

1 Q What sticker was that?

2 A Waxahachie.

3 Q Waxahachie High School?

4 A Yes.

5 Q Okay, what happened when you got to Midway Park?

6 A Well, I drove through the park, and again, it was
7 very dark, and I didn't see anyone out there.

8 I didn't see any cars until I was ready to
9 leave the park, and I drove down into a very dark
10 area of the park -- an isolated area.

11 Again, there is a drive down into it and a
12 loop around, and I found a car down there and --

13 Q Okay, and --

14 A -- the lights were on.

15 Q You found a car?

16 A Yes.

17 Q All right, was that car familiar to you in any way?

18 A No, I have never seen the car before.

19 Q Okay.

20 A It had the lights on, and I can't even remember
21 the brand name of the car -- the make of the car.

22 Q That is all right.

23 A But the doors were open, and the -- I think, maybe
24 the parking lights were on, but the doors were
25 open, and the dome light was on, and the trunk lid

1 was open, and it was apparent that someone had been
 2 in a fight or had had some problems with someone
 3 because the window was broken, and the car had been
 4 ransacked.

5 Q So what did you do then, Mr. Franks?

6 A Well, I didn't know if this was maybe a car that
 7 Kenneth and the girls had been in and I just didn't
 8 realize how it fit in or whether it did fit in or
 9 I was really concerned. So I called the --

10 Q It made you nervous -- scared you?

11 A Yes, it did. I got back into my car, and I got on
 12 the CB radio, and there was a Channel 8 there in
 13 Waco with a lot of people that I am familiar with
 14 that talk on Channel 8 up until all hours of the
 15 night.

16 I just hoped that there would be someone on
 17 Channel 8 because all the other channels were dead,
 18 too, and there wasn't anyone on the other channels,
 19 and I called for a man that is usually on the
 20 radio, and sure enough, he was on the radio.
 21 His name is -- or CB handle is Tornado. I don't
 22 know his name, and he came back to me, and I asked --

23 Q When you say, "he came back to you," you mean he
 24 answered you on the radio?

25 A Right, he answered me on the radio, and I asked

12
1 him to call the Police Department and told him that
2 I was out at Midway Park looking for my son and that
3 I had found this car that was abandoned and looked
4 like there had been a fight or a ruckus or something
5 and that I would appreciate it if he would let the
6 police know so they could come out there and look
7 into it.

8 Q Did he do that?

9 A Yes, I told him I would stay there at the car until
10 the police got there.

11 Q And did the police come out to the Midway?

12 A Yes.

13 Q Okay. What happened then?

14 A It was about 20 minutes later that the police
15 arrived, and it was nearly daylight, and I told
16 him that I had found this car and that I was looking
17 for my son and that if he needed -- if he had any
18 questions or anything like that, I gave him my
19 name and telephone number and address.

20 I told him that I needed to leave because I
21 was concerned about my son, and I went -- that is
22 the reason I was out there.

23 Q Okay. Now, please, speak up so that the jury can
24 hear. What did you do after that?

25 A Well, I went back to the house.

12

1 Q Why did you go back to the house, Mr. Franks?

2 A Well, I thought -- I really needed to see if I

3 could contact some of Kenneth's friends since he

4 wasn't at the park as best I could tell. Perhaps,

5 maybe he had met with some of his friends and they

6 were at the house -- someone's house partying or

7 something like that, but all of the -- you know,

8 all of this seemed ridiculous that that would be --

9 that that was what was happening that Kenneth would

10 be off partying with two girls and that the two

11 girls had to be back at Waxahachie before 12:00

12 and Kenneth knew he had to be -- all of that just

13 seemed to be ridiculous to me that that is what

14 could be happening.

15 I wanted to check it out and see if it was

16 possible, and I called Kenneth's closest friend,

17 Pat Torres, and his father answered the phone,

18 and I woke him up.

19 He woke Pat up. I asked Pat, I said, "Have

20 you seen Kenneth?" I said, "He hasn't come in,

21 and I am worried. It is not like him to do this."

22 I said, "He met Gayle and Jill Montgomery,

23 and he went out to the park, and I found the car,

24 and the car is deserted, and I am really worried."

