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THE WITNESS: Thank you.

MR. FEAZELL: May I approach the Bench, Your Honor?

THE COURT: Yes.

(Whereupon, an off the record discussion was had out of the hearing of the Reporter.

THE COURT: All right, Ladies and Gentlemen of the Jury, let's take a recess. And we will stand in recess for ten minutes.

If everybody else will, remain seated until the jury has cleared the floor.

(Whereupon, a recess was had.

THE COURT: Call your next witness.

MR. FEAZELL: Your Honor, the State calls Deputy Constable Gene Thorp.

THE COURT: Gene Thorp.

Mr. Thorp, if you will, just have a seat. I believe you have already been sworn.

THE WITNESS: Yes, sir.

GENE THORP

called as a witness on behalf of the State of Texas, and having been previously sworn, testified as follows, to-wit:

DIRECT EXAMINATION

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3 BY MR. FEAZELL:

4 Q And for the record, you are Deputy Constable Gene Thorp?

5 A Yes, sir.

6 Q Okay. And Mr. Thorp, as you know, the man sitting
7 between us is taking down what we say.

8 A Yes, sir.

9 Q We need for you to answer everything verbally, so he can
10 get it. And talk loud enough, so the last two people in
11 the jury box over here can hear what you're saying.

12 A Yes, sir.

13 Q All right. How long have you been with the Constable's
14 Office?

15 A Right at eleven years.

16 Q And what are some of your duties with the Constable's
17 Office?

18 A All kind of civil papers, some felonies. And, just,
19 you know, civil matters.

20 Q Serve subpoenas and that sort of thing?

21 A Yes, sir.

22 Q Process. Are you also connected, in some way, with the
23 Marina out at Speegleville Park? Tell the jury about
24 that.

25 A Okay. Awhile back, I was security out there at night.

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Q Okay.

A And I lived out there at night.

Q Okay. And, Mr. Thorp, were you security out at Speegle-ville Park, and living out there, during July of 1982?

A Yes, sir.

Q Okay. I'm going to ask you, Mr. Thorp, to think back to July 13th -- that is probably a pretty easy day for you to remember -- 1982. July the 14th. I'm sorry. Something pretty unusual happened to you on that day, didn't it?

A Yes, sir.

Q I believe you were at the trailer?

A Yes, sir.

Q What happened? What happened first?

A Well, I was -- like I say, I had gone home from a usual work day.

Q Uh-huh.

A I was sitting at the house, fixing to have dinner, and had a knock on the door. And I opened it and it was two boys.

Q Okay.

A And they asked me -- you know -- they knew I was security, because I had a sign up out front. And they asked me would I come and go with them, that, they said, they

1
2 either found a dummy or a person.
3 O Okay. They were pretty excited, weren't they?
4 A Oh, yes.
5 O Pretty upset?
6 A Yes, sir.
7 Q Okay. So, what did you do, Mr. Thorp?
8 A Okay. They got into a pickup and I got into my car and
9 I followed them down to the location they took me to.
10 And the closer we got to it, well, then, off in a
11 distance, I could see a form laying, you know, up kind
12 of under the shade of a tree.
13 Q Now, to get there, you followed them from your trailer
14 up a paved road?
15 A Yes, sir.
16 Q And, then, did you have to turn off of the paved road?
17 A Yes, sir.
18 Q And what was the type of road that you had to turn off
19 onto?
20 A Kind of a black dirt road.
21 Q A dirt road?
22 A Yes, sir.
23 Q Do you remember, Deputy Thorp, what the condition of
24 that road was that day? I mean, was it muddy, fairly
25 dry, passable, impassable?

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A No, sir. It was dry.

O Dry?

A Fairly dry; yes, sir.

Q When you got on that road, did you have any trouble with your vehicle on the road at all?

A No, sir.

Q Okay. So, you say you followed them down the dirt road. And, then, what happened?

A Well, we stopped. And before I got out of the car, I looked over to the left, and like I say, I seen this form laying there.

Q Okay. And by "form," what type of form did you see?

A It was the body of a young man, looked like.

Q Okay. What did you do?

A I got out of the car, I went over to make sure, you know, that it wasn't a mannequin or something laying there, somebody pulling a stunt. And I got within about probably two and a half or three foot from it and I seen it was.

Q So, you got pretty close to the body?

A Yes, sir.

Q All right. What did you observe, then, Deputy Thorp?

A I seen it was a body. And at the time, I didn't particularly pay too much attention to it. But I went back

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to the car, at first, and then I called in to the Sheriff's Department.

Q Okay. So, once you saw the body, you immediately went to your car and by radio --

A Yes, sir.

Q -- called the Sheriff's Department?

A Yes, sir.

Q So, your radio, then, can contact the dispatcher at the Sheriff's Office?

A Yes, sir.

Q What did you tell them?

A Okay. I told the dispatcher that I believe I had found a dead person, a body of a young man.

Q Okay. What did you do after that, Deputy Thorp?

