain questions? Does anyone

9

have a problem with that?

10

Now, Mr. Hobbs is one of the more seasoned

11

trial attorneys in Preble County, and I've been with the

12

Preble County Prosecutor's Office for more than sixteen

13

years and we have tried a number of cases against each

14

other. But even so, sometimes even experienced trial

15

attorneys get caught up in the heat of the moment. If

16

either one of us would do something that you would

17

perceive as either silly or extraordinarily stupid would

18

either one of you hold that against our respective

19

clients? My client being the State of Ohio, and his

20

client, the defendant, Mr. Scott?

1                    Now, how many of you in the jury box now  
2 actually had -- have had prior jury service? Would you  
3 raise your hand?

4                    Okay.

5                    So we have four.

6                    Okay.

7                    Mr. Blevins, were you one?

8                    MR. BLEVINS: Yes.

9                    MS FERGUSON: Was that a criminal or a civil?

10                   MR. BLEVINS: Breaking and entering.

11                   MS FERGUSON: Okay.

12                   So that was a criminal case.

13                   And I believe Ms Powers you were. What kind of  
14 case was yours?

15                   MS POWERS: Criminal.

16                   MS FERGUSON: Criminal.

17                   And Mr. Becker?

18                   MR. BECKER: Criminal.

19                   MS FERGUSON: Criminal.

20                   And Mr. Smith?