25 Pat said, "Well, don't worry about it." He

1 said, "Ken will come in. Just don't worry about it."

2 Q Now, just then, Mr. Franks, when you said, "He met
3 Gayle," did you mean to say Gayle? Did she come into
4 play anywhere in here at all, or were you talking
5 about Jill?

6 A No, I was talking about Jill.

7 Q Okay.

8 A Cayle is another friend of Kenneth's.

9 Q Okay, so what did you do after you talked to Pat
10 Torres on the phone? About what time was it that
11 you called Pat?

12 A It must have been around 6:00 o'clock.

13 Q It was still dark outside?

14 A Yes -- well, it was -- the sun was coming up. It
15 was beginning to get light.

16 Q Okay, then what did you do after you talked to Pat?

17 A I didn't want to wait. I was going to find out --
18 if I could, find out who that car belonged to and
19 how I could get in touch with the --

20 Q Which car belong to?

21 A The Pinto. I was determined I was going to find out
22 who it belonged to and who the girl's parents were
23 so I could get a hold of them.

24 So I went back to the car and no longer was
25 I really concerned about evidence or anything. I

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wanted to find out where Kenneth was and what had happened to the girls, and I went through the car.

Q What do you mean, "went through the car"?

A I started looking for something that had an address or something that would give me some information on who was in the car or who the car belonged to or what -- where the girls lived, whatever I could find.

Q Okay, and the sun was just coming up about that time?

A Right, right. It was -- I found several things in the car, slips of paper, check stubs, things like that. Finally, in the glove compartment, I found something that had Raylene Rice's address on it.

I didn't know Raylene Rice's last name until that moment, but I discovered it in the car, and I went back home, and another thing that frightened me was the fact that in the back seat of the car, there was a leather thong.

You know, where the back seat comes down to the seat, in that crack there, there was a leather thong, and I immediately recognized it as being the leather thong that was attached to Kenneth's motorcycle keys and his house keys.

He had about a six inch -- two leather thongs. Well, it was one leather thong about 12 inches long

1 looped around this key -- key chain, and whenever
2 he has his keys in his pocket, you could always
3 tell because the leather thongs would kind of hang
4 out of his pocket.

5 There were those leather thongs in the crack
6 of the seat, and when I pulled the leather thong
7 out, out came his keys, and I was really afraid then
8 because I had just chewed Kenneth out about three
9 or four weeks ago about misplacing those keys and
10 losing those keys, and I said, "If anyone ever
11 hauls you up or tries to rob you, don't let them
12 have the keys. Hide them or throw them away or
13 try to get rid of them."

14 So I could just picture in my mind that someone
15 abducted the kids and Kenneth stuck the keys down
16 in the seat of the car, and that frightened me
17 even more.

18 I got back to the house, and I called information
19 in Waxahachie, and I got a hold of Mr. Rice, and I
20 got him out of bed, and I said, "I found your daughter's
21 car, and Jill was with them, and Kenneth was with
22 them, and they -- and I can't find your daughter,
23 and I can't find my son, and I can't find Jill."

24 Q Was Mr. Rice concerned about it?

25 A Yes, he was, and I said, "Is this like your daughter

1 to do something like this?" I said, "It is
2 certainly not like Kenneth to do something like this."

3 I said, "Especially in view of what he has --
4 responsibilities that he has," and he said no, he
5 said his daughter had to be at work at 8:00 o'clock
6 in the morning and they were wondering where she was,
7 and it was not like her at all to do something like
8 this.

9 So I began to shake. I was really scared.

10 Q Okay. Now, Mr. Franks, remember to speak up so the
11 jury can hear you, and also, we have to be careful
12 to speak just one at a time so that the Court Reporter
13 can get it down.

14 A All right.

15 Q Now, where we were when we had to stop to change
16 paper, you said that he had informed you that Raylene
17 had to be at work at 8:00 and that really scared you.

18 A Right.

19 Q What happened?

20 A I said, "Well, maybe I should call Nancy Shaw." I
21 didn't know her name then. I said, "Maybe I should
22 call Jill's mother." I said, "Do you know how I
23 can get in touch with her?"

24 He gave me her telephone number, and I called
25 Nancy.

20
1 Q Okay, speak up, please.