A I went back, to make sure that, you know, there was nothing going on. And I took another look and just kind of stood around. And first I told those two boys, I took their names and the pickup tag number, and I asked them would they mind going up on the paved road and wait for the Sheriff's Department to get there, so they could direct them down to it.

Q Okay. Now, you say you got close to the body and you looked. Tell the jury, how did you know Kenneth was dead?

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A Well, I hadn't seen too many dead people in my life, other than a wreck. But he had severe, massive, looked like dried something all around, just in a big diameter right in here.

Q Now, you're making in a circle kind of around your heart?

A Yes, sir. Just around like this. Yes, sir. About, oh, at least six or seven inches wide, you know, across, around.

Q Okay.

A And looked like to me he had some bugs or something in his mouth.

Q In his mouth?

A Kind of crawling around. Yes, sir.

Q Okay. And he wasn't breathing?

A I didn't feel; but, no, sir.

Q So, it gave you a pretty good indication that the young man you were looking at was, in fact, dead?

A Yes, sir.

MR. FEAZELL: Mark that for me, please.

(Whereupon, the instruments herein-
(after referred to were identified
(as State's Exhibits 5 and 6.

BY MR. FEAZELL:

Q Deputy Thorp, I'm going to show you a picture that has been marked as State's Exhibit No. 5, and I'm going to

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ask you, sir, if that photograph fairly and accurately represents what you saw on that date?

A Let me put my glasses on and take a little better look.

Q All right. Does it fairly and accurately represent the body of Kenneth Franks --

A Yes, sir.

Q -- as you first saw it?

A Yes, sir.

MR. FEAZELL: Your Honor, we would offer into evidence State's Exhibit No. 5.

MR. HUNT: Your Honor, we have no objection to State's 5.

THE COURT: State's 5 is admitted.

MR. FEAZELL: Thank you, Judge.

(Whereupon, the instrument above referred to was received in evidence (as State's Exhibit No. 5, and a copy of the same appears in this record (at the page shown in the Index (hereof.

BY MR. FEAZELL:

Q Now, is that, Deputy Thorp, the way the body was laying when you first viewed it, as best you remember?

A Well, the best I remember it, sir, was, I believe, if I'm not mistaken, the right leg was tucked up under the left one.

Q Okay. As best you remember?

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A Yes, sir. I was kind of shook up over it.

O You were pretty shook up?

A Yes, sir.

Q You had never seen anybody stabbed to death?

A Not that way; no, sir.

Q And Deputy Thorp, I'm going to show you what has already been marked as State's Exhibit No. 6, and ask you if that fairly and accurately represents the body of Kenneth Franks, as you saw it, when you described awhile ago the way he looked closer up?

A Yes, sir. I don't need my glasses on for that. That was him.

MR. FEAZELL: Your Honor, we'd offer into evidence State's Exhibit No. 6.

MR. HUNT: We have no objections to State's 6, Your Honor.

THE COURT: State's 6 is admitted.

(Whereupon, the instrument above referred to was received in evidence (as State's Exhibit No. 6, and a copy (of the same appears in this record (at the page shown in the Index (hereof.

BY MR. FEAZELL:

Q Deputy Thorp, while you were standing there at the body of Kenneth Franks, did you have an opportunity to look around at the ground around in the view of the scene?

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And I'm going to ask you, if you did, did you see anything unusual, anything that stuck out, particularly?

A No, sir.

Q All right. What did you do, sir, after you sent the boys up to the road to direct the Sheriff's deputies down to the scene?

A Just got back over by the car and stood there, just kind of marked time.

Q Okay. And what happened next?

A Well, I believe -- if I'm not mistaken, there was a man and a woman with a camera, okay, they come up. And, then, about the time they come up, the Sheriff's Department came up.

Q What kind of camera? A TV camera or --

A Looked like a movie camera; yes, sir.

Q Okay. So, the news people got there before the police did?

A Yes, sir.

Q So, they must have been monitoring the radio?

A Yes, sir.

Q How close to the road, to this dirt road, was the body of Kenneth Franks?

A Well, sir, let me say this, if you have ever driven a car around a little old country road and you cut the

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O corner pretty close, you would have run over his feet.
So, he was just dumped right there with the feet sticking
nearly in the road?

A Looks like to me; yes, sir.

O Okay. So, we're down to the point to where that people
with the TV camera got there. What happened then?

A Well, they hadn't been there but like a few seconds, and
here came the Sheriff's Department car.

Q Okay.

A And the Waco P.D., you know, was in kind of behind them.

Q What happened when they got there?

A Okay. Some officer, I believe, after he got there, gave
us a picture, said there was some girls supposed to be
with him, or something, they thought.

Q Showed you a picture of Kenneth Franks?

A I'm trying to think it was just the two girls.

Q Oh, a picture of the two girls?

A Yes, sir.

Q Okay.

A And I hadn't seen anybody, you know, at that time.

Q Do you know who it was that showed you that picture?

A Well, it was an officer of Waco P.D., okay?

Q A Waco police officer?

A Yes, sir.

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2 O All right. And what happened then?