2 A And I asked her, I said, "Is this like your daughter
3 to do something like this?" And she said, "No, it
4 is not."

5 I said, "Well, I am really concerned." I said,
6 "I am afraid that something really bad has happened."

7 Q Was Mrs. Shaw also concerned when you talked to her?

8 A Yes, she was. She was. I told her that I had checked
9 out as many, you know, things as I could possibly
10 check out, calling Kenneth's friends and going back
11 and going through the park, and it may have been at
12 this time that I called -- maybe I called Pat back.

13 Q Pat Torres?

14 A I may have called Pat Torres, but -- or it may have
15 been the first time that I talked to Pat. I don't
16 remember exactly.

17 He gave me the name of a girl named Patti Dies.

18 Q Okay, Patti Dies?

19 A Yes, that I had met before at a birthday party
20 that we had for Kenneth in February.

21 Q Okay, please, speak up so everybody on the jury can
22 hear.

23 A Patti was a girl from the Methodist Home, and I
24 think, she had graduated and moved out.

25 Q Okay, before you start talking about Patti Dies, let

21
1 me ask you, did you make any other phone calls
2 prior to that?

3 A I may have called -- after I called Pat, I don't
4 know if it was the second time or the first time,
5 but I called Bobby Brem.

6 Q Bobby Brem?

7 A Bobby Brem, and talked to Bobby, and I talked to his
8 mother.

9 I tried to call some other people. I can't
10 remember -- there was another friend of Kenneth's,
11 Kelly Cowan. I can't remember if I talked to Kelly
12 or not.

13 Q Okay, Mr. Franks, what happened after Pat Torres
14 gave you the name of Patti Dies?

15 A Well, he gave me the apartment. She didn't have a
16 telephone number, and it was in Northwoods Apartments
17 over by MCC College, and I drove over there, and I
18 think, it was still early in the morning.

19 It was light enough so that I could find the
20 apartment and knocked on the door, and Patti came
21 to the door, and I told her I was sorry to wake her
22 up, but I was really worried about Kenneth.

23 I said that a couple of girls from Waxahachie
24 came down and picked him up and that their car was
25 out at Koehne Park, and I couldn't find them, and

1 could she help me? Could she call around and see
2 if she could locate him for me, and she said she
3 didn't have a telephone.

4 I said, "Well, do you know who I could call?"
5 She said, "Well, call Pat, call Bobby, call Kelly."

6 Those were some of Kenneth's closest friends.

7 Q Most of the folks you had already called?

8 A I had already talked to. So, you know, I felt like
9 my hands were tied. I had exhausted all means of
10 locating him.

11 I think, the next thing I did was to call the
12 Police Department to make a missing person's report.

13 Q What happened then?

14 A The officer that took my call over the telephone
15 asked me to go to Koehne Park and meet another officer
16 at Koehne Park, and I waited there until he showed up.

17 It may have been 8:00 o'clock in the morning
18 by then, maybe 9:00 o'clock.

19 Q Where did you wait for him at Koehne Park?

20 A By the car.

21 Q By the car, all right.

22 A And I told him the story, and he said, "Well, don't
23 worry about it, Mr. Franks."

24 He said, "They are probably out somewhere
25 sleeping off a drunk," and I said, "Well, that is

2
1 not possible."

2 I said, "The girls are responsible girls, and
3 Kenneth is very responsible," and I said, "Kenneth
4 wouldn't do something like this," and I said, "I
5 want you to go ahead and make a missing persons
6 report right now."

7 He said, "I can't do it. I have to wait 24
8 hours."

9 I really got scared then. I didn't know what
10 to do. I came back to the house.

11 I think, I called Mr. Rice. I said, "What do
12 you want me to do with your car? Do you want me to
13 lock it up, leave it there or bring it back to the
14 house?"

15 I can't even remember now if the keys were in
16 it -- maybe. I don't know.

17 Q Well, what happened after that?

18 A Mr. Rice said, "No, just leave the car right there"
19 that he was coming down.

20 Q What did you do the rest of the day, Mr. Franks --
21 just very briefly?

22 A I was scared to death. I have a good friend that
23 lives behind me. His name is Walter Smith. He was
24 a State Judge at that time, and I called Walter.

25 I asked him for some advice.

1 I said, "The Police Department won't do anything."
2 I said, "I know that something bad has happened" and
3 it wasn't too long after that that the police called
4 and said that they were going to go ahead and file
5 a missing persons report.

6 I don't know if Walter had anything to do with
7 it or not, but I called everybody. I called Sandra,
8 Kenneth's mother. I called my folks.

9 Q When did you first get some word about Kenneth?

10 A Well, the Rices came by that afternoon, and Walter
11 came over later on. I guess, it was about 5:00 --
12 5:30 -- 6:00. It was after the Rices had left, and
13 I think, he came over to tell me that the police
14 were on their way out.

15 Q Who did?

16 A Walter.

17 Q That was Judge Smith?

18 A Yes.

19 Q To tell you that the police were on their way over?

20 A I think, that is what he said because he got there,
21 and it was -- I can't even remember now.

22 Q That is all right.

23 A Needless to say, I was a nervous -- I was really --

24 Q What happened when the police got there, Mr. Franks?

25 A It was Sergeant Salinas came out, and he said he had

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some bad news.

They had found Kenneth and the two girls he was with, and he found them at Speegleville Park.

Q Are you familiar with where Speegleville Park is?

A Yes, it is just across the lake from Koehne Park.

Q Okay.

A I couldn't believe it. The first thing I did was go to the phone and call Sandra.

Q Sandra is Kenneth's mother?

A Yes, and after that, I just all -- it is all just a blur.

Q I need to ask you just a few more questions, Mr. Franks. One is about Kenneth's motor bike. Was his motor bike in the shop, at that time?

A Yes, it was.

Q Okay.

A He had to put it in the shop. It needed some work.

Q Now, awhile ago, you told the jury that you had never met Jill Montgomery before. Had you heard about Jill through Kenneth?

A Well, Kenneth had -- was real proud of Jill, and he was in love with her, and we had talked about Jill, and he explained to me that they had broke up and that he had given her a promise ring.

They broke up, and she had moved back home with

1 her mother, and she wanted things to cool down
2 between the two of them because she said she had
3 some problems that she needed to work out at home
4 before they could resume their relationship. Kenneth
5 was pretty upset about it.

6 Q But you knew that they had been pretty close?

7 A Yes.

8 Q Did Kenneth also have a friend named Gayle Kelley?

9 A Yes, Gayle was like a buddy. Gayle and Kenneth ran
10 around a lot together.

11 Q Where had Kenneth met Gayle?

12 A Gayle was a resident of the Methodist Home.

13 MR. FEAZELL: Your Honor, we
14 will pass the witness, at this time.

15 MR. VANCE: Could we have a
16 short break, Your Honor?

17 THE COURT: All right, let us
18 have about a three-minute recess, ladies and
19 gentlemen.

20 (Brief recess.)

21 CROSS EXAMINATION

22 QUESTIONS BY MR. VANCE:

23 Q Good afternoon, Mr. Franks. Mr. Franks, how long
24 did Jill and Kenneth date?

25 A They may have dated for six months to a year. I am

1 not really sure.

2 Q Okay, is this during a period of time that they
3 were in high school together, or at the Methodist
4 Home?

5 A While they were at the Methodist Home.

6 Q And that is located in Waco?

7 A Yes.

8 Q Okay, and on how many occasions did you meet
9 Jill Montgomery?

10 A Well, I never did meet Jill Montgomery. Kenneth
11 pointed me out to her in pictures that he had of
12 her.

13 In fact, one time, we were at the Methodist
14 Home together talking with his counselor, and there
15 was a picture in one of the Methodist Home publications,
16 and he pointed me out to her.

17 Q But during your visits to the Methodist Home, he
18 never introduced her as his girlfriend or anything
19 like that?

20 A No, when I would go out to the Methodist Home, there
21 were -- on weekends, Jill would be gone to visit
22 her family, and Kenneth would come home with me.

23 Q Did you ever meet a Gayle Kelley?

24 A Yes, I had an opportunity to meet Gayle several times,
25 and Gayle helped me put together a surprise birthday

12
1 party for Ken.