3 A Okay. And he asked us to look around, you know, to see.

4 Q Look around the scene?

5 A Look around the scene; yes, sir. So, down the road away,
6 about 45 yards, I guess, in front of my car, or somewhere
7 along in there, they ran across this one girl laying over
8 off of the road, looked to be about approximately ten
9 foot off of the road.

10 Q Okay. So, you went over and looked?

11 A Yes, sir.

12 Q And she was only about ten feet off the road?

13 A Yes, sir. Ten or 12 foot. Something like that.

14 Q Okay. What happened after you saw the girl laying there
15 on the road?

16 A Well, they found the other one, okay, another one about
17 20 foot away.

18 Q The other girl was found 20 feet from the road?

19 A Approximately; yes, sir.

20 Q Okay. And that's by your estimation?

21 A Yes, sir.

22 Q Okay. Was there anything unusual about the condition of
23 the girls' bodies, Deputy Thorp?

24 A Well, they were bound, you know, and looked to me --

25 Q What do you mean, "bound"?

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A Well, their hands were tied.

O Uh-huh.

A Like, you know. And like I say, I was kind of shook up.

O Right.

A And, you know, there was a bunch of people come up, the officers -- the other officers were there, and I didn't just, particularly, just look at them, you know what I mean.

O You didn't exactly care to take a real close look?

A No, sir.

O By that time, there were other people there with some information?

A Yes, sir.

Q And they were kind of handling the situation?

A Yes, sir.

Q Okay. What happened after that?

A Okay. As well as I can remember, I believe the Corps of Engineers Ranger came up, or he was on the scene. And he and I were standing by the one girl and we were conversing. And I don't remember what it was all about. And I believe he said something, "We ought to cover them up."

Q "Ought to cover them up"?

A Yeah.

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2 Q Talking about the dead bodies?

3 A Yes, sir.

4 Q Okay. Now, this was a park ranger?

5 A Yes, sir.

6 O Okay.

7 A You know, I don't recall what I said. Something, I
8 guess, because we walked back to his truck and, I believe,
9 if I'm not mistaken, he got a blanket out of the back
10 of his truck.

11 Q Okay. And at this time, Deputy, you were still kind of
12 in a daze over what you had to view right there all of
13 a sudden, in shock?

14 A Yes, sir.

15 Q All right. What did the Park Ranger do with the blanket?

16 A Okay. We got it out of his truck and we walked back to
17 this -- the first body that was laying close to the road.
18 And he attempted to --

19 Q Now, you say "the first body."

20 A Yes, sir.

21 Q Are you talking about the girl, or are you talking about
22 the boy?

23 A The girl.

24 Q The girl?

25 A Yes, sir.

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- 2 Q The one that was laying closest to the road?
- 3 A Yes, sir.
- 4 Q Okay.
- 5 A And he attempted to, you know, lay it down over her and
6 put it down over the body. And at that time -- I don't
7 know the man's name -- but it was a sergeant with the
8 Waco P.D., hollered at him and told him, you know, not
9 to do that.
- 10 Q He told him to take it off?
- 11 A Yes, sir.
- 12 Q Told him to take the blanket off the body?
- 13 A Yes, sir.
- 14 Q All right. And did the ranger then take the blanket off
15 of the body?
- 16 A Yes, sir. As well as I can remember; yes, sir.
- 17 Q Okay. Did any of the others get covered up, that you
18 recall?
- 19 A Not while I was there.
- 20 Q Do you have an indication, or can you remember about
21 what time it was, Deputy Thorp, that you called the
22 dispatcher?
- 23 A I don't have the time. Like I say, I guess I should
24 have put it down, but I don't. It was well after 5:00
25 o'clock, let's put it that way, okay?

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Q It was getting on down --

A Going into the evening; yes, sir.

Q -- late --

A Yes, sir.

Q -- into the evening? Now, you say you were the security for Speegleville Park?

A Yes, sir. Marina.

Q For the Marina?

A Yes, sir.

Q During July of 1982. So, you had occasion to drive down that road in Speegleville Park about every day, didn't you?

A Pretty much; yes, sir.

Q Okay. And you're familiar with the area, pretty much?

A Yes, sir.

Q The area where the bodies were found, Deputy Thorp, is that area located and situated within McLennan County, Texas?

A Yes, sir.

Q Okay. No doubt about that, is there?

A No, sir.

Q Good.

MR. FEAZELL: I believe that's it, Judge.

THE COURT: All right.

CROSS EXAMINATION

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3 BY MR. HUNT:

4 Q Deputy Thorp, I have, probably, more than a few questions
5 for you.

6 A All right.

7 Q First of all, can you tell me what your work schedule
8 was that day? When did you get off work?

9 A About 5:00 o'clock, sir.

10 Q Okay. Where were you working?

11 A Here in town.

12 Q Okay. Here in the Constable's Office, sir?

13 A Yes, sir.

14 Q Okay. I assume, from what you've told us, that probably
15 you don't have a whole lot of formal training in crime
16 scene and investigation involving homicide. Is that a
17 fair statement?