2 Q Was that the one you mentioned earlier that was in
3 February?

4 A In February.

5 Q Of 1982?

6 A Yes.

7 Q Describe what Gayle Kelley looks like, please, sir.

8 A Well, she is -- she is just an average, attractive-
9 looking girl with dark hair -- dark brown hair.

10 Q About how tall was she?

11 A Well, she wasn't a tall girl. I would say, perhaps,
12 medium height for a woman.

13 Q Okay, how tall are you, sir?

14 A I am 6'1".

15 Q Okay, and where did she probably compare to you?

16 A Well, it seemed like she was probably -- when I
17 would look eye to eye with her, I would probably
18 maybe see the top of her head or her forehead.

19 Q She was about 5'7"?

20 A I am really not good at pinpointing the height of
21 a person. I can tell you approximately whether five
22 feet high or six feet high or seven six and a-half,
23 but I can't tell you exactly what her height was,
24 no.

25 I mean, I can't. I can look at you, and I can't

1 tell you what your height is. I could probably get
2 within four or five inches.

3 Q And you -- what about Jill Montgomery? Did you have
4 an opportunity to observe her on July 13, 1982?

5 A Well, Jill was in the car when I went out. So I
6 didn't see her standing up, and all I had an
7 opportunity to see of her was pictures of her.

8 Q When they arrived at your house, who was driving
9 the orange Pinto?

10 A I am -- I believe, it was Raylene, but I am not real
11 sure. It has been so long ago.

12 Q And when they left the house, do you remember where
13 each of the teenagers were sitting?

14 A I believe, Kenneth got in the back seat, but that
15 has been so long ago that I am not really sure.

16 Q Do you happen to recall which side he got in, the
17 passenger's or the driver's side?

18 A I think, he went around to the passenger's side and
19 got in on that side.

20 Q Okay, about what time was it that the girls arrived
21 to pick Kenneth up?

22 A It was between -- just between 7:00 and 8:00,
23 somewhere in there.

24 Q It wasn't dark out?

25 A Oh, no, it didn't get dark until 9:00 or 9:30.

1 Q Was that normally when it gets dark in Waco during
2 July?
3 A On July the 13th, yes.
4 Q 9:00 to 9:30?
5 A Yes.
6 Q Okay, you had mentioned earlier concerning this
7 12:00, I am going to call it a curfew for a choice
8 for words --
9 A I don't think that is a good choice.
10 Q All right, an agreed time that he would arrive
11 at home?
12 A Right.
13 Q Had he in the past experienced problems with not
14 coming home at the agreed time?
15 A Sometimes, he would take advantage of me, yes.
16 I would tell him to be home by 12:00, and he may
17 be home by 12:30.
18 Q Did you have any other disciplinary type problems
19 with your son?
20 A No more so than any other father with a 17-year-old
21 boy.
22 Q And I didn't hear why he was there at the Methodist
23 Home and what length of time he was there.
24 A He was at the Methodist Home primarily because
25 he was slow in school and it was creating problems

1 for him in school.

2 He was a very frustrated young man. Sandra and
3 I had a divorce in 1975 -- '74, and it was difficult
4 for him to deal with that.

5 Q Was he having some truancy problems at school?

6 A No.

7 Q Did he like going to school?

8 A He enjoyed school. He enjoyed being with his friends.

9 He was very popular in school, but he was very
10 frustrated in school because he could not read.

11 Q Sir, if you could, speak up just a little bit.

12 A He was very frustrated -- school was very frustrating
13 for him because he could not read.

14 He liked his teachers, and he liked the school
15 activities, but he had a very difficult time, and
16 dyslexia is hereditary, and I have it, and I know
17 the problems that he went through.

18 Q The picture of your son that Mr. Feazell introduced,
19 was that taken in January or February of 1982?

20 A Yes, it was taken after Christmas.

21 Q Okay, you had mentioned he just got his hair cut.

22 Was it lengthy prior to that picture or --

23 A It was very popular in that time, in 1982, for young
24 boys to wear their hair long, and it was stylish.

25 He just got his hair cut and usually wore his

22-1

1 hair about that length.

2 Q What do you consider lengthy? When I grew up as a

3 teenager, the Beatles had long hair, and that was

4 considered lengthy.