18 A I have a little; not much.

19 Q Okay. "A little," probably, being what? The certifica-
20 tion school?

21 A Yes, sir. Certification school.

22 Q Okay. Approximately how long after you got home was it?
23 About how many minutes, hours, whatever, after you got
24 home, did the boys knock on your trailer door?

25 A I couldn't answer that. It was, like I say -- you know

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-- I left the office, and I drove home, and we hadn't had dinner yet. So, it was the evening.

Q Okay.

A Early evening. You know, after 5:00 o'clock, 5:30, 6:00 o'clock. Somewhere along in there.

Q Probably somewhere between 5:00 and 6:00? Between 5:30 and 6:00?

A Approximately, yeah.

Q Okay. When you -- you followed the boys down to the locations of the bodies. We've used most of that chalkboard already. Let me tell you where a couple of the diagrams are on the chalkboard, and maybe we will use one, and maybe we will use a different one. The diagram, of course, over to the far left, probably the left-hand side of the board is the twin bridges, basically, showing the location of Speegleville Park with the X. The picture that is in the top right is a picture that has been drawn by another witness, describing where the bodies were. Below that is a description that we've got that is Koehne Park across the lake from there. Okay?

A Yes, sir.

Q I wonder if you wouldn't mind taking, let's say, the bottom right-hand portion of that board, if you need it, to draw the location where the bodies were found. Now,

1
2 let me explain this first. That description up there in
3 the top right-hand picture shows, the two boxes are the
4 twin bridges, then the road going into Speegleville Park.
5 The first little line across the road that is going from
6 lower left to upper right is the gate and the trailer
7 house there into Speegleville Park. The circle shows
8 the intersection. The little "X" at the intersection
9 shows where Sidney Smith went, in order to direct the
10 traffic down to the location of the bodies. Now, what I
11 would like for you to do, is kind of orient the members
12 of the jury and myself, to tell us where, best you can
13 recall, in that park the bodies were found. Now, first,
14 take a good look at Sidney Smith's drawing. Because I
15 can't tell you where the bodies were found, and this is
16 one of two versions I have heard, and I flat don't know
17 where the bodies were found. I want you to tell me where
18 the bodies were found, okay?

19 MR. FEAZELL: Now, Your Honor, we're going to
20 object to the side bar remark about "one of two versions
21 I've heard."

22 THE COURT: Sustained.

23 MR. FEAZELL: Thank you, Your Honor.

24 BY MR. HUNT:

25 Q Okay, my question to you, Gene, is, if you can use that

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illustration, fine. If you can't, go ahead and use the space to the bottom right-hand portion of the board, to show us how you would get to the bodies, if you were to come into Speegleville Park past the trailer house, okay?

A Okay.

Q It might be easier for you to draw another drawing down there in the bottom right.

A Yeah. If it's all right, I will just kind of put one here.

Q Yes, sir. Why don't you kind of put an outline around it, so we won't get it mixed up with the one above it and to the left of it.

A Okay. (Drawing on board.) Is that about what you wanted?

Q Well, I don't know. Gene, why don't you stand, if you would, over to the other side of the board, so you can kind of describe it to the members of the jury and tell us what you have got there.

A Okay. Here is the Stop sign where the trailer sits.

Q Okay.

A Okay. You go on down the paved road, and to your right, you will find a -- it makes some curves there -- and to your right, you will find a dirt road. You turn to the right and follow that down, and it will take you back down to the lake. And if you follow this one dirt road

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and turn back to the right right in here -- I'll put it this way -- you turn back to the right and you follow it around, you'll come up to kind of a Y.

Q Okay. I'm having trouble orienting that, Gene --

A Okay.

Q -- with the gate going into Speegleville Park.

A Okay. Okay. Here is the gate, say.

Q Okay.

A Okay. And here's the dirt road, starts right here.

Q Okay. Now --

A You turn to the right, all --

O Before you get to the dirt road, would you kind of give me an orientation, as far as -- I know that when you go into Speegleville Park, you go past the gate.

A Yes, sir.

Q You go past the trailer house. And, then, you come up to kind of a split in the road, where you're still on paved road, and it is kind of an intersection. Okay?

A You're talking about where you go to the barges and to the boat house?

Q Well, I'm talking about coming in off of Highway 6. And that's what I'm trying to orient us to.

A Okay. You come in off of Highway 6 down here, okay?

O Okay.

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2 A All right. Here's the gate.
3 O Okay.
4 A Okay. You come on up here. And if you follow the road
5 on to the left all of the way around, you will come to
6 another paved road all of the way up here.
7 Q Okay.
8 A Okay. But before you get up there, you will pass a
9 campsite over on the right-hand side in here.
10 O Okay.
11 A Okay.
12 Q Would you --
13 A Okay.
14 Q Is that that circular campsite --
15 A Yes, sir.
16 Q -- off to the right?
17 A Yes, sir.
18 O Okay.
19 A And just as you pass there, you will come to a dirt
20 road.
21 Q Okay.
22 A Leads off of the paved road down toward the lake.
23 Q Okay.
24 A Okay. You've got another little road that comes out
25 like this.

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Q Uh-huh.

A And this one here that goes to the left, comes up in here.

Q Okay.

A To the left, and then circulates in some trees and goes around and around down there, and then winds down to the lake.

Q Okay.

A Okay.

Q All right. I think I have got you. All right.

A Okay. When you make this curve right here and start back past this thing and go up here, there is another curve right in here, and this road takes you back out to the paved road.

Q Okay.

A And this one here carries you on down to the lake.

Q Okay.

A Okay.

Q Good. Now, if you would, stand over there a little bit to the other side, so you can show the jury what you just showed me. Because I'm afraid I was rude enough to put you between you and them.

A Okay.

Q Explain that again, if you would, Gene.

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2 A Okay. This is Highway 6. You come in through the gate.
3 You stop, whatever. And you come on up here, and this is
4 a campsite on the right-hand side.

5 Q Okay. Now, Gene, that's the -- that's, basically, an
6 oval shape around there to the right?

7 A The campsite?

8 Q Yes, sir.

9 A Yes, sir. It is just a little circle road up in there.

10 Q Okay.

11 A Yes, sir. With tables and stuff all in there.

12 Q Yes, sir.

13 A Okay.

14 Q And while you're driving past that, you're still on the
15 paved road --

16 A Yes, sir.

17 Q Is that correct?

18 A Yes, sir.

19 Q Okay. Go ahead.

20 A And you go on past that a little ways and you come to a
21 dirt road off to the right.

22 Q Okay.

23 A You turn off --

24 Q And that kind of skirts the trees, is that right, Gene?

25 A The dirt road?

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2 Q Yes, sir.

3 A Not at first.

4 Q Okay.

5 A It is kind of open field.

6 Q All righty.

7 A And, then, it kind of winds into the trees.

8 Q Okay.

9 A And, then, you come down the dirt road, like I say,
10 again. And as you come on down a little further, well,
11 another one splits off and goes down to the lake back
12 off like this.

13 Q Okay.

14 A And, then, this one goes on up into the trees.

15 Q Okay.

16 A Okay. This is where you're at right here.

17 Q Okay. Now, as you're coming -- in fact, to make it,
18 again, easier, so that all of us can understand what
19 we're talking about, why don't you take that red marker
20 and use it to just kind of draw an outline of the trees,
21 so that the jury will be able to see the tree line we're
22 talking about, okay?

23 A Well...

24 Q If you can.

25 A Let me see. Yeah. I think there was some about right

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along in here. And, then, they skipped. And it was right along in here. And right along in here. Just about like that, sir.

Q Okay. Good.

A Right in here was just kind of a plain open field.

Q All right. Okay. Okay. Gene, you can either stand there, or if you're more comfortable, you can go ahead and take your seat. What I'm going to be asking you about is, basically, the location of the bodies, okay?

A Yes, sir.

Q However you're comfortable, you can go ahead and do that, sir.

A Fine.

Q Okay. Now, when you first went down there with the boys, tell me how you got to the location where they found Kenneth Franks' body.

A Okay. I followed them. And that's the way they led me, the way I've got it marked off. The paved road right there.

Q Uh-huh.

A Down the dirt road. We passed the little road to the right, the first one. And then went on down to where it lies off down in the woods there.

Q Okay.

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A Okay.

Q Yeah.

A That's where I stopped my car.

Q Okay. Now, if you would, go ahead and put kind of a little box shape where you parked your car, if you can, Gene.

A (Marking on board.)

Q Okay. Good. After you parked your car, you said that you saw Kenneth Franks' body there, you sent the boys back. You took some information from them, sent the boys back to the main road, and called for assistance. Is that correct?

A Yes, sir.

Q Again, I might have the sequence out of order, but that's approximately what you did?

A Yes, sir.

Q Okay. Approximately how long after that did the first car or cars arrive, Gene?

A Well, you're talking about the police cars, or the Channel 10 news?

Q I guess you said the Channel 10 news got there first?

A They were Johnny-on-the-spot --

Q Okay.

A -- you know.

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Q Now, the Channel 10 car came. Do you know how many people were there, Gene?

A Two.

Q Okay.

A At first.

Q All right. Male and female?

A Yes, sir.

Q Two males? What?

A Male and female.

Q Okay. And one of them had a camera?

A The male had the camera.

Q Okay. What did they do after they got there?

A They were just taking pictures.

Q Okay. Take pictures of --

A Yes, sir.

Q -- basically, the body? Apparently, the body of the boy?

A Yes, sir.

Q Didn't know about the body of the girl?

A Yes, sir.

Q Okay. Did anybody say, hey, you can't go there, or you can't step here? Or did anybody give them any directions, as far as where they could or couldn't go, as far as when they took their pictures?

A If I recall, they hadn't been there but just a few

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seconds, and then the Sheriff's Department came up, you know.

Q Okay.

A And that ceased that. They told them to stand back, okay?

Q Okay. Now, when the Sheriff's Department got there, was it just Sheriff's Department? Or was the Sheriff's Department followed pretty quickly by the Waco P.D. car?

A I believe that's so. Yes, sir.

O That it was --

A In fact, I believe it might have been a couple of Sheriff cars, okay?