5 A Well, over the years, what was popular in 1982.

6 Q And about what time did you leave the house that

7 evening?

8 A It was probably 8:30 -- 9:00 o'clock.

9 Q Okay.

10 A About dark.

11 Q Okay, did you go in any particular place?

12 A No, I really didn't.

13 Q Just drive around?

14 A Yes.

15 Q Did you stop at any parks or anything like that?

16 A I did go out to the mall and drove up and down

17 Valley Mills. I stopped at the DQ and got me

18 something to eat and took a Coke and I did drive

19 out to Midway Park and watched the people with the

20 boats coming in and wished that I still had my boat.

21 Q Were you at Midway Park when it got dark?

22 A Yes, I was.

23 Q And did you stay there until late in the evening?

24 A I drove around. I wasn't there very late, no.

25 Q 11:00 o'clock?

22- 1 A I don't believe it was that late.

2 Q And then you went home?

3 A Yes -- no, I didn't get home until about 12:00

4 o'clock.

5 Q What did you do after you left Midway Park?

6 A Just drove around.

7 Q Mr. Franks, are you familiar with some of the other

8 parks there around Lake Waco? You have described

9 Midway Park. Are you familiar with --

10 A Well, I owned a boat for two years, and I fished

11 the lake quite a bit. Yes, I am familiar with the

12 park.

13 Q And you are familiar with Speegleville Park?

14 A Yes, I have camped out in Speegleville Park on --

15 I have camped out at both, in Airport Park and

16 Speegleville Park.

17 Q Could you step up to this aerial photograph and

18 point out to me, if you would, sir, using the

19 pointer so the jury can see where Koehne Park is?

20 A Yes, this street here is Lake Shore Drive. This is

21 Valley Mills right here.

22 As you come down this hill, it turns into

23 Lake Shore Drive, and you see this entrance way

24 right here. This is the entrance to Koehne Park.

25 If you were to go up this hill and in here, I

2
1 live right here in this area. So you see how close
2 we are to the park.

3 Q Yes, sir.

4 A The kids cruise up and down Valley Mills. So the
5 park makes a popular spot.

6 Q Now, would you point out Midway Park?

7 A Yes, come through here like this. Midway Park is
8 right here (indicating).

9 Q Where is Speegleville Park?

10 A Come back through here and go across the bridge and
11 over here is Speegleville Park in here and in here
12 (indicating), and I believe, this is another park
13 from Speegleville Park and Air Field Park is over
14 here.

15 Q Are there any kind of gates or anything there to
16 the entrance of Koehne Park?

17 A No.

18 Q How about Midway Park?

19 A No.

20 Q Speegleville Park?

21 A Yes, there is a gate to Speegleville Park.

22 Q Okay, so that particular evening, you had no
23 problems gaining access, entrance and exit, to
24 either Koehne Park or Midway Park?

25 A Right. As I said, it was a beautiful day. It was

1 very hot. There were a lot of people on the lake
2 and a lot of activity around the lake.

3 Q Was that unusual for a Tuesday or a Wednesday?

4 A No, not at all.

5 Q I am going to ask you to get up one more time, and
6 I promise, I won't get you up any more.

7 There is a drawing down here in front, and
8 again, would you just take a look at it and see if
9 you recognize it.

10 A It looks like a drawing of Koehne Park, yes.

11 Q And if you will, stand over here to the side, sir.
12 Would you show the jury exactly the route that you
13 drove through Koehne Park?

14 You had mentioned you went to an area where
15 there was a beach and then where there was a boat
16 ramp and then finally, the circle.

17 A Right.

18 Q Where the Pinto was.

19 A At one time, this road that comes down through here
20 used to go off through the lake bed into the lake,
21 and Valley Mills -- that is Valley Mills. It used
22 to go on through the lake and on over here.

23 Q That was prior to Lake Waco?

24 A Prior to Lake Waco, but the road goes down, and now,
25 it cuts off here, but the road -- this part of this

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whole highway is still down through here.

Q Can everybody see? Okay.

A So there is a lot of gravel here where the road goes into the water, and then this area here is kind of a fishing area.

Basically, this is a swimming area down through here. So I drove down through -- this is kind of a lookout area that looks out over the lake.

It is very beautiful and you come down here, and there is a swimming area.

I drove down through here as far as I could go and circled back up around here, and down here to the boat ramp and circled around the boat ramp and came back and drove around here, and this is where I saw the car parked right about here (indicating).

Q Okay, there toward the top of the circle?

A Not towards the top, but facing out towards the lake or towards the boat ramp in that direction, approximately.

Q All right, thanks. Were there any other cars there?

A No.

Q What was the lighting like?

A The lighting was very bad in the park. In fact, the light at the boat ramp was out.

1 Q Okay, so there was no type of artificial light there?
2 A No.
3 Q Okay, I believe, you indicated that both front
4 seats were pushed up?
5 A Yes.
6 Q Okay, and you determined that one door was locked
7 and one door was unlocked?
8 A Yes, the driver's side was locked.
9 Q Did that seem unusual to you?
10 A Yes, it did.
11 Q Now, regarding the keys that you found in the
12 back seat, was this leather thong -- how big was it?
13 A As I said before, the piece of leather is kind of
14 like a leather shoelace that you might wear in a
15 pair of work boots.
16 It was about -- the leather was 12 inches long,
17 and it was looped around a key holder, and it had
18 knots in the end of it.
19 Q Were any of the keys visible when you first noticed
20 the thong?
21 A No, I could only see about two or three inches of
22 the leather thong.
23 Q Do you recall which side of the seat or back seat
24 you found that?
25 A It was stuck down in the seat behind the passenger's

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side.

Q Okay, and how many keys were on that thong?

A Three.

Q Do you recall the name of the officer who met you at Koehne Park?

A It was Mack something. I can't remember the name.

Q Excuse me?

A It was Mack something, I believe.

Q Mack, M-a-c-k?

A McClenski or I can't -- it would just be a shot in the dark. If you said it, I could probably remember it.

Q Okay, if you had gone to Speegleville Park that evening looking for Kenneth, could you have gained entrance into it through the main gate?

A No, not that late. I don't believe. I believe, they close the park at a certain hour of the evening.

Q And it is a large gate that you couldn't go around or --

A I don't believe you could.

Q Okay, the car that you found out at Midway Park, now that you have had a little more time to think about it, do you recall whether it was a four-door or a two-door?

A It was a two-door.

- 1 Q Okay, was it a late model car or early model car?
- 2 A It was probably four or five years old.
- 3 Q All right.
- 4 A Maybe six, maybe 10. I don't know.
- 5 Q Do you remember what color it might have been?
- 6 A No, I really don't.
- 7 Q Did it have chipped paint or vinyl top or anything --
- 8 some type of unusual characteristic that may stick
- 9 out in your mind?
- 10 A I am sorry. That was nearly four years ago. I
- 11 just remember it was a two-door, and I was really
- 12 upset.
- 13 I can remember the windows being broken. I
- 14 don't remember which windows were broken.
- 15 Q Excuse me. I didn't hear that.
- 16 A I said I can remember windows being broken. I
- 17 don't remember which windows were broken.
- 18 It appeared that someone had been in a fight
- 19 and abandoned the car.
- 20 Q How did it appear someone had been in a fight?
- 21 A Just the way the car was ransacked. The fact that
- 22 the windows were broken and the way they were
- 23 broken.
- 24 Q Okay, so it was obvious that it had been vandalized?
- 25 A Yes.

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MR. VANCE: I will pass the witness.

MR. FEAZELL: We don't have any further questions, Your Honor.

THE COURT: May he be excused, gentlemen?

MR. FEAZELL: Yes, sir.

MR. VANCE: We have no objections to him being excused, but we would continue the rule.

THE COURT: You can be excused, sir.

(Witness excused.)

MR. BUTLER: Sidney Smith.

MR. VANCE: Your Honor, may we approach the bench?

(Conference at the bench.)

THE COURT: Mr. Franks, the rule as to witnesses is still in effect. So you will need to stay outside the courtroom.

MR. FRANKS: Will I be allowed to return, at any time?

THE COURT: Yes, sir, after all the evidence has been presented and both sides have rested and closed, but not during the course of the trial.