Q Couple of Sheriff's cars. Was P.D. also there?

A Something. I didn't count them. They parked outside, okay, under one of the trees.

Q Okay. How many cars were actually parked down there with your car?

A Sir, at the time, I don't believe there was none but mine.

Q Okay. Where did the news vehicle park?

A They parked right at this -- right here, there is a little open site right in here back up the paved road. They parked about right along in here somewhere.

Q Okay. And, then, they walked on down?

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A Yes, sir. It was not very far.

Q Do you know why they walked down, instead of driving?

A Don't have the slightest idea, sir.

Q Okay. Okay. Approximately how many Sheriff's people got there?

A Oh, at the time, I would say, you know, right after I called in, and after a little elapsed time, maybe two or three.

Q Okay.

A That I can remember being at the scene, you know, around there.

Q Okay. Now, probably, we had better tell the jury, who's got jurisdiction of that area? Is that McLennan County? Is that Waco? Is that Corps of Engineers? Whose property is that?

A Okay. It is run by the Corps of Engineers, but Waco -- Waco patrols it.

Q Okay. Waco patrols it?

A Yes, sir.

Q The Sheriff's Department was just there, too?

A I called them.

Q Okay. Good. Probably, you have direct radio communications with the Sheriff's Department. They, in turn, called the P.D.?

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A Yes, sir.

Q Okay. And, again, when I say "P.D.," you and I both know we're talking about Waco Police Department?

A Yes, sir.

Q Okay. Did somebody immediately assume control and say, okay, I'm in charge? Or how did that work out, Gene?

A I don't guess you could say it was, you know, say he was in charge. I will say that there was a person there that seemed like he knew what he was doing more than I did, let's put it that way.

Q Okay.

A Because I didn't know anything.

Q All right. And who was that?

A Well, at the time, I didn't know. But it was a police sergeant from Waco P.D.

Q Do you remember his name? Or do you know his name?

A I do now; yes, sir.

Q What is his name?

A Truman Simons, I believe.

Q Okay. Truman Simons kind of took charge?

A Yes, sir.

Q Okay. And Truman, at that time, was in uniform, is that correct?

A Yes, sir.

PENGAD CO., BAYONNE, N.J. 07002 FORM 740

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Q Okay. As you were there, did other agencies arrive?
Other police agencies?

A I'm sure there was quite a few police officers; yes, sir.

Q Okay. Can you tell me what agencies -- what police agencies were represented?

A The only thing I can tell you is, there was the Sheriff's Department.

Q Okay.

A Myself, the Constable's Department, and Waco P.D., I believe was, you know, as well as I can remember. You know, like I say, it kind of bothered me a little bit.

Q Sure. A long time ago?

A Yes, sir.

Q Approximately, how long -- again, Gene, if you want to assume your seat, however you're most comfortable.

A I'm fine.

Q Okay. It was a long time ago, I realize that. But how long did you stay there at the scene, Gene?

A I left right after their confrontation with covering up the body, okay?

Q Okay.

A I took off. I don't remember who it was, I told them I would be up at the house, if they needed me, they could call me.

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2 Q Okay.

3 A Now, after that, I -- you know -- that's it.

4 Q Okay. So, that meant there were, at least, Waco Police
5 Department, Constable, Sheriff's Department, and Corps
6 of Engineers people there, is that correct?

7 A After I left, there was no Constable's Department there.

8 Q Okay. Now, I know -- well, you don't remember anybody
9 else from the Constable's Department?

10 A Yes, sir.

11 Q Who else from the Constable's Department?

12 A Johnny Dodd, Jr.

13 Q Okay. I thought I saw "Bubba's" picture.

14 A Yes, sir.

15 Q Okay. Approximately how many people from the Sheriff's
16 Department?

17 A It came out later -- I couldn't tell you, sir -- roughly
18 six, seven, maybe five, somewhere along in there. I
19 don't know.

20 Q Okay.

21 A You know, I didn't count them.

22 Q All right. How many folks from the Waco Police Depart-
23 ment, approximately?

24 A About the same, I guess.

25 Q Okay.

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A I would say somewhere along in there.

Q How many folks from the Corps of Engineers or Rangers?

A I believe, just one.

Q Okay. Were there any Texas Rangers there?

A If they were, I didn't see any. I didn't look. I mean, you know...

Q They might have come after you left there?

A They could have come after I left; yes, sir.

Q Okay. Now, you talked a minute ago about the fact that the Corps of Engineers Ranger started to cover up the body?

A Yes, sir.

Q In order to cover up the body, did he have to move the body at all?

A No, sir.

Q Just picked -- did he pick it up and put a blanket --

A No, sir.

Q -- or did he lay the blanket over the body?

A Laid the blanket over the body.

Q Okay. Now, when Vic showed you the picture of the victim and asked if that's the way he remembered -- the way that you remembered seeing Kenneth Franks -- I think you said, that's not exactly the way I remember it, I thought he was laying in a different position. Am I misstating you?

PENGAD CO., BAYONNE, N.J. 07002 FORM 740

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Or is that correct?

A That's what I said. I believe, at one time, like I say, when I first viewed it, I believe his right foot was tucked under his left leg just a little bit.

Q Okay.

A Okay, you know, kind of up like this.

Q Okay.

A A little bit.

Q And that's not how he is depicted in that picture?

A In this picture?

Q Yes, sir.

A No. It shows his legs out straight. No, sir.

Q Okay. Again, during this time, you said a number of times, that you, very understandably, were shook. Does that sound correct?

A Yes, sir.

Q I mean, that's a pretty horrible experience for anybody to go through.

A Yes, sir.

Q Okay. As you were there, I assume that you also were dividing your attention, you were sometimes down near the boy, you were sometimes out trying to help find the girls, if there were going to be girls, is that correct?

A After I was shown the pictures of the girls, from where I

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was at with the body of the man --

Q Uh-huh.

A -- he said to look around. So, I left and went on down in front of the car and was just looking around down in there and found them. And I never did go back and view the boy again.

Q Okay. Can you describe the picture that they showed you, as far as being able to find the girls, Gene?

A Other than just being two girls, you know, in a picture, that's it.

Q Okay. Do you remember who brought that picture -- where it came from?

A It was a Waco police officer.

Q Okay.

A And his name, you know, just slips my mind.

Q Okay.

A I wouldn't -- I couldn't say.

Q You might recognize him, but you don't recall his name, offhand?

A Might do it; yes, sir.

Q Okay. When was the first time that anybody tried to cordon off the area? You know, to secure the area there with ropes, or anything like that?

A Well, I think, in all, as far as the ropes and things,

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I couldn't tell you. But I believe, when the Sheriff's Department got there, they was kind of telling people to get back and leave the scene, you know, and just, you know...

Q All right. They were telling civilians that?

A I believe there was some civilians there. Somebody was there; yes, sir.

O Okay.

A That wasn't supposed to be there, maybe. There wasn't too many.

Q All right.

A But they were there.

Q Okay. In the meanwhile, the police officers were there, out wandering through the fields, or looking through the fields, looking for bodies, for one thing, I assume?

A Not at first.

Q Okay. What were they doing at first?

A They were just kind of milling around, standing there, you know. And, then, somebody said that they thought there might be two girls with this boy, to look around for the other -- to see if there was any other bodies.

O Okay. Then, they started looking around?

A Yes, sir.

Q Okay. Can you describe what the area is there, Gene?

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2 As far as -- is it wooded? Is it brush? How would you
3 describe the area?

4 A A little of both.

5 Q Okay.

6 A A little of both. Mostly wooded.

7 Q Okay.

8 A Real thick. You know, it's not brushy, but there's a
9 little of both.

10 Q Okay. And the grass that's there, how deep would the
11 grass be?

12 A Well, particularly, the grass there, it's just, you
13 know, like you would see in an overgrown yard at a
14 house, you know, just old rough grass.

15 Q Okay.

16 A All kind of weeds and --

17 Q Maybe shin high? Not terribly deep?

18 A Not that deep, I don't believe.

19 Q Okay. Maybe ankle deep?

20 A Something like that; yes.

21 Q Okay. So, then, after somebody produced a picture of
22 the girls, then, did all of the officers there start
23 looking, the best they could, to try to find out if
24 they could find some bodies?

25 A There was several. They were found from the road.

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Q They were found from the road?

A Yes, sir. As we were walking down the road, they -- well, you couldn't help but find them, if you looked, there she lay.

Q Okay.

A Okay.

Q Then, after they found the first body, I would assume that some of the officers at least went to the body. Does that sound right?

A I'm sure; yes, sir.

O Okay. Others kept looking for the other girl?

A No. It wasn't long after they found that one. It's just from me to you there, there the other one lay, okay?

O Okay.

A In plain sight.

Q Okay. Gene, if you were to look at the water's edge, how close to the water's edge was the closest body? The closest body to the water's edge, how far was it from water?

A Between 75 and 100 yards, I'd say. I never went to the water down that road, okay? I know the lake is down there.

Q Okay.

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A And you can see the water out a distance from there.

Q Okay.

A You know, when the leaves are off of the trees and stuff.

Q Yeah. But you've never really driven down there?

A I have never driven down to the end of it; no, sir.

Q Okay. So, you're not tremendously familiar with that area?

A Not that part.

Q Does that sound fair?

A Yes, sir.

Q Okay. If you were to draw a line from where you believe the water's edge is, up to, let's say, where the first body was, can you give us an orientation, from water's edge to the bodies, and tell us what the sequence would be? Like, would it be boy closest to the water, girl next, next the girl? Or how? Tell us the orientation, if you can, Gene.

A Okay. One of the girls was closest to the water.

Q Okay.

A Okay. And about -- if you vertically line them up, you know, or like this, the other one was going to be about three foot further from the water.

Q Okay.

A If you had them in line. And, then, the boy, he was a

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good 40 or 45 feet from the girls.

Q Okay.

A Up the bank. Up the road.

Q So, that, the boy was furthest from the water, the two girls were next closest?

A Yes, sir.

Q Which of the two girls was closest to the water, the blond girl, or the dark-headed girl?

A I believe it's going to be the dark-headed one. Like I say, I didn't pay a whole lot of attention, okay?

Q Okay.

A But I believe it was the dark-headed one, as well as I can remember.

Q Okay. Okay. Did the second news crew arrive before you left, or after you left, Gene?

A If they arrived before I left, I didn't see them, okay?

Q Okay.

A Because I left word, if they needed me, I would be at the house. I just went ahead and left.

Q How about the folks from the funeral home that transported the bodies? Did their van get there before or after you left?

A No, sir. After.

Q Okay.

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A Or I didn't see them, let's put it that way.

Q Okay. But, now, you said that Truman Simons appeared to know what he was doing. He was in uniform and he was Waco P.D., is that correct?

A Yes, sir.

Q Okay. Nobody else, apparently, assumed control of the scene, let's say?

A I believe you would have to say he acted like he was in charge. Which, you know, somebody needed to be.

Q Okay.

A And, I guess, you know...

Q Can you tell me what he did, when you said that "He acted like he was in charge"?

A Well, we were -- I was in the middle of the two girls. Just, I'll say, in the middle. I was by the blond-headed one. And the Park Ranger was covering her up. And Simons, I believe, was over at the other girl, standing there. I believe he had a pad and paper in his hand, or something, I don't know. But, then, when he attempted to cover this girl up, well, he spoke up and, you know, told, you know, him not to do it. I mean, you know... And not long after that, was when I told them, if they needed me, I would be up at the house. I left, because I knew I couldn't help them any more.

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Q Sure.

A So, I left.

Q When you first saw the body of the boy, I assume that you asked the Chambers boy and the Smith boy if they had touched it, and they probably told you that they hadn't moved the body, or anything like that. Does that sound right?

A I believe so; yes, sir.

Q Okay. You said that the boy's body had his glasses on?

A Yes, sir.

Q Okay. I assume that struck you as being unusual?

A Very unusual. I mean, you know, why, I don't know. But he was just like you had purposefully put your sunglasses on. I mean, they were there.

Q Did you notice where his cigarettes were? Were they stuck up in his sleeve?

A I didn't notice that.

Q Do you remember?

A No, sir.

Q Did he have a cigarette in his mouth?

A Not that I recall; no, sir.

Q Okay. Were there cigarettes any place near that body?

A I didn't see any.

Q Okay. Were there any other civilians on the scene, other

PENGAD CO., BAYONNE, N.J. 07002 FORM 740

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than the two boys that found the body?

A We were all there -- you know -- them two and me were the only ones there for a little bit.

Q Okay.

A And, then, like I say, KWTX came down, you know.

Q Okay.

A You know, after that, several people.

Q Okay. You must have left before it got dark?

A Oh, yeah. Way before it got dark.

Q Okay. Then, you went back to your trailer house?

A Yes.

Q Did you make any kind of formal report, or anything like that?

A No, sir. I just knew that I turned it over to somebody that could be in charge, and I felt confident that way, and I just left.

Q Okay.

MR. HUNT: We'll pass the witness, Your Honor.

Thank you, Gene.

THE COURT: Any other questions?

MR. FEAZELL: Yes, Your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

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3 BY MR. FEAZELL:

4 Q Deputy Thorp, you were talking about the Park Ranger,
5 and a couple of times you said, "attempted to cover the
6 body," and a couple of times you said, "cover the body."
7 Did he, in fact, cover one of the bodies?

8 A Yes, sir.

9 Q Okay. So, the blanket did get down on one of the
10 bodies?

11 A Yes, sir.

12 Q Okay. But you said it was Truman Simons, Sergeant
13 Simons, who told him, "Take the blanket off that body"?

14 A Yes, sir.

15 Q Okay. Now, you testified that you were somewhat shaken
16 when you saw the body of Franks, and understandably so.

17 A Pretty much; yes, sir.

18 Q And that you think, from what you remember, that maybe
19 the right, or one of the feet, could have been tucked
20 under. Is it possible, Deputy Thorp, that the tucked
21 under foot could have been one of the girls? That one
22 of the girls might have had her leg tucked under, rather
23 than Kenneth?

24 A Well, no, sir. I don't believe so.

25 Q Okay.

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MR. FEAZELL: That's all, Judge.

MR. HUNT: We don't have any other questions,
Your Honor.

THE COURT: All right.

You may step down.

May this witness be excused?

MR. FEAZELL: No objection from the State.

MR. HUNT: We have no objections either, Your
Honor.

THE COURT: You may be excused, Mr. Thorp.
Thank you, sir.

MR. HUNT: Thank you, Gene.

THE COURT: Call your next witness.

MR. BUTLER: We'll call Brian Reynolds.

THE COURT: All right, Mr. Reynolds, you have
already been sworn, have you not?

THE WITNESS: Yes, sir.

THE COURT: If you will, just have a seat
there.

BRIAN REYNOLDS

called as a witness on behalf of the State of Texas, and
having been first sworn, testified as follows, to-wit: