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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Tucson Woman's Clinic, et. al.,
Plaintiffs,

v.

Catherine Eden, in her capacity as
Director of the Arizona Department of
Health Services, et. al.,

Defendants.

No. CIV 00-141 TUC RCC

**THE DEFENDANTS' JOINT
MOTION FOR PARTIAL
SUMMARY JUDGMENT ON
PLAINTIFFS' INFORMATIONAL
PRIVACY CLAIM**

(Oral Argument Requested)

Pursuant to Fed. R. Civ. P. 56, the defendants move this court for partial summary judgment, dismissing with prejudice Count III of plaintiffs' Fourth Amended Complaint, which is based on a violation of their patients' informational privacy rights. This motion is supported by the accompanying memorandum in support and separate statement of facts relied upon pursuant to D. Ariz. R. 1.10(l)(1).

April 30, 2001.

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**MEMORANDUM IN SUPPORT OF
THE DEFENDANTS' JOINT
MOTION FOR PARTIAL
SUMMARY JUDGMENT ON
PLAINTIFFS' INFORMATIONAL
PRIVACY CLAIM**

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TABLE OF CONVENTIONS

A.A.C.	The Arizona Administrative Code.
DHS	The Arizona Department of Health Services, the state agency that is responsible for overseeing the regulation and licensing of abortion clinics pursuant to the Regulatory Act.
Informational Privacy DSOF	The defendants' joint Rule 1.10(<i>l</i>)(1) statement of undisputed facts in support of their partial motion for summary judgment on plaintiffs' informational privacy claim.
The Regulatory Act	A.R.S. §§ 36-449 through -449.03 and Title 9, Chapter 10, Article 15 of the Arizona Administrative Code, the statutes and regulations governing the licensing of abortion clinics in Arizona.
The State	The State of Arizona and its Legislature.

Preliminary Statement

Plaintiffs' speculative assertions that state employees *might* violate patient or physician privacy rights are inadequate to successfully challenge the Regulatory Act on its face. Not only can plaintiffs point to nothing more than the *possibility* of disclosure of patient information, their claim is in direct contradiction to DHS's mandate, practice and experience safeguarding confidential medical information. Effective institutional safeguards apply to *all* medical information obtained by DHS from regulated entities, including abortion clinics. On a daily basis, DHS controls, accesses and maintains confidential information in connection with its role to protect and preserve public health, safety and welfare. Because of the extent to which DHS handles confidential patient medical information, DHS has in place numerous safeguards to protect that information and the privacy interests of patients. The Arizona Legislature has mandated confidentiality or has required DHS to develop and implement procedures for ensuring confidentiality in no less than 45 different statutes. Moreover, DHS currently complies with no less than 54 rules mandating confidentiality on its employees, its contractors and the licensed entities.

Nor does the Regulatory Act give DHS unfettered access to abortion clinic records. Indeed, DHS can only review medical records at abortion clinics in two circumstances: (1) when DHS needs to review a random sampling of the records during an initial or relicensure survey to verify compliance with record keeping requirements; and (2) when DHS needs to review medical records during a complaint investigation in order to substantiate whether a violation of the Regulatory Act has occurred. When DHS obtains records under these two limited circumstances, those records will be provided the same level of protection as all other confidential material in DHS's possession. Thus, plaintiffs' allegations regarding uncontrolled and unregulated access to their patients' medical records are simply meritless.

Background

DHS Regulation of Health Care Institutions

The Regulatory Act requires abortion clinics to meet the same licensure requirements as are required of all other licensed health care institutions in Arizona. A.R.S. § 36-449.02. The State's general licensing requirements authorize DHS to (1) create a license application process, A.R.S. § 36-422; (2) inspect the premises for compliance with licensing requirements, A.R.S. §§ 36-424, 36-425; (3) investigate the qualifications of an applicant, A.R.S. §§ 36-424, 36-425; (4) enforce applicable statutes and regulations, A.R.S. §§ 36-425, 36-427 through -431.01; and (5) access all books, records and information reasonably necessary to insure regulatory compliance, A.R.S. § 36-406(1)(C) & (2)(A).

Abortion Clinic Record Requirements

Pursuant to the Regulatory Act, abortion clinics are required to maintain and keep confidential patients' medical records. The information required to be documented in a patient's file is limited and comparable to the information that *any* medical file—whether created in connection with an abortion or with any other medical procedure—should contain. Thus, abortion clinic's must maintain the patient's name, address, and date of birth; the designated patient representative, if applicable; the name and telephone number of an individual to contact in an emergency; the patient's medical history; the patient's physical examination; laboratory and ultrasound test results, if applicable; the estimated gestational age of the fetus; consent forms signed by the patient or the patient's representative; a record of all orders issued by a physician, physician assistant or nurse practitioner; a record of all medical, nursing, and health-related services provided to the patient; and information regarding medication given to the patient. A.A.C. R9-10-1511.

DHS Access To Abortion Clinic Medical Records

Abortion clinic patient records are only available to DHS under limited circumstances. See A.A.C. R9-10-1511(A)(2) & (3) (patient medical records are

confidential and may only be released to DHS or an authorized abortion clinic employee). After receiving an application for a license or re-licensure, DHS must conduct an investigation to ensure the facility is in substantial compliance with the Regulatory Act before issuing the license. A.R.S. §§ 36-424(B), 36-425(A). This inspection may require the random review of some patient records to insure compliance with the record keeping requirements. Also, after receiving a complaint, DHS may have to conduct an investigation, and as part of that investigation, DHS may have to review some patients' records to determine if a violation has occurred. A.R.S. § 36-424(D); A.A.C. R9-10-1503(B)(4).

In addition, A.R.S. § 36-2301.02 requires that any physician performing an abortion after twelve week's gestation send a copy of an ultrasound print of the fetus to a DHS contractor for review. Although the plaintiffs contend that such ultrasound prints might contain patient names or other identifying information, DHS has indicated that it will use an anonymous coding system that eliminates patient and abortion provider names and other identifying information from prints or reports provided to the DHS contractor. [Informational Privacy DSOF at ¶ 8] Moreover, A.R.S. § 36-2301.02(G) mandates that information contained on or accumulated from ultrasound prints is confidential and "shall not be released" by DHS or its contractor.

Argument

I. PLAINTIFFS' SPECULATIVE CLAIMS HAVE BEEN REJECTED BY NUMEROUS OTHER COURTS.

In *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502 (1990), the U.S. Supreme Court rejected the plaintiffs' claim that an abortion statute was unconstitutional because it might allow state employees to improperly obtain and disseminate patient medical information. The Court stated, "[W]e refuse to base a decision on the facial validity of a statute on the mere possibility of unauthorized, illegal disclosure [of patient information] by state employees." *Id.* at 513. The Court based its decision, in part, on the law's requirement

that patients and physicians provide identifying information for administrative purposes only, and not for public disclosure. *Id.*

Similarly, in *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976), the Supreme Court upheld a statutory requirement that medical facilities and physicians performing abortions maintain records of relevant maternal health and life data and make that information available to local, state or national public health officers. Notwithstanding the informational privacy concerns inherent in such a requirement, the Court upheld the regulations because they provided a reasonable means of protecting maternal health. *Id.* at 80. Specifically, the Court held that the record keeping and reporting requirements were reasonably directed to the preservation of maternal health and properly respected patients' confidentiality and privacy interests. *Id.*

In the most recently reported case examining a state's regulatory scheme governing abortion clinics, the Fourth Circuit Court of Appeals held that South Carolina's regulatory scheme was constitutional. *Greenville Women's Clinic v. Bryant*, 222 F.3d 157 (4th Cir. 2000), *cert. denied*, 121 S.Ct. 1188 (2001). In addressing the informational privacy claims made by the plaintiffs in that case, the court concluded that allowing government officials who inspected abortion clinics to review and copy necessary documents, including patient medical records, helped ensure compliance with the valid and legitimate state interests in healthcare standards. *Id.* at 171-72. Relying on *Danforth*, the court held that the inspection and copying requirements did not have a legally significant impact or consequence on the abortion decision or on the physician-patient relationship, especially in view of the confidentiality requirements built into the regulatory scheme to protect a patient's privacy. *Greenville Women's Clinic*, 222 F.3d at 171. Similarly, specific confidentiality protections are incorporated into the Regulatory Act.

II. THE REGULATORY ACT DOES NOT VIOLATE THE INFORMATIONAL PRIVACY INTERESTS OF PLAINTIFFS OR PLAINTIFFS' PATIENTS.

Courts have recognized that individuals have a constitutionally-protected privacy interest "in avoiding disclosure of personal matters," including medical information. *Doe v. Attorney Gen.*, 941 F.2d 780, 795 (9th Cir. 1991); *see also In re Crawford*, 194 F.3d 954, 958 (9th Cir. 1999) ("'Informational privacy' refers to the individual interest in avoiding disclosure of personal matters."); *Norman-Bloodsaw v. Lawrence Berkeley Lab.*, 135 F.3d 1260, 1269 (9th Cir. 1998) (informational privacy includes interest in maintaining the confidentiality of medical information). However, such interests are not without limits. Instead, informational privacy is a *conditional* right, which is subject to limitations when a proper governmental interest exists. *In re Crawford*, 194 F.3d at 959.

In determining whether an individual's privacy right must yield to the government's interest in obtaining certain information, courts perform a balancing test. *Doe*, 941 F.2d at 796. Factors that courts consider when performing that test include 1) the type of information requested, 2) the potential for harm in any subsequent non-consensual disclosure, 3) the adequacy of safeguards to prevent unauthorized disclosure, 4) the degree of need for access, and 5) whether there is an express statutory mandate, articulated public policy, or other recognizable public interest militating toward access. *In re Crawford*, 194 F.3d at 959. Thus, the government may obtain private information if it can show that its use of the information would advance a legitimate state interest and that its actions are narrowly tailored to meet that legitimate interest. *Doe*, 941 F.2d at 796.

As in the *Danforth* and *Greenville* cases, in this case, the pertinent factors clearly weigh in favor of the limited release of medical information permitted by the Regulatory Act. The strong societal interest in protecting maternal health outweighs the individual privacy interests affected by the Regulatory Act, and the confidentiality safeguards built in to DHS's review of all medical records it obtains as the result of its oversight of medical

facilities, including abortion clinics, provide patients with adequate protection. As the Supreme Court has determined on many occasions when faced with this issue, states necessarily require access to certain medical information to advance their legitimate interests. *See Danforth*, 428 U.S. at 79 (recognizing that maintenance of and access to records may be helpful in developing information pertinent to the preservation of maternal health); *Whalen v. Roe*, 429 U.S. 589, 600 (1977) (requiring disclosure of medical information to the State does not automatically amount to an impermissible invasion of privacy); *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 899 (1992) (“the collection of information with respect to actual patients is a vital element of medical research, and so it cannot be said that the requirements serve no useful purpose other than to make abortions more difficult”); *Planned Parenthood v. Ashcroft*, 462 U.S. 476, 487 (1983) (“on its face and in effect, [the reporting requirement] is reasonably related to generally accepted medical standards and ‘further[s] important health-related State concerns’”).

A. The Regulatory Act Limits the Type of Information DHS May Review and the Circumstances In Which DHS May Review It.

The Regulatory Act allows DHS access to patient records only for the purpose of ensuring compliance with the licensure standards established by the Regulatory Act. Thus, DHS reviews (and potentially copies) patient records *only* in one of two situations:

- as part of a complaint investigation, or
- as part of a sampling of records during a licensing survey.

A.R.S. §§ 36-424(B), 36-424(D), 36-425(A); A.A.C. R9-10-1503(B)(4).

Moreover, the information required to be maintained by abortion clinics is very limited in nature: generally, the results of a physical exam, the patient’s medical history, any required lab tests or ultrasound results and a patient’s medication information. A.A.C. R9-10-1511. Thus, the type of information that DHS may obtain under the Regulatory Act is

more limited than the information allowed by other regulatory schemes that have passed constitutional scrutiny. *See, e.g., Danforth*, 428 U.S. 52 (upholding Missouri regulations that required the maintenance and review of all abortion activities on forms provided by the State); *Whalen*, 429 U.S. 589 (upholding statutes that required that the state be provided with a copy of every prescription for Schedule II drugs written).

B. DHS Has Adopted and Follows Safeguards that Are Intended to Prevent Unauthorized Disclosure.

1. The Regulatory Act and other statutes governing DHS restrict the disclosure of patient information.

The Regulatory Act and other statutes governing DHS's licensing of medical facilities severely restrict the manner and circumstances in which patient information may be disclosed by DHS or its contractor. A.R.S. § 36-449.03(I) states that DHS "shall not release personally identifiable patient or physician information" related to abortion clinics or their patients. *See also* A.A.C. R9-10-1511(C) (same). Similarly, A.R.S. § 36-404(A)(2) limits the disclosure of information and records received and kept by DHS, making "[p]atient records, including clinical records, medical reports, laboratory statements and reports, any file, film, record or report or oral statement relating to diagnostic findings and treatment of patients, or any information from which a patient or a patient's family might be identified" unavailable to the public. *See also* A.A.C. R-9-1-311, *et. seq.* In addition, DHS's ultrasound review contractor will not have access to patient names or other identifying information because DHS has indicated that it will use an anonymous coding system on prints or reports provided to the contractor. [Informational Privacy DSOF at ¶ 8]

DHS and its contractor may only release specific, identifiable patient information when required to pursuant to a court order or when necessary and pertinent to an investigation. A.R.S. § 36-404(B). In those situations, "[t]he recipient shall maintain patient and source name confidentiality." *Id.* Moreover, to the extent that DHS uses any patient information it obtains from the required ultrasound prints and reports for statistical

abortion clinics’—and other medical facilities’ that are subject to licensing—compliance with the law. If the facilities were to redact patient identifiable information, the inspection process and the investigation process, both key components in ensuring compliance with healthcare standards, would be significantly hindered, because DHS needs identifying information to track records and to review quality assurance activities and peer review activities. [*Id.* at ¶ 5] And, if DHS was required to obtain patient consent prior to looking at specific charts, that consent could be withheld or, at a minimum, significantly delay and seriously impede an investigation into unsafe practices. [*Id.*] Additionally, requesting consent to review files could allow the provider to discover which patient had filed a complaint, information that DHS also must keep confidential. A.R.S. § 36-404(A)(3); *see also* Blair dep. at 45.

Thus, access to patient records enables the State to collect information pertinent to the preservation of maternal health and to control threats to public health—interests courts have consistently recognized as valid for purposes of limited disclosure of medical information. *See, e.g., Danforth*, 428 U.S. 52; *Whalen*, 429 U.S. 589; *Casey*, 505 U.S. 833; *Doe*, 941 F.2d 780; *Greenville*, 222 F.3d 157. As the Third Circuit Court of Appeals stated, “[g]enerally, the reporting requirements which have been upheld have been those in which the government has advanced a need to acquire the information to develop treatment programs or control threats to public health.” *United States v. Westinghouse*, 638 F.2d 570, 578 (3rd Cir. 1980).

D. The State’s Articulated Public Policy Militates Toward Access.

In response to the tragic death of Lou Anne Herron and other abortion-related deaths and injuries, the Arizona Legislature adopted a strong, articulated public policy to protect maternal health and the health of women seeking abortion. [Informational Privacy DSOF at ¶¶ 6-7] Central to that policy is making abortions as safe as possible by creating a licensing scheme that sets minimum standards for abortion clinics. Monitoring abortion

procedures and having access to patient records helps ensure maternal health and safety.

The strong societal interest in protecting maternal health outweighs the individual privacy interests affected by the Regulatory Act. Moreover, the confidentiality safeguards give patients constitutionally adequate protection against public dissemination of private medical information.

Conclusion

This court should grant the defendants' joint motion for partial summary judgment and dismiss plaintiffs' informational privacy claim (Count III) with prejudice.

April 30, 2001.

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**THE DEFENDANTS' RULE 1.10(l)(1)
STATEMENT OF FACTS IN
SUPPORT OF THEIR JOINT
MOTION FOR PARTIAL
SUMMARY JUDGMENT ON
PLAINTIFFS' INFORMATIONAL
PRIVACY CLAIM**

Pursuant to Rule 1.10(I)(1), Local Rules of the District of Arizona, the defendants rely on the following facts in support of their joint motion for partial summary judgment on plaintiffs' informational privacy claim (Count III):

1. DHS trains its staff about the necessity of patient confidentiality and how to maintain that confidentiality. [Blair dep. at 39; Phillips dep. at 59-61]

2. When DHS employees remove records from a medical facility for review in their offices, those records are not kept in public files, are not available for public inspection, and are only available to those employees of the Office of Medical Facilities Licensure who need access. [Blair dep. at 53-55]

3. At the conclusion of an investigation, DHS destroys all records collected in connection with the investigation. [Blair dep. at 53]

4. DHS has never had a problem safeguarding patient confidentiality. [Phillips dep. at 59-61] Indeed, in spite of the fact that many of them were subject to DHS licensing and regulation prior to the adoption of the Regulatory Act, no Arizona abortion provider, plaintiff or plaintiffs' expert was aware of any instance in which DHS had breached patient confidentiality or released patient information. [Howard dep. (Planned Parenthood of Central and Northern Arizona) at 64; Yrun dep. (Planned Parenthood of Southern Arizona) at 55-57; Bettigole dep. (non-plaintiff abortion provider) at 13; Taffett dep. (plaintiffs' expert) at 67-68; Richardson dep. at 86-91; Raphael dep. at 38; Tamis dep. at 113, 118]

5. If health care facilities, including abortion clinics, were to redact patient identifiable information, the inspection process and the investigation process, both key components in ensuring compliance with healthcare standards, would be significantly hindered, because DHS needs identifying information to track records and to review quality assurance activities and peer review activities. [Blair dep. at 55-56] If DHS were required to obtain patient consent prior to looking at specific charts, that consent could be withheld or, at a minimum, significantly delay and seriously impede an investigation into unsafe practices. [*Id.* at 45-46]

6. Lou Anne Herron died on April 17, 1998 in the A-Z Women's Center, a Phoenix abortion clinic, as the result of a lacerated uterus, an injury that occurred during an abortion. [EJA00000177-293 (Phoenix Police Department Report, dated July 15, 1998)] Although Ms. Herron's injury might not have resulted in death under different circumstances, the A-Z Women's Center was understaffed, and the staff that was on the premises during the abortion were improperly trained. [Grimes dep. at 91-97; EJA00005670-5879 (testimony of Dr. John I. Biskind in *State v. Biskind*, No. CR 99-00198 (Ariz. Superior Ct.), dated February 13, 2001)] Ms. Herron's care at the A-Z Women's Center was well beneath the standard of care for abortions and was "absolutely preventable." [Grimes dep. at 94, 96, 99]

7. This death and two other abortion-related incidents—the 1995 abortion death of a twenty-six year old woman who bled to death when her uterus was lacerated during an abortion and the 1998 birth of "Baby Phoenix" following an attempted abortion at 37 weeks gestation—were the impetus for the Arizona Legislature's decision to study and eventually regulate abortion clinics. [Bettigole dep. at 87; Davis dep. at 35, 62; EJA00000152-176 (1/18/96 interview transcript of Dr. John I. Biskind before the Arizona Board of Medical Examiners); EJA00000100 (*Near-Abortion Spurs Investigation of Valley Physician*, ARIZ. TRIB., July 11, 1998); Arizona State Senate Final Revised Fact Sheet, H.B. 2706, 44th Leg., 1st Reg. Sess. at 1 (Ariz. 1999) ("Events in 1998 at a Phoenix abortion clinic raised several questions about the responsibility of state agencies to ensure the public health and safety regarding abortion and other outpatient medical procedures."); Arizona House of Representatives Bill Summary, H.B. 2706, 44th Leg., 1st Reg. Sess. at 1 (Ariz. 1999) ("Events at a Phoenix abortion center raised questions as to how state agencies protect the public pertaining to abortion and various types of outpatient medical procedures.")]

8. DHS has indicated that it will use an anonymous coding system that eliminates

patient and abortion provider names and other identifying information from prints or reports provided to the DHS contractor. [Ex. 8 to Conditt dep. (3/5/01 letter from Vicki Conditt to Kevin Ray)]

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INFORMATIONAL PRIVACY
DEPOSITION EXCERPTS

Excerpts from Deposition of Joel Bettigole, M.D.
October 13, 2000

[13:12 -13:22] Bettigole, Joel

12 Q. Are you aware of DHS's policy with
13 regard to confidentiality of patient records?

14 A. No.

15 Q. Are you aware at all fo what they do
16 with information that tehy might take from patient
17 records?

18 A. No.

19 Q. Are you aware of any incidents, can you
20 recall, where DHS has ever breached a patient's
21 confidentiality?

22 A. No.

[87:01 - 87:25] Bettigole, Joel

1 Q. Doctor, can you tell me what you know
2 about the case involving Louann Herron or
3 Dr. Biskind?

4 A. Well, you know, obviously, I read the
5 papers like everybody else did, and I knew the
6 facility very well because I worked there years ago.
7 And I knew Dr. Biskind - you know, casually I met
8 him a couple of times.

9 And I knew the owner of the clinic very
10 well. And I knew how the clinic was run. And I knew
11 them, and I knew that they had one death previous to
12 that, couple years before. And I was very saddened
13 and very shocked at the death of Louann Herron, as
14 well as the 37-week fetus, which they attempted to

15 deliver, but I was not suprised.

16 Q. Why weren't you surprised?

17 A. Because I know the doctor involved was
18 and impaired physician, and I know the guy who owned
19 the clinic didn't use high-quality personnel, and
20 like -- you know, it happened to be an abortion
21 clinic, but it could have been a plastic surgeon
22 doing liposuction and doing the same thing could
23 happen. It's just that -- as an aside, I mean, these
24 whole regs, that cause these regs, that caused the
25 legislature to do something.

Excerpts from Deposition of Virginia Marie Blair
October 17, 2000

[32:02 - 32:24] Blair, Virginia

2 Q. And so these surveyors go out. What do they
3 do when they get to the facility?

4 A. The process is to go to the administrator.
5 Introduce ourselves. These are unannounced surveys,
6 with the exception of the initial licensing surveys.
7 Explain that the surveyor is there to conduct a
8 relicensure inspection or a complaint investigation, as
9 the case may be.

10 They do a tour of the facility. They review
11 policies and procedures. Medical records. Personnel
12 records. Interview staff. Patients. Patients'
13 families, if that's possible. If there are deficiencies
14 found, they write up a report on a specified form.
15 That's sent to the facility. The facility responds to
16 that.

17 Q. If there aren't deficiencies, is anything
18 written up?

19 A. I'm sorry?

20 Q. If there are no deficiencies found, is
21 anything written up?

22 A. They are sent the same form, and it says
23 there were no deficiencies found at the time of the
24 survey conducted on whatever the date was.

[39:13 - 39:18] Blair, Virginia

13 Q. Will they receive training specifically
14 related to confidentiality of records?

15 A. They already have that. All surveyors are
16 required to keep confidential information that might
17 identify a patient, a patient's family, a source of a
18 complaint. It's required in statute.

[45:03 - 46:06] Blair, Virginia

3 Q. BY MS. NOVAK: Where a complaint that DHS
4 received involved a particular patient, could DHS still
5 effectuate investigation of that complaint by getting
6 patient consent to look at the chart?

7 A. Well, the statute now does not require
8 patient consent for us to review records.

9 Q. But would it interfere with DHS reaching or
10 achieving its purpose in investigating the complaint by
11 obtaining patient consent?

12 A. It can lengthen the process considerably. In
13 the course of investigating a complaint even involving a
14 specific patient, we don't just look at the one record
15 involved. We have to, first of all, to protect
16 confidentiality of the complainant, who frequently is a
17 patient or a family member, we look at a number of
18 records so that the facility isn't aware of the exact
19 subject of the complaint.

20 Second of all, we are looking for perhaps a
21 pattern or a trend. If something occurred, was it
22 because it was in a particular location on a particular
23 day? Was it related to a staff member, a particular
24 staff member? So we would be looking in other patient
25 records for things like that; the same health-care

1 provider providing care, the time of day, or the day of

2 the week. All of those things would come into play.

3 So in order to do that, we wouldn't know the
4 names of other patients prior to going in and
5 investigating a complaint. We might have the name of
6 the subject patients and that's all.

[53:14 - 56:08] Blair, Virginia

14 Q. To the extent that DHS copies records when it
15 inspects or investigates a facility, where at DHS is
16 that information kept?

17 A. Information that is copied is kept in what's
18 called a working file. It is not the public file. It
19 is a working file that is maintained during the course
20 of the inspection or investigation until it has come to
21 a complete conclusion; at which time, when all
22 deficiencies have been cleared, any actions that are
23 going to be taken have been taken, medical records,
24 policies, and so on, are shredded. We do not keep them
25 forever. We keep them just while we need them.

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1 Q. And during the time that they're kept there,
2 I guess when they're working files, where exactly are
3 the working files kept?

4 A. Well, it would depend on where in the process
5 they are. Surveyors may have them in their desk because
6 they are actively working on them. They may be in a
7 file drawer awaiting a plan of correction or a response
8 from a facility.

9 Q. And so they're not kept in locked cabinets;
10 is that correct?

11 A. No, they are not. Unless the surveyor locks

12 his or her desk.

13 Q. And who has access to those working files?

14 A. Support staff that are working on them and
15 the surveyor or team leader or program manager who needs
16 to have access.

17 Q. Is there anything that would prevent any DHS
18 employee from accessing these working files?

19 A. The only people that are in our program that
20 are in that area are employees of the Office of Medical
21 Facilities. And we would question anybody else.

22 Visitors are required to wear badges even if they come
23 from other divisions of DHS.

24 We don't have people in that area physically.
25 They are in conference rooms or meeting in offices. But

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1 the files are within a room, and it's overseen by
2 support staff who are always right there during business
3 hours.

4 Q. And what basis does somebody need to
5 demonstrate to get into that room?

6 A. They'd have to be an employee of the program.

7 Q. So any employee of the program would have
8 access to these working files; is that correct?

9 A. Correct.

10 Q. I'm not sure if I asked you this already.
11 But when a surveyor goes out for either an investigation
12 or an inspection, does he need to look at patient
13 identifying information in the files to accomplish his
14 task?

15 A. There are many reasons that a surveyor would
16 need that. Age can affect what they're looking at.

17 Location. You know, where did the patient come from.
18 How far did they have to travel. And it all depends on
19 the kind of facility it is, what it is we're looking
20 for. And, in part, because we require that facilities
21 have identifying information so that they can contact
22 patients if necessary.

23 Q. What if the names were redacted from those
24 documents, would it interfere with a surveyor's task?

25 A. It could in the sense that in following

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1 something through, you need to be able to identify a
2 file in some format. You need to be able to track
3 what's in the medical record against quality assurance
4 activities, peer-review types of activities.

5 So there has to be some way to assure that
6 the record that the surveyor is reviewing is the record
7 that's being discussed in quality assurance or infection
8 control meeting minutes of some kind.

Excerpts from Deposition of Victoria Davis
October 17, 2000

[35:07 - 35:24] Davis, Victoria

7 Q. Now you had mentioned that the Joint Study
8 Committee, their purpose was to look into the current
9 practice of regulating abortion clinics and other
10 outpatient treatment centers?

11 A. Um hum, yes.

12 Q. And when you say their purpose was to look
13 into it, were they -- besides just looking at it, were
14 they trying to come to some conclusions?

15 A. I think that they wanted to know how
16 outpatient treatment centers, which abortion clinics
17 fall under that category, are regulated. Who has
18 authority over it. And how they could prevent another
19 tragedy from occurring like the Lou Ann Heron death.

20 Q. What conclusions did the committee come to on
21 how to prevent another tragedy?

22 A. I would say that the conclusions were the
23 draft legislation in 2647, giving us the authority to
24 regulate abortion clinics.

[62:16 - 62:25] Davis, Victoria

16 Q. Do you know what point he was making there?

17 A. Let's see. This would have been when the
18 bill was introduced, and he would have been giving a
19 preamble.

20 Q. Do you know the point he was trying to make
21 in that statement there?

22 A. He didn't want to have a recurrence of the

23 Lou Ann Heron incident. They wanted to empower DHS and
24 BOMEX to be able to regulate so there wouldn't be a
25 recurrence.

Excerpts from Deposition of Bryan S. Howard
October 18, 2000

[64:10 -64:19] Howard, Bryan

10 Q. In the time that you've been affiliated with PPCNA,
11 have you ever had reported to you by any of your staff an
12 inspector just barging in and asking for names of patients?

13 A. No, not under this licensing plan, no.

14 Q. Have you ever had any problems with DHS inspectors
15 inspecting your records?

16 A. No.

17 Q. Have you had any experience with DHS inspectors
18 divulging any sort of confidential information?

19 A. No.

Excerpts from Deposition of David Grimes
November 3, 2000

[91:09 - 97:05] Grimes, David

9 Q. And this police report details the discussions
10 that detectives had with different staff of the A-Z
11 Women's Clinic who were there on April 17th, 1998, when
12 Lou Anne Herron had an abortion?

13 A. Correct.

14 Q. Okay. And based on what you have read,
15 Doctor, is it accurate to say that Lou Anne Herron was at
16 the clinic for about three hours before she died?

17 A. I would have to check to see what time she
18 arrived at the clinic.

19 Q. If the police report says three hours, you
20 wouldn't disagree with that?

21 A. Wouldn't quarrel with it, but I have not seen
22 the medical records.

23 Q. Okay. And based on what you read, there was
24 no registered nurse on site in the afternoon when Lou
25 Anne Herron had her abortion, was there?

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1 A. That is my understanding.

2 Q. The only staff that were there besides Dr.
3 Biskind were medical assistants?

4 A. I don't know the training of all of them.

5 Q. That is what the police report would say,
6 correct?

7 A. I have no other evidence.

8 Q. Now, Doctor, some of the discussions in this
9 police report suggest that Dr. Biskind asked some of the

10 staff who were performing ultrasounds to manipulate the
11 ultrasound to come up with a gestational age below 24
12 weeks. Do you recall that in the report?

13 A. Yes, I do.

14 Q. Okay. Is it a fair statement to say that
15 gestational age is one of the primary determinants of
16 safety ---

17 A. (Interposing) That is true.

18 Q. --- in an abortion? And that an ultrasound is
19 probably the most accurate way to get gestational age --
20 determine gestational age?

21 A. Oftentimes.

22 Q. Okay. And, therefore, if you are going to do
23 an ultrasound to determine gestational age, is it
24 important that the ultrasound be performed by someone who
25 is trained?

93

1 A. Yes.

2 Q. Okay. And is it important that the person not
3 manipulate the ultrasound to reach a desired result?

4 A. Certainly.

5 Q. Based on your review of the police report, is
6 it your understanding that some of the medical assistants
7 had never stepped into the recovery room at the time of
8 Lou Anne Herron's death?

9 A. I understand that some were new.

10 Q. In fact, one had been out of school a week and
11 the other had not even graduated. Isn't that what the
12 report says?

13 A. I don't recall specifically.

14 Q. The report also details, during Lou Anne

15 Herron's time in the recovery room, that one of the
16 medical assistants went to tell Dr. Biskind that there
17 might be a problem with Lou Anne Herron, and he was
18 eating his lunch. Do you remember that discussion?

19 A. Yes.

20 Q. Okay. And do you remember that, according to
21 this report, he responded angrily that he was eating his
22 lunch and did not want to be bothered. Do you remember
23 that?

24 A. I recall that.

25 Q. Would you say that that meets the standard of

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1 care that a physician should provide in that situation?

2 A. No.

3 Q. Do you recall from this police report that the
4 clinic administrator was not trained as a nurse or a
5 medical assistant?

6 A. That is my understanding.

7 Q. And that after Dr. Biskind became upset, he
8 told the medical assistant to go find the administrator
9 and send the administrator in to check on Lou Anne
10 Herron?

11 A. I recall he argued with the administrator.

12 Q. He argued with her. That is correct. But do
13 you recall one of the medical assistants testifying to
14 the police or giving evidence to the police that the
15 administrator was told by Dr. Biskind to take care of Lou
16 Anne Herron?

17 A. I don't recall.

18 Q. Okay. If that was the case, and the
19 administrator had no medical training at all, would that

20 meet the standard of care?

21 A. I think it would be reasonable for an
22 administrator to take a look at a patient in jeopardy,
23 yes.

24 Q. Okay. Not while the physician was eating his
25 sandwich?

95

1 A. Separately, together. I think it is -- would
2 not be unreasonable, especially if a transfer is being
3 contemplated. The administrative staff will oftentimes
4 handle that.

5 Q. Okay. But there is nothing at this point in
6 the police report that would suggest that anything was --
7 anyone was discussing transfer. In fact, she stayed
8 there for approximately three hours, correct?

9 A. That is my understanding.

10 Q. Is it important that medical assistants and
11 other staff be properly trained?

12 A. Certainly.

13 Q. Do you recall in this police report that the
14 medical assistants became more and more agitated because
15 there was more and more blood under Lou Anne Herron's
16 legs? Do you recall that?

17 A. Yes, I do.

18 Q. Do you recall, in fact, that one of the
19 medical assistants described it as a puddle of blood?

20 A. Yes.

21 Q. And do you recall that -- as you just
22 testified, you recall reading that Lou Anne Herron and --
23 excuse me, that the administrator and Dr. Biskind were
24 arguing about whether there should have been an RN

25 available in the afternoon. Do you recall that?

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1 A. That was the claim, right.

2 Q. Do you recall that at some point during the
3 three hours, Dr. Biskind -- while Lou Anne Herron was
4 still bleeding, he just simply left the facility?

5 A. He left at one point. I know he did see,
6 reportedly, the patient and worked on her IV. So he did
7 see her at least once in the recovery room by report.

8 Q. I don't want to go into the details with you.
9 I am not sure that is correct, but that is what you
10 recall?

11 A. Teresa Jensen's testimony or report was that
12 he tended to her in the recovery room.

13 Q. He walked in, correct?

14 A. And worked on her IV. So he was clearly aware
15 of her situation.

16 Q. And then he left, correct?

17 A. That is my understanding.

18 Q. Okay. Would leaving in a situation where a
19 patient was bleeding heavily be the standard of care?

20 A. No. It is inexcusable.

21 Q. Do you recall this same Teresa that you were
22 just talking about say that she was never given any
23 policy or procedure manuals to study nor given any
24 training before she worked in the recovery room?

25 A. I recall that.

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1 Q. And would that meet the standard of care, not
2 receiving training like that?

3 A. Well, training is one thing. Policy and

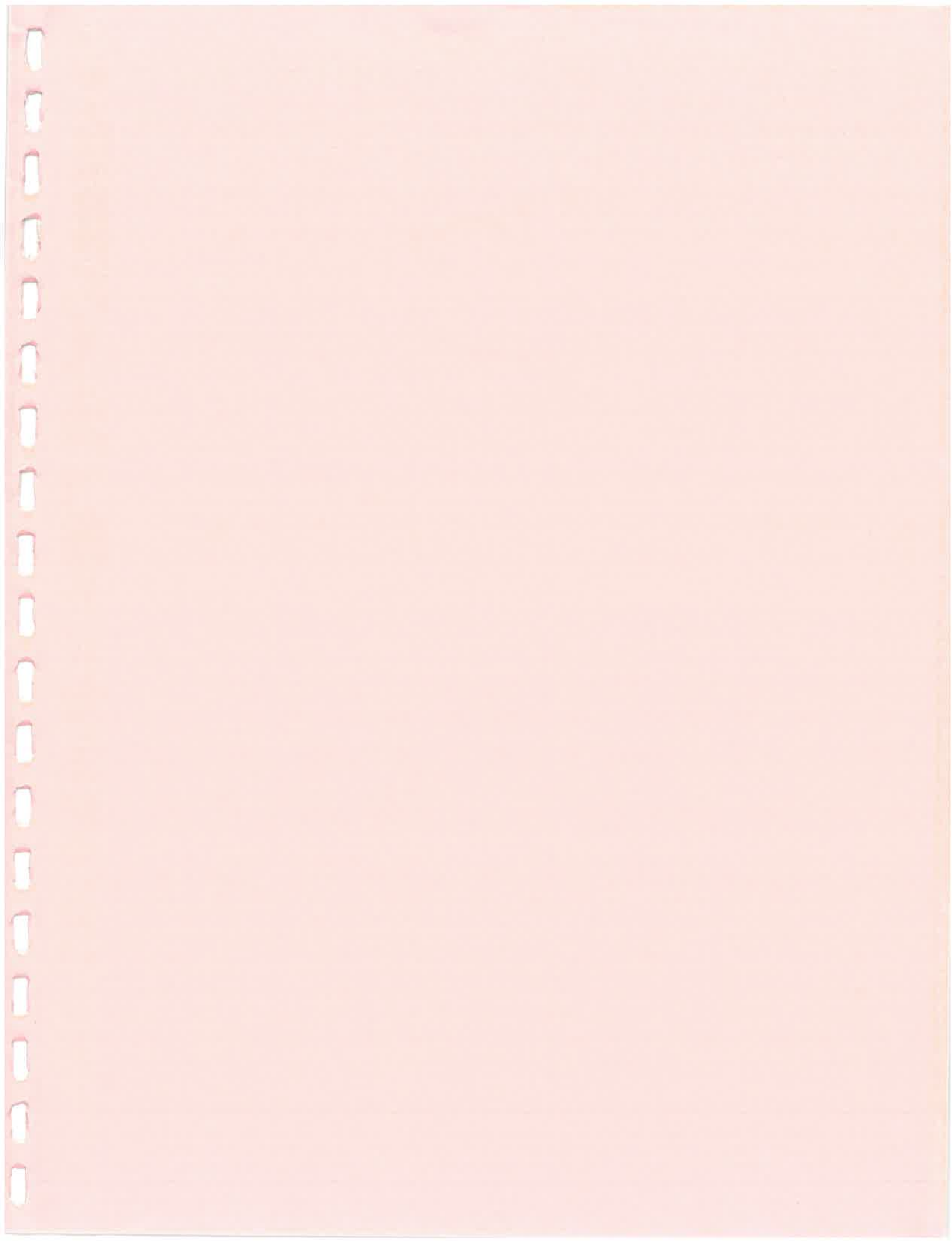
4 procedure manuals are something separate. Training is
5 important. I am not sure manuals are.

[99:4 - 99:9]

Grimes, David

4 Q. Dr. Graham also stated that Lou Anne Herron
5 should not have died and would have survived with a
6 minimal amount of care and treatment from Dr. Biskind.
7 Do you agree with that?

8 A. I am not sure "minimal" is the term I would
9 use. But absolutely, this death was preventable.



Excerpts from Deposition of Kathleen Phillips
October 19, 2000

[59:13 - 61:13] Phillips, Kathleen

13 Q. Could you look at 1507, please, Subsection 3. My
14 question is: In your opinion how can a physician ensure a
15 patient that her records will be kept confidential if that same
16 physician must provide those records to the Department of Health
17 without a warrant and without the patient's consent?

18 A. All medical facilities are required or all
19 healthcare institutions are -- look at all of the records for
20 each healthcare institution. We have never had a problem with
21 confidentiality in the department. There are statutes in Title
22 36. The staff is trained on confidentiality. We -- as I said,
23 we have never had a problem, and -- with any of the healthcare
24 institutions. None of them require search warrants. There are
25 statutes that state that by being -- by applying for a license,

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1 that person who was applying for a license is allowing access to
2 the facility for inspection purposes. So there is statutory
3 authority that does not require any kind of warrant to do
4 inspections, and that is consistent with all of our licensing
5 provisions. It's also consistent with the boards and
6 commissions that had access to get records and to keep records.
7 Confidential applies throughout all licensing schemes.

8 Q. So, if a person applies for a license, they in
9 effect consent to those types of disclosure of patient records?

10 A. Correct.

11 Q. So, if a physician wants to provide, let's say,
12 five or more first trimester abortions per month, they must
13 consent to that disclosure of patients' rights?

14 A. That is part of the statutes --
15 Q. So they would --
16 A. -- for health institutions.
17 Q. So, they would have to?
18 A. Yes.
19 Q. And is it your position that if a physician allows
20 Health Department inspectors to photocopy and remove a patient's
21 record, that that physician has in short ensured the
22 confidentiality of that patient's record?
23 A. I think that all of our staff ensures
24 confidentiality. How they do it -- if they're photocopied, that
25 is not within my purview.

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1 Q. Okay. But would it be your position that a
2 record --
3 A. Do you want me to clarify that?
4 Q. He's not allowed to give you hints.
5 A. No, no, no.
6 MR. RAY: Did you understand that?
7 THE WITNESS: Oh, yes, I understood.
8 Q. BY MS. JONES: I'm trying to understand, is it your
9 position that if a patient record had been given to the Health
10 Department to look at, that it is still confidential?
11 A. Yes.
12 Q. It is still a confidential document?
13 A. Yes.

Excerpts from Deposition of William Richardson, M.D.
October 20, 2000

[86:02 - 91:05] Richardson, William

2 Q. When you worked at Planned Parenthood of
3 Southern Arizona, were you aware that it was a
4 licensed clinic with the Department of Health
5 Services?

6 A. Yes.

7 Q. Were you aware that patient charts could
8 be accessible to employees of the Department of Health
9 Services?

10 A. Yes. Although I thought that certain
11 information was blocked out. I wasn't -- I'm not sure
12 about that.

13 Q. Okay. Do you know whether that
14 information was blocked out by agreement between the
15 Department of Health Services inspector and the
16 Planned Parenthood employee, or whether it was
17 required to be blocked out by statute?

18 A. I don't recall.

19 Q. Okay. You certainly were aware that
20 Department of Health Services employees did have
21 access to medical charts at Planned Parenthood?

22 A. Yes.

23 Q. If it is required by law, if this
24 regulation goes into effect, will you allow Department
25 of Health Services inspectors to have access to

1 medical charts in your office?

2 A. After exhausting every possible legal

3 challenge, yes.

4 Q. Okay. And you will assure that only
5 designated Department personnel and personnel
6 authorized by your policies and procedures have access
7 to those patient charts?

8 A. Yes.

9 Q. Patient confidentiality is an important
10 concept in medical practice, right?

11 A. Yes.

12 Q. It is something that you train your
13 employees in with some diligence, right?

14 A. Yes.

15 Q. And it is perhaps of heightened
16 importance in the medical service delivery that you
17 provide, right?

18 A. Yes.

19 Q. Do you maintain -- do you have a policy
20 with regard to maintaining medical records?

21 A. By maintain, where they're maintained?

22 Q. Yeah, you're a relatively new -- your
23 practice is a little over almost two years old?

24 A. No.

25 Q. No, almost one year old?

1 A. Ten months old, actually.

2 Q. Okay.

3 A. The time of a normal term pregnancy.

4 Q. So you obviously don't have a lot of
5 history on maintaining records, but as a professional
6 how long do you plan to maintain your patients'
7 charts?

8 A. I plan to maintain them adherent to
9 existing statutes locally.

10 Q. Do you segregate your medical records in
11 terms of your surgical abortion clients' records from
12 other clients' records?

13 A. No.

14 Q. They're all maintained in the same place?

15 A. Yes.

16 Q. Could you look at Page 25, Doctor? I
17 want you to look at right above R9-10-1512, Subsection
18 C, there which reads, "As required by A.R.S. Section
19 36-449.03(I), the Department shall not release any
20 personally identifiable patient or physician
21 information" --

22 A. Yes.

23 Q. -- end quote. You consider that an
24 important provision, right?

25 A. I consider that the intent of that

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1 provision to be important, yes.

2 Q. Do you have any concerns about that?

3 A. Yes.

4 Q. What is your concern of that provision?

5 A. My concern is that although the intent is
6 to maintain patient confidentiality, I think in
7 practice that might not be the case because people
8 talk either on purpose or inadvertently, things are
9 overheard, things can be misplaced. And the short
10 story being the fewer people that have access, the
11 better in order to keep the person's confidentiality.

12 Q. Now medical professionals are required to

13 basically -- certainly as to identifiable patient
14 information, they're required to keep that
15 confidential?

16 A. Yes.

17 Q. And you've had experience working in many
18 hospitals, in many clinical settings, in many private
19 office settings, right?

20 A. Yes.

21 Q. You've worked with many different medical
22 professionals?

23 A. Yes.

24 Q. Many different medical professionals who
25 have had access to private patient information?

90

1 A. Yes.

2 Q. I assume you've had experience with
3 medical professionals who have not complied with their
4 duties to keep information confidential as strictly as
5 you would want them to?

6 A. Either on purpose or inadvertently.

7 Q. Have you ever had experience with
8 information at either of the Planned Parenthood
9 agencies being divulged by Department of Health
10 Services investigators?

11 A. I don't know.

12 Q. Well, do you have any experience that you
13 can relate to me today that --

14 A. I've had experience -- isolated
15 experiences with patients having had abortion services
16 having people that they know be aware that they had an
17 abortion without being told by the patient themselves,

18 and an inability to determine where that breach of
19 confidentiality occurred. So it could have occurred
20 anywhere up to and including someone from the Arizona
21 Department of Health, I don't know.

22 Q. And in those instances you're not aware
23 of whether or not a Department of Health Services
24 employee even looked at the chart for that particular
25 patient?

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1 A. Correct.

2 Q. All right. You certainly don't have any
3 direct information that it was the Department of
4 Health Services employee who provided that breach?

5 A. Correct.

Excerpts from Deposition of Jeffery M. Taffet
October 16, 2000

[67:16 -68:04] Taffet, Jeffery

16 Q. So you're concerned with issues of human
17 nature and perhaps less-than-diligent supervision?

18 There have been some leakages in the facilities that
19 you've seen in actually the facilities that you've
20 worked in?

21 A. Yes, resulting in significant loss of
22 privacy.

23 Q. And these are leaks from people who are
24 required to keep that information confidential?

25 A. Yes.

68

1 Q. Are you familiar with any incident of a
2 Department of Health Services employee leaking
3 confidential patient information?

4 A. No.

Excerpts from Deposition of Robert H. Tamis, M.D.
October 13, 2000

[113:07 - 113:25] Tamis, Robert

7 Q. Doctor, do you have any personal
8 knowledge that anyone from the Department of Health
9 Services who has breached patient confidentiality?

10 A. I know people from the State have, yes.

11 Q. My question, though, Doctor, is: Do
12 you know anyone from the Department of Health
13 Services who has breached patient confidentiality?

14 A. No. I don't know anyone personally that
15 the problem with that poor child could have come out
16 of the Department fo Health Services, as well as the
17 Department of child Protection.

18 Q. Okay.

19 A. Sort of a misnomer when Child
20 Protection releases information to damage a child,
21 but that's something else.

22 Q. Just to be clear, do you ahve any
23 knowledge that any member of the Department of Health
24 Services has ever breached patient confidentiality?

25 A. Personal knowledge, no.

[118:03 - 118:09] Tamis, Robert

3 Q. Okay. Now, let me narrow the question.
4 I think we already asked and answered the question,
5 but I want to make sure. You have no personal
6 knowledge, do you, Doctor, of any member of the
7 Department of Health Services releasing personally
8 identifiable information?

9 A. I answered that. I do not.

Excerpts from Deposition of Virginia Yrun
October 10, 2000

[55:21 - 57:01] Yrun, Virginia

21 Q. Okay. And do you have any experience with
22 the confidentiality of a patient being breached
23 because a Department of Health Services employee came
24 into your clinic and saw someone in a waiting room?

25 A. I can't think of a specific incident, if

1 that's what you're asking.

2 Q. So that's a concern that you have, but you
3 don't have any specific incidents that that relates
4 to?

5 A. My concern was heightened when a court
6 employee this last year in Maricopa County got
7 involved in releasing confidential information around
8 a provision of abortion services that turned into a
9 big brouhaha, and I believe that my belief is that
10 court employees also work under regulatory or ethical
11 or statutory requirements that they not breach
12 confidentiality.

13 Q. Right. So this was in connection with the
14 young woman who needed an abortion, I think it was 23
15 weeks --

16 A. I don't recall the number of weeks, and we
17 probably shouldn't know it anyway. But the deal was
18 that somebody in the system, and I don't know if it
19 was in the foster care system or in the court system,
20 but somebody in the system took it upon themselves to
21 make a media issue out of this.

22

Q. Right.

23

A. It caused a lot of trouble.

24

Q. Right. But your understanding is that was

25

not someone at DHS who breached that confidentiality?

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1

A. I don't know. I just don't know.

INFORMATIONAL PRIVACY
CITED DOCUMENTS

Police Report -
Lou Anne
Herron's Death
Women's clw

PHOENIX POLICE DEPARTMENT REPORT

ORIGINAL

PAGE NO. 1

DR NO.: 0000 81177841 A-Z

REPORT DATE: 19980715 TIME: 0733

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

PUBLIC RECORDS BEAT: 0512

GRID: BD29

DATE/TIME OF OCCURRENCE: FRI 041798 1650

REPORTING OFFICER(S): MARK STRIBLING

Released Pursuant to
Arizona Public Records Law

UNIT: 1034

PREMISES: MEDICAL OFFICE

ARJ 88-121, et seq.

OCCUPIED:

RELATED REPORT(S): 81097273

*** SUSPECT INFORMATION ***

INVESTIGATIVE LEAD-01:

NAME: BISKIND, JOHN ISRAEL

RACE: W SEX: M AGE: DOB: 010626 HT: 000 WT: 000
HAIR: EYES: SSN: 297143389
HOME: 010050 E MOUNTAINVIEW LAKE DR APT/SUITE:
SCOTTSDALE AZ ZIP CODE:
RES. NAME : PHONE: 602 860 8359
WORK: 001002 E MCDOWELL ROAD APT/SUITE: #B
BUS. NAME (A-Z) WOMEN'S CENTER : PH: 602 957 8535 EXT.
OCCUPATION: ABORTION DOCTOR
LEVEL OF FORCE : /UNKNOWN USED FORCE CODE

CLOTHING DESC & MISC:

PERFORMED TERMINATION (ABORTION) ON LOU ANNE HERRON.
MEDICAL LICENSE #12642

INVESTIGATIVE LEAD-02:

NAME: STUART, CAROL
AKA: XSCHADOFF, CAROL.

RACE: W SEX: F AGE: DOB: 081137 HT: 000 WT: 000
HAIR: EYES: SSN: 155285042
GLN: 883981130055372 NO RSI:
HOME: 013202 N 50TH ST APT/SUITE:
RES. NAME : PHONE: 602 494 7320
WORK: 001002 E MCDOWELL ROAD APT/SUITE: #B
PHOENIX AZ ZIP CODE:
BUS. NAME (A-Z) WOMEN'S CENTER : PH: 602 957 8535 EXT.
OCCUPATION: ADMINISTRATOR
LEVEL OF FORCE : /UNKNOWN USED FORCE CODE

CLOTHING DESC & MISC:

ADMINISTRATOR AT A-Z WOMEN'S CENTER. WAS TOLD LOU ANNE HERRON WAS IN
TROUBLE AND 911 NEEDED TO BE CALLED.

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DR NO.: 0000 81177841

**** VICTIM INFORMATION ****

VICTIM -01:

NAME: HERRON, LOU ANNE (**DECEASED**)

RACE: W SEX: F AGE: 33 DOB: 060264 HT: 505 WT: 125
 HAIR: BRO EYES: SSN: 526815029

CLOTHING DESC & MISC:

DIED AFTER HAVING ABORTION AT A-Z WOMEN'S CENTER
 HOME: 006201 W OLIVE AV APT/SUITE:
 RES. NAME: PHONE: 602 930 9826

**** V 01 - INJURY INFORMATION ****

INJURY: 2" X 3/4" TEAR TO THE UTERUS.

PARAMEDIC TREATMENT: YES UNIT(S): R6-A R6-A ENGSA

TRANSPORTED BY: RESCUE 5 SHIFT A

TAKEN TO: GOOD SAMARITAN HOSPITAL

DOCTOR'S NAME: DR. DAVID COHEN
 ADDRESS: 1111 E McDOWELL RD.
 PHONE: 602 239 2000 EXT.

VICTIM DECLINES NOTIFICATION

**** WITNESS INFORMATION ****

WITNESS -01:

NAME: LOPEZ, MABEL E

RACE: H SEX: F AGE: DOB: 050430 HT: 000 WT: 000

CLOTHING DESC & MISC:

MEDICAL ASSISTANT ON DUTY AT A-Z WOMEN'S CENTER THE DAY LOU ANNE
 DIED.

HOME: 000105 S 3074 AV APT/SUITE:
 PHOENIX AZ ZIP CODE: 85009
 RES. NAME: PHONE: 602 278 3075

WITNESS -02:

NAME: KIMBALL, VICTORIA

RACE: W SEX: F AGE: DOB: 071544 HT: 000 WT: 000
 HAIR: EYES: SSN: 102343717

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CLOTHING DESC & MISC:

REGISTERED NURSE. HEARD DR. JOHN BISKIND TELL MICHELE PRICE TO CHANGE THE ULTRASOUND ANGLE ON LOU ANNE HERRON.

HOME: 009125 E PURDUE
SCOTTSDALE AZ

APT/SUITE: #222
ZIP CODE: 85258

RES. NAME :
OCCUPATION: REGISTERED NURSE

PHONE: 602 451 6695

WITNESS -03:

NAME: LOMAS, TAMMY LEE

RACE: W SEX: F AGE: DOB: 082470 HT: 000 WT: 000
HAIR: EYES: SSN: 526436568

CLOTHING DESC & MISC:

FORMER EMPLOYEE AT A-Z WOMEN'S CENTER. TOLD CAROL SCHADOFF LOU ANNE HERRON WAS OVER THE 24 WEEK GESTATION PERIOD.

HOME: 008101 N 20TH
PHOENIX AZ

AV APT/SUITE:
ZIP CODE: 85015

RES. NAME :

PHONE: 602 242 0091

WITNESS -04:

NAME: BLAND, BARBARA

RACE: W SEX: F AGE: DOB: 072663 HT: 000 WT: 000

CLOTHING DESC & MISC:

FRIEND OF LOU ANNE HERRON. WENT TO PICK UP LOU ANNE AT A-Z WOMEN'S CENTER. HEARD LOU ANNE SAY SHE COULDN'T FEEL HER LEGS.

HOME: 008560 W PEDRIA
PHOENIX AZ

AV APT/SUITE:
ZIP CODE:

RES. NAME :

PHONE: 602 979 4674

WITNESS -05:

NAME: BEGAY, JENIL

RACE: F SEX: F AGE: DOB: 072772 HT: 000 WT: 000

CLOTHING DESC & MISC:

TOOK ULTRASOUND OF LOU ANNE HERRON AT WEST SIDE CENTER. MEDICAL ASST ON DUTY THE DAY LOU ANNE HERRON DIED.

HOME: 002840 N 51ST
PHOENIX AZ

AV APT/SUITE: #208
ZIP CODE:

RES. NAME :

PHONE: 602 233 1683

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WITNESS -06:

NAME: MONTAGNO, LOIS

RACE: W SEX: F AGE: DOB: HT: 000 WT: 000
 HAIR: EYES: SSN: 492264651

CLOTHING DESC & MISC:

REGISTERED NURSE. WORKED UNTIL 12:15 PM AT A-Z WOMEN'S CENTER

THE DAY LOU ANNE HERRON DIED.

HOME: 000143 E JOAN DE ARC

APT/SUITE:

ZIP CODE: 85022

OCCUPATION: REGISTERED NURSE

WITNESS -07:

NAME: ARAGON, SYLVIA

RACE: F SEX: F AGE: DOB: 011170 HT: 000 WT: 000
 HAIR: EYES: SSN: 545468401

CLOTHING DESC & MISC:

MEDICAL ASSISTANT ON DUTY AT A-Z CENTER THE DAY LOU ANNE HERRON
 DIED.

HOME: 006741 N 31ST
 PHOENIX AZ

DR APT/SUITE:
 ZIP CODE:

RES. NAME [

] PHONE: 602 246 6824

WITNESS -08:

NAME: ADDOX, LAURELLE

RACE: W SEX: F AGE: DOB: 070160 HT: 000 WT: 000

CLOTHING DESC & MISC:

FORMER EMPLOYEE AT A-Z CENTER. TALKED TO CAROL SCHADOFF ON 4-17-98
 AT 2:00 PM. HAD HAND WRITTEN NOTES FROM DERYL WHITLOCK.

HOME: 000921 W UNIVERSITY
 MESA AZ

APT/SUITE: =
 ZIP CODE: 85201

RES. NAME [

] PHONE: 602 668 8055

WITNESS -09:

NAME: SCOTT, JERRY

RACE: W SEX: M AGE: DOB: 041961 HT: 000 WT: 000

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DR NO.: 0000 81177841

CLOTHING DESC & MISC:

DROVE LOU ANNE HERRON TO A-Z WOMEN'S CENTER ON APRIL 17TH, 1998.

HOME: 008560 W PERDIA

AV APT/SUITE:

PHOENIX AZ

ZIP CODE:

RES.NAME :

PHONE: 602 979 4674

WITNESS -10:

NAME: GRAHAM, PATRICIA

RACE: W SEX: F AGE:

DOB: 092557 HT: 000

WT: 000

CLOTHING DESC & MISC:

MEDICAL DOCTOR. REVIEWED INVESTIGATION REGARDING TREATMENT AND CARE OF LOU ANNE HERRON AT A-Z WOMEN'S CENTER.

HOME: 003731 E HATCHER

ROAD APT/SUITE:

PHOENIX AZ

ZIP CODE:

WORK: 002601 E ROOSEVELT

ST APT/SUITE:

PHOENIX AZ

ZIP CODE:

BUS.NAME : MARICOPA MEDICAL CENTER

PH: 602 267 8444 EXT.

WORK HOURS: 0000

DAYS OFF: VARIOUS

WITNESS -11:

NAME: MOSALLI, TRACY LYNN

RACE: W SEX: F AGE:

DOB: 110671 HT: 000

WT: 000

HAIR:

EYES:

SSN: 507982104

CLOTHING DESC & MISC:

HAD ABORTION DONE BY DR. BISKIND AT A-Z WOMEN'S CENTER.

HOME: 006220 W RIVIERA

DR APT/SUITE:

PHOENIX AZ

ZIP CODE: 85304

WORK:

APT/SUITE:

BUS.NAME :

PH: 602 258 7544 EXT.

WITNESS -12:

NAME: OBESO, GEORGINA

RACE: W SEX: F AGE:

DOB: 120676 HT: 000

WT: 000

HAIR:

EYES:

SSN: 527894162

CLOTHING DESC & MISC:

MEDICAL ASSISTANT ON DUTY AT A-Z WOMEN'S CENTER THE DAY LOU ANNE HERRON DIED.

HOME: 007002 W INDIAN SCHOOL

ROAD APT/SUITE: #2027

PHOENIX AZ

ZIP CODE:

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**** NEXT OF KIN INFORMATION ****

NEXT OF KIN -01:

NAME: GIBBS, MICHAEL

RACE: W SEX: M AGE: DOB: HT: 000 WT: 000

CLOTHING DESC & MISC:

VICTIM'S FATHER.

HOME: 003445 E CHOLLA

RES.NAME C

WORK: 001426 N 26TH

BUS.NAME C

ST APT/SUITE:

PHONE: 602 996 1734

AV APT/SUITE:

PH: 602 484 7505 EXT.

**** REPORTING PERSON INFORMATION ****

REPORTING PERSON -01:

NAME: DREISESZUN, HERB

RACE: W SEX: M AGE: DOB: HT: 000 WT: 000

CLOTHING DESC & MISC:

OWNER OF BUILDING AT 1002 E. MCDOWELL RD. SUPPLIED P.D. WITH COPY OF DIAGRAM, DEPICTING A-Z CENTER LAYOUT.

RES.NAME C

WORK:

PHOENIX

P.O. BOX 10775

AZ

PHONE: 602 954 0321

APT/SUITE:

ZIP CODE:

**** NARRATIVE ****

SERIAL NUMBER: 3565

RELATED REPORT: DR#81097273

INVESTIGATIVE

PERSONNEL:

DET. RANDY FORCE #4137

RECIDIVE DETAIL

CASE SUPERVISOR

DETECTIVE MARK STRIBLING #3565

RECIDIVE DETAIL

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ON 7-14-98 AT 9:30 A.M. I MET WITH SGT. FORCE REGARDING A POSSIBLE INVESTIGATION INTO THE DEATH OF LOU ANNE HERRON. RECENT INFORMATION AND NEWSPAPER ARTICLES HAD BROUGHT UP THE FACT DOCTOR JOHN BISKIND AND/OR PERSON/S UNKNOWN AT THE A-Z WOMEN'S CENTER, MAY BE CRIMINALLY COUPABLE IN THE DEATH OF LOU ANNE. PART OF THIS INFORMATION WAS A RELATED INVESTIGATION BEING CONDUCTED BY PHOENIX POLICE DETECTIVES MIKE SECHEZ AND LOU MAROTTA. THIS ONGOING INVESTIGATION REVOLVED AROUND AN ATTEMPTED ABORTION BY DOCTOR BISKIND, WHICH RESULTED IN THE DELIVERY OF A FULL TERM BABY. AT THE CONCLUSION OF THIS MEETING SGT. FORCE ASSIGNED ME TO LOOK INTO THE MATTER OF LOU ANNE'S DEATH, WHICH OCCURRED ON 4-17-98.

I BEGAN MY INVESTIGATION BY READING A NEWSPAPER ARTICLE IN THE ARIZONA REPUBLIC. THIS ARTICLE WAS ENTITLED "WOMAN'S GRIM DEATH AT CLINIC". THIS ARTICLE WAS IN THE PAPER DATED 7-14-98 AND OUTLINED SEVERAL ALLEGATIONS OF WRONG DOING. THESE ALLEGATIONS INCLUDED, BUT WERE NOT LIMITED TO A MEDICAL ASSISTANT BEING TOLD BY DOCTOR BISKIND, TO ALTER LOU ANNE'S ULTRASOUND ANGLE, SO IT WOULD APPEAR SHE WAS LESS THAN 24 WEEKS PREGNANT. ANOTHER ALLEGATION CENTERED AROUND HERRON BEING LEFT IN THE RECOVERY ROOM FOR SEVERAL HOURS, EVEN THOUGH SHE WAS BLEEDING, AND 911 NOT BEING CALLED. A FORMER EMPLOYEE, VICTORIA KIMBALL, HAD BEEN QUOTED IN THIS ARTICLE AND SEEMED QUITE OUTSPOKEN ABOUT THIS INCIDENT.

AFTER REVIEWING THIS ARTICLE I LOOKED IN THE YELLOW PAGE ADS UNDER THE ABORTION LISTINGS. I FOUND AN AD FOR A-Z WOMEN'S CENTER ON PAGE TWO. THIS AD LISTED AN ADDRESS OF 1002 EAST MCDOWELL ROAD AND A PHONE NUMBER OF 837-8535. AMONG OTHER THINGS THIS AD STATED, "WE ARE THE ONLY ABORTION PROVIDER IN ARIZONA UP TO 24 WEEKS". I REMOVED THIS AD AND LATER IMPOUNDED IT AS EVIDENCE.

I ALSO SPOKE WITH DETECTIVES MAROTTA AND SECHEZ. I FOUND THEY HAD DELIVERED SUSPENSES TO THE BOARD OF MEDICAL EXAMINER'S, IN REFERENCE TO DOCTOR BISKIND'S RECORDS. THESE RECORDS WERE LATER GIVEN TO DET. MAROTTA AND HE IN TURN PROVIDED ME WITH A COPY THEM.

THE NEXT TASK I UNDERTOOK WAS CONDUCTING A BACKGROUND CHECK ON VICTORIA KIMBALL. I FOUND AN ADDRESS AND PHONE NUMBER FOR VICTORIA IN SCOTTSDALE. ON 7-16-98 I PHONED VICTORIA AND IDENTIFIED MYSELF TO HER. I ASKED VICTORIA IF I COULD MEET HER FOR THE PURPOSE OF INTERVIEWING HER ABOUT THE A-Z WOMEN'S CENTER. VICTORIA AGREED TO MEET WITH ME AND DET. CARUSO ON 7-16-98.

ON 7-17-98 I REVIEWED ARIZONA REVISED STATUTES AS THEY RELATE TO ABORTIONS. A.R.S. 36-1001.01 DEALS WITH THE ABORTION OF A VIABLE FETUS. SUB-SECTION A SETS FORTH THE REQUIREMENTS OF A PHYSICIAN AND BASICALLY STATES, BEFORE A PHYSICIAN PERFORMS AN ABORTION OF A VIABLE FETUS, THE PHYSICIAN SHALL STATE IN WRITING THE ABORTION IS NECESSARY TO PRESERVE THE LIFE OR HEALTH OF THE WOMAN. SUB-SECTION B DEALS WITH THE METHOD OR TECHNIQUE TO BE USED BY THE PHYSICIAN THAT WOULD MOST LIKELY PRESERVE THE LIFE AND HEALTH OF THE FETUS. SUB-SECTION C STATES A PHYSICIAN SHALL NOT PERFORM AN ABORTION OF A VIABLE FETUS UNLESS, IN ADDITION TO THE PHYSICIAN PERFORMING THE ABORTION, THERE IS ANOTHER PHYSICIAN IN ATTENDANCE WHO SHALL TAKE

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Continued.

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CONTROL OF AND PROVIDE IMMEDIATE MEDICAL CARE FOR A LIVING CHILD BORN AS
A RESULT OF THE ABORTION. SUB-SECTION D REFERS TO THE DEFINITION OF
"VIABLE FETUS". A COPY OF THIS STATUTE IS ATTACHED TO THIS REPORT.

THIS INVESTIGATION IS CONTINUING. PLEASE REFER TO ADDITIONAL SUPPLEMENTS
FOR DETAILS.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

END OF REPORT

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ANYONE. MABLE ALSO TOLD US CAROL SAID SOMETHING ABOUT LOU ANN'S FILE BEING GONE, BECAUSE SHE (CAROL) HAD REMOVED IT IN THE MIDDLE OF THE NIGHT SO SHE COULD GIVE IT TO THE POLICE. I ASKED MABLE IF SHE KNEW WHAT CAROL MEANT BY THAT STATEMENT AND SHE SAID NO.

AT THIS POINT I ASKED MABLE IF SHE HAD ANY MORE INFORMATION CONCERNING THIS INCIDENT. MABLE STATED TAMMY AT THE GLENDALE CENTER HAD TOLD CAROL THAT LOU ANNE WAS OVER THE TWENTY-FOUR WEEK LIMIT. SHE SAID TAMMY TOLD CAROL THIS BEFORE LOU ANNE EVER STARTED THE LAMINARIA PROCEDURES. MABLE TOLD US SHE KNEW THIS FROM TALKING WITH TAMMY, WHO ALSO RESIGNED AFTER LOU ANNE DIED.

I CONCLUDED THIS INTERVIEW BY ASKING MABLE WHY SHE HADN'T CALLED 911 HERSELF. MABLE AGAIN BECAME UPSET AND SAID CAROL WAS THE BOSS AND IF SHE WENT AGAINST CAROL, SHE WOULD BE IN TROUBLE. MABLE DESCRIBED HERSELF AS ONE OF THE LOWLY WORKERS AND SHE WAS NEVER INVOLVED IN ANY DECISION MAKING AT THE CENTER. MABLE TOLD US SHE IS HAVING A VERY DIFFICULT TIME LIVING WITH LOU ANN'S DEATH, BECAUSE SHE KNOWS LOU ANNE WOULD BE ALIVE TODAY IF 911 HAD BEEN CALLED SOONER.

7-21-98 1739 615 A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

END OF REPORT

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REPORT DATE: 19980721 TIME: 1755

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #8

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565

UNIT: 034

**** WITNESS INFORMATION ****

WITNESS -02:

NAME: KIMBALL, VICTORIA

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF VICTORIA KIMBALL

ON 7-16-98 AT 3:05 P.M., DETECTIVE CARUSO AND I MET VICTORIA KIMBALL AT HER RESIDENCE IN SCOTTSDALE. THE PURPOSE OF THIS MEETING WAS TO INTERVIEW VICTORIA REGARDING HER KNOWLEDGE CONCERNING THE DEATH OF LOU ANNE HERRON. VICTORIA'S NAME HAD BEEN MENTIONED IN AN ARIZONA REPUBLIC NEWSPAPER ARTICLE ON JULY 14, 1998. THIS ARTICLE DEALT WITH THE DEATH OF LOU ANNE HERRON AND THE A TO Z WOMEN'S CENTER. ON 7-15-98 I CONTACTED VICTORIA BY PHONE AND MADE ARRANGEMENTS TO MEET WITH HER.

THE FOLLOWING IS A SUMMARY OF THE TAPE RECORDED INTERVIEW WITH VICTORIA. PLEASE REFER TO THE TAPE RECORDING FOR COMPLETE DETAILS. PRESENT DURING THIS INTERVIEW WERE VICTORIA, DETECTIVE CARUSO AND MYSELF.

I BEGAN THIS INTERVIEW BY ASKING VICTORIA IF SHE WAS A REGISTERED NURSE. VICTORIA STATED SHE WAS AND HAD BEEN SO SINCE FEBRUARY OF 1996. SHE ALSO TOLD US SHE WAS A CERTIFIED SURGICAL TECHNOLOGIST AND WORKED IN OPERATING ROOMS PRIOR TO OBTAINING HER NURSING LICENSE.

VICTORIA RELATED SHE WAS HIRED TO WORK AT THE A TO Z WOMEN'S CLINIC ON APRIL 4, 1998. SHE WAS HIRED BY CAROL SCHADOFF TO WORK FULL TIME AT BOTH THE SCOTTSDALE AND PHOENIX CENTERS. VICTORIA STATED CAROL SCHADOFF WAS THE CENTER'S ADMINISTRATOR AND WAS NOT A NURSE, MEDICAL TYPE PERSON. SHE WENT ON TO SAY CAROL TOOK OVER THE CENTER FROM A PERSON NAMED BRETCHEN, WHO WAS A REGISTERED NURSE, AND USED TO RUN THE CENTER.

VICTORIA CONTINUED TO TELL US THAT CAROL WAS HIRED BY DR. MOORE RACHAYOVITCH, WHO OWNS THE CENTER AND LIVED IN NEW YORK. CAROL ALSO TOLD VICTORIA SHE WOULD HAVE TO BE INTERVIEWED BY DR. RACH, WHICH SHE LATER WAS OVER THE TELEPHONE.

VICTORIA STATED THERE WERE A NUMBER OF PEOPLE WORKING AT THE CENTER ON ANY

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BISKIND, WHO WAS EATING HIS LUNCH IN ANOTHER ROOM. MABLE TOLD DR. BISKIND LOU ANNE WAS HAVING PROBLEMS BLEEDING AND NEEDED TO BE LOOKED AT. DR. BISKIND BECAME UPSET WITH MABLE BECAUSE SHE HAD INTERRUPTED HIS LUNCH. DR. BISKIND ASKED MABLE WHERE CAROL WAS AND MABLE SAID SHE DID NOT KNOW. DR. BISKIND TOLD MABLE TO FIND CAROL AND HE CONTINUED TO EAT HIS LUNCH. MABLE NEXT WENT TO CAROL'S OFFICE BUT FOUND THE DOOR CLOSED. MABLE KNOCKED ON THE DOOR AND OPENED IT. SHE TOLD CAROL DR. BISKIND WAS LOOKING FOR HER AND WANTED HER TO GO TO THE RECOVERY ROOM TO LOOK AT LOU ANN. MABLE SAID CAROL BECAME VERY UPSET AND STARTED YELLING AT HER. MABLE TOLD CAROL THAT SHE WAS IN THE MIDDLE OF AN INTERVIEW. AFTER A FEW MINUTES CAROL CAME OUT OF HER OFFICE AND SHE AND DR. BISKIND WENT INTO THE OPERATING ROOM TOGETHER. MABLE STATED SHE COULD HEAR DR. BISKIND AND CAROL YELLING AT EACH OTHER. I ASKED MABLE IF SHE COULD HEAR WHAT THEY WERE SAYING AND SHE SAID YES. MABLE SAID THEY WERE YELLING SOMETHING ABOUT THE R.N. NOT BEING THERE AND DR. BISKIND WANTED TO KNOW WHY CAROL DIDN'T HAVE AN R.N. THERE.

AT THIS POINT DR. BISKIND OR CAROL HAD NOT GONE INTO THE RECOVERY ROOM TO SEE LOU ANN. MABLE RETURNED TO THE RECOVERY ROOM AND OBSERVED LOU ANN STILL BLEEDING. AFTER THIS CAROL GOT ON THE PHONE AND CALLED A MEDICAL ASSISTANT AT THEIR SCOTTSDALE OFFICE AND INSTRUCTED THE ASSISTANT TO COME TO THE MCDOWELL OFFICE SO SHE COULD HELP WITH LOU ANN. MABLE TOLD ME THIS ASSISTANT SHOWED UP AFTER A WHILE. I ASKED MABLE WHO THIS ASSISTANT WAS AND SHE SAID A FEMALE NAMED DARYL. SHE ALSO INFORMED US DARYL WAS KILLED IN A CAR WRECK NOT LONG AFTER LOU ANNE HAD DIED.

I ASKED MABLE WHO ALL WAS IN THE RECOVERY ROOM WITH LOU ANNE AT THAT TIME. SHE SAID DARYL, SYLVIA, JENIL, CAROL AND THE NEW GIRL. MABLE TOLD US DR. BISKIND NEVER WENT IN TO CHECK ON LOU ANN. SHE ALSO STATED ANOTHER ASSISTANT NAMED MICHELLE MAY HAVE BEEN IN THE RECOVERY ROOM DURING THAT TIME.

DURING THE TIME THESE ASSISTANTS WERE IN THE ROOM WITH LOU ANN, SYLVIA MENTIONED THAT SOMEONE SHOULD CALL 911, BUT CAROL TOLD HER NOT TO. SYLVIA THEN STATED, THIS GIRL IS GOING TO DIE IF SOMEONE DOESN'T CALL 911. ANOTHER PERSON, WHO WAS POSSIBLY DARYL, STATED THEY WERE LOSING TIME AND 911 SHOULD BE CALLED. MABLE SAID CAROL WAS OPPOSED TO CALLING 911, HOWEVER, SYLVIA DID EVENTUALLY MAKE THAT CALL. MABLE STATED PARAMEDICS SHOWED UP AFTER A SHORT TIME AND TOOK LOU ANNE ACROSS THE STREET TO GOOD SAMARITAN HOSPITAL.

I ASKED MABLE IF SHE EVER SAW DR. BISKIND CHECK ON LOU ANNE AND SHE SAID NO. SHE STATED SHE DID NOT SEE DR. BISKIND AFTER SHE INTERRUPTED HIS LUNCH AND HE AND CAROL WERE YELLING AT EACH OTHER IN THE O.R.

I ALSO ASKED MABLE IF ANYONE SAID ANYTHING TO HER OR THE OTHER EMPLOYEES ABOUT LOU ANN'S DEATH. MABLE RELATED THAT CAROL GOT THE EMPLOYEES EITHER A DAY OR SO AFTER LOU ANNE DIED. AT THAT TIME CAROL TOLD THEM, IF ANYONE WANTED TO TALK TO THEM ABOUT THE INCIDENT THEY WERE TO KEEP THEIR MOUTHS SHUT AND NOT TALK ABOUT IT. I SPECIFICALLY ASKED IF CAROL HAD MENTIONED NOT TALKING TO THE POLICE AND MABLE SAID NO, CAROL JUST SAID

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GIVEN DAY. SHE TOLD US THERE WAS SUPPOSED TO BE AT LEAST TWO PEOPLE IN THE RECOVERY ROOM, ONE OF WHICH WAS TO BE AN R.N. VICTORIA BELIEVED SHE WAS HIRED TO BE IN THE RECOVERY ROOM SO THE CENTER WOULD BE IN COMPLIANCE WITH WHAT SHE BELIEVED WAS ARIZONA LAW. VICTORIA TOLD US PATIENTS WERE REQUIRED TO STAY IN THE RECOVERY ROOM AT LEAST ONE HOUR AND GENERALLY LEFT AFTER THAT AMOUNT OF TIME. VICTORIA STATED THERE COULD BE AS MANY AS THREE OR FOUR PATIENTS IN THE RECOVERY ROOM TOGETHER.

I ASKED VICTORIA WHAT DOCTORS WERE DOING THE PROCEDURES WHILE SHE WAS AT THE A TO Z CENTER. SHE SAID IN THE PHOENIX FACILITY IT WAS ALMOST ALWAYS DR. JOHN BISKIND. VICTORIA RELATED THE PHOENIX CENTER, AT 1002 EAST McDOWELL, WAS THE IMPORTANT FACILITY BECAUSE THEY HAD SECOND TRIMESTER ABORTIONS THERE, WHICH BROUGHT IN MORE MONEY.

AT THIS POINT I ASKED VICTORIA IF SHE WAS THERE WHEN LOU ANNEHERRON CAME IN AROUND APRIL 7, 1998. VICTORIA STATED SHE WAS NOT SURE IF SHE WORKED THAT DAY OR NOT. VICTORIA DID TELL US SHE WAS WORKING ON APRIL 16, 1998 AND CAME TO WORK THAT DAY AROUND 9:00 A.M. SHE WAS WAITING FOR PATIENTS IN THE RECOVERY ROOM. VICTORIA SAW DR. BISKIND IN THE OPERATING ROOM AND HE WAS WAITING FOR THE FIRST PATIENT TO COME THROUGH. DURING THIS TIME MICHELLE PRICE, WHO HAD TAKEN LOU ANNEHERRON'S SONOGRAPHY, CAME INTO THE O.R. AND SHOWED IT TO DR. BISKIND. LOU ANN'S SONOGRAPHY APPARENTLY SHOWED LOU ANN'S GESTATION WAS TWENTY-SIX WEEKS AND A FEW DAYS, WHICH WAS OVER THE TWENTY-FOUR WEEK LIMIT. VICTORIA STATED SHE HEARD DR. BISKIND INSTRUCT MICHELLE PRICE TO TAKE THE SONOGRAPHY AGAIN. DR. BISKIND TOLD MICHELLE TO TAKE THE SONOGRAPHY FROM ANOTHER POSITION AND EXPLAINED TO MICHELLE HOW TO DO IT. VICTORIA STATED SHE COULD NOT SEE DR. BISKIND'S GESTURES BECAUSE SHE WAS ACTUALLY IN THE RECOVERY ROOM ADJACENT TO THE O.R. VICTORIA TOLD US DR. BISKIND INSTRUCTED MICHELLE TO TAKE THE SONOGRAPHY FROM A DIFFERENT POSITION SO IT WOULD LOOK LIKE LOU ANN'S GESTATION WAS LESS THAN THE TWENTY-FOUR WEEKS, SO HE COULD THEN PROCEED WITH THE ABORTION.

I ASKED VICTORIA ABOUT BEING ON THE OTHER SIDE OF THE DOOR AND IF IT WAS OPEN OR CLOSED. VICTORIA STATED THE DOOR WAS OPEN AND SHE COULD HEAR DR. BISKIND, BUT COULD NOT SEE HIM. I ASKED HER HOW SHE KNEW MICHELLE WAS SHOWING DR. BISKIND THE SONOGRAPHY IF SHE COULD NOT SEE THEM. VICTORIA SAID SHE DIDN'T HAVE TO SEE IT BECAUSE MICHELLE WAS SAYING, DR. LOOK HERE IT IS, THIS IS WHAT IT SHOWS, ETC. AFTER DR. BISKIND TOLD MICHELLE TO DO THIS, SHE (MICHELLE) RETURNED TO THE ROOM WHERE THE SONOGRAPHY WERE ADMINISTERED.

I ASKED VICTORIA IF SHE HAD DISCUSSED LOU ANN'S DEATH WITH ANYONE AND SHE SAID YES, SHE HAD TALKED WITH TAMMY SINGLETON AND MABLE LIFEI. VICTORIA SAID TAMMY TOLD HER LOU ANNEHAD COME TO THE GLENDALE CENTER AND HAD A SONOGRAPHY DONE THERE ALSO.

VICTORIA TOLD US SHE HAD HEARD THE EMPLOYEES IN THE RECOVERY ROOM WITH LOU ANNEHERRON VERY, VERY UPSET BECAUSE THEY WANTED TO CALL 911 AND WERE NOT ALLOWED TO. I ASKED VICTORIA WHO SHE HAD HEARD WAS NOT ALLOWING THE EMPLOYEES TO CALL 911 AND SHE STATED IT WAS CAROL SCHADOFF. VICTORIA ALSO

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SAID SHE WAS TOLD DR. BISKIND WAS THERE AND WAS UPSET BECAUSE HIS LUNCH HAD BEEN INTERRUPTED AND HE NEVER ACTUALLY CHECKED ON THE CONDITION OF LOU ANN.

VICTORIA ALSO TOLD US WHAT TAMMY SINGLETON HAD TOLD HER ABOUT LOU ANN'S INCGRAMS AND THAT TAMMY HAD TOLD CAROL SCHADOFF THAT LOU ANN WAS OVER THE TWENTY-FOUR WEEK LIMIT.

DETECTIVE CARUSO ASKED VICTORIA IF THERE WAS A PARTICULAR PROCEDURE TO BE TAKEN IN THE RECOVERY ROOM AT THE A TO Z CENTER. VICTORIA SAID THE PROCEDURE VARIED, BUT SHE WOULD NORMALLY TAKE PATIENT VITALS EVERY FIFTEEN MINUTES. HE ALSO ASKED VICTORIA ABOUT GIVING PATIENT'S DRUGS (MEDS) WHILE IN THE RECOVERY ROOM AND IF AN R.N. WOULD HAVE TO DO THAT. VICTORIA SAID THE MEDICAL ASSISTANTS WERE NOT SUPPOSED TO ADMINISTER MEDS TO THE PATIENTS AND SINCE NO R.N. WAS AT THE CENTER, IF LOU ANN RECEIVED ANY MEDS, A MEDICAL ASSISTANT WOULD HAVE HAD TO HAVE DONE IT.

DETECTIVE CARUSO QUESTIONED VICTORIA ABOUT THE AMOUNT OF BLEEDING A PATIENT NORMALLY HAD. SHE STATED A PATIENT COULD HAVE NO BLEEDING, LIGHT BLEEDING OR MEDIUM BLEEDING, BUT IF THE BLEEDING BECAME HEAVY THERE SHOULD BE A CONCERN. VICTORIA STATED IF THERE WAS BLEEDING OF 5-1000'S IT WOULD PROBABLY BE AVERAGE. SHE WENT ON TO SAY THE PATIENT'S WORE PADS AND IF THE PAD WAS SOAKED WITH BLOOD THERE WOULD BE A PROBLEM. I ASKED HER IF SHE WOULD HAVE A MAJOR CONCERN IF SHE SAW BETWEEN 50-10000'S OF BLOOD FROM A PATIENT. VICTORIA SAID ABSOLUTELY, SHE WOULD GET THE DOCTOR IN THERE AND IF HE COULD NOT REPAIR THE DAMAGE THE PATIENT WOULD HAVE TO GO TO THE HOSPITAL. SHE ALSO TOLD US THE PATIENT'S BLOOD PRESSURE WOULD BE DROPPING FROM THAT AMOUNT OF BLOOD LOSS.

4-21-98 1821 GIB A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

REMARKS:

END OF REPORT

DR NO: 0000 81177841 002

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

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DR NO.: 0000 81177841

3

REPORT DATE: 19980724 TIME: 1105

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDGWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(SI): MARK STRIBLING

3565

UNIT: C34

PREMISES: MEDICAL OFFICE

OCCUPIED:

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000

DATE: 000000

SEARCH WARRANT INVOLVED:

- 0001 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: ARIZONA REPUBLIC NEWSPAPER ARTICLE.
DATED: JULY 14, 1998.
HEADLINE: WOMAN'S GRIM DEATH AT CLINIC.
- 0002 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: ARIZONA REPUBLIC NEWSPAPER ARTICLE.
DATED: JULY 15, 1998.
HEADLINE: ABORTION CLINIC HEAD ACCUSED IN THREE STATES.
- 0003 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: MESA TRIBUNE NEWSPAPER ARTICLE.
DATED: JULY 19, 1998.
HEADLINE: POLICE SAY DOCTOR NOT LAWBREAKER.
- 0004 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: ARIZONA REPUBLIC NEWSPAPER ARTICLE.
DATED: JULY 21, 1998.
HEADLINE: ABORTION DOCTOR'S LICENSE ON HOLD.
- 0005 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: MESA TRIBUNE NEWSPAPER ARTICLE.
DATED: JULY 22, 1998.
HEADLINE: ABORTION DOCTOR TOLD TO VACATE ITS OFFICE.
- 0006 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: ARIZONA REPUBLIC NEWSPAPER ARTICLE.
DATED: JULY 23, 1998.
HEADLINE: PHOENIX ABORTION CLINIC TO BE EVICTED.

PHOENIX POLICE DEPARTMENT REPORT

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DR NO.: 0000 81177841

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- 007 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: YELLOW PAGE ADVERTISEMENT UNDER THE ABORTION
LISTINGS. AD IS FOR A-Z WOMEN'S CENTER AT 1002 EAST MCDOWELL RD. AD
STATES "WE ARE THE ONLY ABORTION PROVIDER IN ARIZONA UP TO 24 WEEKS"
- 008 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: BUSINESS CARD FOR A-Z WOMEN'S CENTER/FAMILY
PLANNING INSTITUTE. GIVEN TO DET. STRIBLING BY MABEL LOPEZ ON 7-15-98.
- 009 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: TYPED LETTER FROM SNELL AND WILMER LAW FIRM.
ADDRESSED TO MABEL LOPEZ. DATED JUNE 2, 1998. GIVEN TO DET. STRIBLING
ON 7-15-98.
- 010 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: COPY OF RESIGNATION LETTER. SIGNED BY MABEL
LOPEZ. DATED APRIL 24TH, 1998. GIVEN TO DET. STRIBLING BY MABEL LOPEZ ON
7-2-98.
- 011 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: TEN PAGES OF ORIGINAL HAND WRITTEN NOTES REGARDING
DR ANNE HERRON'S TREATMENT AT THE A-Z WOMEN'S CENTER. WRITTEN BY JENIL
EBAY. GIVEN TO DET. STRIBLING ON 7-22-98.
- 012 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: AUDIO TAPE RECORDING OF A 911 CALL TO THE
PHOENIX FIRE DEPT. ON APRIL 17, 1998. CALLED PLACED FROM A-Z WOMEN'S
CENTER AT 1002 E. MCDOWELL RD.
- 013 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW
WITH VICTORIA KIMBALL ON 7-16-98.
- 014 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW
WITH LEXAS ON 7-16-98.
- 015 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW
WITH BARBARA BLAND ON 7-20-98.
- 016 PKG 000 CODE:EI UK00

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DR NO.: 0000 81177841

ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW
WITH JENIL BEGAY ON 7-22-98.

0017 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW
WITH LOIS MONTAGNO ON 7-23-98.

0018 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW
WITH SYLVIA ARASON ON 7-26-98.

0019 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: THREE PAGES OF ORIGINAL HAND WRITTEN NOTES
REGARDING LOU ANNE HERRON'S TREATMENT AT A-Z WOMEN'S CENTER. WRITTEN BY
SYLVIA ARASON. GIVEN TO DET. STRIBLING ON 7-28-98.

0020 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL COPY OF FIRE DEPT. 911 CALL PRINTOUT.
INCIDENT #98-054032. OBTAINED BY DET. DAGUANNO ON 7-29-98 AND TURNED
OVER TO DET. STRIBLING.

0021 PKG 000 CODE:EI UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL HAND WRITTEN NOTES REGARDING LOU ANNE
HERRON'S TREATMENT AT A-Z CENTER. REPORTED TO HAVE BEEN WRITTEN BY
MRYL WHITLOCK PRIOR TO HER DEATH. GIVEN TO DET. STRIBLING BY LAURELLE
DOBX ON 7-29-98.

0022 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW
TH LAURELLE DOBX ON 7-29-98.

*** NARRATIVE ***

SERIAL NUMBER: 0065

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES
=====

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

COPIES: 2500419

END OF REPORT

DR NO: 0000 81177841 003

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DR NO.: 0000 81177841 4

REPORT DATE: 19980724 TIME: 1227

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #2

BEAT: 0512 GRID: 5D29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: CJA

SERIAL NUMBER: 3565

**** NARRATIVE ****

911 CALL TO FIRE DEPT.

FIRE DEPT. INCIDENT NUMBER: 98-054032
DATE: APRIL 17TH 1998.

ON 7-15-98 AT 10:30 AM DET. DARUSE AND I PICKED UP THE LISTED 911 TAPE RECORDING AT THE PHOENIX FIRE DEPT. ADMINISTRATION BUILDING. I LATER REVIEWED THIS TAPE. THE FOLLOWING IS A SUMMARY OF THIS TAPE.

THE TAPE BEGINS IN MID SENTENCE. THIS IS BECAUSE THE CALL WAS TRANSFERRED FROM THE POLICE DISPATCHER TO THE FIRE DISPATCHER. THE PERSON PLACING THE CALL IS A FEMALE. THIS FEMALE STATES, A TO Z WOMEN'S CENTER. SHE THEN ASKS "CAN WE HAVE YOU COME TO THE SIDE DOOR, RIGHT ON TENTH STREET AND TRY NOT TO USE NO SIRENS".

THE MALE DISPATCHER ASKS WHAT THE EMERGENCY IS. THE FEMALE SAYS ONE OF OUR PATIENTS IS UNCONSCIOUS, SHE'S LOST QUITE A BIT OF BLOOD, IS PALE AND UNRESPONSIVE. THE DISPATCHER ASKS FOR THE PHONE NUMBER THERE AND INQUIRES ABOUT WHAT HAPPENED. THE FEMALE STATES, "SHE HAD A TERMINATION DONE". SHE ALSO SAYS THEY WILL HAVE SOMEONE WAITING OUTSIDE.

DISPATCHER ASKS HOW OLD IS THE PATIENT. FEMALE SAYS, "LET ME SEE HOW OLD SHE WAS". DISPATCHER WANTS TO KNOW IF THE PATIENT IS UNCONSCIOUS AT THIS TIME AND IF SHE IS BREATHING OKAY. FEMALE APPEARS TO TURN HER HEAD FROM THE PHONE AND SAYS, "IS SHE BREATHING OKAY JENIL". ANOTHER FEMALE VOICE SAYS NO. THE FIRST FEMALE TELLS THE DISPATCHER, "NO SHE'S NOT". DISPATCHER ASKS IF THEY HAVE OXYGEN AVAILABLE. FEMALE STATES, "I DON'T KNOW IF WE HAVE ANY IN THERE".

DISPATCHER TELLS FEMALE TO GIVE THE PATIENT OXYGEN AND ASKS HOW MUCH BLOOD WAS LOST. HE THEN SAYS, THEY WILL BE THERE IN A COUPLE OF MINUTES.

ON 7-29-98 I RECEIVED THE FIRE DEPT. PRINTOUT REFERENCE INCIDENT #98-54032 FROM DET. DAGUANO. I REVIEWED THIS PRINTOUT AND OBTAINED THE FOLLOWING INFORMATION REGARDING THIS INCIDENT.

ADDITIONAL 911 INFO: FIRE RECEIVED CALL FOR SERVICE AT [illegible]

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FIRE UNITS INVOLVED: RESCUE 8 SHIFT A
RESCUE 5 SHIFT A
ENGINE 5 SHIFT A

ALL UNITS WERE DISPATCHED AT 16:18:25 HOURS. RESCUE 8 ARRIVED AT 1002 E. MCDOWELL ROAD AT 16:23:27 HOURS. RESCUE 5 ARRIVED AT 16:24:33 AND ENGINE 5, 16:24:11. RESCUE 5 LEFT 1002 E. MCDOWELL RD. AT 16:39:40 TO TRANSPORT LOU ANNE HARRON TO GOOD SAM HOSPITAL, WHICH IS DIRECTLY ACROSS THE STREET. THEIR ARRIVAL TIME AT GOOD SAM WAS 16:40:06.

THIS PRINTOUT STATES THE NATURE OF THE CALL AS AN UNCONSCIOUS PERSON AT 1002 E. MCDOWELL RD.

I LATER MADE COPIES OF THIS PRINTOUT AND IMPOUNDED THE ORIGINAL AS EVIDENCE.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

END OF REPORT

DR NO: 0000 81177841 004

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DR NO.: 0000 81177841

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REPORT DATE: 19980726 TIME: 1159

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #8

BEAT: 0512 GRID: 8D29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

**** WITNESS INFORMATION ****

WITNESS -03:

NAME: LOMAS, TAMMY

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF TAMMY LOMAS

=====

ON 7-16-98 AT 5:25 P.M., DETECTIVE CARUSO AND I INTERVIEWED TERRY LOMAS. THIS INTERVIEW TOOK PLACE IN THE LIVING ROOM OF TAMMY'S RESIDENCE. PRESENT DURING THIS TAPE RECORDED INTERVIEW WERE TAMMY, DETECTIVE CARUSO AND MYSELF. THE FOLLOWING IS A SUMMARY OF THIS INTERVIEW. PLEASE REFER TO THE AUDIO TAPE RECORDING FOR COMPLETE DETAILS.

I BEGAN THIS INTERVIEW BY TELLING TAMMY I HAD RECEIVED INFORMATION SHE WAS WORKING FOR THE A TO Z CENTER WHEN THE INCIDENT WITH LOU ANNE HERRON OCCURRED. TAMMY STATED SHE WAS AND HAD BEEN SO SINCE MARCH OF 1997. SHE WENT ON TO SAY SHE RESIGNED ON APRIL 18, 1998. TAMMY TOLD US SHE WAS A MEDICAL ASSISTANT AT THE CENTER. HER DUTIES INCLUDED WORKING IN THE FRONT OFFICE MAKING APPOINTMENTS, WORKING IN THE RECOVERY ROOM, CLEANING UP AND STERILIZING INSTRUMENTS. I ASKED TAMMY IF SHE WORKED AT ALL OF THE A TO Z LOCATIONS. TAMMY SAID NINETY PERCENT OF THE TIME SHE WORKED AT THE 27TH AVENUE AND NORTHERN OFFICE, BUT OCCASIONALLY WENT TO THE 10TH STREET AND MCDOWELL AND THE SCOTTSDALE LOCATION.

I ASKED TAMMY IF THERE WAS A POINT IN THE TIME WHEN A CHANGE OF ADMINISTRATORS AT THE A TO Z CENTER TOOK PLACE. TAMMY STATED BRETCHEN MACHREDO WAS THE PREVIOUS ADMINISTRATOR, BUT CAROL SCHADOFF WAS THE NEW AND PRESENT ONE. SHE SAID THIS CHANGE TOOK PLACE AT THE END OF FEBRUARY OR BEGINNING OF MARCH OF THIS YEAR. TAMMY RELATED CAROL WAS BASICALLY THE ADMINISTRATOR OF ALL THREE OFFICES, BUT SHE WAS BASED AT THE 10TH STREET AND MCDOWELL FACILITY.

I TOLD TAMMY I UNDERSTOOD LOU ANNE FIRST CAME TO THE A TO Z CENTER ON APRIL SEVENTH. TAMMY STATED LOU ANNE WENT TO THE 10TH STREET AND MCDOWELL CENTER ON APRIL SEVENTH. AT THAT TIME A RELATIVELY NEW GIRL WAS DOING LABORATORY. THIS GIRL'S NAME WAS SYLVIA ARABON AND SHE COMPLETED AN LABORATORY ON LOU ANNE. TAMMY SAID IT WAS HER UNDERSTANDING SYLVIA'S

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DR NO.: 0000 81177841

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ULTRASOUND SHOWED LOU ANNE TO BE TWENTY-THREE WEEKS AND A FEW DAYS. CAROL SCHADOFF THEN CALLED TAMMY AT THE GLENDALE CENTER AND SAID SHE HAD A PATIENT NAMED LOU ANNE, WHO NEEDED AN ULTRASOUND DONE. CAROL SAID SHE WANTED JENIL (BEGAY) TO COMPLETE THIS ULTRASOUND.

LOU ANNE CAME TO THE GLENDALE OFFICE AND JENIL COMPLETED AN ULTRASOUND ON HER. THIS ULTRASOUND SHOWED LOU ANNE TO BE TWENTY-FOUR WEEKS AND FOUR DAYS. JENIL TOLD TAMMY THE RESULTS OF LOU ANNE'S ULTRASOUND. TAMMY THEN CALLED CAROL SCHADOFF AT THE MCDOWELL CENTER AND ADVISED CAROL LOU ANNE WAS TOO FAR. CAROL TOLD TAMMY THEY HAD TO DO SOMETHING. TAMMY SAID THERE WAS NOTHING THEY COULD DO EXCEPT GIVE LOU ANNE BROCHURES TO A CALIFORNIA AND FLORIDA FACILITY WHO GO OVER THE TWENTY-FOUR WEEK LIMIT. TAMMY SAID CAROL THEN ASKED WHAT THE LAW WAS. TAMMY TOLD CAROL IF THE BPD MEASUREMENT WAS 5.8 OR OVER, OR THE GESTATION WAS TWENTY-FOUR WEEKS, THEY COULD NOT DO THE PROCEDURE. TAMMY SAID SHE EXPLAINED TO CAROL THAT EVEN IF THE GESTATION WAS TWENTY-TWO WEEKS AND THE BPD WAS OVER 5.8, THE EXTERMINATION COULD NOT BE DONE. I ASKED TAMMY WHAT THE BPD WAS AND SHE SAID IT WAS THE MEASUREMENT OF THE CROWN OF THE HEAD. CAROL TOLD TAMMY TO SEND LOU ANNE BACK TO HER AT THE MCDOWELL CENTER SO CAROL COULD COUNSEL LOU ANNE. TAMMY STATED AT THAT TIME SHE BASICALLY THOUGHT THIS WAS A SHUT DOWN AND THEY WOULD NEVER SEE LOU ANNE AGAIN.

THE NEXT TAMMY HEARD ANYTHING ABOUT LOU ANNE WAS ON SATURDAY, APRIL SEVENTEENTH, WHEN SHE WENT INTO THE SCOTTSDALE OFFICE. JENIL BEGAY TOLD TAMMY ABOUT LOU ANNE'S DEATH. TAMMY ASKED IF IT WAS THE SAME LOU ANNE FROM BEFORE AND SHE WAS TOLD YES. TAMMY THEN GAVE JENIL HER OFFICE KEYS. TAMMY TOLD JENIL SHE COULD NO LONGER WORK THERE BECAUSE CAROL KNEW LOU ANNE WAS OVER THE LIMIT. TAMMY THEN WALKED OUT AND QUIT.

TAMMY CONTINUED BY SAYING SHE WAS WORKING AT THE SCOTTSDALE OFFICE ON APRIL SEVENTEENTH, BUT DID NOT KNOW ANYTHING ABOUT LOU ANNE BEING AT THE MCDOWELL FACILITY. AFTER TAMMY COMPLETED HER DUTIES IN SCOTTSDALE SHE WENT TO THE GLENDALE OFFICE BECAUSE AN EXTERMINATOR WAS GOING TO SPRAY THE FACILITY. AT THE GLENDALE OFFICE TAMMY RECEIVED A PHONE CALL FROM CAROL SCHADOFF. CAROL WANTED TAMMY TO COME TO THE MCDOWELL OFFICE, SAYING THERE WAS NOT ENOUGH TRAINED STAFF IN RECOVERY. I ASKED TAMMY WHAT TIME CAROL CALLED HER IN GLENDALE AND SHE SAID RIGHT AROUND 2:00 P.M. TAMMY STATED SHE TOLD CAROL SHE COULDN'T LEAVE UNTIL THE EXTERMINATOR WAS DONE. I ASKED TAMMY IF CAROL MENTIONED ANY PROBLEMS WITH ANY OF THE PATIENTS AND TAMMY SAID NO, CAROL JUST SAID THERE WAS NOT ENOUGH TRAINED STAFF IN RECOVERY AND THEY NEEDED MORE HELP.

I ASKED TAMMY IF CAROL HAD SAID ANYTHING ABOUT A REGISTERED NURSE EITHER BEING OR NOT BEING AT THE MCDOWELL FACILITY. TAMMY ADVISED SHE HAD PREVIOUSLY SPOKE WITH CAROL ABOUT HAVING A NURSE AT THE MCDOWELL CENTER ON FRIDAY, APRIL SEVENTEENTH. THEY HAD DISCUSSED THE FACT THE R.N. FROM GLENDALE COULD ONLY BE AT THE MCDOWELL FACILITY UNTIL NOON THAT DAY, BECAUSE SHE HAD PRIOR ARRANGEMENTS. TAMMY MENTIONED THIS TO CAROL SEVERAL DAYS PRIOR TO APRIL SEVENTEENTH. EACH TIME CAROL TOLD TAMMY, I KNOW, I WILL GET ANOTHER NURSE. TAMMY STATED CAROL KNEW THE NURSE (LOIS) WHO WAS TO BE GONE BY NOON ON APRIL SEVENTEENTH.

0000 81177841

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Continued.

EJA00000201

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DR NO.: 0000 81177841 5

AT THIS POINT WE DISCUSSED WHAT TAMMY'S DUTIES WERE WHEN SHE WORKED IN THE RECOVERY ROOM. TAMMY TOLD US THE PATIENT'S CHART SHOULD BE NOTED REGARDING HER BLEEDING, THAT BEING SCANT, MODERATE OR HEAVY. SHE WENT ON TO SAY IF THE BLEEDING WAS HEAVY THE DOCTOR OR NURSE SHOULD BE CALLED TO SEE THE AMOUNT OF BLOOD. TAMMY STATED MOST PATIENTS WERE IN RECOVERY ABOUT ONE HOUR AND THEN WENT HOME.

I ASKED TAMMY IF SHE KNEW WHAT EMPLOYEES WERE PRESENT AT THE MCDOWELL CENTER ON APRIL SEVENTEENTH. TAMMY TOLD US SHE WAS NEVER ACTUALLY AT MCDOWELL, BUT KNEW CAROL SCHADOFF HAD CALLED ANOTHER EMPLOYEE FROM THE SCOTTSDALE OFFICE TO COME OVER TO MCDOWELL. TAMMY SAID THIS EMPLOYEE WAS NAMED DERYL WHITLOCK, BUT DERYL HAD BEEN KILLED IN A CAR ACCIDENT SHORTLY AFTER LOU ANNE DIED. I ASKED TAMMY IF SHE KNEW ANY OF THE CIRCUMSTANCES AROUND DERYL'S DEATH. TAMMY RELATED SHE HAD TALKED TO DERYL ABOUT LOU ANNE'S DEATH. DERYL TOLD TAMMY SHE COULD NOT SLEEP AT NIGHT AND WAS HAVING DREAMS SINCE LOU ANNE DIED. TAMMY SAID DERYL STARTED DRINKING HEAVILY AFTER THE INCIDENT WITH LOU ANNE. TAMMY SAID CAROL HAD CALLED DERYL TO COME TO THE MCDOWELL CENTER ON APRIL SEVENTEENTH, AFTER CAROL HAD ALREADY CALLED HER (TAMMY). TAMMY SAID SHE KNEW THIS BECAUSE DERYL HAD CALLED HER ON APRIL EIGHTEENTH. DERYL ALSO TOLD TAMMY SHE HAD WRITTEN NOTES ABOUT THE INCIDENT WITH LOU ANNE. DERYL HAD SAID SHE WROTE THESE NOTES IN CASE ANYTHING HAPPENED SO SHE COULD COVER HERSELF AND THE OTHER MEDICAL ASSISTANTS, SINCE THEY WANTED TO CALL 911 AND CAROL WOULD NOT LET THEM. DERYL APPARENTLY HAD GIVEN THESE NOTES TO A FAMILY MEMBER.

I QUESTIONED TAMMY ABOUT WHY DERYL HAD SAID SHE MADE THESE NOTES. TAMMY STATED DERYL HAD SAID SHE WAS SCARED, BECAUSE 911 WAS NOT CALLED RIGHT AWAY. DERYL SAID THEY ALL FELT 911 NEEDED TO BE CALLED, BUT CAROL SAID

4-26-98 1239 618 A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

NOTICES:

END OF REPORT

DR NO: 0000 81177841 005

EJA00000202

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INVOICES:

END OF REPORT

DR NO: 0000 81177841 006

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DR NO.: 0000 81177841

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REPORT DATE: 19980726 TIME: 1544

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565

UNIT: C3A

**** WITNESS INFORMATION ****

WITNESS -05:

NAME: BAGAY, JENIL

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF JENIL BAGAY

ON 7-22-98 AT 3:40 P.M. DETECTIVE D'AGUANNO AND I INTERVIEWED JENIL BAGAY. HIS TAPE RECORDED INTERVIEW TOOK PLACE IN JENIL'S LIVING ROOM AT HER APARTMENT. PRESENT DURING THE INTERVIEW WERE JENIL, DETECTIVE D'AGUANNO AND MYSELF. THE FOLLOWING IS A SUMMARY OF THIS INTERVIEW. FOR COMPLETE DETAILS PLEASE REFER TO THE AUDIO TAPE RECORDING.

SHOULD BE NOTED JANIL GAVE ME SEVERAL PAGES OF HANDWRITTEN NOTES AFTER THIS INTERVIEW. THESE NOTES WERE WRITTEN BY JANIL AFTER LOU ANNE HERRON'S DEATH AND RELATE THE EVENTS REGARDING THIS DEATH. I TOLD JENIL I NEEDED TO RETAIN THE ORIGINAL NOTES AND I WOULD SUPPLY HER WITH A COPY, WHICH I DID AT A LATER DATE.

BEGAN THIS INTERVIEW BY ASKING JENIL HOW LONG SHE HAD WORKED AT THE A TO Z WOMEN'S CENTER AND SHE SAID THREE YEARS. JENIL TOLD US HER BASIC DUTIES WERE TO CONDUCT ULTRASOUNDS, FRONT OFFICE WORK AND IN THE ABSENCE OF THE ADMINISTRATOR AT THE 27TH AVENUE AND NORTHERN OFFICE, SHE ACTED AS THE OFFICE MANAGER. JENIL STATED HER MAIN FUNCTION WAS TO DO ULTRASOUNDS AND SHE WAS THE MOST EXPERIENCED ULTRASOUND TECHNICIAN AT THE CENTER.

JENIL CONTINUED BY SAYING THAT CAROL SCHADOFF, WHO ALSO USED THE LAST NAME STEWART, BECAME THE HEAD ADMINISTRATOR AT A TO Z IN MARCH OF THIS YEAR. JENIL SAID CAROL WAS THE ADMINISTRATOR OVER ALL THREE CENTERS, BUT RARELY SHE LEAVE THE MCDOWELL ROAD OFFICE.

ASKED JENIL IF SHE REMEMBERED LOU ANNE HERRON. JENIL STATED SHE REMEMBERED LOU ANNE PERFECTLY. SHE FIRST ENCOUNTERED LOU ANNE ON APRIL 15TH OF THIS YEAR. JENIL RECEIVED A PHONE CALL FROM CAROL SCHADOFF WHILE JENIL WAS WORKING AT THE 27TH AVENUE AND NORTHERN OFFICE. CAROL TOLD JENIL SHE WAS SENDING A GIRL FROM THE MCDOWELL CENTER TO THEIR CENTER FOR AN ULTRASOUND. SYLVIA ARAGON HAD DONE AN ULTRASOUND ON LOU ANNE AT

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DR NO.: 0000 81177841

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THE MCDOWELL CENTER, BUT CAROL WANTED JENIL TO DO ANOTHER ONE AT THE WEST SIDE LOCATION.

AFTER LOU ANNE ARRIVED AT THE WEST SIDE OFFICE JENIL COMPLETED ANOTHER ULTRASOUND ON HER. THIS ULTRASOUND SHOWED LOU ANNE'S GESTATION TO BE TWENTY-FOUR WEEKS AND FOUR DAYS. JENIL TOLD LOU ANNE SHE WAS OVER THE STATE LIMIT OF TWENTY-FOUR WEEKS. LOU ANNE BECAME UPSET AT LEARNING THIS INFORMATION. JENIL THEN TOLD TAMMY LOMAS ABOUT LOU ANNE BEING OVER THE TWENTY-FOUR WEEK LIMIT. JENIL HEARD PARTS OF A PHONE CONVERSATION BETWEEN TAMMY AND CAROL IN WHICH TAMMY ADVISED CAROL LOU ANNE WAS OVER THE TWENTY-FOUR WEEK LIMIT. CAROL TOLD TAMMY TO HAVE LOU ANNE RETURN TO THE MCDOWELL CENTER. JENIL INSTRUCTED LOU ANNE TO RETURN TO THE MCDOWELL ROAD OFFICE AND TO MEET WITH CAROL.

JENIL ASKED JENIL ABOUT THE ACTUAL ULTRASOUND SHE DID ON LOU ANNE. JENIL SAID SHE MADE TWO COPIES AND LOU ANNE'S NAME AND THE TWENTY-FOUR WEEKS AND FOUR DAYS WERE PRINTED RIGHT ON THE FRONT OF THE PICTURE. THESE ULTRASOUND PHOTOS WERE SENT BACK TO THE MCDOWELL ROAD OFFICE WITH LOU ANNE.

THE NEXT TIME JENIL SAW LOU ANNE WAS APRIL SIXTEENTH AT THE MCDOWELL ROAD CENTER. JENIL WAS WORKING AT THE A TO Z CLINIC THAT DAY. AT ABOUT 8:30 A.M. CAROL CAME UP TO JENIL AND SAID SHE (CAROL) HAD A PRIVATE PATIENT, IT WAS DR. HACH'S PATIENT, AND WHEN THE PATIENT GOT THERE JENIL WAS TO LET CAROL KNOW. JENIL ASKED CAROL WHO THE PATIENT WAS. CAROL STATED, I DON'T KNOW, THE NAME IS SOMEWHERE ON MY DESK, I'LL GET IT, I'LL LET YOU KNOW. JENIL THEN WENT ABOUT HER DUTIES. AFTER A WHILE CAROL CAME TO JENIL AND SAID, REMIND ME WHEN DR. BISKIND GETS HERE, I NEED TO TALK TO HIM BEFORE HE STARTS SURGERY.

JENIL CONTINUED TO DO ULTRASOUNDS UNTIL MICHELLE PRICE CAME INTO THE ULTRASOUND ROOM. MICHELLE TOLD JENIL SHE NEEDED TO USE THE ULTRASOUND ROOM. A PATIENT THEN CAME INTO THE ROOM. JENIL SAID SHE REALIZED THE PATIENT WAS LOU ANNE AFTER LOU ANNE HAD ALREADY GOTTEN ONTO THE TABLE AND MICHELLE STARTED THE ULTRASOUND. JENIL PULLED MICHELLE OFF TO THE SIDE AND TOLD MICHELLE SHE HAD PERFORMED AN ULTRASOUND ON LOU ANNE LAST WEEK AND LOU ANNE WAS OVER THE STATE LIMIT. MICHELLE TOLD JENIL DR. BISKIND ASKED HER TO DO ANOTHER ULTRASOUND ON LOU ANNE AND CAROL DID ALSO.

THE NEXT MORNING, ON APRIL SEVENTEENTH, JENIL SAW LOU ANNE COME BACK INTO THE MCDOWELL CENTER. JENIL ASKED ONE OF THE OTHER EMPLOYEES WHAT LOU ANNE WAS DOING THERE. JENIL WAS TOLD LOU ANNE HAD HER LAMINARIAS INSERTED YESTERDAY. JENIL THEN LOOKED AT THE ULTRASOUND PICTURE MICHELLE PRICE HAD TAKEN. JENIL SAID SHE KNEW RIGHT AWAY IT WAS NOT RIGHT, BECAUSE THERE WERE FACIAL BONES IN THE PHOTO. JENIL STATED THIS COULD CAUSE THE ULTRASOUND TO BE OFF A COUPLE OF WEEKS. JENIL TOLD US SHE KNEW RIGHT AWAY AND THEN SOMETHING WAS UP.

JENIL CONTINUED BY RELATING DR. BISKIND PERFORMED THE TERMINATION ON LOU ANNE. JENIL AND SYLVIA ARAGON WERE IN THE OPERATING ROOM THAT DAY. THE REGISTERED NURSE, LOIS MONTAGNO, HAD ALREADY LEFT FOR THE DAY. JENIL STATED LOIS HAD TOLD CAROL SCHADOFF THE WHOLE WEEK PRIOR TO APRIL

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DR NO.: 0000 81177841

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SEVENTEENTH THAT SHE (LOIS) COULD NOT STAY AT THE CENTER PAST NOON THAT DAY. JENIL STATED SHE HEARD LOIS TELL CAROL THIS SEVERAL TIMES, INCLUDING THE VERY MORNING OF APRIL SEVENTEENTH.

JENIL ADVISED US LOU ANNE CAME INTO SURGERY ABOUT 12:40 P.M. AND NURSE LOIS MONAGNO HAD ALREADY LEFT THE CENTER. JENIL SAID NO OTHER R.N. WAS ON DUTY AFTER LOIS LEFT. LOU ANNE GOT OUT OF SURGERY AND WENT INTO THE RECOVERY ROOM. JENIL THEN ASSISTED IN SURGERY WITH ANOTHER PATIENT. AFTER THIS PATIENT LEFT SURGERY THE STAFF BROKE FOR LUNCH.

WHILE THEY WERE EATING LUNCH MABLE LOPEZ, WHO WAS IN THE RECOVERY ROOM WITH LOU ANNE, NOTICED THAT LOU ANNE HAD A SUBSTANTIAL AMOUNT OF BLEEDING. MABLE TOLD DR. BISKIND ABOUT LOU ANNE AND HE APPARENTLY TOLD THEM TO GIVE LOU ANNE SOME MEDICATION. JENIL STATED SHE DIDN'T ACTUALLY HEAR DR. BISKIND SAY THIS, SHE ONLY HEARD MABLE TALKING ABOUT IT. MABLE ALSO ASKED JENIL TO COME AND LOOK AT LOU ANNE'S BLEEDING WHICH JENIL DID. I ASKED JENIL IF LOU ANNE'S BLEEDING WAS ABOVE NORMAL AND SHE SAID IT WAS KIND OF A HEAVY FLOW.

I ASKED JENIL WHO WAS EATING LUNCH. JENIL SAID ALL OF THE STAFF EXCEPT MABLE. I ASKED IF DR. BISKIND WAS EATING ALSO AND SHE SAID YES. AFTER DR. BISKIND FINISHED LUNCH JENIL SAID HE WENT INTO THE SURGERY ROOM OR POSSIBLY INTO THE RECOVERY ROOM. JENIL FINISHED HER LUNCH AND WENT INTO THE SURGERY ROOM. DR. BISKIND THEN STARTED ANOTHER TERMINATION ON A PATIENT. JENIL RELATED DR. BISKIND REALIZED DURING THIS SURGERY THERE WAS NO NURSE IN THE RECOVERY ROOM. JENIL SAID DR. BISKIND WAS FURIOUS OVER THIS AND TOLD JENIL TO CALL CAROL ON THE INTERCOM AND TELL CAROL TO COME INTO THE O.R. CAROL CAME IN AND DR. BISKIND AND CAROL GOT INTO A DISCUSSION ABOUT THE R.N. NOT BEING THERE. DR. BISKIND TOLD CAROL HE WASN'T COMFORTABLE HAVING NO NURSE IN THE RECOVERY ROOM OR THE OPERATING ROOM. I ASKED JENIL IF DR. BISKIND COMPLAINED ABOUT NOT HAVING A NURSE DURING LOU ANNE'S SURGERY. JENIL SAID NO, THEN SHE STATED DR. BISKIND ALWAYS COMPLAINED ABOUT NOT HAVING A NURSE.

JENIL TOLD US DR. BISKIND DID NOT MENTION NOT HAVING A NURSE DURING LOU ANNE'S SURGERY. JENIL BELIEVES DR. BISKIND DID NOT KNOW THERE WASN'T A NURSE UNTIL HE WENT INTO THE RECOVERY AREA. JENIL SAW DR. BISKIND COME INTO THE SURGERY ROOM FROM THE RECOVERY ROOM AND APPARENTLY THAT IS WHEN DR. BISKIND NOTICED A NURSE WAS NOT THERE.

JENIL CONTINUED BY SAYING IT WAS QUITE A BIG CONFRONTATION BETWEEN CAROL AND DR. BISKIND ABOUT A NURSE NOT BEING THERE. JENIL SAID SHE HEARD CAROL TELL DR. BISKIND THAT SHE (CAROL) DID NOT KNOW THE NURSE WAS GOING TO AVE. JENIL STATED CAROL KNEW FOR A FACT LOIS WAS LEAVING EARLY.

AT THIS POINT JENIL SAID DR. BISKIND TOLD CAROL THIS WASN'T GOING TO HAPPEN, I'M NOT SEEING ANY MORE PATIENTS UNTIL A NURSE IS HERE. DR. BISKIND FINISHED THE TERMINATION HE WAS DOING AND LEFT. JENIL THEN LEANED UP IN THE SURGERY ROOM AND STARTED OTHER ULTRASOUNDS, WHILE JENIL WAS DOING ULTRASOUNDS CAROL CAME UP TO HER AND TOLD JENIL THEY HAD AN EMERGENCY IN THE RECOVERY ROOM. I ASKED JENIL WHAT TIME THIS WAS AND SHE

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Continued.

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DR NO.: 0000 81177841 7

SAID AROUND 3:00 P.M. CAROL TOLD JENIL TO COME INTO RECOVERY WITH HER. JENIL WENT INTO RECOVERY AND SAW DERYL WHITLOCK, ANOTHER MEDICAL ASSISTANT, WITH LOU ANNE. DERYL HAD LOU ANNE PROPPED UP RIGHT ON THE BED. I ASKED JENIL IF DERYL HAD BEEN THERE ALL THE TIME AND SHE SAID NO. SHE EXPLAINED THAT DERYL HAD COME OVER FROM THE SCOTTSDALE CENTER TO HELP BECAUSE THEY WERE SHORT ON STAFF.

JENIL TOLD US DERYL HAD LOU ANNE PROPPED UP ON THE BED AND LOU ANNE APPEARED UNCONSCIOUS, BUT SHE WAS BREATHING. LOU ANNE'S LEGS WERE STRAIGHT OUT ON THE BED WITH HER UPPER BODY UP STRAIGHT. DERYL TOLD JENIL SHE NEEDED SOME HELP AND THE OTHER GIRLS WERE NOT HELPING. JENIL ASKED DERYL WHAT WAS GOING ON AND DERYL SAID LOU ANNE WAS NOT RESPONDING. SOMEONE THEN SAID LOU ANNE HAD BEEN GIVEN NARDAN, WHICH JENIL STATED WAS A DRUG USED TO HELP A PERSON WAKE UP. JENIL SAID DURING THIS TIME THE FOLLOWING PEOPLE WERE IN THE RECOVERY ROOM. GINA, KAYAH, THERESA, WHO WERE ALL NEW GIRLS, SYLVIA, MICHELLE, AND CAROL. JENIL STATED SYLVIA WAS HYSTERICAL DURING THIS TIME AND SAYING OVER AND OVER, OH MY GOSH, OH MY GOSH, SOMETHING'S WRONG, THIS ISN'T RIGHT. JENIL SAID SHE THEN GRABBED AN AMMONIA INHALER, SNAPPED IT IN HALF AND PUT IT UNDER LOU ANNE'S NOSE. SHE ALSO GRABBED LOU ANNE'S HAND AND PUT IT IN HER (JENIL'S) HAND. JENIL RUBBED THE AMMONIA UNDER LOU ANNE'S NOSE AND KEPT CALLING LOU ANNE'S NAME OUT, HOWEVER, LOU ANNE WOULD NOT RESPOND. JENIL THEN TOLD LOU ANNE, IF YOU CAN HEAR ME SQUEEZE MY HAND, BUT LOU ANNE STILL DID NOT RESPOND. THEY LAID LOU ANNE DOWN AND SHE WAS STILL HAVING DIFFICULTY BREATHING. JENIL ASKED IF ANYONE HAD TAKEN LOU ANNE'S VITALS AND NO ONE RESPONDED. JENIL TOLD THE GIRLS THEY NEEDED TO TAKE LOU ANNE'S VITALS. GINA WANTED TO BRING THE AUTOMATIC BLOOD PRESSURE MACHINE OVER AND JENIL TOLD HER TO GET THE MANUAL ONE BECAUSE IT TOOK A BETTER READING. GINA THEN TOOK LOU ANNE'S BLOOD PRESSURE. DERYL TOLD JENIL SHE COULD BARELY FEEL LOU ANNE'S HEART BEAT. THEY PUT A STETHOSCOPE ON LOU ANNE'S CHEST AND COULD BARELY HEAR THE HEARTBEAT. JENIL TURNED AROUND AND TOLD CAROL, WHO HAD BEEN STANDING THERE, YOU NEED TO CALL 911. CAROL SAID NO. JENIL LOOKED RIGHT AT CAROL AND AGAIN SAID, CAROL YOU NEED TO CALL 911. DERYL ALSO TOLD CAROL AT THAT TIME TO CALL 911. CAROL LOOKED AT DERYL AND JENIL LIKE THEY WERE LOONEY AND SAID NO, WE'RE GOING TO CALL THE DOCTOR FIRST.

JENIL TOLD US DR. BISKIND HAD ALREADY LEFT THE CENTER BY THAT TIME. JENIL SAID SHE BELIEVED SYLVIA THEN PAGED DR. BISKIND. SEVERAL MINUTES WENT BY AND DR. BISKIND CALLED BACK AND SPOKE WITH EITHER DERYL OR SYLVIA. DR. BISKIND STATED ON THE PHONE, WELL CALL 911, THERE'S NOTHING I CAN DO, I'M NOT COMING BACK. JENIL SAID SHE KNEW DR. BISKIND SAID THIS BECAUSE CAROL HAD ASKED WHAT DR. BISKIND HAD SAID AND THAT WAS WHAT WAS STATED BACK TO CAROL.

CAROL THEN GAVE PERMISSION TO CALL 911 WHICH SYLVIA DID. CAROL STRESSED TO SYLVIA TO TELL THE 911 OPERATOR NOT TO PUT THE SIRENS ON AND TO COME THROUGH THE BACK ENTRANCE. PARAMEDICS ARRIVED THERE AND JENIL STEPPED OUT INTO THE WAITING AREA AND SPOKE TO LOU ANNE'S FRIEND BARR. JENIL TOLD BARR THERE WAS A PROBLEM WITH LOU ANNE. JENIL THEN ASKED BARR TO CONTACT LOU ANNE'S FAMILY AND DIRECTED BARR TO THE ULTRASOUND ROOM WHERE ANOTHER PHONE WAS LOCATED. BARR CALLED LOU ANNE'S FATHER'S WORK AND TALKED TO THE

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RECEPTIONIST. SHE ALSO CALLED LOU ANNE'S HUSBAND AND LEFT A MESSAGE FOR HIM TO CALL THE CLINIC. THE HUSBAND CALLED BACK AND SPOKE WITH JENIL. JENIL TOLD THE HUSBAND ABOUT LOU ANNE AND HE INDICATED HE DID NOT KNOW LOU ANNE WAS HAVING AN ABORTION. LOU ANNE'S FATHER MIKE ALSO CALLED AND SPOKE WITH JENIL. JENIL GAVE HIM INFORMATION AND SAID LOU ANNE WAS BEING TRANSPORTED ACROSS THE STREET TO GOOD SAMARITAN HOSPITAL.

AFTER THE PARAMEDICS HAD LEFT WITH LOU ANNE, CAROL TOLD THE GIRLS SHE WANTED SOMETHING WRITTEN DOWN AS TO WHAT HAPPENED. DERYL STARTED WRITING UP SOME INFORMATION AND KEPT IT WITH HER. THAT EVENING DERYL CALLED JENIL AT HOME AND TOLD HER LOU ANNE HAD DIED. THEY THEN TALKED ABOUT THIS AND DERYL SAID LOU ANNE HAD FLAT LINED IN THE RECOVERY ROOM. JENIL SAID SHE ALSO TALKED TO SYLVIA THAT NIGHT AND SYLVIA WAS VERY UPSET OVER LOU ANNE'S DEATH. SYLVIA TOLD JENIL THAT CAROL HAD CALLED HER. CAROL HAD TOLD SYLVIA LOU ANNE DIED BECAUSE IT WAS GOD'S INTENTION.

I ASKED JENIL WHAT DERYL TOLD HER ABOUT THE NOTES SHE HAD WRITTEN. JENIL SAID DERYL HAD WRITTEN DETAILED NOTES OF WHAT TOOK PLACE IN THE RECOVERY ROOM WITH LOU ANNE. JENIL SAID SHE BELIEVED DERYL'S SISTER HAD THE ORIGINAL NOTES AND LAURELLE ADCOCK HAD OTHER COPIES. JENIL TOLD US DERYL SAID THE COPIES WERE MADE TO KEEP HERSELF COVERED.

I ASKED JENIL IF ANYONE SAID ANYTHING TO HER OR THE OTHER EMPLOYEES ABOUT WHAT HAPPENED WITH LOU ANNE. SHE SAID CAROL GOT THEM TOGETHER THE FOLLOWING DAY AND TOLD THEM NO ONE WAS ALLOWED TO TALK ABOUT WHAT HAPPENED, NOT EVEN AMONG THEMSELVES.

I ALSO ASKED IF SHE HEARD ANYTHING ABOUT CAROL GOING TO THE CENTER LATE AT NIGHT TO GET LOU ANNE'S FILE. JENIL SAID CAROL HAD STATED THE MEDICAL EXAMINER FROM GOOD SAMARITAN HOSPITAL WANTED TO MEET HER (CAROL) AND DR. BISKIND AT THE CLINIC TO GO OVER LOU ANNE'S FILE. JENIL SAID THIS TOOK PLACE SOME TIME AFTER 9:00 P.M. JENIL KNEW THIS BECAUSE MICHELLE PRICE TOLD JENIL THE MEDICAL EXAMINER WAS PAGING HER. JENIL EXPLAINED THAT MICHELLE PRICE WAS ON CALL THAT NIGHT, THAT IS WHY SHE WAS BEING PAGED. MICHELLE THEN APPARENTLY CALLED CAROL AND TOLD HER THE M.D. WANTED TO SEE LOU ANNE'S FILE. MICHELLE TOLD JENIL THAT DR. BISKIND AND CAROL WERE GOING TO THE CLINIC TO GET LOU ANNE'S FILE THAT NIGHT.

JENIL RELATED SHE TALKED TO TAMMY LOMAS AT THE SCOTTSDALE OFFICE ON APRIL TWENTY-SEVENTH. THEY DISCUSSED LOU ANNE'S DEATH AND THE FACT LOU ANNE WAS OVER THE STATE LIMIT, AND HOW DR. BISKIND COULD HAVE DONE THE TERMINATION. TAMMY GOT UPSET AFTER FINDING OUT ABOUT LOU ANNE AND SHE QUIT ON THE SPOT. JENIL CALLED CAROL AND TOLD HER TAMMY HAD JUST QUIT BECAUSE OF THE INCIDENT WITH LOU ANNE.

I ASKED JENIL WHEN SHE QUIT WORKING AT A TO Z. SHE SAID ON APRIL TWENTY-SEVENTH. I ASKED HER WHY. JENIL SAID BECAUSE DR. HACK TOLD HER SHE WASN'T DOING HER JOB AND BECAUSE THE SCOTTSDALE CLINIC DID NOT PASS AN INSPECTION. JENIL TOLD US SHE TALKED TO DR. HACK IN PERSON THAT DAY. I ASKED HER IF DR. HACK SAID ANYTHING ABOUT LOU ANNE OR IF HE EVEN KNEW SHE HAD DIED. JENIL SAID DR. HACK DID NOT MENTION LOU ANNE, BUT HE KNEW ABOUT

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DR NO.: 0000 81177841 7

HER BECAUSE CAROL ALSO PAGED HIM ON THE DAY LOU ANNE DIED.

AT THIS POINT I TURNED THE TAPE RECORDER OFF, HOWEVER, I REMEMBERED TO ASK
EMIL AN ADDITIONAL QUESTION. I ASKED HER IF SHE HEARD LOU ANNE IN THE
RECOVERY ROOM SAY ANYTHING ABOUT THE FEELING IN HER LEGS. JENIL ANSWERED
HIS QUESTION. I THEN TURNED THE TAPE BACK ON AND AGAIN ASKED THE
QUESTION CONCERNING LOU ANNE. JENIL STATED SHE HADN'T HEARD LOU ANNE SAY
HAT, BUT SYLVIA TOLD HER LOU ANNE WAS SCREAMING, I CAN'T FEEL MY LEGS, I
CAN'T FEEL MY LEGS.

-26-98 1702 GIB A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 007

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SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 8

REPORT DATE: 19980728 TIME: 1016

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEATS: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNITS: 034

**** WITNESS INFORMATION ****

WITNESS -06:

NAME: MONTAGNO, LOIS

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF LOIS MONTAGNO

ON 7-23-98 AT 8:30 A.M. I TELEPHONED LOIS MONTAGNO AT HER RESIDENCE. I INTRODUCED MYSELF TO LOIS AND ADVISED HER I WAS INVESTIGATING THE INCIDENT A TO Z WOMEN'S CENTER INVOLVING THE DEATH OF LOU ANNE HERRON. I TOLD LOIS I HAD ALREADY SPOKE TO SEVERAL OF THE FORMER EMPLOYEES AND I WOULD LIKE TO ALSO TALK WITH HER. LOIS AGREED TO SPEAK WITH ME AND WE MADE ARRANGEMENTS TO MEET AT HER HOME.

AT 11:05 A.M. DETECTIVE D'ASUANNO AND I MET LOIS AND INTERVIEWED HER. THE FOLLOWING IS A SUMMARY OF THIS RECORDED INTERVIEW. PRESENT DURING THE INTERVIEW WAS LOIS, DETECTIVE D'ASUANNO AND MYSELF. PLEASE REFER TO THE AUDIO TAPE RECORDING FOR COMPLETE DETAILS.

IT SHOULD BE NOTED THIS INTERVIEW WAS INTERRUPTED FOR A MINUTE OR TWO WHILE LOIS' DAUGHTER DROPPED OFF A PET. DURING THIS TIME I SHUT THE TAPE RECORDED OFF AND THEN RESTARTED IT.

I BEGAN THIS INTERVIEW BY ASKING LOIS HOW LONG SHE HAS BEEN A REGISTERED NURSE AND SHE SAID SINCE 1969. LOIS TOLD US SHE WORKED IN RECOVERY AT A TO Z CENTER AND AT FAMILY PLANNING CENTER, WHICH WAS NOW PART OF A TO Z. I CONFIRMED FOR ME THAT A TO Z HAD THREE CLINICS, THESE BEING BOTTSDALE, MCDOWELL ROAD AND THE WEST SIDE LOCATION.

I ASKED LOIS IF SHE WORKED AT THE MCDOWELL CENTER ON APRIL SEVENTEENTH. LOIS SAID SHE DID, UNTIL AROUND NOON TIME. LOIS TOLD US CAROL, THE ADMINISTRATOR, ASKED HER A WEEK BEFORE APRIL SEVENTEENTH IF SHE COULD WORK A HALF DAY. LOIS TOLD CAROL SHE COULD, BUT FOR ONLY HALF A DAY, UNTIL NOON. CAROL TOLD LOIS THAT WAS BETTER THAN NOTHING. LOIS STATED SHE ARRIVED AT THE MCDOWELL CENTER AT 9:00 A.M. AND CLOCKED OUT AT 12:15 ON APRIL SEVENTEENTH. CAROL SAID THE EMPLOYEES HAD TO WRITE THEIR HOURS ON A TIME SHEET AND THIS SHEET WAS FAXED TO NEW YORK EACH DAY.

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ON APRIL SEVENTEENTH LOIS WORKED IN THE RECOVERY ROOM AND THE DAY WAS UNEVENTFUL. I ASKED LOIS WHAT DOCTOR WAS WORKING THAT DAY AND SHE STATED DR. BISKIND. I ASKED IF DR. BISKIND WAS THE ONLY DOCTOR ON DUTY THAT DAY AND SHE SAID YES, THERE WAS ONLY ONE DOCTOR WORKING AT A TIME.

NEXT ASKED LOIS IF SHE HAD A CONVERSATION WITH CAROL THAT DAY CONCERNING THE FACT SHE HAD TO LEAVE AT NOON. LOIS TOLD US SHE TRIED TO TELL CAROL BUT CAROL KEPT AVOIDING HER. LOIS STATED SHE LEFT SHORTLY AFTER NOON BECAUSE SHE HAD A LONG STANDING APPOINTMENT FOR A MAMMOGRAM AT THE HOSPITAL. LOIS CONTINUED BY SAYING SHE DIDN'T LIKE WORKING AT THE MCDOWELL CENTER BECAUSE SHE PREFERRED NOT WORKING THE SECOND TRIMESTER BORTIONS AND SHE DID NOT LIKE WORKING WITH DR. BISKIND. I ASKED LOIS WHY SHE DIDN'T LIKE WORKING WITH DR. BISKIND AND SHE STATED HE WAS VERY INTIMIDATING.

ASKED LOIS IF SHE HAD SPOKEN WITH CAROL ABOUT THE INCIDENT ON APRIL SEVENTEENTH INVOLVING LOU ANNE. LOIS SAID SHE HAD NOT, BUT SHE HAD WORKED AT THE MCDOWELL CENTER SINCE THEN. LOIS RELATED SHE HAD SPOKEN WITH SEVERAL OF THE OTHER EMPLOYEES AND THEY DISCUSSED THAT CAROL HAD TRIED TO COVER UP THE FACT LOIS HAD LEFT AT NOON. LOIS WENT ON TO SAY MABEL LOPEZ HAD CALLED HER AND RELATED THAT CAROL HAD TOLD DR. BISKIND SHE (CAROL) DIDN'T KNOW WHERE LOIS HAD GONE TO ON APRIL SEVENTEENTH. LOIS SAID MABEL TOLD HER SHE HAD TOLD DR. BISKIND THAT SHE (LOIS) WAS GOING TO LEAVE AT NOON. LOIS ALSO STATED SHE HAD LEFT PRIOR TO LOU ANNE HERRON EVER GOING TO SURGERY THAT DAY.

AT THIS POINT I ENDED THE INTERVIEW AND TURNED THE TAPE RECORDER OFF. WHILE THE TAPE WAS OFF LOIS RELATED AN INCIDENT REGARDING THE RECENT DELIVERY OF A BABY AT THE CENTER BY DR. BISKIND. I THEN TURNED THE TAPE BACK ON AND RECORDED THIS STATEMENT.

LOIS STATED SHE WAS AT THE MCDOWELL CENTER AFTER THE BABY HAD BEEN DELIVERED. LOIS HAD SPOKEN WITH ONE OF THE MEDICAL ASSISTANTS WHO WAS WORKING THE DAY THE BABY WAS DELIVERED. THE MEDICAL ASSISTANT TOLD LOIS DR. BISKIND HAD DELIVERED A BABY THE OTHER DAY. LOIS ASKED WHAT THEY HAD DONE WITH THE BABY AND THE M.A. SAID THEY TOOK THE BABY ACROSS THE STREET TO THE HOSPITAL. LOIS ASKED WHY THEY HADN'T CALLED THE PARAMEDICS. LOIS SAID RIGHT THEN CAROL WALKED IN. CAROL THEN STATED, WE DON'T WANT ANY MORE TROUBLE. I ASKED LOIS IF CAROL MEANT NO MORE TROUBLE IN REFERENCE TO CALLING THE PARAMEDICS AND SHE SAID RIGHT.

4-18-98 10-2 818 AC955/MAREE

NOTICE RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841

EJA0000214

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DR NO.: 0000 81177841

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REPORT DATE: 19980729 TIME: 1127

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #8

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: 034

SERIAL NUMBER: 3565

**** NARRATIVE ****

ON 7-29-98 I CHECKED THE YELLOW PAGES UNDER THE LISTING OF NURSE AND FOUND
 NERVOUS ADS. THE MAJORITY OF THESE ADS WERE FOR HOME HEALTH CARE. I
 DID FIND ONE AD FOR "NURSE FINDERS". THIS AD LISTED SEVERAL VALLEY
 COATIONS AND PHONE NUMBERS. I CALLED THE GLENDALE PHONE NUMBER (978-0660)
 AND SPOKE WITH THE SUPERVISOR ON DUTY, WHO WAS NAMED SUE. I IDENTIFIED
 MYSELF TO SUE AND ASKED HER IF THEY SUPPLIED NURSES FOR MORE THEN JUST
 HOME HEALTH CARE. I WAS TOLD THEY SUPPLY NURSES FOR EVERYTHING, FROM HOME
 HEALTH CARE TO DOCTOR OFFICES. I ASKED IF THEY WOULD SUPPLY A NURSE TO
 A CLINIC AND WAS TOLD YES. I THEN SPECIFICALLY ASKED IF THEY WOULD SUPPLY
 A NURSE TO AN ABORTION CLINIC AND SUE TOLD ME YES. SHE IN FACT STATED THEY
 RECENTLY HAD AN REQUEST FOR A NURSE FROM ARIZONA WOMEN'S CLINIC. I ASKED
 HER IF SHE KNEW THE ADDRESS FOR THIS CLINIC AND SHE SAID IT WAS 1002 E.
 MCDOWELL RD. I ASKED SUE IF SHE KNEW WHEN THIS REQUEST CAME IN AND SHE
 STATED IT WAS ABOUT A MONTH AGO.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 009

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SUPPLEMENT

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DR NO.: 0000 81177841 10

REPORT DATE: 19980729 TIME: 1331

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): THOMAS DAGUANNO

4324 UNIT: C33

SERIAL NUMBER: 4324

**** NARRATIVE ****

PHOENIX FIRE DEPARTMENT

INCIDENT CODE NUMBER:

98-054032

=====

ON 7-29-98, I WAS ASKED BY DET STRIBBLING TO GO BYE THE PHOENIX FIRE DEPT
MAIN DISPATCH OFFICE AND OBTAIN A PRINTOUT OF THE INCIDENT AT THE A-Z
WYENS CLINIC, DATED 041798. DET STRIBBLING PROVIDED THE INCIDENT NUMBER
OR THE PRINTOUT.

OBTAINED THE PRINTOUT AND AFTER INITIALING AND DATING IT, I TURNED IT
OVER TO DET STRIBBLING FOR HIS REPORT.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

END OF REPORT

DR NO: 0000 81177841 010

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DR NO.: 0000 81177841 11

REPORT DATE: 19980730 TIME: 1357

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

SERIAL NUMBER: 3565

**** NARRATIVE ****

GRAND JURY SUBPOENAS

ON 7-30-98 I PICKED THE FOLLOWING GRAND JURY SUBPOENAS UP AT THE MARICOPA COUNTY ATTORNEY'S OFFICE. I THEN HAD EACH SUBPOENA ISSUED BY THE CLERK OF THE SUPERIOR COURT, PRIOR TO SERVING EACH ONE.

GRAND JURY NUMBER: 222 GJ 4
ISSUED TO: MCI COMMUNICATIONS CORP.
LAW AND PUBLIC POLICY
ATTN: SUBPOENA COMPLIANCE UNIT
1133 19TH STREET N.W.
WASHINGTON, D.C. 20036

HIS SUBPOENA CALLS FOR RECORDS RELATED TO DOCTOR BISKIND'S PAGER, WHICH IS 1-800-915-1726. PER MCI INSTRUCTIONS, I MAILED THIS SUBPOENA ON 7-30-98

GRAND JURY NUMBER: 222 GJ 4
ISSUED TO: U.S. WEST COMMUNICATIONS
CUSTODIAN OF RECORDS

HIS SUBPOENA CALLS FOR INFORMATION RELATED TO PHONE NUMBER (602) 957-8535 WHICH IS THE PHONE LISTED FOR A-Z WOMEN'S CENTER AT 1002 E. MCDOWELL RD. ALSO REQUESTS ANY ADDITIONAL PHONE LINES LOCATED AT THAT BUSINESS ON JUL 17TH, 1998, AS WELL AS PHONE TOLL RECORDS FOR ALL LINES.

HIS SUBPOENA WAS FAXED TO U.S. WEST SECURITY IN DENVER, CO.

GRAND JURY NUMBER: 222 GJ 4
ISSUED TO: A-Z WOMEN'S CENTER INC.
1002 E. MCDOWELL SUITE B
PHOENIX, AZ.
CUSTODIAN OF RECORDS

HIS SUBPOENA CALLS FOR RECORDS RELATED TO LOU ANNE HERRON AND HER CARE AND TREATMENT AT THE A-Z WOMEN'S CENTER ON MCDOWELL ROAD AS WELL AS THE FAMILY TRAINING INSTITUTE AT 7806 N. 27TH AVE.

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DR NO.: 0000 81177841

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THIS SUBPOENA WAS SERVED IN THE FOLLOWING MANNER. I STOPPED AT THE MCDOWELL ROAD CENTER TO SEE IF IT WAS STILL OPEN. I FOUND THE CENTER OPEN AND ASKED AN EMPLOYEE TO SEE CAROL. THIS EMPLOYEE ASKED FOR MY NAME AND I TOLD HER I WAS DETECTIVE STRIBLING. THE EMPLOYEE THEN SUMMONED CAROL FROM HER OFFICE AREA. I THEN INTRODUCED MYSELF TO CAROL AND SHOOK HER HAND. I ADVISED CAROL I HAD A SUBPOENA FOR HER. I SHOWED HER THE ORIGINAL AND HANDED HER A COPY. CAROL ASKED IF MY NAME WAS ON THE SUBPOENA AND I SHOWED HER WHERE IT WAS. I THEN ASKED CAROL TO SPELL HER LAST NAME FOR ME AND FOR HER DATE OF BIRTH. SHE REPLIED "STUART" AND 5-11-37. I THANKED CAROL AND LEFT THE CENTER.

IT SHOULD BE NOTED I DID NOT ASK CAROL ANY QUESTIONS OTHER THAN WHAT I HAVE ALREADY MENTIONED. THE ONLY OTHER CONVERSATION WE HAD WAS ABOUT THE WEATHER OUTSIDE, AND THE FACT CAROL WAS NEW TO THE AREA AND STILL GETTING ACUSTOMED TO THE HEAT.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT: -----

INVOICES:

END OF REPORT

DR NO: 0000 81177841 011

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SUPPLEMENT

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DR NO.: 0000 81177841 12

REPORT DATE: 19980801 TIME: 1553

TYPE OF REPORT: SUSPICIOUS DEATH

LOCATION: 001002 E MCDOWELL ROAD #8

REPORTING OFFICER(S): MARK STRIBLING

OFFENSE: 901H

BEAT: 0512 GRID: BD29

3565

UNIT: CSA

**** WITNESS INFORMATION ****

WITNESS -07:

NAME: ARAGON, SYLVIA

SERIAL NUMBER: 3565

**** NARRATIVE ****

INTERVIEW OF SYLVIA ARAGON

ON 7-28-98 AT 7:38 P.M., DETECTIVE D'AGUANNO AND I INTERVIEWED SYLVIA ARAGON AT HER RESIDENCE. PRESENT DURING THIS INTERVIEW WERE SYLVIA, DETECTIVE D'AGUANNO AND MYSELF. THE FOLLOWING IS A SUMMARY OF THIS TAPE RECORDED INTERVIEW. FOR COMPLETE DETAILS PLEASE REFER TO THE AUDIO TAPE RECORDING.

I BEGAN THIS INTERVIEW BY STATING ON THE TAPE THAT SYLVIA HAD ADVISED SHE HAD HANDWRITTEN NOTES REGARDING LOU ANNE HERRON. IT SHOULD BE NOTED I OBTAINED THESE NOTES FROM SYLVIA AND LATER IMPOUNDED THEM AS EVIDENCE.

SYLVIA THEN TOLD US SHE HAD WORKED AS A MEDICAL ASSISTANT AT A TO Z WOMEN'S CENTER FOR ABOUT A YEAR AND A HALF. HER BASIC DUTIES INCLUDED ANSWERING PHONES, WORKING IN SURGERY, CLEANING INSTRUMENTS, WORKING IN THE RECOVERY ROOM AND DOING ULTRASOUNDS. SYLVIA SAID SHE IS NOT A REGISTERED NURSE, BUT IS A MEDICAL ASSISTANT. I ASKED SYLVIA WHAT TYPE OF TRAINING SHE HAD RECEIVED TO BECOME A MEDICAL ASSISTANT. SYLVIA STATED SHE WENT TO SCHOOL AT THE OCCUPATIONAL TRAINING CENTER FOR NINE AND A HALF MONTHS.

SYLVIA CONTINUED BY TELLING US SHE QUIT WORKING AT A TO Z CENTER A COUPLE OF WEEKS AFTER LOU ANNE HERRON'S DEATH. SHE SAID SHE WAS NOT COMFORTABLE WORKING THERE ANY LONGER. SYLVIA ALSO SAID CAROL, WHO WAS THE CENTER ADMINISTRATOR, WAS NOT IN HER OPINION, QUALIFIED TO RUN THE CENTER.

I ASKED SYLVIA WHEN SHE FIRST ENCOUNTERED LOU ANNE HERRON. SYLVIA STATED IT WAS THE DAY LOU ANNE CAME INTO THE CENTER INQUIRING ABOUT A PREGNATION. SYLVIA STATED SHE CHECKED LOU ANNE IN AND SPOKE WITH HER ABOUT LOU ANNE'S PREGNANCY. SYLVIA THEN COMPLETED AN ULTRASOUND ON LOU ANNE WHICH INDICATED LOU ANNE'S GESTATION WAS ABOUT TWENTY-SIX WEEKS. I ASKED SYLVIA IF SHE REMEMBERED WHAT DAY THAT WAS AND SHE SAID AROUND APRIL TWENTY-NINTH, BUT SHE WAS NOT SURE OF THE EXACT DATE. SYLVIA WENT ON BY

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STATING SHE HAD TOLD LOU ANNE THERE WAS NOTHING THEY COULD DO BECAUSE LOU ANNE WAS TWENTY-SIX WEEKS AND THE CLINIC ONLY PERFORMED ABORTIONS UP TO TWENTY-FOUR WEEKS. SYLVIA SAID LOU ANNE BECAME VERY UPSET AND STATED SHE HAD TO HAVE AN ABORTION DONE. LOU ANNE AND SYLVIA DISCUSSED WHY LOU ANNE FELT SHE HAD TO HAVE THE TERMINATION AND LOU ANNE ASKED TO SPEAK WITH THE CENTER'S ADMINISTRATOR. SYLVIA SAID SHE GOT CAROL, THE ADMINISTRATOR, AND TOLD CAROL THAT LOU ANNE WAS OVER TWENTY-SIX WEEKS. SYLVIA ALSO STATED SHE TOLD CAROL SHE WAS NEW AT DOING ULTRASOUNDS AND THE TWENTY-SIX WEEKS WOULD POSSIBLY BE INACCURATE. CAROL AND LOU ANNE THEN WENT INTO CAROL'S OFFICE AND CLOSED THE DOOR. WHEN THEY CAME OUT CAROL ASKED SYLVIA TO CALL JENIL AT THE GLENDALE CLINIC ABOUT DOING ANOTHER ULTRASOUND ON LOU ANNE. SYLVIA STATED CAROL TOLD HER SHE (CAROL) HAD PHONED DR. HACH IN NEW YORK ABOUT LOU ANNE. CAROL SAID DR. HACH HAD AUTHORIZED HER TO SEND LOU ANNE OVER TO THE GLENDALE CENTER FOR ANOTHER ULTRASOUND.

ASKED SYLVIA IF SHE WAS THE ONE WHO ACTUALLY PERFORMED THE ULTRASOUND ON LOU ANNE THE FIRST DAY AND SHE SAID YES. I ASKED SYLVIA IF THIS FIRST ULTRASOUND HAD PRINTED OUT A PHOTO AND IF THE PHOTO HAD LOU ANNE'S NAME ON IT. SYLVIA STATED YES, AND IT WOULD HAVE 26.5 PRINTED ON THE PHOTO ALSO. I ASKED WHAT HAPPENED TO THAT ULTRASOUND PHOTO. SYLVIA SAID SHE GAVE IT TO CAROL WHEN SHE HANDED CAROL LOU ANNE'S CHART. SYLVIA TOLD US SHE DID NOT KNOW WHAT HAPPENED TO THIS ORIGINAL ULTRASOUND PHOTO AFTER SHE GAVE IT TO CAROL. SYLVIA STATED SHE HEARD LOU ANNE THEN WENT TO THE GLENDALE CENTER AND JENIL COMPLETED ANOTHER ULTRASOUND ON HER.

QUESTIONED SYLVIA ABOUT WHEN SHE NEXT SAW LOU ANNE. SYLVIA SAID IT WAS THE DAY LOU ANNE HAD HER LAMS INSERTED. SYLVIA SAID SHE RECOGNIZED LOU ANNE AND ASKED CAROL WHAT LOU ANNE WAS DOING THERE, SHE'S TOO FAR ALONG TO HAVE A TERMINATION. CAROL TOLD SYLVIA NOT TO SAY ANYTHING BECAUSE SHE HAD APPROVED IT THROUGH DR. HACH. SYLVIA TOLD CAROL SHE DIDN'T THINK THAT WAS RIGHT. CAROL THEN TOLD SYLVIA THIS IS NONE OF HER CONCERN, YOU HAVE NOTHING TO DO WITH THIS, THIS IS AN ADMINISTRATIVE DECISION. DETECTIVE GUANNO ASKED SYLVIA IF SHE HAD SAID ANYTHING TO DR. BISKIND ABOUT LOU ANNE AND SHE SAID YES. SYLVIA SAID SHE ASKED DR. BISKIND WHY HE WAS STARTING A PROCEDURE ON SOMEONE THAT FAR ALONG. SYLVIA TOLD US DR. BISKIND SAID TO HER, THAT LOU ANNE WAS NOT TOO FAR ALONG. I ASKED SYLVIA IF DR. BISKIND WAS AWARE LOU ANNE HAD BEEN ULTRASOUNDED AT TWENTY-SIX WEEKS AND SHE SAID YES. SYLVIA CONTINUED BY SAYING DR. BISKIND AND CAROL TOLD HER IT WAS NOT HER PLACE TO TELL THEM WHO COULD AND COULDN'T HAVE A PROCEDURE, BECAUSE SHE WAS JUST A MEDICAL ASSISTANT AND NOT IN AN ADMINISTRATIVE POSITION.

SYLVIA RELATED SHE SAW LOU ANNE AGAIN ON THE NEXT DAY, THE DAY AFTER THE MARIANA PROCEDURE. SYLVIA SAID LOU ANNE WAS THE FIRST PERSON IN THE CLINIC AND THEY WERE VERY SHORT ON STAFF THAT DAY. SYLVIA STATED SHE CHECKED AT LOU ANNE'S CHART AND THE ULTRASOUND SHE HAD COMPLETED ON LOU ANNE WAS MISSING, BUT ANOTHER ONE WAS IN THE FILE. LOU ANNE CAME INTO THE OPERATING ROOM AND SYLVIA SPOKE WITH HER ABOUT HOW SHE FELT. SYLVIA SAID SHE WAS IN THE O.R. WHEN DR. BISKIND PERFORMED THE TERMINATION ON LOU ANNE. SYLVIA STATED DR. BISKIND APPEARED TO BE HAVING A HARD TIME LOCATING THE SKULL OF THE FETUS AND PULLING IT OUT. SYLVIA SAID LOU ANNE

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Continued.

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PAGE NO. 3

DR NO.: 0000 81177841 612

WAS BLEEDING A LOT AND SHE ASKED DR. BISKIND IF HE WANTED THE NURSE, BUT HE SAID NO.

AT THIS POINT IN THE INTERVIEW SYLVIA BEGAN TO CRY. SHE SAID SHE TOLD DR. BISKIND SHE THOUGHT THEY NEEDED SOME HELP, BUT DR. BISKIND SAID EVERYTHING WAS ALL RIGHT. SYLVIA RELATED THE TERMINATION TOOK LONGER THAN NORMAL, ABOUT FORTY-FIVE MINUTES. AFTER THE PROCEDURE WAS DONE LOU ANNE WAS TAKEN INTO RECOVERY. SYLVIA THEN MENTIONED SOMETHING ABOUT EIGHT IN THE MORNING AND THAT THE NURSE, LOIS, SAID SHE COULDN'T BE THERE PAST NOON. I ASKED SYLVIA WHEN THE TERMINATION ON LOU ANNE STARTED AND SHE SAID ABOUT 8:30 OR 9:00.

SYLVIA WENT ON TO SAY SHE NOTICED LOU ANNE WAS BLEEDING VERY HEAVILY AFTER HER TERMINATION, WHICH WAS NOT NORMAL. SHE SAID THEY WERE VERY BUSY DOING TERMINATIONS THAT DAY AND SHE DID NOT HAVE TIME TO REALLY CHECK ON LOU ANNE. SYLVIA ALSO TOLD US DR. BISKIND NEVER CHECKED ON LOU ANNE WHILE SHE WAS IN THE RECOVERY ROOM. SYLVIA STATED THEY TOOK A LUNCH BREAK. DURING HIS BREAK SYLVIA SAID KIAHYA, WHO HAD NOT EVEN GRADUATED FROM SCHOOL YET, WAS IN THE RECOVERY ROOM WITH LOU ANNE. KIAHYA SAID SHE FELT LOU ANNE WAS BLEEDING MORE THAN SHE SHOULD BE AND DR. BISKIND TOLD KIAHYA TO GIVE ANNE AN IV AND NOT TO CHANGE HER PAD. SYLVIA SAID LOU ANNE'S PAD HAD BEEN CHANGED. I ASKED SYLVIA IF SHE EVER SAW DR. BISKIND GO INTO THE RECOVERY ROOM AND LOOK AT LOU ANNE AND SHE SAID NEVER.

SYLVIA STATED DR. BISKIND LEFT THE BUILDING AFTER ALL THE PATIENTS WERE DONE AND SHE THOUGHT THAT TIME WAS ABOUT 4:00 P.M. SYLVIA THEN WALKED INTO RECOVERY, LOOKED AT LOU ANNE AND IMMEDIATELY KNEW LOU ANNE WAS IN TROUBLE. SYLVIA SAID SHE ASKED THE PEOPLE IN RECOVERY, WHO WERE POSSIBLY GINA AND KIAHYA, WHY THEY HAD NOT CALLED 911. SYLVIA STATED LOU ANNE LOOKED PALE AND LOU ANNE TOLD SYLVIA THAT HER LEGS HURT VERY BAD. SYLVIA SAID THE PEOPLE IN RECOVERY STATED THEY HAD NOT CALLED 911 BECAUSE NO ONE HAD TOLD THEM TO DO SO. I ASKED SYLVIA WHO THOSE PEOPLE WERE AND SHE SAID SHE WASN'T SURE IF IT WAS GINA AND KIAHYA OR JENIL AND DERYL. SYLVIA THEN TOLD CAROL AND TOLD HER LOU ANNE WAS IN DISTRESS AND NEEDED TO GO TO THE HOSPITAL. SYLVIA STATED CAROL TOLD HER NOT TO CALL 911. SYLVIA SAID SHE TOLD CAROL SHE WAS GOING TO CALL AND SHE WENT INTO RECOVERY AND DIALED 911. I ASKED SYLVIA IF CAROL SAID ANYTHING ABOUT CALLING DR. BISKIND FIRST AND SHE SAID YES, CAROL HAD TOLD HER TO CALL DR. BISKIND. SYLVIA STATED SHE CALLED 911 AND THEN PAGED DR. BISKIND. SYLVIA TOLD US JENIL TOLD HER TO TELL THE PARAMEDICS NOT TO TURN ON THEIR LIGHTS AND TO COME TO THE BACK DOOR, SO THE PATIENTS WOULD NOT BE SCARED. I ASKED SYLVIA ABOUT GIVING DR. BISKIND. SHE STATED SHE PAGED DR. BISKIND AFTER CALLING 911. DR. BISKIND CALLED BACK AND SPOKE WITH SYLVIA. SHE TOLD DR. BISKIND LOU ANNE WAS HAVING PROBLEMS. DR. BISKIND TOLD SYLVIA HE WAS DONE FOR THE DAY AND IT WASN'T HIS PROBLEM. SYLVIA STATED CAROL THEN CALLED DR. BISKIND IN NEW YORK.

SYLVIA SAID DR. BISKIND RETURNED THE CALL REFERENCE HER PAGE AFTER THE PARAMEDICS WERE ALREADY AT THE CENTER, SO SHE HANDED THE PHONE TO CAROL. CAROL TALKED TO DR. BISKIND. SYLVIA STATED SHE BELIEVED IT WAS ABOUT FORTY MINUTES AFTER DR. BISKIND LEFT THE CENTER THAT SHE CALLED DR. BISKIND.

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Continued.

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DR NO.: 0000 81177841 12

PARAMEDICS ARRIVED ON SCENE AND ASKED WHY THEY HAD NOT CALLED 911 SOONER. AT THIS POINT SYLVIA AGAIN STARTED CRYING AND I TURNED THE TAPE RECORDER OFF WHILE SHE REGAINED HER COMPOSURE.

WHEN I RESTARTED THE RECORDER SYLVIA TOLD US SHE WAS VERY UPSET ABOUT LOU ANNE. AFTER THE PARAMEDICS HAD LEFT WITH LOU ANNE, SYLVIA WENT INTO ANOTHER ROOM AND CALLED HER DAD. SHE TOLD HIM ONE OF THE PATIENTS HAD PASSED AWAY AND IT WAS THE DOCTOR'S FAULT. I ASKED SYLVIA WHY SHE SAID IT WAS THE DOCTOR'S FAULT AND SHE STATED, BECAUSE HE KNEW, HE SHOULDN'T HAVE DONE THAT PROCEDURE ON HER. SYLVIA SAID SHE FELT DR. BISKIND KNEW LOU ANNE WAS TOO FAR ALONG TO HAVE DONE THE PROCEDURE.

ASKED SYLVIA IF SHE EVER SAW DR. BISKIND GO INTO THE RECOVERY ROOM AND CHECK ON LOU ANNE. SHE SAID NO, NOT THAT SHE COULD REMEMBER. I THEN ASKED SYLVIA ABOUT HER NOTES AND THE DATE OF 4/11/98 SHE HAD WRITTEN ON THE FIRST PAGE. I QUESTIONED HER ABOUT HOW CERTAIN SHE WAS OF THAT DATE AND SHE SAID SHE WAS NOT SURE ABOUT IT, BUT IT WAS AROUND THAT TIME. SYLVIA DID SAY SHE WAS CERTAIN ABOUT THE DATE OF APRIL SEVENTEENTH, WHICH SHE HAD WRITTEN ON ANOTHER PAGER OF HER NOTES.

ASKED SYLVIA WHEN SHE FOUND OUT FOR CERTAIN LOU ANNE HAD DIED. SYLVIA SAID CAROL TOLD HER THAT AFTERNOON THERE WAS NOTHING THEY COULD HAVE DONE, THEY DID THEIR BEST AND IT WASN'T THEIR FAULT. SHE ALSO SAID CAROL CALLED HER AT HOME THAT NIGHT AND CONFIRMED LOU ANNE HAD DIED. CAROL TOLD SYLVIA AT THAT TIME THERE WAS NOTHING THEY COULD HAVE DONE, THEY DID THEIR BEST. SYLVIA SAID SHE TOLD CAROL THERE WAS SOMETHING THEY COULD HAVE DONE. CAROL THEN TOLD SYLVIA SHE WAS NOT TO TALK TO ANYONE ABOUT WHAT HAPPENED WITH LOU ANNE. SYLVIA STATED CAROL TOLD HER ON THE PHONE AND IN PERSON WHILE AT THE CLINIC NOT TO TALK WITH ANYBODY ABOUT THE INCIDENT REGARDING LOU ANNE.

4-98 1625 GIS A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 012

EJA00000222

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 013

REPORT DATE: 19980803 TIME: 1726

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDGWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(SI): MARK STRIBLING

3565

UNIT: 1034

**** WITNESS INFORMATION ****

WITNESS -09:

NAME: SCOTT, JERRY

SERIAL NUMBER: 3565

**** NARRATIVE ****

INTERVIEW OF JERRY SCOTT:

ON 8-3-98 AT 5:30 PM I TELEPHONED JERRY SCOTT AT HIS RESIDENCE. THE PURPOSE OF THIS CALL WAS TO VERIFY THE TIME JERRY DROPPED LOU ANNE HERRON OFF AT THE A-Z CENTER ON APRIL 17TH, 1998. JERRY TOLD ME HE DROVE LOU ANNE TO THE CENTER ON EAST MCDGWELL ROAD, ARRIVING ABOUT 7:55 AM. THE CENTER WAS NOT YET OPEN SO THEY SAT IN THE CAR UNTIL ONE OF THE EMPLOYEES OPENED THE DOOR. LOU ANNE THEN WALKED INTO THE CENTER AND JERRY DROVE OFF.

I ASKED JERRY IF LOU ANNE HAD TOLD HIM WHAT TIME HER ACTUAL PROCEDURE WOULD START AND HE SAID NO. ALL JERRY KNEW WAS LOU ANNE WAS TO BE THERE BEFORE NINE O'CLOCK AND WAIT UNTIL IT WAS HER TURN.

AFTER SPEAKING WITH JERRY I SPOKE TO BARBARA BLANC. I ASKED BARBARA IF SHE KNEW WHAT TIME LOU ANNE'S ACTUAL PROCEDURE WAS TO START AND SHE ALSO SAID NO.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

CHOICES:

END OF REPORT

DR NO: 0000 81177841 013

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DR NO.: 0000 81177841 14

REPORT DATE: 19980803 TIME: 1735

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901A

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

SERIAL NUMBER: 3565

**** NARRATIVE ****

7-30-98 AT 2:00 PM I WENT TO THE FAMILY PLANNING CENTER AT 2334 NORTH BUTTS DALE ROAD AND FOUND IT CLOSED. I THEN DROVE FROM THIS CENTER TO THE CENTER AT 1002 E. MCDOWELL ROAD. I TIMED MYSELF AND TRAVELED THIS DISTANCE IN 19 MINUTES AND 24 SECONDS. THE ROUTE I TOOK WAS SOUTH ON BUTTS DALE ROAD TO MCDOWELL ROAD. WEST ON MCDOWELL TO 10TH STREET AND SOUTH TO THE PARKING LOT NEAR THE A-Z WOMEN'S CENTER. IT SHOULD BE NOTED I WAS DRIVING AT NORMAL SPEEDS FOR THE TRAFFIC FLOW AND WAS STOPPED BY ONLY ONE RED SIGNAL LIGHT THIS ENTIRE DISTANCE.

IN MY OPINION DERYL WHITLOCK WOULD HAVE TAKEN AT LEAST THIS AMOUNT OF TIME TO RESPOND TO CAROL STUART'S CALLED FOR ASSISTANCE ON APRIL 17TH, 1998.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

ADDITIONAL NOTES:

END OF REPORT

DR NO: 0000 81177841 014

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SUPPLEMENT

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DR NO.: 0000 81177841 15

REPORT DATE: 19980804 TIME: 0929

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901A

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

SERIAL NUMBER: 3565

**** NARRATIVE ****

A-Z CENTER DIAGRAM

ON 8-3-98 DET. LOU MAROTTA #3071 GAVE ME A DIAGRAM OF THE A-Z WOMEN'S CENTER. THIS DIAGRAM WAS RECEIVED BY FAX FROM HERB DREISESZUN, WHO IS THE PROPERTY OWNER. I LATER CALLED MR. DREISESZUN AND ASKED HIM ABOUT THIS DIAGRAM. I WAS TOLD THIS DIAGRAM REPRESENTED THE A-Z WOMEN'S CENTER AS IT PRESENTLY IS. I ALSO ASKED HERB IF THE CENTER WAS NOW VACATED. HERB SAID THEIR LEASE WAS UP ON 7-31-98, BUT THEY ARE STILL IN THE PROCESS OF MOVING OUT.

GAVE THE FAXED COPY OF THIS DIAGRAM TO DET. PAUL HILL AND ASKED HIM TO GENERATE A NEW CLEAN COPY ON HIS COMPUTER.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

END OF REPORT

DR NO: 0000 81177841 015

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SUPPLEMENT

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DR NO.: 0000 81177841 16

REPORT DATE: 19980804 TIME: 1038

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: CSC

SERIAL NUMBER: 3565

**** NARRATIVE ****

AUTOPSY

=====

MEDICAL EXAMINER

CASE NUMBER: 98-01107

MEDICAL EXAMINER: DOCTOR JULIE BROWN.

CAUSE OF DEATH: HEMORRHAGE, DUE TO RUPTURED UTERUS.
DUE TO: MEDICAL INSTRUMENTATION.

MANNER OF DEATH: ACCIDENT

PHOTOGRAPHS: O.M.E. PERSONNEL

FORENSIC ASSISTANTS: STEVE ROVETO
ART MARTINEZ
NORM SAHL

4-18-98 DOCTOR JULIE BROWN PERFORMED AN AUTOPSY ON THE LOU ANNE
ERRON'S BODY. PHOTOS WERE TAKEN DURING THIS PROCEDURE BY O.M.E. PERSONNEL
LOU ANNE'S BODY HAD BEEN TRANSPORTED FROM GOOD SAMARITAN E.R. TO THE
MEDICAL EXAMINER'S OFFICE AND WAS TAGGED BY M.E. INVESTIGATOR VINNY COOK.
DOCTOR BROWN NOTES IN HER PROTOCOL A 2" X 3/4" TEAR IN LOU ANNE'S RIGHT
LATERAL LOWER UTERINE WALL.

TOXICOLOGICAL EXAMINATION WAS ALSO COMPLETED WHICH SHOWED THE PRESENCE
OF SEVERAL DRUGS. THESE DRUGS INCLUDED MEPERIDINE, NORMEPERIDINE, DIAZEPAM
AND DIAZEPAM, LIDOCAINE, MONOBETHYLSGLYDINEXYLIDIDE AND CODEINE.

FOR COMPLETE DETAILS OF THIS AUTOPSY, PLEASE REFER TO DOCTOR BROWN'S
PROTOCOL, THE TOXICOLOGICAL REPORT AND OTHER RELATED PAPERWORK FROM THE
MEDICAL EXAMINER'S OFFICE. THESE DOCUMENTS HAVE BEEN MADE AN ATTACHMENT TO
THIS DEPARTMENTAL REPORT.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT

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DR. NO.: 0000 81177841 16

INVOICES:

END OF REPORT

DR. NO.: 0000 81177841 16

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DR NO.: 0000 81177841

17

REPORT DATE: 19980804 TIME: 1549

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

**** WITNESS INFORMATION ****

WITNESS -08:

NAME: ADDOX, LAURELLE

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF LAURELLE ADDOX

7-29-98 AT 6:50 P.M., DETECTIVE D'AGUANNO AND I INTERVIEW LAURELLE ADDOX. THIS TAPE RECORDED INTERVIEW TOOK PLACE IN THE LIVING ROOM OF LAURELLE'S RESIDENCE. PRESENT DURING THE INTERVIEW WERE LAURELLE, LAURELLE'S HUSBAND, JERRY PATTERSON, DETECTIVE D'AGUANNO AND I. THE FOLLOWING IS A SUMMARY OF THIS INTERVIEW. FOR COMPLETE DETAILS PLEASE REFER TO THE AUDIO TAPE RECORDING.

BEGAN THIS INTERVIEW BY ASKING LAURELLE HOW LONG SHE HAD WORKED FOR A FAMILY PLANNING INSTITUTE. LAURELLE TOLD US SHE WORKED THERE FOR A YEAR AND A HALF AND HER EMPLOYMENT THERE ENDED JUNE 1, 1998. LAURELLE STATED BASIC FUNCTIONS AT THE CENTER WERE THAT OF A MEDICAL ASSISTANT. THESE INCLUDED ANSWERING THE PHONES, DOING ULTRASOUNDS, ASSISTING THE DOCTOR IN SURGERY, DOING LAB WORK, ALONG WITH PAPERWORK. LAURELLE SAID SHE WORKED AT ALL THREE CENTERS, BUT MAINLY AT THE SCOTTSDALE LOCATION.

ASKED LAURELLE IF SHE EVER WORKED WITH DR. BISKIND AND IN WHAT CAPACITY SHE WAS. LAURELLE STATED SHE HAD WORKED WITH DR. BISKIND IN BOTH SURGERY DURING LAYONARIA PROCEDURES. I ALSO ASKED HER IF SHE KNEW CAROL, THE CENTER'S MANAGER. SHE SAID SHE DID, AND CAROL'S LAST NAME WAS SO-ADOFF. LAURELLE CONTINUED BY SAYING CAROL WAS HER BOSS, SHE REPORTED TO CAROL AND CAROL HAD THE LAST SAY ON EVERYTHING.

AT THIS POINT WE DISCUSSED THE FACT LAURELLE WAS NOT PRESENT ON APRIL TWENTY-NINTH WHEN LOU ANNE HERRON HAD HER ABORTION. I THEN ASKED LAURELLE IF SHE WAS PRESENT AT ANY OTHER TIME WHEN LOU ANNE HERRON VISITED ANY OF THE OFFICES. LAURELLE SAID LOU ANNE SOUNDED AN AWFUL LOT LIKE A GIRL SHE HAD DONE AN ULTRASOUND ON WHILE WORKING AT THE GLENDALE OFFICE. THIS ULTRASOUND WAS DONE IN EARLY APRIL AND THE FEMALE WAS OVER THE LEGAL LIMIT. LAURELLE TOLD THIS FEMALE SHE WAS OVER THE TWENTY-FOUR WEEK LIMIT. THE FEMALE BECAME QUITE UPSET. LAURELLE DESCRIBED THIS FEMALE, BUT

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CANNOT SAY IT WAS LOU ANNE HERRON FOR SURE.

I NEXT ASKED LAURELLE ABOUT THE NOTES SHE HAD WHICH WERE APPARENTLY WRITTEN BY DERYL WHITLOCK. LAURELLE TOLD US SHE FOUND THESE NOTES IN HER CAR. SHE EXPLAINED THAT DERYL HAD BORROWED HER CAR, AND IT WAS THIS CAR DERYL WAS KILLED IN. LAURELLE FOUND THESE NOTES ON THE REAR FLOORBOARD AREA. I ASKED LAURELLE IF SHE HAD A CONVERSATION WITH DERYL ABOUT THESE NOTES. LAURELLE STATED DERYL HAD CALLED HER AND SAID SHE (DERYL) WANTED LAURELLE TO HAVE A COPY OF THE NOTES. LAURELLE SAID THIS CONVERSATION WITH DERYL WAS OVER THE PHONE AND WAS ON THE SAME DAY LOU ANNE HERRON DIED. LAURELLE STATED DERYL WAS VERY UPSET OVER LOU ANNE'S DEATH AND WAS TRYING TO MAKE NOTES TO GIVE TO CAROL, ALONG WITH NOTES FOR HERSELF, OF WHAT REALLY HAPPENED. I ASKED LAURELLE IF DERYL SAID WHY SHE WANTED HER TO HAVE A COPY OF THE NOTES. LAURELLE TOLD US DERYL HAD SAID IN CASE SOMETHING EVER HAPPENED, DERYL WAS AFRAID OF LOSING HER JOB AND WHAT HAPPENED WITH LOU ANNE WAS WRONG. LAURELLE STATED DERYL TOLD HER OVER AND OVER THAT LOU ANNE DIDN'T NEED TO DIE. DERYL TOLD LAURELLE WHEN THEY WANTED TO CALL 911 CAROL WOULD NOT LET THEM, SAYING THEY NEEDED TO CALL A DOCTOR FIRST.

LAURELLE CONTINUED BY SAYING CAROL HAD CALLED THE SCOTTSDALE CENTER ON APRIL SEVENTEENTH. CAROL SPOKE WITH LAURELLE AND WANTED BOTH LAURELLE AND DERYL TO COME TO THE MCDOWELL ROAD OFFICE. CAROL TOLD LAURELLE THEY WERE HAVING SOME PROBLEMS AT THE CENTER AND NO ONE KNEW WHAT TO DO. I ASKED LAURELLE IF CAROL TOLD HER WHAT THOSE PROBLEMS WERE AND WHAT TIME THIS CALL WAS MADE. LAURELLE SAID THE CALL FROM CAROL WAS AT APPROXIMATELY 1:00 P.M. AND CAROL DID NOT STATE WHAT THE PROBLEM WAS. LAURELLE SAID SHE KNEW IT WAS 2:00 P.M. BECAUSE THEY HAD JUST FINISHED THEIR PATIENTS, IN FACT THE LAST PATIENT WAS JUST WALKING OUT THE DOOR.

LAURELLE WENT ON TO SAY SHE TOLD CAROL ONLY HER AND DERYL WERE STILL THERE AND THEY HAD A BIG MESS TO CLEAN UP. CAROL THEN ASKED IF ONE OF THEM COULD COME OVER AND IT WAS DECIDED DERYL WOULD GO. DERYL LEFT THE SCOTTSDALE CENTER, WHICH IS LOCATED ON SCOTTSDALE ROAD JUST NORTH OF OAK. I ASKED LAURELLE IF SHE HAD MADE THAT DRIVE FROM THE SCOTTSDALE OFFICE TO THE MCDOWELL CENTER. SHE SAID YES, AND IT WAS NORMALLY ABOUT A TWENTY TO TWENTY-FIVE MINUTE DRIVE.

LAURELLE THEN TOLD US SHE CALLED CAROL BACK THAT DAY AND LET HER KNOW DERYL WAS COMING OVER. LATER THAT NIGHT CAROL CALLED LAURELLE AT HOME AND ASKED IF SHE HEARD WHAT HAPPENED. LAURELLE TOLD CAROL YES, AND DERYL WAS BETTY SHOOK UP ABOUT IT. CAROL THEN TOLD LAURELLE THEY WERE NOT BELIEVING IN ANY WAY AND LAURELLE WAS NOT SUPPOSED TO TALK TO ANYONE ABOUT THE INCIDENT. LAURELLE ALSO SAID CAROL LATER TOLD HER THEY HAD DONE EVERYTHING BY THE BOOK AND THE GIRL HAD OTHER PROBLEMS.

AT THIS POINT WE DISCUSSED DERYL TELLING LAURELLE THAT MICHELLE PRICE HAD MISTAKEN THE ULTRASOUND ON LOU ANNE BY TAKING A DIFFERENT ANGLE, WHICH MADE LOU ANNE LOOK LESS PREGNANT.

IT SHOULD BE NOTED THAT AS DETECTIVE D'ASQUANNO AND I WERE PREPARING TO

0000 81177841 17

Continued.

EJA00000229

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 18

REPORT DATE: 19980817 TIME: 1426

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 1901H

LOCATION: 001002 E MCDOWELL ROAD #8

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** NARRATIVE ***

SERIAL NUMBER: 3565

DOCTOR PATRICIA GRAHAM INTERVIEW:

PATRICIA GRAHAM, M.D.
DIRECTOR, AMBULATORY SERVICES
AND PERINATAL ADDICTION CLINIC
MARICOPA MEDICAL CENTER

CURRICULUM VITAE: SEE ATTACHMENT

ON 8-12-98 AT 9:00 AM DEPUTY COUNTY ATTORNEY KAREN O'DONNOR, SGT. RANDY FORCE AND I MET WITH DOCTOR PATRICIA GRAHAM AT COUNTY HOSPITAL. THE PURPOSE OF THIS MEETING WAS TO HAVE DOCTOR GRAHAM REVIEW INFORMATION REGARDING THE LOU ANNE HERRON INVESTIGATION AND RENDER AN OPINION ABOUT THIS INCIDENT.

BEFORE THIS MEETING I COMPILED A BOOKLET OF INFORMATION FOR DR. GRAHAM TO REVIEW. THIS INFORMATION INCLUDED A BRIEF SUMMARY OF THE INVESTIGATION, THE COMPLETE AUTOPSY REPORT AND PHOTOS FROM THE AUTOPSY, MEDICAL RECORDS FROM A-Z WOMEN'S CENTER, PHOENIX FIRE DEPARTMENT INCIDENT REPORT REGARDING LOU ANNE HERRON, GOOD SAMARITAN EMERGENCY ROOM REPORT REGARDING LOU ANNE HERRON, A SUMMARY OF BOMEX INVESTIGATIONS INVOLVING DOCTOR JOHN BISKIND, AND HAND WRITTEN NOTES I OBTAINED FROM MEDICAL ASSISTANT JENIL BEGAY.

THIS MEETING LASTED APPROXIMATELY TWO AND A HALF HOURS. DURING THIS TIME DOCTOR GRAHAM REVIEWED THE PREPARED MATERIAL AND ASKED QUESTIONS RELATED TO THIS INVESTIGATION. AT THE END OF THE MEETING DOCTOR GRAHAM STATED THE FOLLOWING:

BASED ON THE INFORMATION SHE REVIEWED, LOU ANNE HERRON'S STANDARD OF CARE AFTER HER TERMINATION AT A-Z WOMEN'S CENTER, WAS SO FAR BELOW ACCEPTABLE LEVELS, IT WAS SCARPING ROCK BOTTOM. DR. GRAHAM SAID LOU ANNE HERRON SHOULD NOT HAVE DIED AND WOULD HAVE SURVIVED WITH A MINIMAL AMOUNT OF CARE AND TREATMENT FROM DOCTOR BISKIND. DR. GRAHAM BELIEVES THE RECOVERY ROOM CASES FROM A-Z ARE MOST LIKELY FICTITIOUS. THIS IS BASED ON WHAT APPEARS TO BE STABLE VITAL SIGNS AND THE PATIENT BEING A FULL CODE A SHORT TIME AFTER. THE BLOOD GASES FROM THE GOOD SAMARITAN HOSPITAL ALSO SHOW A METABOLIC ACIDOSIS, WHICH INDICATES A SLOW/GRADUAL DETERIORATION OF THE PATIENT UNTIL HER DEATH.

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DR NO.: 0000 81177841

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GRAHAM RELATED DR. BISKIND SHOULD HAVE NEVER LEFT THE FACILITY WITH A PATIENT HAVING THE SIGNIFICANT AMOUNT OF BLEEDING LOU ANNE HERRON HAD. SHE ALSO TOLD US THE ULTIMATE RESPONSIBILITY OF THE PATIENT IS WITH THE OPERATING DOCTOR AND SINCE THERE ARE RECOGNIZABLE COMPLICATIONS OF THIS PROCEDURE (TERMINATION), DR. BISKIND SHOULD HAVE REMAINED THERE AND ATTENDED TO HIS PATIENT. IN ADDITION TO THIS, DR. GRAHAM SAID IF THE CLINIC ADMINISTRATOR REFUSED TO ALLOW ANYONE TO CALL 911 RIGHT AWAY, AND WAS AWARE NO NURSE WOULD BE ON DUTY THAT AFTERNOON, THIS PERSON SHOULD ALSO BE HELD ACCOUNTABLE FOR THE PATIENTS DEATH.

GRAHAM CONCLUDED BY STATING SHE BELIEVES THE CONDUCT BY DR. BISKIND AS "GROSS CRIMINAL NEGLIGENCE".

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 018

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 19

REPORT DATE: 19980818 TIME: 1523

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

SERIAL NUMBER: 3565

**** NARRATIVE ****

ON 8-5-98 I RECEIVED A REPLY FROM MCI COMMUNICATIONS IN REFERENCE TO GRAND JURY SUBPOENA 222 GJ 4. THIS SUBPOENA DEALS WITH DOCTOR BISKIND'S PAGER NUMBER. THE RESPONSE FROM MCI INDICATED THIS PAGER (800-915-1726) IS THE PROPERTY OF PAGING NETWORK INC., OUT OF PLANO, TEXAS. PAGING NETWORK IS A TELECOMMUNICATIONS RESELLER, MEANING THEY BOUGHT THIS PAGER FROM MCI AND THEN RESOLD IT. PAGING NETWORK INC. IS LOCATED AT 4965 PRESTON PARK BOULEVARD, PLANO, TX. 75093.

ON 8-18-98 I CONTACTED CARRIE TODD AT PAGING NETWORK INC. I FOUND OUT PAGER 800-915-1726 DOES IN FACT BELONG TO THEM. I ALSO OBTAINED INFORMATION FOR AN ADDITIONAL SUBPOENA TO BE SERVED ON PAGING NETWORK INC.

ON 8-19-98 I OBTAINED GRAND JURY SUBPOENA 222 GJ 4 FROM THE COUNTY ATTORNEY'S OFFICE AND HAD IT ISSUED BY THE CLERK OF THE SUPERIOR COURT. I THEN FAXED THIS SUBPOENA TO CARRIE TODD AT PAGING NETWORK INC. THIS SUBPOENA IS FOR PAGES RECEIVED ON DOCTOR BISKIND'S PAGER, FOR THE DATE OF APRIL 17TH, 1998.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

ADVICES:

END OF REPORT

DR NO: 0000 81177841 019

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 20

REPORT DATE: 19980819 TIME: 1634

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: 034

SERIAL NUMBER: 3565

*** NARRATIVE ***

NAME CONVERSATION WITH DAN GOLDFINE:
WILL AND WILMER LAW FIRM

ON 8-6-98 I RETURNED A PHONE CALL TO DAN GOLDFINE AT THE LAW OFFICE OF
WILL AND WILMER. MR. GOLDFINE HAD LEFT A MESSAGE FOR ME IN REFERENCE TO
A SUBPOENA I SERVED REGARDING A TO Z WOMEN'S CENTER. I WAS UNABLE TO
CONTACT WITH MR. GOLDFINE AND LEFT A MESSAGE FOR HIM TO CALL ME.

A SHORT TIME LATER MR. GOLDFINE CALLED ME AT MY OFFICE AND WE SPOKE ABOUT
THE SUBPOENA. I TAPE RECORDED THIS CALL, AS WELL AS MY ORIGINAL CALL TO
HIS LAW OFFICE. THE FOLLOWING IS A SUMMARY OF THIS CONVERSATION. IT
SHOULD BE NOTED THE FIRST PORTION OF MR. GOLDFINE'S CALL TO ME IS NOT
RECORDED, SINCE I HAD NO IDEA WHO MAY BE CALLING MY DESK PHONE.

OUR CONVERSATION BEGAN WITH INTRODUCTIONS AND MR. GOLDFINE SAYING HE HAD
DISCUSSED SOME ISSUES WITH THE COUNTY ATTORNEY ABOUT PATIENT PRIVILEGE.
HE THEN TALKED ABOUT WHAT DOCUMENTS MR. GOLDFINE WOULD BE DELIVERING TO
ME. HE TOLD ME THE HERRON FILES WOULD BE COMING TO ME AS WELL AS THE
EMPLOYEE TIME SHEET FOR APRIL SEVENTEENTH. MR. GOLDFINE EXPLAINED THE
COPY WAS OF POOR QUALITY AND THE NAMES WERE HARD TO READ, BUT HE COULD
HELP ME WITH THESE NAMES IF I NEEDED HIM TO. WE ALSO DISCUSSED ISSUES
REGARDING THE OTHER PATIENTS WHO WERE PRESENT ON APRIL SEVENTEENTH.

MR. GOLDFINE TOLD ME I WAS REALLY INTERESTED IN THE ULTRASOUNDS AND ASKED
IF HE HAD ACCESS TO THEM. HE STATED THERE WAS ONLY ONE ULTRASOUND HE WAS
ABLE TO FIND FOR LOU ANNE HERRON. MR. GOLDFINE CONTINUED BY SAYING HE
UNDERSTOOD THERE WERE RUMORS ABOUT OTHER ULTRASOUNDS, BUT HE HAD ASKED THE
EMPLOYEES AND THE CUSTODIAN OF RECORDS AND THE ONE IS THE ONLY ONE HE
COULD FIND. I TOLD MR. GOLDFINE I BELIEVED THERE COULD BE THREE
ULTRASOUNDS AND HE AGAIN SAID HE COULD ONLY FIND ONE.

MR. GOLDFINE TOLD ME I WANTED TO BE CLEAR ON THIS AND ASKED HIM IF HE
REPRESENTED A TO Z. MR. GOLDFINE STATED HE REPRESENTED A TO Z AND SEVERAL
INDIVIDUAL EMPLOYEES, ONLY ONE OF WHICH I WOULD BE CONCERNED WITH. HE
IDENTIFIED THIS EMPLOYEE AS GINA OBESO, AND INQUIRED IF I HAD TRIED TO
CONTACT HER. I ASSURED HIM I HAD NOT IN ANY WAY TRIED TO CONTACT MS.
OBESO. MR. GOLDFINE TOLD ME THE ISSUE WITH GINA WAS THAT SHE WANTED TO
RELOCATE, SHE IS A MEDICAL ASSISTANT, LICENSED IN THE STATE AND WOULD
PROBABLY BE HELPFUL TO MY INVESTIGATION. HE CONTINUED BY SAYING HE WAS

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SOMEWHAT CONCERNED, NOT ON THE CRIMINAL SIDE, BUT ON THE LICENSE SIDE AND
GINA MAY HAVE MADE A MISTAKE AND SHE MAY HAVE SOME EXPOSURE THERE. MR.
WILDFINE SAID GINA WAS NERVOUS ABOUT HER LICENSE AND HE NEEDED TO GET SOME
PROTECTION FOR HER, IN TERMS OF THAT LICENSE.

AT APPROXIMATELY 3:00 P.M. I RECEIVED A LARGE BOX OF DOCUMENTS FROM A
CARRIER AT SNELL AND WILMER. I WILL LATER REVIEW THESE DOCUMENTS AND
SUPPLEMENT WHAT I FOUND.

3-19-98 1646 GIB A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 020

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PAGE NO. 1

DR NO.: 0000 81177841 21

REPORT DATE: 19980826 TIME: 0834

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: CBD29

REPORTING OFFICER(S): MARK STRIBLING

3565

UNIT: C34

SERIAL NUMBER: 3565

*** NARRATIVE ***

PAGENET INFORMATION

=====

ON 8-21-98 I RECEIVED A FAX FROM CARRIE TODD AT PAGENET INC. THIS FAX IS IN RESPONSE TO THE SUBPOENA I HAD PREVIOUSLY SENT TO CARRIE, REGARDING A FAX NUMBER 800-915-1726. THIS FAX CONTAINED THE FOLLOWING INFORMATION.

FAX NUMBER 800-915-1726
 AREA CODE 1269078 (ID CODE)
 FREQUENCY: 929.5875
 SUBSCRIBER: JOHN I. BISKIND M.D.
 6400 SHAKER BLVD.
 IRVINGWOOD, OH. 44122
 (616) 464-4450
 FEDERAL ID# 34-1039096

CALL DETAIL INFORMATION

=====

ORIGINATING NUMBER	DATE	TIME	DURATION	ORIGINATING #	CITY	STATE
0-915-1726	4-17-98	1812	12	602-253-8819	PHX	AZ
0-915-1726	4-17-98	1854	12	602-253-8819	PHX	AZ
0-915-1726	4-17-98	2003	18	602-494-7320	PHX	AZ
0-915-1726	4-17-98	2040	18	602-494-7320	PHX	AZ

=====

BISKIND'S
 SER. 2 HR. SECONDS
 TIME
 DIFFERENCE

=====

ON 8-26-98 AT 7:30 AM I CALLED CARRIE TODD AND ASKED HER ABOUT THE TIMES LISTED ON THIS FAX. CARRIE TOLD ME THE TIMES ARE MOUNTAIN STANDARD TIMES AND ARE LISTED THAT WAY BY THEIR SYSTEM. I THEN ASKED CARRIE WHAT TIME IT IS IN TEXAS RIGHT NOW AND SHE SAID 9:30 AM.

A TWO HOUR TIME DIFFERENCE WOULD MAKE THE FIRST PAGE TO DR. BISKIND'S FAX ON 4-17-98 AT 1812 HOURS OR 4:12 PM. THE TWO ORIGINATING PHONE NUMBERS THAT CALLED DR. BISKIND'S FAX ON 4-17-98 ARE LISTED TO, A-2 BUREAU CENTER (602-253-8819) AND CAROL SCHADOFF'S HOME TELEPHONE (602-

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494-7320)

I MADE COPIES OF THIS FAX AND IMPOUNDED THE ORIGINAL

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

END OF REPORT

DR NO: 0000 81177841

021

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SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 22

REPORT DATE: 19980826 TIME: 0918

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000620 W WASHINGTON ST

DATE: 082198

SEARCH WARRANT INVOLVED:

Q01 PKG 000 CODE:EI UK00

ITEM: *MISC BRAND:

MODEL:

COLOR:

DESCRIPTION: FAXED SUBPOENA INFORMATION FROM CARRIE TODD AT
ENET INC. REGARDING DOCTOR JOHN BISKIND'S PAGER NUMBER, 800-915-1726.

**** NARRATIVE ****

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

PHONES: 2539179

END OF REPORT

DR NO: 0000 81177841 022

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 023

REPORT DATE: 19980827 TIME: 1036

TYPE OF REPORT: SUSPICIOUS DEATH

LOCATION: 001002 E MCDGWELL ROAD #B

REPORTING OFFICER(S): MARK STRIBLING

OFFENSE: 1901A
BEAT: 0512 GRID: BD29

3565 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000
DATE: 000000

SEARCH WARRANT INVOLVED:

MOBILE PKG 000 CODE:EI UK00

ITEM: *MISC BRAND:

MODEL:

COLOR:

DESCRIPTION: COPIES OF TRACY MOSALLI'S MEDICAL RECORDS FROM

3D SAMARITAN HOSPITAL. GIVEN TO DET. STRIBLING ON 8-4-98.

SERIAL NUMBER: 3565

*** NARRATIVE ***

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

NUMBERS: 2539495

END OF REPORT

DR NO: 0000 81177841 023

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT PAGE NO. 1 DR NO.: 0000 81177841 24

REPORT DATE: 19980827 TIME: 1101

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDGWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000
DATE: 000000

SEARCH WARRANT INVOLVED:

001 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL TAPE RECORDING OF AN INTERVIEW
WITH TRACY MOSALLI ON 8-4-98.

002 PKG 000 CODE:EI UK00
ITEM: RATAPE BRAND: MODEL: COLOR:
DESCRIPTION: ORIGINAL TAPE RECORDING OF A PHONE CONVERSATION
WITH DAN GOLDFINE, ATTORNEY FOR A-Z WOMEN'S CENTER ON 8-6-98.

**** NARRATIVE ****

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

NOTICE RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES: 2839502

END OF REPORT

DR NO: 0000 81177841 024

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 25

REPORT DATE: 19980830 TIME: 0825

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(SI): MARK STRIBLING

3565 UNIT: C34

SERIAL NUMBER: 3565

**** NARRATIVE ****

INTERVIEW OF TRACY MOSALLI

ON 8-4-98 AT 6:30 P.M. I INTERVIEWED TRACY MOSALLI. THIS TAPE RECORDED INTERVIEW TOOK PLACE AT TRACY'S RESIDENCE. PRESENT DURING THE INTERVIEW WERE TRACY AND MYSELF. THE FOLLOWING IS A SUMMARY OF THIS INTERVIEW.

TRACY BEGAN THIS INTERVIEW BY STATING ON THE TAPE THAT TRACY HAD SEEN SOME NEWSPAPER ARTICLES AND HAD CALLED THE COUNTY ATTORNEY'S OFFICE. I WAS GIVEN TRACY'S PHONE NUMBER AND CALLED HER TO SET UP THIS INTERVIEW.

TRACY THEN TOLD ME SHE HAD GONE TO A TO Z WOMEN'S CENTER IN MID-FEBRUARY TO HAVE AN ABORTION. TRACY FOUND AN AD IN THE PHONE BOOK AND THAT WAS WHAT LED HER TO A TO Z. TRACY STATED THERE WAS A GROUP OF ABOUT TEN WOMEN THERE AND THEY WERE ALL GIVEN INFORMATION ABOUT THE ABORTION PROCEDURES. THE FIRST DAY TRACY WAS AT A TO Z SHE RECEIVED SOME MEDICATION TO INDUCE LABOR AND HAD AN ULTRASOUND DONE. SHE WAS THEN SENT HOME AND HAD TO COME BACK THE NEXT DAY. TRACY TOLD ME SHE WAS ABOUT SIX MONTHS PREGNANT WHEN SHE HAD HER ABORTION. I ASKED TRACY IF THEY DID AN ULTRASOUND ON HER AND IF THEY TOLD HER HOW MANY WEEKS HER GESTATION PERIOD WAS. TRACY SAID SHE DID HAVE AN ULTRASOUND DONE, BUT THEY WOULD NOT SHOW HER THE PICTURE OR TELL HER HOW MANY WEEKS SHE WAS. I ASKED TRACY HOW SHE KNEW SHE WAS SIX MONTHS ALONG AND SHE SAID FROM THE DATE OF HER LAST PERIOD, PLUS FROM WHAT SHE HAD LEARNED BY HAVING TWO OTHER CHILDREN.

TRACY CONTINUED BY RELATING THAT SHE ARRIVED AT A TO Z AT 8:00 A.M. AND HER ACTUAL ABORTION PROCEDURE DIDN'T BEGIN UNTIL NOON. I ASKED HER IF DR. BISKIND PERFORMED HER ABORTION AND SHE SAID YES. SHE STATED DR. BISKIND WAS THE ONLY DOCTOR THERE AND SHE WAS TOLD WHAT HIS NAME WAS. TRACY SAID SHE WOKE UP IN THE RECOVERY ROOM AT ABOUT 3:00 P.M. AND WENT HOME AT 4:00 P.M.

I ASKED TRACY ABOUT HER RECOVERY ROOM EXPERIENCE. SHE STATED THEY GAVE HER SOME PAIN FOR HER BLEEDING AND A PRESCRIPTION FOR TYLENOL #3. I ASKED HER WHAT KIND OF TREATMENT SHE RECEIVED IN THE RECOVERY ROOM BESIDES THE PAIN PADS. TRACY STATED, "THEY GAVE US POPSICLES." I ASKED IF SHE WAS GIVEN AN IV AND TRACY SAID NO. I ALSO ASKED IF HER VITAL SIGNS WERE MONITORED. TRACY SAID NOT THAT SHE KNEW OF. WHEN SHE WOKE UP SHE SAID THEY HAD POPSICLES FOR HER. TRACY STATED HER HEART RATE, PULSE AND BLOOD PRESSURE WERE NOT CHECKED.

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

DR NO.: 0000 81177841

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QUESTIONED TRACY ABOUT HER BLEEDING WHILE IN THE RECOVERY AREA. TRACY
RATED ON A SCALE OF ONE TO TEN, IT WAS AN EIGHT, WHICH WAS FAIRLY HEAVY.
TRACY TOLD ME SHE WAS IN THE RECOVERY ROOM FOR ONE HOUR THEN HER HUSBAND
DROVE HER HOME.

IN APRIL TRACY WAS HAVING HER PERIOD AND WAS DRIVING TO TUCSON. DURING
THAT TIME SHE HAD A HEMORRHAGE AND WAS TAKEN TO ST. JOSEPH'S HOSPITAL IN
TUCSON. THE DR. AT ST. JOSEPH'S DID A D & C ON HER AND TOLD TRACY THERE
WAS LEFT OVER PREGNANCY IN HER. THE DOCTOR ALSO FOUND A HOLE IN HER
UTERUS.

TRACY RETURNED TO PHOENIX AND CONTINUED TO HAVE PROBLEMS, INCLUDING
BLEEDING OUT WHILE AT A SUBWAY SANDWICH SHOP. SHE WAS TAKEN TO GOOD
SAMARITAN HOSPITAL AND HAD ANOTHER D & C DONE. TRACY SAID THE HOLE IN HER
UTERUS WAS CREATING BLOOD CLOTS AND CAUSING HER THE PROBLEMS.

ASKED TRACY HOW MANY PATIENTS WERE IN THE RECOVERY ROOM WITH HER AND SHE
SAID FOUR. TRACY ALSO STATED THERE WAS ONLY ONE A TO Z EMPLOYEE IN THE
RECOVERY ROOM WITH THE PATIENTS AND SHE NEVER SAW DR. BISKIND COME INTO
CONTACT WITH ANY OF THEM.

AT THE END OF THIS INTERVIEW TRACY GAVE ME A PACKET OF DOCUMENTS. THIS
PACKET CONTAINS TRACY'S MEDICAL RECORDS FROM GOOD SAMARITAN HOSPITAL. I
MADE COPIES OF THESE RECORDS AND LATER IMPOUNDED THE ONES TRACY GAVE TO

80-98 0913 618 A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

IC DES:

END OF REPORT

DR NO: 0000 81177841 025

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 26

REPORT DATE: 19980901 TIME: 1002

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

**** NARRATIVE ****

SERIAL NUMBER: 3565

U.S. WEST SUBPOENA INFORMATION

=====

ON 8-3-98 I RECEIVED FAX TRANSMITTAL INFORMATION REGARDING THE SUBPOENA I HAD PREVIOUSLY SENT TO U.S. WEST. THE FOLLOWING INFORMATION WAS OBTAINED IN THIS FAX.

PHONE NUMBER (2) 957-8635: SUBSCRIBED TO A-Z WOMEN'S CENTER 1002 E. MCDOWELL ROAD

- OTHER PHONE NUMBERS AT THIS LOCATION: (602) 252-4257 (602) 252-4484 (602) 253-8819 (602) 253-8825 (602) 253-8854 (602) 253-8960 (602) 271-4162 (602) 340-9015 (602) 420-9950

DOCUMENTED CALLS ON 8-3-98: CALL FROM 253-8854 LAST CALL RETURN ACTIVATION AT 4:05 PM

CELLULAR AIRTIME CHARGE AT 8:37 AM TO PHONE NUMBER (602) 501-2286 A ONE MINUTE LONG CALL

*NOTE: THIS NUMBER IS SUBSCRIBED TO ILIANA PADILLA AND IS A CALLER PAYS PHONE. THIS MEANS THE NUMBER CALLING THIS CELL PHONE PAYS FOR THE CALL.

MADE COPIES OF THIS FAXED INFORMATION AND IMPOUNDED THE ORIGINAL FAX RECEIVED FROM U.S. WEST.

PHOENIX POLICE DEPARTMENT REPORT

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DR NO.: 0000 81177841

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VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841

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PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 27

REPORT DATE: 19980901 TIME: 1030

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000620 W WASHINGTON ST

DATE: 000000

SEARCH WARRANT INVOLVED:

001 PKG 000 CODE: EI LK00

ITEM: *MISC BRAND:

MODEL:

COLOR:

DESCRIPTION: FAXED SUSPOENA INFORMATION FROM U.S. WEST.

RECEIVED ON 8-3-98.

**** NARRATIVE ****

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 2540772

END OF REPORT

DR NO: 0000 81177841 027

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 28

REPORT DATE: 19980901 TIME: 1234

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

SERIAL NUMBER: 3565

**** NARRATIVE ****

SNELL AND WILMER SUBPOENA INFORMATION

ON 8-6-98 AT 3:00 PM A RUNNER FROM SNELL AND WILMER LAW FIRM DELIVERED A
A SE BOX OF DOCUMENTS TO ME. THIS BOX CONTAINED COPIES OF THE INFORMATION
HAD PREVIOUSLY SUBPOENAED. I HAVE REVIEWED THESE DOCUMENTS AND THE
FOLLOWING IS A SHORT SUMMARY OF THEIR CONTENTS.

COVER LETTER FROM DAN GOLDFINE AT SNELL AND WILMER.

WOMEN'S CENTER RECORDS RELATED TO LOU ANNE HERRON.

THESE RECORDS INCLUDE THE FOLLOWING:

PATIENT INFO SHEET DATED 4-9-98.

INFORMED CONSENT FOR ABORTION SERVICES DATED 4-9-98.
SIGNED BY LOU ANNE HERRON AND CAROL SCHADOFF.

AGREEMENT TO SUBMIT MEDICAL MALPRACTICE CLAIMS DATED 4-9-98.
SIGNED BY LOU ANNE HERRON AND CAROL SCHADOFF.

PRE-OPERATIVE EXAMINATION FORM DATED 4-16-98.

FORM ABOUT SONOGRAPHY COST AND LAMINARIA INSERTION.
SIGNED BY LOU ANNE HERRON AND CAROL SCHADOFF.

PHOTO COPY OF A SONOGRAPHY DATED 4-16-98/TIME 13:40:22
THE NAME LOU ANNE HERRON APPEARING AT THE BOTTOM LEFT
CORNER.

POST-OPERATIVE PELVIC EXAMINATION FORM.
(THIS FORM IS BLANK)

LABORATORY /SONOGRAPHY/SURGICAL/PATHOLOGIC TISSUE
EXAMINATION REPORT.

RECOVERY ROOM RECORD.

RECOVERY LOG

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

DR NO.: 0000 81177841 28

ARIZONA CONSOLIDATED LABORATORY REPORT

A-Z WOMEN'S CENTER LOG DATED 4-9-98
WITH THE NUMBER 114 ON IT.

A-Z WOMEN'S CENTER LOG DATED 4-16-98
WITH THE NUMBER 117 ON IT.

A-Z WOMEN'S CENTER LOG DATED 4-22-98
WITH THE NUMBER 122 ON IT.

OFFICE OF THE MEDICAL EXAMINER RECORDS REQUEST FORM
DATED 4-17-98 AND A TIME OF 18:57 HOURS ON IT.

A-Z WOMEN'S CENTER EMPLOYEE TIME FORM FOR 4-17-98
(NOTE: THIS FORM IS NOT VERY CLEAR AND HAS BEEN COPIED
OFF CENTER)

POLICIES AND PROCEDURES MANUAL AND RELATED DOCUMENTS
WITH THE NAMES A TO Z WOMEN'S HEALTH SERVICES AND
METROPLEX GYNECOLOGICAL GROUP, P.A. ON THEM.

NUMEROUS MISC. ARTICLES AND OTHER ABORTION RELATED
DOCUMENTS.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES:

END OF REPORT

DR NO: 0000 81177841 028

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT: PAGE NO. 1 DR. NO.: 0000 81177841 29

REPORT DATE: 19980914 TIME: 0951

TYPE OF REPORT: SUSPICIOUS DEATH OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B BEAT: 0512 3 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING 3565 UNIT: 034

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000620 W WASHINGTON
DATE: 000000 SEARCH WARRANT INVOLVED:

0001 PKG 000 CODE:EI -UK00
ITEM: *MISC BRAND: MODEL: COLOR:
DESCRIPTION: BOX CONTAINING ORIGINAL COPIES OF BOMEX FILES
RELATING TO DOCTOR JOHN BISKIND AND ORIGINAL COPIES OF A-Z CENTER
DOCUMENTS FROM SNELL AND WILMER LAW FIRM.

**** NARRATIVE ****

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO MAIL-IN SUPPLEMENT:

INVOICES: 2544041

END OF REPORT DR NO: 0000 81177841 029

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 30

REPORT DATE: 19980915 TIME: 0925

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901A

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 007002 W INDIAN SCHOOL RD

DATE: 091498

SEARCH WARRANT INVOLVED:

0001 PKG 000 CODE:EI UK00

ITEM: RATAPE

BRAND:

MODEL:

COLOR:

DESCRIPTION: ORIGINAL CASSETTE TAPE RECORDING OF AN INTERVIEW

WITH GINA OBESO ON 9-14-98.

*** NARRATIVE ***

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

IN BICES: 2544300

END OF REPORT

DR NO: 0000 81177841 030

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 31

REPORT DATE: 19980918 TIME: 0724

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565

UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 006500 W OLIVE AV

DATE: 091698

SEARCH WARRANT INVOLVED:

0001 PKG 000 CODE:EI UK00

ITEM: RATAPE BRAND: MODEL: COLOR:

DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF AN INTERVIEW

WITH MICHELE PRICE ON 9-16-98.

**** NARRATIVE ****

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 2545159

END OF REPORT

DR NO: 0000 81177841 031

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 32

REPORT DATE: 19980923 TIME: 1308

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

**** WITNESS INFORMATION ****

WITNESS -12:

NAME: OBESO, GINA

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF GINA OBESO

=====

ON 9-14-98 AT 7:30 P.M., I INTERVIEWED GINA OBESO AT HER RESIDENCE. PRESENT DURING THIS INTERVIEW WERE GINA, MESA POLICE DETECTIVE TOM DENNING AND MYSELF. DETECTIVE DENNING WAS WORKING WITH ME IN A TRAINING CAPACITY DURING THIS WEEK. THE FOLLOWING IS A SUMMARY OF THIS TAPE RECORDED INTERVIEW. FOR COMPLETE DETAILS PLEASE REFER TO THE AUDIO TAPE RECORDING.

BEFORE THIS TAPE RECORDED INTERVIEW I ASKED GINA IF SHE HAD A PROBLEM TALKING WITH US ABOUT THE INCIDENT WITH LOU ANNE HERRON AT A TO Z CLINIC AND SHE SAID NO. I ALSO ASKED GINA IF THE ATTORNEY FROM SNELL AND WILMER HAD TALKED WITH HER AND SHE SAID YES. GINA STATED SHE DID NOT NEED OR WISH TO HAVE THE SNELL AND WILMER ATTORNEY PRESENT DURING OUR INTERVIEW. I THEN TOLD GINA I NEEDED TO GET MY TAPE RECORDER OUT OF MY VEHICLE SO WE COULD COMPLETE THE INTERVIEW. I RETRIEVED MY TAPE RECORDER WHILE DETECTIVE DENNING REMAINED WITH GINA.

I THEN BEGAN THIS INTERVIEW BY ASKING GINA IF SHE RECALLED THE DAY LOU ANNE HERRON HAD HER TERMINATION DONE AT A TO Z WOMEN'S CENTER. GINA TOLD ME SHE DID. I THEN ASKED GINA HOW LONG SHE HAD WORKED AT A TO Z AND SHE STATED SHE BEGAN WORKING THERE THE SECOND WEEK OF MARCH, SO SHE HAD WORKED THERE ABOUT A MONTH OR SO. GINA TOLD ME SHE WAS A MEDICAL ASSISTANT AT A TO Z AND HER RESPONSIBILITIES INCLUDED LAB WORK, DOING VITALS AND RECOVERY ROOM WORK. GINA WAS HIRED TO WORK AT A TO Z BY DIANE FORD, WHO WAS THE DIRECTOR BETWEEN GRETCHEN PADRICO AND CAROL SCHADOFF.

I TOLD GINA LOU ANNE HERRON'S TERMINATION PROCEDURE OCCURRED ON APRIL TWENTYSEVENTH AND ASKED HER IF SHE WAS THERE THAT DAY. GINA STATED SHE WAS, AND HAD HEARD FROM MICHELLE PRICE THAT LOU ANNE HAD ALSO BEEN IN THE LENDALE OFFICE FOR AN ULTRASOUND. GINA RELATED SHE HAD HEARD THAT SYLVIA JACK THE FIRST ULTRASOUND ON LOU ANNE THEN JENIL TOOK ANOTHER ONE THAT SAME DAY. I ASKED GINA IF SHE KNEW IF MICHELLE HAD ALSO DONE AN

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

DR NO.: 0000 81177841 32

ULTRASOUND ON LOU ANNE AND GINA SAID, I DIDN'T SEE HER DO ONE.

GINA RELATED SHE WENT TO WORK AT THE 10TH STREET AND MCDOWELL CENTER AT 8:00 OR 8:30 A.M. ON APRIL SEVENTEENTH. GINA SAID SHE WAS WORKING LABS THAT DAY AND REMEMBERS LOU ANNE BEING THERE. I ASKED GINA IF IT WAS STANDARD PROCEDURE TO COMPLETE AN ULTRASOUND ON THE PATIENT THE VERY DAY OF HER TERMINATION. GINA STATED IT WAS. SHE WENT ON TO SAY EVEN IF THE PATIENT HAD AN ULTRASOUND DONE THE DAY BEFORE IT WAS NOT UNUSUAL TO HAVE ANOTHER ONE DONE THE NEXT DAY, JUST TO BE SURE. I ASKED GINA IF SHE REMEMBERED WHAT TIME LOU ANNE ACTUALLY STARTED HER TERMINATION PROCEDURE AND SHE SAID NO. GINA EXPLAINED THAT LOU ANNE WAS A TWO DAY PROCEDURE, WHERE SHE GOT LABS ON ONE DAY AND RETURNED FOR THE TERMINATION THE NEXT DAY.

AT THIS POINT I SHOWED GINA MY COPIES OF LOU ANNE'S MEDICAL RECORDERS, WHICH I HAD RECEIVED VIA A SUBPOENA. I SHOWED GINA THE O.R. LOG, WHICH SHOWED LOU ANNE WENT INTO SURGERY AT 12:32 AND CAME OUT AT 1:09. GINA AGREED THAT 12:32 WAS THE TIME THE DOCTOR WOULD HAVE ACTUALLY STARTED THE SURGICAL PROCEDURE. I NEXT SHOWED GINA THE RECOVERY LOG AND ASKED HER ABOUT IT. I POINTED OUT THE NAME LOUIS, WHICH WAS PRINTED NEXT TO THE WORD NURSE, AS WELL AS THE NAME THERESA JENSEN AND K. JIMENEZ. GINA TOLD ME SHE HAD WRITTEN THESE NAMES ON THIS LOG AND THE NAME LOUIS WAS REALLY PROPOSED TO BE LOIS. THE NAME K. JIMENEZ WAS A GIRL NAMED KAIHYA AND BOTH THERESA AND KAIHYA WERE ALSO PRESENT THAT DAY.

I ASKED GINA WHO WAS THERE THE DAY LOU ANNE HAD HER TERMINATION. GINA STATED SHE WAS, ALONG WITH JENIL BEBAY, KAIHYA JIMENEZ, MICHELLE PRICE, SYLVIA ARAGON, THERESA JENSEN, CAROL, DR. BISKIND, MABLE LOPEZ, LOIS AND DERYL WAS CALLED OVER FROM THE SCOTTSDALE OFFICE.

GINA CONTINUED BY SAYING AT APPROXIMATELY 2:00 SHE WAS WALKING THROUGH THE RECOVERY AREA. GINA SAID MABLE AND THERESA WERE WORKING IN THE RECOVERY ROOM. GINA ASKED THEM IF LOU ANNE WAS UP YET AND THEY SAID NO, WE CAN'T GET HER UP. GINA TOLD ME SHE SAW A PUDDLE OF BLOOD BETWEEN LOU ANNE'S LEGS. GINA SAID LOU ANNE WAS ON HER BACK AND THE BLOOD WAS ON THE GURNEY BETWEEN HER LEGS. I ASKED GINA IF IT WAS A LOT OF BLOOD AND SHE SAID YES. GINA THEN DESCRIBED IT BY SAYING, IF YOU ARE LAYING DOWN, IT WAS DOWN TO YOUR KNEES. I ASKED GINA IF IT WAS EASILY NOTICED AND SHE SAID, OH YEAH. GINA STATED SHE THEN ASKED IF DR. BISKIND HAD BEEN IN TO CHECK ON LOU ANNE. GINA CONTINUED BY SAYING LUNCH HAD JUST ARRIVED AND SHE WAS TOLD DR. BISKIND WAS HAVING LUNCH. GINA STATED MABLE TOLD HER SHE (MABLE) HAD ALREADY TOLD DR. BISKIND ABOUT LOU ANNE. GINA AGAIN SAID SOMEONE NEEDED TO GET DR. BISKIND AND MABLE AND THERESA STATED THEY HAD ALREADY TALKED TO HIM.

GINA WENT ON TO SAY SHE LEFT THE RECOVERY ROOM FOR A WHILE. WHEN SHE WENT BACK A SHORT TIME LATER LOU ANNE WAS STILL LYING THERE. I ASKED GINA IF SHE ACTUALLY SAW DR. BISKIND GO INTO THE RECOVERY ROOM AND CHECK ON LOU ANNE. GINA SAID DR. BISKIND WAS STEPPING INTO THE DOORWAY OF THE RECOVERY ROOM AS SHE WAS FIRST WALKING OUT BUT SHE DID NOT KNOW WHAT DR. BISKIND DID. GINA STATED SHE HEARD DR. BISKIND TELL CAROL HE WANTED DERYL THERE

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

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DR NO.: 0000 81177841 32

BECAUSE DERYL WAS ONE OF THE MORE EXPERIENCED M.A.'S. AFTER DERYL ARRIVED, KATHYA AND THERESA BASICALLY LEFT THE RECOVERY ROOM. DERYL AND MICHELLE WERE IN THE RECOVERY ROOM. GINA WENT IN TO THE RECOVERY ROOM AND DERYL TOLD GINA TO COME AND HELP HER TRY AND GET LOU ANNE UP. GINA SAID THEY TRIED AMMONIA INHALERS AND THAT DID NOT WORK. GINA SAID AT ONE POINT LOU ANNE WAS SCREAMING, "I CAN'T FEEL MY LEGS, HELP ME, HELP ME." GINA STATED LOU ANNE WAS SCREAMING, "IN PAIN". I ASKED GINA IF SHE KNEW WHAT TIME LOU ANNE WAS SCREAMING AND SHE SAID NO, BUT IT WAS AFTER DERYL WAS ALREADY THERE.

GINA TOLD ME SHE WAS HELPING HOLD LOU ANNE UP. I ASKED HER WHERE DR. BISKIND WAS AT THAT TIME AND SHE SAID HE WAS ALREADY GONE. GINA STATED SHE DID NOT ACTUALLY SEE DR. BISKIND LEAVE THE BUILDING, BUT HE DID NOT MAKE A HABIT OF SAYING BYE TO ANYONE WHEN HE LEFT. WHILE IN THE RECOVERY ROOM WITH LOU ANNE, GINA HEARD DERYL MAKE A STATEMENT THAT SOMEONE NEEDED TO CALL 911. BY THIS TIME CAROL, SYLVIA AND BASICALLY EVERYONE WORKING AT THAT TIME WAS IN THE RECOVERY ROOM. GINA SAID SHE WAS TRYING TO HOLD LOU ANNE UP, BUT SHE WAS NOT RESPONDING TO ANYONE. AFTER THE STATEMENT ABOUT CALLING 911 CAROL SAID THEY WERE GOING TO CALL DR. BISKIND FIRST, WHICH NO ONE EVENTUALLY DID. GINA STATED ONE OF THE GIRLS PAGED DR. BISKIND AND HE CALLED BACK. I ASKED GINA WHAT CAROL HAD SAID ABOUT CALLING OR NOT CALLING 911. GINA SAID SHE ONLY REMEMBERS CAROL SAYING TO CALL DR. BISKIND FIRST, BEFORE CALLING 911.

AFTER DR. BISKIND CALLED BACK, SYLVIA CALLED 911 AND THE PARAMEDICS ARRIVED A SHORT TIME LATER. THE PARAMEDICS THEN WORKED ON LOU ANNE AND TRANSPORTED HER TO THE HOSPITAL. I ASKED GINA IF SHE THOUGHT LOU ANNE WAS ALREADY DEAD WHEN THE PARAMEDICS ARRIVED. GINA SAID SOME PEOPLE DID AND SOME PEOPLE DIDN'T. GINA STATED SHE THOUGHT LOU ANNE WAS ALREADY DEAD. GINA RELATED THAT LOU ANNE'S VITALS WERE TAKEN SHORTLY BEFORE THE FIRE FIGHTERS ARRIVED BUT SHE DOESN'T KNOW HOW MANY OTHER TIMES THE VITALS MAY HAVE BEEN TAKEN. SHE STATED IT WAS STANDARD PROCEDURE TO TAKE VITALS EVERY FIFTEEN MINUTES, COMPLETING FOUR SETS.

GINA WENT ON BY SAYING THE NEXT DAY AT WORK CAROL TOLD EVERYONE NOT TO TALK TO ANYONE ABOUT THE INCIDENT WITH LOU ANNE. I ASKED GINA IF SHE EVER HEARD ANY OF LOU ANNE'S ULTRASOUNDS AND SHE SAID SHE DIDN'T REMEMBER. GINA STATED TO HER KNOWLEDGE LOU ANNE MOST LIKELY HAD AT LEAST THREE ULTRASOUNDS DONE AND THESE ULTRASOUNDS WOULD HAVE BEEN PLACED IN LOU ANNE'S FILE.

AT THIS POINT I AGAIN SHOWED GINA THE COPIES OF THE O.R. LOG AND THE EMERGENCY LOG. I ASKED GINA ABOUT THE NAME JANELLE ON THE O.R. LOG AND SHE SAID IF THAT WAS IN FACT JENIL BEGAY. GINA SAID YES, IT WAS, AND THE NAME WAS SPelled WRONG. I ALSO ASKED GINA ABOUT WHAT APPEARS TO BE THE INITIALS L.M. ON THE O.R. LOG AND THE NAME LOIS NEXT TO THE NURSE SIGNATURE LINE. GINA TOLD ME LOIS MONTAGNO WAS WORKING THAT MORNING, BUT SHE LEFT SOMETIME BETWEEN NOON AND ONE. GINA STATED LOIS NOR ANY OTHER REGISTERED NURSE WAS PRESENT DURING THE INCIDENT WITH LOU ANNE. I ASKED GINA IF SHE KNEW WHY LOIS' NAME WAS ON THE LOGS IF LOIS WAS NOT THERE AND SHE SAID SHE DID NOT KNOW. I SHOWED HER THE RECOVERY LOG AND GINA SAID

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

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DR NO.: 0000 81177841 32

SHE HAD WRITTEN THE NAMES THERESA JENSEN, K. JIMENEZ AND LOUIS, SAYING SHE ALWAYS SPELLED HER (LOIS') NAME WRONG. GINA STATED THE NAME MONTAGNO THAT HAD BEEN CROSSED OUT, WAS NOT WRITTEN BY HER. GINA LOOKED AT THE G.R. LOG AND TOLD ME SHE HAD NOT WRITTEN ANYTHING ON IT.

I ASKED GINA WHEN SHE QUIT WORKING AT A TO Z AND SHE SAID LAST THURSDAY. I QUESTIONED GINA ABOUT WHAT SHE THOUGHT COULD HAVE BEEN DONE DIFFERENTLY IN THIS SITUATION. GINA STATED LOU ANNE SHOULD HAVE DEFINITELY BEEN TAKEN TO THE HOSPITAL SOONER. GINA TOLD ME SHE HEARD THAT DEKYE HAD WRITTEN SOME NOTES ABOUT WHAT WENT ON WITH LOU ANNE. I AGAIN ASKED GINA ABOUT THE BLOOD SHE HAD SEEN BETWEEN LOU ANNE'S LEGS AND IF THE BLOOD AMOUNT INCREASED. GINA SAID SHE REMEMBERED SEEING THE BIG PUDDLE AND THEN IT WAS CLEANED UP. THE NEXT TIME GINA LOOKED AT LOU ANNE THERE WASN'T ANY BLOOD. GINA STATED SHE WAS NOT SURE WHY OR WHEN THE BLEEDING STOPPED. I ASKED GINA IF THE BLOOD BETWEEN LOU ANNE'S LEGS WAS MORE BLEEDING THAN NORMAL AND SHE SAID YES, IT WAS OBVIOUS THERE WAS A PROBLEM. GINA RELATED SHE NEVER SAW DR. BISKIND ACTUALLY CHECK ON LOU ANNE.

AT THIS POINT I TURNED OFF THE TAPE RECORDER AND THEN REMEMBERED SEVERAL OF HER QUESTIONS FOR GINA, SO I RESTARTED THE RECORDING. I THEN ASKED GINA IF SHE HAD A PROBLEM TALKING WITH ME TODAY WITHOUT ANY ATTORNEYS FROM BELL AND WILMER BEING THERE AND SHE SAID NO. GINA STATED THE ATTORNEYS TOLD HER IF SHE WANTED THEM THERE THEY WOULD BE. GINA AGREED THAT SHE SPOKE WITH ME OF HER OWN DECISION AND SHE WAS NOT FORCED OR THREATENED TO DO SO.

I ENDED THIS INTERVIEW BY ASKING GINA IF SHE HEARD ANYTHING ABOUT DR. BISKIND TELLING MICHELLE TO CHANGE THE ANGLE OF THE ULTRASOUND ON LOU ANNE AND SHE SAID YES. GINA RELATED THAT MICHELLE AND HER WERE SITTING IN THE FRONT OFFICE TALKING ONE DAY. MICHELLE TOLD GINA THAT DR. BISKIND AND CAROL BOTH ASKED HER IF MICHELLE COULD CHANGE THE ANGLE ON LOU ANNE'S ULTRASOUND. GINA STATED THIS CONVERSATION WITH MICHELLE TOOK PLACE ABOUT A WEEK AFTER THE INCIDENT WITH LOU ANNE, BUT DR. BISKIND AND CAROL HAD ASKED MICHELLE TO CHANGE THE ANGLE ON APRIL SEVENTEENTH. GINA SAID THIS CONVERSATION WITH MICHELLE STARTED WHEN MICHELLE SAID TO HER, YOU'RE NOT GOING TO BELIEVE WHAT THEY ASKED ME TO DO.

P 23-98 1617 613 A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 032

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO.: 1

DR NO.: 0000 81177841

33

REPORT DATE: 19981005 TIME: 0929

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565

UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000

DATE: 000000

SEARCH WARRANT INVOLVED:

0001 PKG 000 CODE:EI UK00

ITEM: RATAPE BRAND:

MODEL:

COLOR:

DESCRIPTION: ORIGINAL AUDIO CASSETTE TAPE RECORDING OF AN

INTERVIEW WITH KAIHYA JIMENEZ ON 9-28-98.

0002 PKG 000 CODE:EI UK00

ITEM: RATAPE BRAND:

MODEL:

COLOR:

DESCRIPTION: ORIGINAL AUDIO CASSETTE TAPE RECORDING ON AN

INTERVIEW WITH TERESA JENSEN ON 9-29-98.

**** NARRATIVE ****

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 2549605

END OF REPORT

DR NO: 0000 81177841

033

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 34

REPORT DATE: 19981006 TIME: 1439

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

**** WITNESS INFORMATION ****

WITNESS -13:

NAME: PRICE, MICHELE

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF MICHELE PRICE

ON 9-16-98 AT 3:50 P.M., I INTERVIEWED MICHELE PRICE AT HER SISTER'S RESIDENCE. PRESENT DURING THIS INTERVIEW WERE MICHELE, MESA POLICE DETECTIVE TOM DENNING AND MYSELF. THE FOLLOWING IS A SUMMARY OF THIS TAPE RECORDED INTERVIEW. FOR COMPLETE DETAILS PLEASE REFER TO THE AUDIO TAPE RECORDING.

I BEGAN THIS INTERVIEW BY STATING ON THE TAPE THAT MICHELE AND I HAD A BRIEF CONVERSATION OFF TAPE. THIS CONVERSATION WAS ABOUT THE FACT MICHELE HAD WORKED AT A TO Z WOMEN'S CENTER AND HAD KNOWLEDGE REGARDING THE LOU ARIANE HERRON INCIDENT. WE ALSO DISCUSSED MICHELE TALKING WITH ATTORNEY DAVID GOLDFINE. MICHELE THEN STATED ON TAPE THAT MR. GOLDFINE HAD CALLED HER AND TOLD HER HE WAS REPRESENTING A TO Z AND HE HAD A FEW QUESTIONS ABOUT WHAT HAD HAPPENED. MICHELE SAID SHE TOLD MR. GOLDFINE EVERYTHING SHE KNEW. MR. GOLDFINE THEN TOLD MICHELE HE DID NOT KNOW HOW FAR THIS INVESTIGATION WAS GOING OR IF THE DETECTIVES WOULD WANT TO TALK TO HER OR NOT. MR. GOLDFINE ALSO TOLD MICHELE HE WOULD CALL HER AND LET HER KNOW IF THE DETECTIVES WANTED TO SPEAK WITH HER. HE FURTHER STATED THAT MICHELE DID NOT HAVE TO TALK TO ANY DETECTIVES IF THEY SHOWED UP AT HER DOOR. MICHELE RELATED THAT SINCE SHE NEVER HEARD FROM MR. GOLDFINE, SHE WAS NOT AWARE FOR SURE IF ANY DETECTIVES WANTED TO SPEAK WITH HER. I THEN ASKED MICHELE IF SHE HAD ANY PROBLEM TALKING TO US TODAY ABOUT THIS INCIDENT AND SHE SAID NO.

I NEXT ASKED MICHELE HOW LONG SHE HAD WORKED AT A TO Z AND SHE SAID FOR ABOUT THREE YEARS, AND SHE IS NO LONGER EMPLOYED THERE. MICHELE TOLD ME SHE BEGAN AT A TO Z IN 1994 AND WORKED THERE ABOUT A YEAR AND A HALF. SHE THEN TOOK SOME TIME OFF DURING HER OWN PREGNANCY AND RETURNED TO WORK LATER AT A TO Z. MICHELE WORKED THERE FOR ABOUT NINE MORE MONTHS UNTIL TAKING A DIFFERENT JOB. MICHELE AGAIN RETURNED TO A TO Z IN MARCH OF 1998 AND REMAINED THERE UNTIL SHE RECENTLY QUIT.

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SUPPLEMENT

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DR NO.: 0000 81177841 34

CHANGE ALL THE SHEETS, CHANGE EVERYTHING SO THEY COULD SEE IF LOU ANNE WAS STILL BLEEDING. MICHELE CHANGED THE SHEETS, CLEANED UP LOU ANNE AND LOU ANNE HAD VERY LITTLE BLEEDING AFTER THAT. I ASKED MICHELE HOW LOU ANNE WAS AT THAT POINT AND SHE SAID LOU ANNE WAS PRETTY MUCH STILL ASLEEP. MICHELE SAID LOU ANNE LATER WOKE UP AND SAID SHE WAS UNCOMFORTABLE AND THEY MOVED HER. I ASKED MICHELE IF SHE REMEMBERED WHAT TIME IT WAS WHEN DR. BISKIND HAD LOOKED AT LOU ANNE. MICHELE SAID SHE WAS NOT SURE, BUT THOUGHT IT WAS AROUND 2:00 P.M.

MICHELE SAID SHE TOOK LOU ANNE'S VITAL SIGNS EVERY FIFTEEN MINUTES AND THEY WERE FINE. MICHELE TOLD ME SHE FELT LOU ANNE'S BLEEDING WAS MORE THAN IT SHOULD BE AND SHE (MICHELE) WANTED THE VITALS CHECKED. I ASKED MICHELE IF SHE EVER HEARD LOU ANNE SAY ANYTHING ABOUT NOT BEING ABLE TO FEEL HER LEGS AND SHE SAID YES. MICHELE SAID LOU ANNE WAS CRYING AND SAYING, THERE'S SOMETHING WRONG, I CAN'T FEEL MY LEGS.

MICHELE WENT ON TO SAY THAT DERYL AND GINA WERE MOSTLY THE ONES HELPING LOU ANNE, BUT SYLVIA AND JENIL WERE ALSO IN AND OUT OF THE RECOVERY ROOM DURING THAT TIME. I ASKED MICHELE ABOUT THE NURSE LOIS AND SHE SAID LOIS WAS THERE EARLIER, BUT LOIS LEFT AROUND NOON OR ONE O'CLOCK. MICHELE STATED THERE WAS NO NURSE THERE THAT DAY AFTER LOIS LEFT.

MICHELE RELATED THAT LOU ANNE WAS REALLY PALE AND CAROL SAID THERE'S SOMETHING WRONG WITH HER SHE DOESN'T LOOK RIGHT. MICHELE STATED THEY TOLD CAROL THEY ALREADY GAVE LOU ANNE SOME NARCOS, BUT SHE STILL WASN'T WAKING UP. MICHELE SAID CAROL TOLD THEM THEY NEEDED TO HAVE DR. BISKIND COME IN TO LOOK AT LOU ANNE. MICHELE STATED THEY WENT TO LOOK FOR DR. BISKIND BUT HE HAD ALREADY LEFT THE FACILITY. MICHELE SAID SHE THOUGHT IT WAS AROUND 3:30 P.M. WHEN THEY REALIZED DR. BISKIND HAD LEFT, BUT HE COULD HAVE LEFT EARLIER THAN THAT. MICHELE STATED DERYL HAD TAKEN LOU ANNE'S PULSE AND IT WAS REALLY WEAK. DERYL TOLD CAROL THAT LOU ANNE'S PULSE WAS WEAK AND THEY WERE HAVING A HARD TIME FINDING IT. CAROL THEN INSTRUCTED MICHELE TO PAGE DR. BISKIND, WHICH SHE DID. DR. BISKIND CALLED BACK AND MICHELE TOLD HIM THERE WAS A PROBLEM WITH ONE OF THE PATIENTS, THEY COULDN'T FIND A PULSE ON HER AND HER BREATHING WAS REALLY SLOW. DR. BISKIND STATED, WHAT DO YOU WANT ME TO DO, CALL 911. I ASKED MICHELE WHAT SHE IT WAS THAT SHE PAGED DR. BISKIND. MICHELE SAID IT WAS RIGHT BEFORE 4:00 AND SHE CALLED DR. BISKIND'S 1-800 PAGER NUMBER. AFTER MICHELE SPOKE WITH DR. BISKIND, SYLVIA CALLED 911. SHORTLY AFTER THE 911 CALL THE PARAMEDICS SHOWED UP. MICHELE STATED NONE OF THE MEDICAL ASSISTANTS REALLY KNEW WHAT TO DO FOR LOU ANNE, BUT THE 911 OPERATOR TOLD THEM TO GIVE LOU ANNE OXYGEN, WHICH THEY DID. THE PARAMEDICS TOOK OVER CARING FOR LOU ANNE AND TRANSPORTED HER TO THE HOSPITAL.

MICHELE TOLD ME SHE HAD THE AFTER HOURS PAGER THAT NIGHT AND ABOUT 5:30 OR 6:00 P.M. SHE RECEIVED A PAGE FROM THE ANSWERING SERVICE. THE ANSWERING SERVICE TOLD MICHELE SOMEONE, POSSIBLY FROM THE HOSPITAL, WANTED LOU ANNE'S CHART BECAUSE LOU ANNE HAD DIED. MICHELE CALLED CAROL AND TOLD HER THE HOSPITAL WAS CALLING BECAUSE LOU ANNE DIED AND THEY WANTED HER CHART. CAROL TOLD MICHELE SHE WOULD CALL DR. BISKIND AND DR. HADZ AND SHE (CAROL) WOULD TAKE CARE OF GETTING THE CHART. MICHELE SAID SHE WAS PAGED AGAIN

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ABOUT 9:00 P.M. THAT NIGHT AND TOLD THE HOSPITAL WAS STILL WAITING FOR LOU ANNE'S CHART. MICHELE AGAIN CALLED CAROL AND ADVISED HER OF THIS. CAROL THEN TOLD MICHELE THAT SHE AND DR. BISKIND WERE GOING DOWN TO THE CLINIC AND GET LOU ANNE'S CHART. MICHELE STATED THAT AS FAR AS SHE KNEW CAROL AND DR. BISKIND WENT TO THE CLINIC THAT NIGHT TO GET LOU ANNE'S CHART.

I ASKED MICHELE WHAT CONDITION LOU ANNE WAS IN WHEN THE PARAMEDICS ARRIVED. MICHELE SAID SHE DIDN'T THINK LOU ANNE WAS CONSCIOUS. I THEN ASKED HER IF SHE THOUGHT LOU ANNE WAS ALIVE AT THAT TIME. MICHELE SAID I DON'T KNOW. SHE ALSO SAID IT WAS POSSIBLE LOU ANNE WAS NOT ALIVE WHEN THE PARAMEDICS ARRIVED.

MICHELE RELATED THE NEXT DAY THE GIRLS WERE TALKING ABOUT THE INCIDENT AT WORK AND TRYING TO FIGURE OUT WHAT COULD HAVE BEEN DONE DIFFERENTLY. SHE STATED THEY ALL PRETTY MUCH AGREED THAT THEY WISHED DR. BISKIND HAD STAYED AT THE CLINIC AND THAT THERE WOULD HAVE BEEN A NURSE PRESENT THAT DAY. I ASKED MICHELE IF CAROL EVER TOLD HER OR THE OTHERS NOT TO TALK ABOUT THIS INCIDENT. MICHELE SAID CAROL TOLD THEM NOT TO TALK TO ANYONE OUTSIDE OF WORK ABOUT WHAT HAPPENED. I ASKED MICHELE IF SHE EVER HEARD CAROL TELL ANYONE NOT TO CALL 911 UNTIL THEY CALLED EITHER DR. BISKIND OR DERYL FROM THE OTHER OFFICE. MICHELE SAID SHE DIDN'T THINK ANYONE HAD SAID TO CALL 911 UNTIL DR. BISKIND HAD SAID TO DO SO ON THE PHONE. I ASKED HER IF IT WAS POSSIBLE THAT SOMEONE HAD SAID TO CALL 911 EARLIER AND MICHELE SAID IT COULD HAVE, BECAUSE EVERYONE WAS CONCERNED ABOUT LOU ANNE. MICHELE AGREED THAT THE GENERAL CONSENSUS AMONG THE MEDICAL ASSISTANTS WAS SOMETHING WAS REALLY WRONG WITH LOU ANNE.

AT THIS POINT I SHOWED MICHELE LOU ANNE'S MEDICAL RECORDS WHICH I HAD PREVIOUSLY RECEIVED. WE WENT OVER THE LAB WORK CHART THAT SHOWED A PAYMENT OF \$1250.00 WHICH MICHELE STATED HAD TO PAID IN CASH, VISA, OR MASTERCARD. MICHELE LOOKED AT THE O.R. LOG AND I ASKED HER ABOUT THE NAMES LOIS AND JANELLE THAT WERE WRITTEN ON THE NURSE LINE. MICHELE SAID THE NAME JANELLE WAS MISSPELLED AND IT SHOULD BE JENIL AND SHE ALSO STATED LOIS WAS NOT THERE IN THE AFTERNOON. SHE ALSO TOLD ME THAT JENIL WAS IN FACT JENIL BEGAY. I ASKED MICHELE ABOUT THE TIMES WRITTEN ON THE O.R. LOG AND SHE AGREED LOU ANNE WOULD HAVE GONE INTO THE OPERATING ROOM AT 12:32 AND LEFT AT 1:09. WE LATER LOOKED AT THE RECOVERY ROOM LOG WHICH STATED LOU ANNE ARRIVED IN THE RECOVERY ROOM AT 1:30. MICHELE SAID IF LOU ANNE LEFT O.R. AT 1:09 SHE SHOULD HAVE BEEN IN THE RECOVERY ROOM AT 1:09 OR EARLY AT THE LATEST. I SHOWED MICHELE THE RECORDED VITAL SIGNS STARTING WITH THE ONE AT 1:35 AND ASKED IF THOSE WERE VITAL SIGNS SHE WOULD HAVE TAKEN. MICHELE SAID NO, SHE WAS NOT EVEN IN THE RECOVERY ROOM AT THAT TIME. MICHELE DID NOT KNOW WHO FILLED IN THOSE VITAL SIGNS BUT STATED SOMEONE SHOULD HAVE SIGNED IT AT THE BOTTOM OF THE PAGE. I ASKED HER ABOUT THE CHECK MARK ON THE SCANT BLEEDING AND IF THAT WAS THE CASE. MICHELE SAID LOU ANNE'S BLEEDING WAS SCANT AFTER ALL HER BEDDING HAD BEEN CHANGED, BUT THAT WAS NOT THE CASE WHEN LOU ANNE FIRST ARRIVED IN THE RECOVERY ROOM. IN LOOKING AT THE LABORATORY REPORT I ASKED MICHELE IF SHE HAD SIGNED THIS DOCUMENT "M. A. PRICE" AND SHE STATED YES. SHE AGREED THAT LOU ANNE'S ULTRASOUND WAS LISTED AT 23.3 WEEKS ON THIS REPORT AND THE DATE OF 4-17-98 WAS THE DAY LOU ANNE WAS GOING TO HAVE HER ACTUAL

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TERMINATION PROCEDURE. WE NEXT LOOKED AT THE ULTRASOUND COPY AND I ASKED CAROL IF THERE WAS ANY WAY OF TELLING IF THIS WAS THE ONE SHE HAD TAKEN. MICHELE SAID NO, AND THEY DID NOT HAVE ANYTHING LIKE AN EMPLOYEE NUMBER TO PUT ON THE ULTRASOUND PHOTO.

I AGAIN QUESTIONED MICHELE ABOUT THE ULTRASOUND SHE TOOK ON APRIL SIXTEENTH. MICHELE TOLD ME SHE TOOK THREE SEPARATE ULTRASOUNDS OF LOU ANNE. WE THEN TALKED ABOUT THE OTHER ULTRASOUNDS LOU ANNE HAD DONE ON APRIL NINTH. MICHELE SAID SHE HEARD LOUZANNE HAD THE FIRST ONE DONE AT THE PHOENIX OFFICE AND CAROL THEN SENT HER TO THE GLENDALE OFFICE FOR ANOTHER ONE, WHICH WAS COMPLETED BY JENIL. MICHELE STATED SHE TOOK THREE ULTRASOUNDS AND THE OTHER TWO WOULD MAKE A TOTAL OF FIVE ULTRASOUNDS THAT WERE COMPLETED ON LOU ANNE.

I THEN TOLD MICHELE I HAD SPOKEN WITH JUST ABOUT EVERYONE WHO WAS THERE THAT DAY AND SEVERAL PEOPLE HAD MENTIONED THAT DR. BISKIND ASKED HER TO CHANGE THE ANGLE ON THE ULTRASOUND TO MAKE IT APPEAR LOU ANNE WAS UNDER THE TWENTY-FOUR WEEK LIMIT. MICHELE STATED DR. BISKIND NEVER CAME RIGHT OUT AND SAID THAT. SHE STATED DR. BISKIND SAID, YOU KNOW WHEN YOU DO AN ULTRASOUND YOU CAN TURN THE PROBE DIFFERENT ANGLES AND GET DIFFERENT RESULTS. MICHELE STATED YEAH TO DR. BISKIND. HE THEN SAID TO MICHELE, WE NEED TO MAKE SURE SHE IS UNDER TWENTY-FOUR WEEKS. MICHELE AGAIN STATED DR. BISKIND DID NOT COME RIGHT OUT AND SAY TO CHANGE THE ANGLE, BUT SHE SAID HE IMPLIED TO DO SO. I ASKED MICHELE IF SHE TOOK THAT TO MEAN DR. BISKIND WANTED HER TO TURN THE PROBE TO MAKE SURE THE ULTRASOUND WAS UNDER TWENTY-FOUR WEEKS. MICHELE TOLD ME, YEAH KIND OF, BUT THAT WAS SOMETHING SHE WOULD NOT DO. MICHELE STATED SHE THOUGHT THE TWENTY-FOUR WEEK TWO DAYS WAS THE BEST ULTRASOUND SHE HAD TAKEN. SHE WENT ON TO SAY SHE SHOWED DR. BISKIND ALL THREE ULTRASOUNDS SHE HAD TAKEN. AGAIN SHE SAID THESE WERE TWENTY-FOUR WEEKS AND TWO DAYS, TWENTY-THREE WEEKS AND SIX DAYS, AND THE THIRD WAS TWENTY-THREE WEEKS AND THREE/FOUR DAYS. DR. BISKIND LOOKED AT ALL THREE ULTRASOUNDS AND SAID, WE WILL USE THIS ONE, WHICH WAS THE TWENTY-THREE WEEK THREE DAYS ONE. I ASKED MICHELE IF SHE KNEW WHAT HAPPENED TO ALL THREE ULTRASOUNDS. MICHELE SAID DR. BISKIND GAVE THEM BACK TO HER AND SHE PUT THEM IN LOU ANNE'S CHART AND THEN GAVE THE CHART TO CAROL. MICHELE SAID WHEN LOU ANNE FIRST CAME IN ON APRIL SIXTEENTH CAROL CAME UP TO HER AND SAID, THIS IS MY BABY, I'VE ALREADY TALKED TO HER, WE ARE GOING TO TAKE CARE OF HER. I TOLD MICHELE THAT WAS ANOTHER QUESTION I HAD FOR HER. I EXPLAINED THAT I HAD HEARD FROM SEVERAL PEOPLE THAT CAROL MADE THEM AWARE LOU ANNE WAS A SPECIAL CASE. MICHELE STATED SHE HAD HEARD THAT ALSO AND CAROL HAD IN FACT TOLD HER, LOU ANNE WAS HER BABY. MICHELE RELATED SHE HAD ALSO HEARD THE ULTRASOUND JENIL DID ON LOU ANNE ON APRIL NINTH WOULD HAVE MADE LOU ANNE TOO FAR TO COME BACK ON APRIL FIFTEENTH. MICHELE TOLD ME SHE NEVER SAW THE ULTRASOUND THAT WAS TAKEN ON APRIL NINTH. I ASKED MICHELE IF IN HER MIND WAS THERE A QUESTION ABOUT LOU ANNE BEING OVER THE TWENTY-FOUR WEEK LIMIT AND WAS CAROL HANDLING HER AS A SPECIAL SITUATION. MICHELE SAID, WELL ESPECIALLY WHEN SHE DID THE ULTRASOUND, BECAUSE LOU ANNE WAS REALLY CLOSE. MICHELE WENT ON TO SAY THAT DR. BISKIND ALSO DID A PELVIC EXAM TO DETERMINE THE SIZE OF LOU ANNE'S UTERUS.

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I AGAIN QUESTIONED MICHELE ABOUT LOU ANNE'S BLEEDING AND ASKED IF SHE WOULD CATEGORIZE IT AS HEAVY BLEEDING AND SHE SAID YES. MICHELE SAID SHE TOLD DR. BISKIND HERSELF THAT SHE THOUGHT HE NEEDED TO LOOK AT LOU ANNE'S BLEEDING. MICHELE STATED DR. BISKIND DID LOOK AT LOU ANNE. I ASKED HER HOW DR. BISKIND LOOKED AT LOU ANNE. SHE SAID HE LOOKED AT HER. I ASKED HOW LONG SHE HAD BEEN BLEEDING AND SAID TO CHANGE THE SHEETS AND GET HER CLEANED UP SO THEY COULD SEE HOW MUCH BLEEDING SHE WAS DOING. I ASKED MICHELE IF DR. BISKIND EVER CAME BACK INTO THE RECOVERY ROOM TO CHECK ON LOU ANNE. MICHELE STATED HE CAME INTO CHECK ON ANOTHER PATIENT WHO WAS HAVING TROUBLE DILATING, BUT THIS PATIENT STILL HAD NOT HAD HER TERMINATION DONE. MICHELE SAID DR. BISKIND ONLY CHECKED ON LOU ANNE THE ONE TIME SHE HAD TOLD ME ABOUT AND HE LEFT THE CLINIC WITHOUT RETURNING TO CHECK ON LOU ANNE.

10-6-98 1612 GIB A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

IN VOICES:

END OF REPORT

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DR NO.: 0000 81177841 35

REPORT DATE: 19981006 TIME: 1730

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: 034

**** WITNESS INFORMATION ****

WITNESS -14:

NAME: JENSEN, KAIHYA

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF KAIHYA JIMENEZ

ON 10-28-98 AT 11:20 P.M. I INTERVIEWED KAIHYA JIMENEZ AT HER RESIDENCE IN JUNCTION CITY, KANSAS. PRESENT DURING THIS INTERVIEW WERE KAIHYA, DETECTIVE MIKE SECHEZ #4084 AND MYSELF. THE FOLLOWING IS A SUMMARY OF HIS TAPE RECORDED INTERVIEW. FOR COMPLETE DETAILS PLEASE REFER TO THE TAPE RECORDING.

I BEGAN THIS INTERVIEW BY REMINDING KAIHYA I HAD SPOKEN TO HER ON THE 10TH LAST FRIDAY AND TOLD HER OF MY INTENTIONS OF COMING TO JUNCTION CITY TO INTERVIEW HER. I THEN ASKED KAIHYA IF SHE HAD AGREED TO THIS AND SHE SAID YES. KAIHYA ALSO AGREED SHE WAS NOT BEING THREATENED OR PRESSURED TO DOING THIS INTERVIEW.

I THEN ASKED KAIHYA WHEN SHE STARTED WORKING AT A TO Z AND SHE SAID IT WAS APRIL SECOND AND IT WAS THE FIRST DAY OF HER EX-TERN. KAIHYA EXPLAINED AN EX-TERN WAS SIX WEEKS OF TRAINING AFTER HER GRADUATION FROM APOLLO COLLEGE MEDICAL ASSISTANT SCHOOL. KAIHYA STATED SHE WAS HIRED TO WORK AT A TO Z BY CAROL STUART AND CAROL ALSO USED THE LAST NAME SCHADOFF.

KAIHYA CONTINUED BY SAYING DURING HER EMPLOYMENT AT A TO Z SHE WAS A MEDICAL ASSISTANT. HER RESPONSIBILITIES INCLUDED FRONT AND BACK OFFICE WORK, BACK OFFICE BEING LAB WORK, PATIENT CARE AND OPERATING ROOM. KAIHYA STATED DURING THE TIME OF THE LOU ANNE HERRON INCIDENT HER PRIMARY WORK WAS ONLY IN THE FRONT OFFICE ANSWERING PHONES. HOWEVER, ON THE DAY OF LOU ANNE'S ACTUAL TERMINATION PROCEDURE, KAIHYA WAS WORKING FOR THE FIRST TIME IN THE RECOVERY ROOM. I ASKED KAIHYA IF SHE WAS WORKING THE DAY LOU ANNE HAD HER LAMINARIES INSERTED AND SHE SAID SHE COULD HAVE BEEN, BUT SHE WAS ONLY WORKING THE FRONT OFFICE AND HAD NO KNOWLEDGE OF WHAT WENT ON THAT DAY. KAIHYA RELATED SHE RECALLED LOU ANNE COMING INTO THE RECOVERY ROOM ON APRIL SEVENTEENTH. SHE SAID LOU ANNE ARRIVED IN RECOVERY SOME TIME BETWEEN 1:00. KAIHYA THEN TOLD ME IT WAS AFTER 1:00 BECAUSE SHE WAS ASKED

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TO RELIEVE ONE OF THE GIRLS IN THE RECOVERY ROOM DURING LUNCH. KAIHYA DID NOT RECALL WHO SPECIFICALLY ASKED HER TO GO INTO RECOVERY, BUT KNOWS TERESA WAS ALSO WORKING IN THERE. KAIHYA STATED ONLY HER AND TERESA JENSEN WERE IN RECOVERY DURING THE LUNCH BREAK.

I ASKED KAIHYA WHO WAS WORKING AT THE CENTER THAT DAY. SHE RECALLED THE EMPLOYEES TO BE CAROL SCHADOFF, JENIL BEGAY, TERESA JENSEN, GINA OBESO, DERYL WHITLOCK, SYLVIA ARAGON, MICHELE PRICE AND LATER SHE RECALLED MABEL LOPEZ WAS THERE ALSO. I QUESTIONED KAIHYA ABOUT THE PRESENCE OF ANY REGISTERED NURSE THAT DAY. KAIHYA SAID LOIS, WHO WAS ONE OF THE NURSES, WAS WORKING THAT DAY, BUT LOIS LEFT SOME TIME AROUND NOON. KAIHYA ALSO STATED CAROL KNEW LOIS WAS LEAVING AT NOON BECAUSE SHE (KAIHYA) OVERHEARD LOIS TELLING CAROL THAT.

KAIHYA TOLD ME WHEN LOU ANNE CAME INTO THE RECOVERY ROOM SHE LOOKED YELLOW. KAIHYA ALSO SAID SHE TOLD TERESA IT LOOKED LIKE LOU ANNE WAS BLEEDING A LOT. TERESA THEN TOLD MABEL LOPEZ ABOUT LOU ANNE'S BLEEDING. I ASKED KAIHYA WHY SHE THOUGHT LOU ANNE WAS BLEEDING A LOT. SHE SAID LOU ANNE'S BLEEDING WASN'T JUST A LITTLE AMOUNT, IT WAS MORE THAN ANY OF THE OTHER GIRLS IN THE RECOVERY ROOM. KAIHYA SAID THIS BLEEDING WAS BETWEEN LOU ANNE'S LEGS AND THE BLOOD WAS FORMING IN A PUDDLE. SHE ALSO TOLD ME THE BLOOD LOOKED FRESH. AFTER TERESA JENSEN TOLD MABEL LOPEZ ABOUT LOU ANNE'S BLEEDING, KAIHYA WAS TOLD TO LEAVE THE RECOVERY ROOM AND ANSWER THE PHONES UP FRONT. KAIHYA RELATED SHE LATER STUCK HER HEAD BACK INTO THE RECOVERY ROOM AND JENIL, DERYL, GINA AND SYLVIA WERE ALL WITH LOU ANNE. KAIHYA ASKED WHAT WAS GOING ON BECAUSE LOU ANNE'S FRIEND WAS NOW IN THE WAITING AREA. I ASKED KAIHYA IF SHE EVER HEARD ANYONE TALK TO DR. BISKIND RE UT THE SITUATION WITH LOU ANNE. KAIHYA SAID ONE TIME SHE HEARD WHO SHE THOUGHT WAS JENIL MENTION CALLING DR. BISKIND. SHE STATED SHE DID NOT KNOW IF DR. BISKIND WAS CALLED OR NOT, BUT HE HAD LEFT THE BUILDING BY THEN. I ASKED KAIHYA IF SHE KNEW WHAT TIME DR. BISKIND LEFT AND SHE SAID HE WAS NOT SURE.

WHEN ASKED ABOUT DERYL WHITLOCK BEING THERE. KAIHYA SAID DERYL WAS CALLED FROM THE SCOTTSDALE OFFICE TO HELP. KAIHYA STATED DERYL ARRIVED AT THE MCDOWELL OFFICE ABOUT AN HOUR AFTER LOU ANNE CAME INTO THE RECOVERY ROOM, WHICH WOULD MAKE IT BETWEEN 2:00 AND 2:30. KAIHYA SAID SHE WASN'T SURE IF DR. BISKIND WAS STILL THERE WHEN DERYL ARRIVED. SHE TOLD ME DR. BISKIND LEFT SHORTLY AFTER SHE WAS TOLD TO GO ANSWER THE PHONES. I ASKED KAIHYA WHY SHE WAS ASKED TO LEAVE THE RECOVERY ROOM. SHE RELATED THE OTHER GIRLS WERE ASKING WHY SHE WAS WORKING IN RECOVERY SINCE SHE WAS NEW. KAIHYA STATED SHE TOLD THEM SHE DIDN'T KNOW WHY SHE WAS IN RECOVERY. KAIHYA AGREED SHE WAS ASKED TO LEAVE BECAUSE THERE WAS A PROBLEM WITH LOU ANNE.

QUESTIONED KAIHYA ABOUT ANYONE SAYING DR. BISKIND HAD TOLD THEM HE WAS AT HIS LUNCH AND NOT TO BOTHER HIM. KAIHYA SAID NOT THAT DAY, BUT HEARD THE FACT SHE HEARD DR. BISKIND HAD SAID HE WASN'T COMING BACK TO THE CLINIC. KAIHYA SAID WHEN SHE FIRST SAW LOU ANNE SHE WAS VERY DROOPY. I ASKED KAIHYA ABOUT LOU ANNE'S FRIEND WHO WAS IN THE WAITING ROOM AND SHE SAID SHE DID NOT KNOW THE FRIEND'S NAME, SHE JUST REMEMBERED THE FRIEND

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BEING THERE AND HAVING A CONVERSATION WITH HER. KAIHYA SAID SHE STUCK HER HEAD IN AND OUT OF THE RECOVERY ROOM SEVERAL TIMES AND IT WAS "CHAOS" IN THERE. KAIHYA RELATED EVERYONE WORKING THAT DAY WITH THE EXCEPTION OF MR. TERESA AND DR. BISKIND WERE IN THE RECOVERY ROOM WITH LOU ANNE.

I ASKED KAIHYA IF SHE EVER SAW DR. BISKIND GO INTO THE RECOVERY ROOM AND CHECK ON LOU ANNE. SHE SAID MABEL TOLD DR. BISKIND AND HE BRIEFLY CAME OUT OF SURGERY AND LOOKED AT LOU ANNE. KAIHYA DOES NOT KNOW IF DR. BISKIND CHECKED ON LOU ANNE OR JUST LOOKED AT HER. I ALSO ASKED KAIHYA IF SHE HEARD LOU ANNE SCREAMING OR SAYING ANYTHING. KAIHYA RELATED ONE TIME WHEN SHE STUCK HER HEAD IN THE DOOR LOU ANNE WAS SAYING HELP ME.

KAIHYA TOLD ME THERE WAS A LOT OF AFTER THE FACT GOSSIP THAT LOU ANNE WAS OVER THE TWENTY-FOUR WEEK LIMIT AND ACTUALLY CLOSER TO TWENTY-SIX WEEKS. BUT LOU ANNE PLEADED WITH CAROL ABOUT GETTING THE ABORTION BECAUSE HER EX-HUSBAND DIDN'T WANT THE BABY OR SOMETHING LIKE THAT. SHE HEARD AN ULTRASOUND WAS DONE ON LOU ANNE AT THE GLENDALE OFFICE AND IT WAS OVER TWENTY-FOUR WEEKS. LOU ANNE THEN HAD ANOTHER ULTRASOUND DONE AT THE PHOENIX OFFICE WHICH MADE HER LOOK LIKE SHE WAS UNDER THE LIMIT. I ASKED KAIHYA WHO WOULD HAVE DONE THIS ALTERED ULTRASOUND AND SHE SAID SHE DIDN'T KNOW, BUT MICHELE, JENIL AND SYLVIA WERE THE ONES WHO SHE KNEW WERE DOING THE ULTRASOUNDS.

I QUESTIONED KAIHYA ABOUT EVER SEEING LOU ANNE'S FILE. SHE SAID AN ATTORNEY FOR A TO Z, A FEMALE WITH BROWN HAIR, SHOWED HER LOU ANNE'S FILE. KAIHYA TOLD ME THE FILE CONSISTED OF A SINGLE SONO/ULTRASOUND, THE PAPERWORK LOU ANNE HAD FILLED OUT AND A PAPER THAT SHOWED VITAL SIGNS. KAIHYA STATED ACCORDING TO THIS PAPER THE VITALS WERE BEING TAKEN LONGER APART THAN EVERY FIFTEEN MINUTES. I ASKED KAIHYA IF SHE SAW MORE THAN ONE ULTRASOUND IN THIS FILE AND SHE SAID NO. SHE ADDED THAT NORMALLY ALL ULTRASOUNDS WERE PLACED INTO THE PATIENT'S FILE.

AT THIS POINT I SHOWED KAIHYA LOU ANNE'S MEDICAL RECORD THAT I HAD PREVIOUSLY RECEIVED. WHILE SHOWING KAIHYA A DOCUMENT WITH A PAYMENT OF \$1250.00 ON IT I ASKED HER HOW PATIENT'S WOULD PAY FOR THEIR TERMINATION. KAIHYA STATED THERE WAS A NONREFUNDABLE \$60.00 PAYMENT FOR A SONO. THEN, DEPENDING ON HOW FAR ALONG THE PATIENT WAS, WOULD DETERMINE HOW MUCH MORE MONEY THEY OWED. SHE SAID BETWEEN 20-24 WEEKS THE PAYMENT WAS \$1250.00 WHICH HAD TO PAID IN CASH, MONEY ORDER OR BY CREDIT CARD. I THEN SHOWED KAIHYA THE C.R. LOG AND ASKED IF THE NAME JANELLE WAS ACTUALLY JENIL BEBAY OR SHE SAID YES, THE NAME WAS SPOelled WRONG. KAIHYA ADDED SHE DID NOT NOW WHO FILLED OUT THIS LOG. KAIHYA AND I LOOKED AT THE RECOVERY LOG RECORD WHICH SHOWED LOU ANNE'S FIRST VITAL READINGS WERE TAKEN AT 1:33. I TALKED ABOUT THE FACT ONE DOCUMENT SAID LOU ANNE LEFT THE O.R. AT 1:09 AND THE OTHER 1:08 TIME OF VITAL SIGNS BEING RECORDED. I THEN ASKED KAIHYA ABOUT THE TIME 4:24 AND THE BLOOD PRESSURE OF 90/50. KAIHYA TOLD ME SHE DID NOT FILL OUT ANY OF THOSE VITAL RECORDINGS. KAIHYA STATED AT THE TIME OF THE LOU ANNE INCIDENT SHE DID NOT REALLY KNOW WHEN TO CHECK OR VITALS. HOWEVER, SHE HAS SINCE LEARNED IT SHOULD BE DONE EVERY FIFTEEN MINUTES. I QUESTIONED KAIHYA ABOUT THE BLEEDING BEING CHECKED OFF AS STOP. KAIHYA AGREED THAT WAS NOT CONSISTENT WITH WHAT SHE HAD SEEN AND

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DR NO.: 0000 81177841-38

REPORT DATE: 19981012 TIME: 1509

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E McDOWELL ROAD #8

BEAT: 0512 GRID: BD29

REPORTING OFFICER(SI): MARK STRIBLING

3565

UNIT: C34

*** NARRATIVE ***

SERIAL NUMBER: 3565

PHONE CONVERSATION WITH ATTORNEY BARRY MITCHELL

ON 10-8-98 AT 12:30 P.M., I TELEPHONED CAROL SCHADOFF'S RESIDENCE AND SPOKE TO HER SON. I IDENTIFIED MYSELF AND ASKED THAT CAROL CALL ME. THE SON ASKED ME IF THIS WAS ABOUT A TO Z CENTER AND I STATED YES. THE SON TOLD ME HE WAS A PARALEGAL AND ASKED IF CAROL NEEDED AN ATTORNEY. I ASKED THAT HE JUST GIVE CAROL THE MESSAGE TO CALL ME AND I TERMINATED THIS CALL.

ON 10-9-98 AT 3:55 P.M. I RECEIVED A MESSAGE ON MY VOICE MAIL FROM ATTORNEY BARRY MITCHELL. MR. MITCHELL ADVISED ME HE WAS REPRESENTING A DL AND REQUESTED I CONTACT HIM.

ON 10-12-98 AT 2:00 P.M. I CALLED BARRY MITCHELL AT HIS OFFICE AND SPOKE WITH HIM ABOUT CAROL. THE FOLLOWING IS A SUMMARY OF THIS TAPE RECORDED CONVERSATION. FOR COMPLETE DETAILS PLEASE REFER TO THE AUDIO TAPE RECORDING.

I FIRST SPOKE WITH MR. MITCHELL'S SECRETARY AND IDENTIFIED MYSELF TO HER (THIS PORTION OF THE CONVERSATION WAS NOT RECORDED). MR. MITCHELL CAME ON THE LINE AND I BEGAN THE TAPE RECORDING. MR. MITCHELL STATED BY SAYING, EFFECTIVE HOW ARE, AND THEN STATED, YOU WANT TO TALK TO CAROL. I RESPONDED BY STATING, YES I DO, BUT YOU PROBABLY DON'T WANT ME TO TALK TO HER. MR. MITCHELL SAID, WELL I DON'T KNOW. HE THEN SAID THAT WOULD PROBABLY BE HIS KNEE-JERK REACTION, THEN ASKED ME TO TELL HIM A LITTLE BIT ABOUT MY INQUIRY AND WHAT WE WERE CLASSIFYING CAROL AS. I TOLD MR. MITCHELL CAROL WAS LISTED AS AN INVESTIGATIVE LEAD IN MY REPORT AND I WOULD LIKE TO TALK TO HER, TO HEAR HER ACCOUNT OF THE EVENTS ON APRIL FIFTEENTH, THE DAY LOU ANNE HERRON DIED. MR. MITCHELL ASKED ME IF I WOULD BE WILLING TO SHARE WITH HIM WHO THE TARGET OF MY INVESTIGATION WAS. MR. MITCHELL SAID HE WAS SURE HE COULD GUESS, BUT WANTED TO HEAR IT FROM A HORSE'S MOUTH IF POSSIBLE. I RELATED, IF YOU WANT TO CLASSIFY TARGETS I WOULD SAY THE TWO SORT OF TARGETS WOULD BE DR. BISKIND AND CAROL HERSELF. MR. MITCHELL SAID HE APPRECIATED ME TELLING HIM THAT.

MR. MITCHELL SAID HE WANTED TO SPEAK WITH CAROL AND OUR NEXT CONVERSATION WOULD BE, WHY IT WOULD BE TO CAROL'S ADVANTAGE TO TALK WITH ME. MR. MITCHELL AND I THEN DISCUSSED THE ATTORNEY GENERAL'S OFFICE ALSO WANTING TO SPEAK WITH CAROL, HOWEVER, HE MADE IT CLEAR IF THEY WERE GOING TO TALK,

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I WOULD BE THE FIRST PERSON THEY WOULD TALK WITH. I CONCLUDED THIS CONVERSATION BY TELLING MR. MITCHELL I WOULD WAIT TO HEAR BACK FROM HIM.

10-12-98 1525 GIB A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT

I VOICES:

END OF REPORT

DR NO: 0000 81177841 038

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 39

REPORT DATE: 19981013 TIME: 0838

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 1901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000620 W WASHINGTON ST

DATE: 101298

SEARCH WARRANT INVOLVED:

0.01 PKG 000 CODE:EI UK00

ITEM: RATAPE BRAND: MODEL: COLOR:

DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF A PHONE

CONVERSATION WITH ATTORNEY BARRY MITCHELL.

*** NARRATIVE ***

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

INVOICES: 2551759

END OF REPORT

DR NO: 0000 81177841 039

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 040

REPORT DATE: 19981013 TIME: 1325

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3365 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000620 W WASHINGTON ST
DATE: 101398

SEARCH WARRANT INVOLVED:

PKG 000 CODE:EI UK00

ITEM: RATAPE BRAND: MODEL: COLOR:

DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF A PHONE

CONVERSATION WITH ATTORNEY MIKE KIMERER.

*** NARRATIVE ***

SERIAL NUMBER: 3365

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

NUMBERS: 2552052

END OF REPORT

DR NO: 0000 81177841 040

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841

REPORT DATE: 19981014 TIME: 1442

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(SI): MARK STRIBLING

3565 UNIT: C34

**** NARRATIVE ****

SERIAL NUMBER: 3565

CONVERSATION WITH ATTORNEY MIKE KIMERER

ON 9-21-98 I TELEPHONED ATTORNEY MIKE KIMERER AND SPOKE WITH HIM ABOUT THE ONGOING A TO Z INVESTIGATION. WE SPOKE ABOUT MY INTERVIEWING GINA OBESO AND MIKE REQUESTED I SUPPLY HIM WITH A COPY OF THAT TAPE RECORDED INTERVIEW. I ALSO ASKED MIKE ABOUT ULTRASOUNDS/SONOGRAMS I BELIEVED HAD BEEN TAKEN ON LOU ANNE HERRON. I TOLD MIKE I ONLY RECEIVED A COPY OF ONE ULTRASOUND AND IT WAS MY INFORMATION THERE WERE MORE. I ALSO INFORMED MIKE I HAD SPOKE WITH DAN GOLDFINE FROM SNELL AND WILMER AND DAN SAID HE WAS ONLY ABLE TO FIND ONE ULTRASOUND. MR. KIMERER TOLD ME HE WOULD CHECK TO SEE IF ANY MORE ULTRASOUNDS EXISTED (THIS CALL WAS NOT RECORDED).

ON 10-13-98 I RETURNED A PHONE CALL TO MR. KIMERER. THIS PHONE CALL WAS TAPE RECORDED. THE FOLLOWING IS A SUMMARY OF MY CONVERSATION WITH MR. KIMERER.

HIS CONVERSATION BEGAN WITH US EXCHANGING PLEASANTRIES AND MIKE SAYING HE WAS TOUCHING BASE WITH ME TO SEE WHERE MY INVESTIGATION WAS. MIKE THEN ASKED ABOUT OUR PREVIOUS CONVERSATION REGARDING THE SONOGRAMS AND THE FACT THAT DR. HACH AND DR. HACH STATED THERE SHOULD HAVE BEEN MORE THAN ONE ULTRASOUND. DR. HACH HAD EXPLAINED THAT IN LATE STAGES OF PREGNANCY THERE SHOULD HAVE BEEN TWO, THREE OR MAYBE EVEN FIVE ULTRASOUNDS. I AGAIN RELATED TO MR. KIMERER ABOUT DAN GOLDFINE TELLING ME THERE WAS ONLY ONE ULTRASOUND. MR. KIMERER SAID HE DOUBLE CHECKED WITH SNELL AND WILMER AND ONLY ONE ULTRASOUND WAS IN THAT FILE. MR. KIMERER CONTINUED BY SAYING DR. HACH CAME TO PHOENIX AND REVIEWED THOSE FILES. DR. HACH WAS SURPRISED THERE WAS ONLY ONE ULTRASOUND AND SAID THERE SHOULD HAVE BEEN MORE.

THEY TOLD MR. KIMERER I WOULD MAKE COPIES OF ALL MY INTERVIEW TAPES AND BRING THEM TO HIM IN THE NEXT COUPLE OF WEEKS. MR. KIMERER ASKED ME WHERE I WAS IN TERMS OF INDICTMENTS AND THINGS LIKE THAT. I EXPLAINED I WAS GOING TO SUBMIT MY REPORT TO THE COUNTY ATTORNEY AND THEY WOULD HAVE A PROSECUTOR REVIEW IT. THE COUNTY ATTORNEY WOULD THEN GET BACK WITH ME AND WE WOULD BE DECIDED IF WE WOULD GO TO THE GRAND JURY OR NOT.

MR. KIMERER TOLD ME HIS CONCERN WAS WITH DR. HACH AND THE CORPORATION. I ASKED IF THE COUNTY ATTORNEY'S OFFICE WOULD BE MAKING ANY DECISIONS REGARDING DR. HACH AND THE CORPORATION, BASED ON WHAT MY INVESTIGATION

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

DR NO.: 0000 81177841

41

REVEALED.

10-14-98 1502 GIB A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 041

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 042

REPORT DATE: 19981118 TIME: 0916

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565

UNIT: CSC

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF DOCTOR DAVID COHEN:

ON 11-17-98 AT 12:30 PM DET. CARUSO AND I MET WITH DOCTOR COHEN IN THE EMERGENCY ROOM AREA AT GOOD SAMARITAN HOSPITAL. AFTER INTRODUCING OURSELVES I SHOWED DOCTOR COHEN HIS E.R. REPORT ON LOU ANNE HERRON AND ASKED IF HE REMEMBERED THIS INCIDENT AND HE SAID YES.

THEN ASKED DOCTOR COHEN WHAT HE WAS SAYING IN HIS REPORT BY THE TERM METABOLIC ACIDOSIS. DOCTOR COHEN STATED THIS MEANT THERE WAS A SIGNIFICANT AMOUNT OF TIME THAT LOU ANNE WAS NOT GETTING GOOD BLOOD FLOW TO HER MUSCLES. HE WENT ON TO SAY THIS WOULD MEAN LOU ANNE WAS NOT PERFECTLY WELL ONE MINUTE, THEN DEAD THE NEXT. I ASKED HIM IF LOU ANNE WAS DEAD WHEN HE FIRST SAW HER. HE SAID YES, SHE SHOWED NO SIGNS OF LIFE.

NEXT ASKED DOCTOR COHEN ABOUT LOU ANNE'S BLOOD GAS WHICH WAS RECORDED AS BEING A PH OF 6.84. HE AGAIN STATED THIS SHOWED A SIGNIFICANT AMOUNT OF TIME, TO RECORD A PH OF 6.84. HE ALSO SAID THERE ARE VERY FEW SITUATIONS WHERE A PERSON WOULD BE ALIVE WITH A PH SUCH AS THIS ONE.

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 042

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 43

REPORT DATE: 19981202 TIME: 1440

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565

UNIT: 034

**** NARRATIVE ****

SERIAL NUMBER: 3565

INTERVIEW OF ARNIE BARAJAS

ON 12-1-98 AT 1:45 P.M., I INTERVIEWED ARNIE BARAJAS REGARDING THE LOU V E HERRON INCIDENT. MR. BARAJAS IS A FIRE PARAMEDIC CAPTAIN WITH THE PHOENIX FIRE DEPARTMENT, AND IS THE PERSON WHO COMPLETED THE E.M.S. INCIDENT REPORT ON APRIL 17, 1998.

HE BEGAN THIS INTERVIEW BY ASKING MR. BARAJAS IF HE REMEMBERED THE INCIDENT AT THE ABORTION CLINIC BACK IN APRIL. MR. BARAJAS TOLD ME HE REMEMBERED IT VERY WELL. BARAJAS WENT ON TO SAY HE KNEW AT THE TIME HE SAW THE VICTIM, SOME DAY HE WOULD BE ASKED ABOUT HER. I ASKED HIM WHY HE FELT THAT WAY. MR. BARAJAS STATED HE FIGURED THIS WAS GOING TO BE A CORONER'S CASE. HE CONTINUED BY SAYING THAT WHEN THEY ARRIVED, THE VICTIM WAS LYING ON A GURNEY AND THE SHEETS UNDERNEATH HER WERE SOAKED WITH BLOOD AND FLUIDS. BARAJAS TOLD ME IT LOOKED AS IF THE VICTIM HAD BEEN LYING THERE QUITE A WHILE, LIKE SHE HAD BEEN PUT OFF IN A CORNER AND LEFT ALONE.

MR. BARAJAS CONTINUED BY RELATING THE VICTIM WAS COMPLETELY PALE, COLD AND DEAD WHEN THEY ARRIVED. HE SAID SHE HAD NO SIGNS OF LIFE AND PROBABLY HAD BEEN DEAD A WHILE. BARAJAS ADDED THAT THE VICTIM'S BODY TEMPERATURE ALONE IS INCOMPATIBLE WITH THAT OF A LIVE PERSON.

I ASKED MR. BARAJAS WHO HE REMEMBERED SEEING THERE THAT MAY HAVE WORKED AT THE CLINIC. BARAJAS BEGAN BY SAYING HE NEVER SAW A DOCTOR, HE ONLY OBSERVED THREE OR FOUR ASSISTANTS. I THEN SHOWED MR. BARAJAS HIS REPORT AND ASKED ABOUT HIS NOTATION REGARDING A VERBAL BLOOD PRESSURE OF 90/50 AND A PULSE OF 100 AT 4:24 P.M. MR. BARAJAS TOLD ME HE WAS TOLD BY ONE OF THE EMPLOYEES THIS WAS THE VICTIM'S READING AT THAT TIME. I ASKED BARAJAS WHO HE REMEMBERED WHO TOLD HIM AND HE SAID HE BELIEVED IT WAS A SHORT MAN AND PLYALE. I THEN SHOWED MR. BARAJAS THE RECOVERY ROOM LOG, WHICH HE NOTED A BLOOD PRESSURE OF 90/50 AND A PULSE OF 100 AT 4:24 P.M. BARAJAS STATED HE DID NOT RECALL SEEING THIS LOG, BUT THIS READING WAS DEFINITELY FICTITIOUS. HE EXPLAINED THAT 4:24 IS THE SAME TIME THEY ARRIVED AT THE CLINIC. THEY TOOK HER BLOOD PRESSURE AND PULSE AND SHE HAD BEEN DEAD. BARAJAS TOLD ME THE VICTIM WAS DEAD.

MR. BARAJAS THEN SHOWED ME ON HIS REPORT WHAT THEY DID FOR THE VICTIM AND WHAT WAS NOTED. HE POINTED SHE WAS INTUBATED AND CARDIAC DRUGS WERE

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

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DR NO.: 0000 81177841 43

ADMINISTERED THROUGH THIS TUBE, BUT THE VICTIM SHOWED NO CHANGE. BARAJAS ALSO SAID WHEN HE PLACED THE TUBE IN THE VICTIM'S THROAT HE OBSERVED IT TO BE COMPLETELY PALE. HE TOLD ME THE THROAT OF A LIVE PERSON WOULD SHOW BLUE COLOR. BECAUSE OF THIS AND ALL THE OTHER FACTORS, BARAJA SAID HE FELT THE VICTIM WAS EXSANGUINATED (BLED OUT).

I ASKED BARAJAS IF HE WAS GIVEN ANY WRITTEN DOCUMENTATION REGARDING THE VICTIM'S VITAL SIGNS. HE SAID NO, BUT HE HAD LOOKED AT SOME TYPE OF LOG TO OBTAIN THE VICTIM'S NAME AND THE FACT SHE WAS AN ABORTION PATIENT.

2-2-98 1512 GIB A2955/MARGE

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

NOTICES:

END OF REPORT

DR NO: 0000 81177841 043

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 44

REPORT DATE: 19981203 TIME: 0910

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E McDOWELL ROAD #B

BEAT: 0512 GRID: 5D29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** - NARRATIVE ***

SERIAL NUMBER: 3565

INTERVIEW OF BRIAN TOBIN:

On 12-2-98 AT 4:20 PM DET. DALTON AND I MET BRIAN TOBIN AT HIS RESIDENCE. TOBIN IS A PHOENIX FIRE DEPARTMENT CAPTAIN AND WAS PRESENT AT THE A-Z ABORTION CENTER ON APRIL 17TH, 1998. CAPTAIN TOBIN HAD WRITTEN A SUPPLEMENTAL REPORT TO EYS INCIDENT #98054032. THIS SUPPLEMENT WAS FILED ON APRIL 17TH AT 2100 HRS. I OBTAINED A COPY OF THIS SUPPLEMENT ON 12-1-98 FROM THE FIRE DEPT. ADMINISTRATION BUILDING. IN REVIEWING THIS SUPPLEMENT I NOTICED CAPTAIN TOBIN HAD MADE A NOTATION REGARDING LOU ANNE HERRON'S VITAL SIGNS ON APRIL 17TH. HE INDICATED THE STAFF AT A-Z PROVIDED HIM PAPERWORK SHOWING LOU ANNE'S PULSE RATE WAS 100 AT 1624 HRS. THE STAFF ALSO VERBALLY TOLD HIM LOU ANNE'S BLOOD PRESSURE WAS 90 OVER 50 AT THAT SAME TIME. CAPTAIN TOBIN NOTED ON HIS REPORT THAT HE DOCUMENTED A VERBAL STATEMENT ON "PAPERWORK" AND INITIALED IT. IN REVIEWING THE A-Z RECOVERY ROOM LOG FROM A-Z, IT APPEARS CAPTAIN TOBIN MAY HAVE WRITTEN THE 90/50 BLOOD PRESSURE ON THIS LOG.

WHEN INTRODUCING DET. DALTON AND MYSELF I ASKED CAPTAIN TOBIN IF HE CALLED THE INCIDENT AT THE ABORTION CENTER ON APRIL 17TH. CAPTAIN TOBIN SAID HE REMEMBERED IT AND WAS SURE HE WOULD BE ASKED ABOUT IT SOMEDAY. I ASKED HIM WHY HE FELT THAT WAY AND HE TOLD US THE GIRL WAS DEAD WHEN WE ARRIVED AT THE CENTER. CAPTAIN TOBIN SAID A FEMALE AT THE CENTER TOLD HIM THAT DAY, THE PATIENT'S BLOOD PRESSURE WAS TAKEN AT 4:24 AND IT WAS 90 OVER 50. HE SAID THIS WAS "BOGUS" BECAUSE THE GIRL WAS ALREADY DEAD. CAPTAIN TOBIN STATED BECAUSE HE FELT THIS BLOOD PRESSURE WAS NOT TRUE, HE WROTE THAT READING (90/50) ON THE A-Z LOG AND PLACED HIS INITIALS NEXT TO IT. HE WENT ON TO SAY, HE WANTED TO MAKE SURE THIS WAS SOME-ONE'S INITIALS AND HE BELIEVED PUTTING IT ON THEIR LOG WAS A GOOD WAY TO SHOW THAT HE WAS TOLD.

I SHOWED CAPTAIN TOBIN THE A-Z RECOVERY ROOM LOG AND ASKED HIM IF THE 90/50 AT 4:24 WAS HIS WRITING. HE SAID THE 90/50 WAS, BUT NOT THE 4:24 OR THE PULSE READING OF 100. HE EXPLAINED THIS OTHER INFORMATION WAS ALREADY ON THE LOG; WHEN HE FILLED IN THE BLOOD PRESSURE HE HAD BEEN TOLD ABOUT. CAPTAIN TOBIN STATED HE WOULD HAVE FILLED IN THE TIME AS 1624 HRS., NOT 1624 AND HE DID NOT WRITE IN THE 100 PULSE READING.

I ASKED CAPTAIN TOBIN IF HE REMEMBERED WHAT FEMALE TOLD HIM THE VERBAL READING OF 90 OVER 50 AND HE SAID NO. HE STATED THERE WERE FOUR OR FIVE

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

DR. NO.: 0000 81177841 44

FEMALES THERE AND HE COULD NOT EVEN SAY WHAT RACE THE FEMALE WAS. HE
DID TELL US HE DID NOT SEE A DOCTOR ON THE SCENE THAT DAY.

-VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR. NO: 0000 81177841 00

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 45

REPORT DATE: 19981208 TIME: 1726

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 9014

LOCATION: 001002 E MCDOWELL ROAD #8

BEAT: 0512 GRIDE BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNITS: 034

*** NARRATIVE ***

SERIAL NUMBER: 3565

INTERVIEW OF SUSAN DEVLIN

ON 12-8-98 AT APPROXIMATELY AT 3:30 P.M., I SPOKE WITH SUSAN DEVLIN ON THE TELEPHONE ABOUT THE BLOOD GAS READING ON LOU ANNE HERRON. SUSAN DEVLIN IS A NURSE IN THE PEDIATRIC I.C.U. AT ST. JOSEPH'S HOSPITAL AND TEACHES CLASSES IN BLOOD GAS INTERPRETATION.

OLD SUSAN THE VICTIM IN MY CASE ARRIVED AT GOOD SAMARITAN EMERGENCY CLINIC AT 1640 HOURS AND HER BLOOD GAS WAS REPORTED AS BEING 6.84. SUSAN RESPONDED BY STATING, "THAT'S UGLY." I ASKED SUSAN TO TELL ME WHAT THIS BLOOD GAS MEANT. SUSAN SAID IT WOULD MEAN THE VICTIM HAD BEEN DOWN A VERY LONG TIME. SUSAN THEN EXPLAINED A NORMAL BLOOD GAS PH WOULD BE 7.35 TO 7.45. SHE EXPLAINED THAT AS LONG AS THE BODY WAS GETTING OXYGEN, FOOD AND WATER, THE NORMAL PH WOULD BE MAINTAINED BY THE RESPIRATORY AND RENAL SYSTEMS. IF ONE OF THESE SYSTEMS WOULD GO OUT THE OTHER WOULD ADJUST TO MAKE THE PH STAY IN THE 7.35 RANGE. WHEN THE BODY STOPS GETTING AIR AND LIQUID IT STARTS TO CANNIBALIZE ITSELF, MEANING IT STARTS TO GO ELSEWHERE FOR NUTRITION. THE PH THEN STARTS TO BREAK DOWN.

SUSAN TOLD ME A PH OF 7.15 WOULD BE A SIGNIFICANT DOWN TIME AND ANYTHING LOWER THAN 7.00, THEY COULD NOT LONGER WORK WITH. SHE SAID 7.15 OR 7.20 WOULD MEAN A PERSON WAS "DOWN" LONGER THAN FIFTEEN OR TWENTY MINUTES. A PH OF 6.84 WOULD BE A "HORRIBLY SIGNIFICANT DOWN TIME", AND WOULD SUGGEST THE PATIENT HAD BEEN DOWN A GOOD HOUR OR SO AT LEAST. SUSAN THEN SAID IF A PERSON WOULD BE DEAD. I ASKED SUSAN TO TELL ME WHAT SHE MEANT BY DEAD. SUSAN SAID SHE DIDN'T KNOW WHAT THIS PATIENT DIED OF, BUT SHE WOULD GUESS IT HAD SEVERE METABOLIC ACIDOSIS, WHICH IS IRREVERSIBLE. SUSAN LATER TOLD ME DOWN MEANT THE BODY NOT HAVING GOOD RESPIRATIONS OR GETTING OXYGEN TO THE BLOOD.

AT THIS POINT WE BRIEFLY DISCUSSED THAT LOU ANNE HAD BEEN AT THE ABORTION CLINIC NEAR GOOD SAMARITAN HOSPITAL. SUSAN TOLD ME SHE WAS WORKING IN GOOD SAMARITAN E.R. THE DAY THIS PATIENT WAS BROUGHT IN AND REMEMBERS THE PATIENT BEING EXTREMELY PALE.

-2-98 1781 GIB A2986/MARGE

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

DR NO.: 0000 81177841 045

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

VOICES:

END OF REPORT

DR NO: 0000 81177841 045

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 46

REPORT DATE: 19981208 TIME: 1742

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901H

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000620 W WASHINGTON ST

DATE: 120898

SEARCH WARRANT INVOLVED:

0001 PKG 000 CODE:EI UK00 STOLEN NO.: 0000

ITEM: RATAPE BRAND: MODEL: COLOR:

DESCRIPTION: ORIGINAL AUDIO TAPE RECORDING OF A PHONE

INTERVIEW WITH SUSAN DEVLIN ON 12-8-98.

*** NARRATIVE ***

SERIAL NUMBER: 3565

THIS SUPPLEMENT IS FOR IMPOUNDING PURPOSES

VICTIM RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

NOTICES: 2566450

END OF REPORT

DR NO: 0000 81177841 046

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 47

REPORT DATE: 19981230 TIME: 1011

TYPE OF REPORT: SUSPICIOUS DEATH

OFFENSE: 901A

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): CARL CARUSO

2833 UNIT: C34

*** WITNESS INFORMATION ***

WITNESS -01:

NAME: GREYEVES, CHERYL

CLOTHING DESC & MISC:

SISTER OF DERYL WHITLOCK

HOME: P.O. BOX 2123

SCOTTSDALE AZ

RES. NAME [

APT/SUITE:

ZIP CODE:

PHONE: 602 874 2541

*** NARRATIVE ***

SERIAL NUMBER: 2833

During the course of this investigation Det Stribling and myself learned that a former employee of A-Z Clinic named Deryl Whitlock had been killed in a traffic accident. I contacted the County Medical Examiners Office and confirmed Whitlock died from a traffic accident on 5/3/98. I obtained a copy of the medical examiner's report 98-01248 regarding the death.

His next of kin was listed as Cheryl Greyeyes. On 7/17/98 I spoke to Cheryl by telephone. I asked her if she was aware of any writings done by Deryl regarding the death of Lu Anne Herron. She said she has heard of writings by Deryl but never saw them. After Deryl's death she spoke to another A-Z employee named Laurelle Patterson. Laurelle told her that a set of notes written by Deryl had been mailed to her after Deryl's death. She did not know who may have mailed those notes. Cheryl said that she had not found any notes in Deryl's property and all that property has been returned.

Det Stribling later informed me that Laurelle's last name is actually McK and she had obtained Deryl's notes from the vehicle, which Deryl had been driving when she was killed.

STATIX RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

NOTICES:

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SUPPLEMENT

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DR NO.: 0000 81177841 47

END OF REPORT

DR NO: 0000 81177841 047

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 48

REPORT DATE: 19990113 TIME: 0755

TYPE OF REPORT: HOMICIDE

OFFENSE: 451

LOCATION: 001002 E MCDOWELL ROAD #8

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

REPORT DISPOSITION: CLEARED BY ARREST

OVER AGE 18: YES

REPORT STATUS AT PRESENT: CLOSED

**** SUSPECT INFORMATION ****

ARRESTED PERSON-01:

NAME: BISKIND, JOHN ISRAEL

RACE: W SEX: M AGE: 75 DOB: 010626 HT: 000 WT: 000

HAIR: EYES: SSN: 297143359

HOME: 010050 E MOUNTAIN VIEW LAKE DR APT/SUITE:
SCOTTSDALE AZ ZIP CODE:

RES. NAME [] PHONE: 602 860 8359

LEVEL OF FORCE : RESTRAINT, JOINT LOCKS, PRESSURE PTS, OR CUFFS

ARREST: DATE- 011299 TIME- 1700 DAY- TUE GRID- AA00
LOC: 010050 E MOUNTAIN VIEW LAKE DR PHOENIX AZ

ARRESTED PERSON-02:

NAME: STUART, CAROL
AKA: CAROL SCHADOFF,

RACE: W SEX: F AGE: DOB: 051137 HT: 000 WT: 000

HAIR: EYES: SSN: 155285042

HOME: 013202 N 50TH ST APT/SUITE:
PHOENIX AZ ZIP CODE:

RES. NAME [] PHONE: 602 494 7320

LEVEL OF FORCE : OFFICER PRESENCE

ARREST: DATE- 011299 TIME- 1700 DAY- TUE GRID- AA00
LOC: 013202 N 50TH ST PHOENIX AZ

**** NARRATIVE ****

SERIAL NUMBER: 3565

1-11-99 THE MARICOPA COUNTY GRAND JURY RETURNED INDICTMENTS AGAINST JOHN BISKIND AND CAROL STUART/SCHADOFF, FOR ONE COUNT EACH OF MURDER.

1-12-99 BISKIND AND STUART WERE ARRESTED BY COUNTY ATTORNEY INVESTIGATORS AND BOOKED INTO MADISON STREET JAIL.

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 49

REPORT DATE: 19990202 TIME: 1354

TYPE OF REPORT: HOMICIDE

OFFENSE: 451

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): MARK STRIBLING

3565 UNIT: C34

SERIAL NUMBER: 3565

**** NARRATIVE ****

PHOTOS OF A-Z WOMEN'S CENTER
=====

EVIDENCE TECHNICIAN: P.J. MCCABE #A3815
TOOK PHOTOS AT SCENE

PRESENT:
PAUL AHLER/CHIEF DEPUTY COUNTY ATTORNEY
TIM RYAN/DEPUTY COUNTY ATTORNEY
LARRY MARTINSEN/COUNTY ATTORNEY INVESTIGATOR
MARK STRIBLING/PHOENIX POLICE DETECTIVE

=====

ON 1-28-99 I MADE ARRANGEMENTS TO MEET HERB DREISESZUN AT THE A-Z WOMEN'S CENTER. MR. DREISESZUN IS THE LANDLORD FOR THIS PROPERTY AND HE AGREED TO LET THE LISTED PARTIES VIEW THIS OFFICE AND FOR PHOTOS TO BE TAKEN OF THE INTERIOR AND THE EXTERIOR. I MET EVIDENCE TECH P.J. MCCABE AT 8:15 AM AND DIRECTED HER IN THE TAKING OF PHOTOGRAPHS. THESE PHOTOGRAPHS INCLUDED THE EXTERIOR OF THE BUILDING, THE SURROUNDING AREAS NEAR THE BUILDING AND THE OUTSIDE OF GOOD SAMARITAN E.R. AT 1111 E. MCDOWELL RD.

AT 9:30 AM MR. DREISESZUN OPENED THE A-Z OFFICE AND THE LISTED INDIVIDUALS VIEWED THE INTERIOR. I ALSO HAD P.J. MCCABE PHOTOGRAPH THE INSIDE OF THE BUILDING. PRIOR TO ANYONE ENTERING THE OFFICE, I ASKED MR. DREISESZUN IF ANYONE HAD MOVED OUT OF THE OFFICE OR IF THEY HAD ANY TIME LEFT ON THEIR LEASE. HE TOLD ME THE LEASE WAS UP AND THEY HAD MOVED OUT.

WHILE VIEWING THE INTERIOR I OBSERVED IT TO BE THE SAME LAYOUT THAT I HAD PREVIOUSLY RECEIVED FROM MR. DREISESZUN. (SUPPLEMENT #15/DIAGRAM) THE ONLY DIFFERENCE WE WERE UNABLE TO ACCESS WAS CAROL STUART'S OFFICE WHICH WAS LOCKED. CAROL STUART IS THE SAME OFFICE CAROL STUART CAME OUT OF THE DAY I SERVED A GRAND JUROR SUBPOENA AT A-Z. (SUPPLEMENT #11)

AFTER PHOTOGRAPHS WERE TAKEN, I LOCKED THE DOOR AND LATER RETURNED THE KEY TO MR. DREISESZUN.

DATE RECEIVED RIGHTS INFORMATION: NO

MAIL-IN SUPPLEMENT:

COPIES:

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 2

DR NO.: 0000 81177841 49

END OF REPORT

DR NO: 0000 81177841 049

PHOENIX POLICE DEPARTMENT REPORT

SUPPLEMENT

PAGE NO. 1

DR NO.: 0000 81177841 50

REPORT DATE: 19990203 TIME: 0830

TYPE OF REPORT: HOMICIDE

OFFENSE: 451

LOCATION: 001002 E MCDOWELL ROAD #B

BEAT: 0512 GRID: BD29

REPORTING OFFICER(S): PAMELA MCCABE

A3815 UNIT: LAB

*** PROPERTY/EVIDENCE ***

RECOVERY LOCATION: 000000
DATE: 000000

SEARCH WARRANT INVOLVED:

01 PKG 001 CODE: EI UK00 STOLEN NO.: 0000
ITEMS: IPHOTO BRAND: MODEL:
DESCRIPTION: 104 NEGATIVES, 2 ROLLS.

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END OF REPORT

DR NO: 0000 81177841 050

- 1 Q. Do you and June have children?
- 2 A. Yes, we do.
- 3 Q. How many?
- 4 A. Three.
- 5 Q. How old are they?
- 6 A. 49, 47 and 45.
- 7 Q. How old are you, John?
- 8 A. I am sorry, pardon me?
- 9 Q. How old are you?
- 10 A. I was just 75. Just turned 75.
- 11 Q. John, do you have an educational background?
- 12 A. Yes, I do.
- 13 Q. Did you go to college?
- 14 A. Yes.
- 15 Q. Where did you go to college?
- 16 A. Case Western Reserve University, Cleveland,
- 17 Ohio.
- 18 Q. When did you graduate Case Western
- 19 University?
- 20 A. I believe 1948.
- 21 Q. And did you have any particular major that
- 22 you can recall back then?
- 23 A. I was pre-med.
- 24 Q. Pre-med. Did you follow that up?
- 25 A. Yes, I did.

1 A. Yes.

2 Q. What kind?

3 A. I was trained in, specialized in obstetrics/
4 gynecology.

5 Q. How long did you practice in the area of
6 obstetrics/gynecology, sir?

7 A. Until 1998.

8 Q. Now, at a certain point in time you began
9 employment with A-Z Women's Center?

10 A. That's correct.

11 Q. Do you recall exactly when that was?

12 A. No, but it was in late 1980's.

13 Q. Late 1980's. You are hired at the Center for
14 the purpose of what?

15 A. Performing abortions.

16 Q. Now, had you moved from -- I mean, presuming
17 that's when you were in your practice, you practiced
18 where?

19 A. My practice was in Cleveland, Ohio.

20 Q. At some point in time do you move to the
21 Phoenix area?

22 A. On a temporary basis, part-time basis.

23 Q. Part-time basis. Was your employment at A-Z
24 in relation to your living relationships?

25 A. I am sorry, I don't understand the question.

1 Q. Did you work at A-Z 12 months a year?

2 A. No, I did not.

3 Q. How frequently did you work at A-Z?

4 A. During the winter, which was, at that time,
5 January through the end of March or early April, I worked
6 there on an average three out of four weeks, three days a
7 week.

8 Q. Three out of four weeks?

9 A. For --

10 Q. Three days a week?

11 A. Usually a period of time during the winter,
12 maybe two weeks, sometimes three weeks, that I didn't
13 work at all.

14 Q. Okay. And did that ever expand into the
15 spring and summer months?

16 A. Yes, during the spring and summer and fall.
17 I came from Cleveland to Phoenix an average of once every
18 three to four weeks for a period of two to three days.

19 Q. And you were hired to do what at the A-Z
20 Women's Center?

21 A. Do abortion procedures.

22 Q. Now, the kind of procedures at A-Z -- you
23 began work in the late 80's there?

24 A. Yes.

25 Q. Was your employment continuous from the late

1 80's to 1998 at A-Z?

2 A. There was a period of one year when I don't
3 believe I worked for almost an entire year, in the early
4 90's.

5 Q. Okay. Excuse me, and what kind of
6 procedures, abortion procedures, would you conduct at
7 A-Z?

8 A. When I first began to work there I was doing
9 first trimester procedures, and occasionally doing some
10 procedures that were probably 14 or 15 weeks.

11 Q. What methodology were you using?

12 A. Well, primarily suction curettage for first
13 trimester. For second trimester cases we inserted
14 laminaria for dilation to begin with, and then a suction
15 plus possibly D and E if necessary.

16 Q. Would the first -- for the abbreviated
17 methodology named for the first trimester, are we talking
18 D and C?

19 A. Suction D and C.

20 Q. Was that pretty much the way described?

21 A. Yes, suction D and C pretty much the way
22 described.

23 Q. Now, from 1998, or was there a time when you
24 began doing more second trimester abortions?

25 A. Yes.

1 Q. When was that?

2 A. To the best of my recollection, it was
3 probably 1992, '93, somewhere in that general area.

4 Q. You go along with first trimesters?

5 A. That's correct.

6 Q. During 1998, were you present in Phoenix
7 working every week at A-Z?

8 A. Pretty much so.

9 Q. In that regard, were you working more than
10 three days a week?

11 A. No.

12 Q. Did you work at different facilities for A-Z?
13 We have heard there were three. Did you work primarily
14 at one?

15 A. I was working primarily at the McDowell 10th
16 Street facility. On a rare occasion, might have been
17 once or twice a year at the most, I would fill in for
18 somebody on vacation at one of the other facilities.

19 Q. We've heard during this trial that
20 Miss Herron first came into the A-Z Women's Center, I
21 guess we have thrown out a couple of different days,
22 April 7th and April 9th of 1998. Were you in Phoenix on
23 either of those dates, sir?

24 A. No, I was not.

25 Q. Was that one of your weeks where you were

1 located someplace else?

2 A. I had to go back to Cleveland for that week.

3 Q. So, you were not in town?

4 A. No, I was not.

5 Q. What was your first knowledge of
6 Miss Herron's case?

7 A. My first knowledge was on the morning of the
8 16th when I came into work at the Phoenix center.

9 Q. How were you apprised of Miss Herron, the
10 fact that she was going to present for abortion procedure
11 that day?

12 A. I came in to work and I changed, went into
13 the operating room, which was my usual practice, and
14 Michelle Price and Carol were there. They said we need
15 to tell you about two people. And one was a patient who
16 had twins and was about 20 weeks pregnant, and the other
17 was LouAnne Herron. And I was told that we are not sure
18 of the gestational age. We don't know the basis of her
19 gestational age at this point, we need to find it out.
20 And I said, fine. That was the end of that right there.

21 Q. All right. Did you have a conversation with
22 Michelle Price in reference proceeding to determine
23 gestational age?

24 A. Yes.

25 Q. Of what was that conversation, sir?

1 A. The conversation, basically that was the
2 basis, was determining the gestational age, and there was
3 some basis to think that she could be over the 24-week
4 limit that we did, that she needed to have ultrasound
5 done. And when I heard this, I merely said to Michelle,
6 I said, Michelle, when you do the ultrasound, be sure
7 that you get the "X", the calipers on the machine, put
8 out on the right location, that's all.

9 Q. Did you ever direct Michelle Price to do
10 anything with a purpose to make the image either larger
11 or smaller?

12 A. Absolutely not.

13 Q. Dr. Biskind, with respect to Miss Herron's --
14 well, with respect to what you were -- the conversation
15 with Miss Price --

16 A. Excuse me, Mr. Kazan, I didn't get the whole
17 sentence. Start again.

18 Q. I didn't get it all out.

19 With respect to this conversation you had
20 with Miss Price, were you provided with her chart at that
21 time?

22 A. I think that the chart was there, yes.

23 Q. In reviewing the chart, did it contain any
24 ultrasound that had previously been conducted?

25 A. Not that I am aware.

1 Q. Were you given any ultrasounds that were
2 previously conducted?

3 A. No, I was not.

4 Q. Tell me, when Michelle -- did Michelle Price
5 conduct ultrasounds?

6 A. Later that morning she apprised me of the
7 fact that she completed the ultrasound.

8 Q. Had you seen Miss Herron up to this point?

9 A. I had examined Mrs. Herron and determined,
10 made my clinical evaluation at that time.

11 Q. And that examination would consist of what,
12 sir?

13 A. Looking at the patient's last menstrual,
14 doing what we call bimanual examination, which has been
15 explained before, hand in the vagina, hand in the vagina,
16 hand on the abdomen, feeling the size of the uterus.

17 Q. Did you review other information in her file
18 at that time concerning, I mean vitals taken from her,
19 what not, at that time?

20 A. Yes, entire chart was looked at.

21 Q. Had blood work been done?

22 A. I don't recall. I really don't remember.

23 Q. Okay. Anyway, you had already made a
24 physical assessment of Miss Herron.

25 Did Miss Price bring into you the results of

1 her ultrasound examination?

2 A. Yes, she did. She brought in the ultrasound.

3 Q. How many ultrasounds?

4 A. I believe there was three at the time.

5 Q. Did you review those?

6 A. I looked at them, yes.

7 Q. Now, how long, approximately, at that time,
8 did you know Miss Price?

9 A. Off and on for a period of at least two
10 years, maybe closer to three.

11 Q. Were you aware of Miss Price's duties at the
12 A-Z Women's Center?

13 A. Yes, I was.

14 Q. Was one of those duties to perform ultrasound
15 evaluations?

16 A. Yes, it was.

17 Q. Did she perform ultrasound evaluations for
18 you?

19 A. For all the doctors.

20 Q. For the others?

21 A. Yes.

22 Q. Who were the other doctors?

23 A. Dr. Affan, Dr. Hachemovitch, in periodically,
24 Dr. Yunis was another doctor who came in. There were
25 other doctors who had worked there off and on.

1 Dr. Finkel worked there in the past; Dr. Tamis worked in
2 the past, et cetera.

3 Q. When Miss Price presented these ultrasounds
4 to you, what did you do?

5 A. I looked at them.

6 Q. What did you think?

7 A. I felt they all looked pretty good. I handed
8 them back to her. I said we can go ahead. That was the
9 end of it.

10 Q. You had met Miss Herron before this?

11 A. Yes..

12 Q. Now, when you met with Miss Herron, did you
13 have a, I guess a routine? I would not say that -- with
14 Miss Herron, did you go through, for example, informed
15 consent type issues?

16 A. Yes, I did.

17 Q. Now, I remembered hearing something in this
18 letter that has been referenced that you wrote to
19 B.O.M.E.X concerning different matters. One I wanted to
20 address with you in your letter, it indicates that you
21 specifically had Miss Herron sign an informed consent
22 form after you had a discussion about this?

23 A. Yes, that was my recollection when I wrote
24 the letter.

25 Q. In fact, did that happen?

1 A. In fact, it did not happen, no.

2 Q. When did Miss Herron actually sign the
3 informed consent form?

4 A. Retrospectively, the date was listed as the
5 9th of April, I believe.

6 Q. Regarding -- and was it your habit at the
7 center to go through informed consent with patients all
8 the time?

9 A. No.

10 Q. Who did that at the center?

11 A. One of the counselors.

12 Q. And would they sign the form with the
13 patient?

14 A. They would witness it, yes.

15 Q. At a later time when you had contact, for
16 example, with Miss Herron, would you enter into any kind
17 of discussion concerning informed consent?

18 A. Went over the major complications with her.

19 Q. Explain to her what the risks were?

20 A. Yes.

21 Q. Would uterus perforation be one of those
22 risks?

23 A. Yes, it was.

24 Q. Hemorrhage?

25 A. Hemorrhage, infection.

1 Q. Did Miss Herron ever indicate to you for a
2 second that she was unsure of the position that she
3 wanted to take with respect to this termination?

4 A. No.

5 Q. After that -- by the way, did you make a
6 clinical assessment, I guess, after having done your
7 evaluation and reviewed the ultrasounds of Miss Price,
8 did you make any kind of clinical assessment concerning
9 Miss Herron's gestational age?

10 A. Yes, I did.

11 Q. What was that?

12 A. I felt that she was under the 24-week limit.

13 Q. The limit, when you say 24 weeks, was that
14 something that was what?

15 A. I am sorry, I don't understand.

16 Q. You mentioned a 24-week limit. Was there a
17 policy at the center?

18 A. Yes.

19 Q. What was that policy?

20 A. That we did them up to 24 weeks.

21 Q. Did you place any greater weight on the
22 ultrasound, for example, other than your pelvic
23 examination or LMP?

24 A. I used all modalities to make my assessment.

25 Q. Now, how was it -- you eventually -- I mean,

1 were you done with Miss Herron for the day at that point?

2 A. Are you referring to the time that we put the
3 laminaria in?

4 Q. Well, we haven't gotten to that yet.

5 A. Okay.

6 Q. After you met with her, conducted the LMP and
7 the pelvic examination.

8 A. Well, right ahead put in the laminaria.

9 Q. You did that all right then and there?

10 A. Yes.

11 Q. There would be something that -- did you do
12 that in the morning or afternoon?

13 A. I really don't know. I'd have to look at the
14 records.

15 Q. And during the laminaria insertion, was there
16 anything unusual about that procedure that made you think
17 something special about Miss Herron?

18 A. None whatsoever.

19 Q. You put 15 laminaria in Miss Herron?

20 A. Correct.

21 Q. Was that an unusual number of laminaria to
22 insert?

23 A. No.

24 Q. What would that, I guess determine how many
25 laminaria you would insert?

1 case?

2 A. That's correct.

3 Q. She was brought in at approximately 12:32?

4 A. I believe so.

5 Q. That's off of her operating room chart?

6 A. I believe that's the correct time.

7 Q. How do you do the charting, sir?

8 A. We had a log sheet which was on a clipboard.

9 That clipboard was kept on a desk, which was the desk
10 that I used for writing on, put patients' charts when
11 they first came in the room, and it was there until the
12 entire procedure was completed.

13 The desk was in the corner of the operating
14 room, was adjacent to the room where the instruments were
15 cleaned. The desk would have been over --

16 Q. Somewhere in this area?

17 A. Right where your pen is now, was right in
18 that corner.

19 Q. Over here?

20 A. Yes.

21 Q. This was where the patient's paperwork would
22 be kept?

23 A. That's correct.

24 Q. And the O.R. log?

25 A. Yes, excuse me.

1 Q. And when you -- for example, if the O.R. log,
2 it says I think 12:32 for Miss Herron's procedure. When
3 would you have made that note?

4 A. When she came into the operating room. In
5 other words, she walked, walked through the door, and I
6 looked at the clock and I recorded it on the log sheet.

7 Q. And then what would be done with Miss Herron
8 after you would record that on the log sheet?

9 A. Usually she came in with, accompanied by one
10 of the medical assistants. If she didn't, she would be
11 met by one of the medical assistants when she walked in
12 the room, directed to come over to the end of the
13 operating table, and we had a small stand, foot stand,
14 foot stool that the patient stepped on and sat up on the
15 end of the table at that point. The medical assistant
16 then positioned the patient and draped the patient at
17 that time.

18 Q. Ordinarily, as a matter of fact, how long
19 would something like that take?

20 A. From the time they walked into the room until
21 positioned?

22 Q. Yes, sir.

23 A. Probably two or three minutes at the most.

24 Q. Did you have conversations with the patient
25 as they walked in?

1 A. Yes, I did.

2 Q. What did you talk about?

3 A. I would ask, hello, how are you? How was
4 your night last night? Any sign of water breaking,
5 leaking, bleeding, any discomfort during the night? Just
6 general to get some idea what was going on with them.

7 Q. Did you ask them if they had breakfast?

8 A. That would be a little later. But I do that,
9 yes.

10 Q. Did you ask Miss Herron what she would have
11 had for breakfast?

12 A. I don't recall specifically. I did it with
13 everybody. I am sure I did.

14 Q. Was there a reason you would ask that
15 question?

16 A. Yes, there was. You like to know the reason?

17 Q. What was that reason?

18 A. Because we did not want patients to be given
19 any analgesia, or have the procedure done if she had
20 eaten within the last eight hours, and that was the
21 reason for the prevention of aspiration of food.

22 Q. Because, as in Miss Herron's case, did you
23 give analgesic?

24 A. Yes, we did.

25 Q. How was that done?

1 A. Once she was positioned on the table and we
2 had gone through the routine that we just talked about, I
3 put a tourniquet on. At the time I was doing this, this
4 was something that I didn't always do, but I did it in
5 this case.

6 Q. You put on a tourniquet?

7 A. Put on a tourniquet, waited for the vein to
8 fill up. Looked for the vein. I don't recall whether I
9 had any problems or not. Sometimes we do, and we have
10 for second trimester patients, primarily solution of
11 Ringer's Lactate that was plugged in, so to speak, and
12 once I was certain that the I.V. was running smoothly
13 without any problems, as far as no infiltration, we then,
14 not I, we gave the patient her medications.

15 Q. How do you do that?

16 A. The medications are previously drawn up in
17 syringes, and we have three different medications that we
18 use.

19 Q. Were there three different syringes?

20 A. Three different syringes.

21 Q. What were the medications?

22 A. Demerol, Valium, Compazine.

23 Q. And who would draw the medications?

24 A. Usually the nurse when they came in first
25 thing in the morning.

1 Q. And that would be there, for example, when
2 you were sitting there, a whole bunch of syringes ready
3 to go for the day?

4 A. There was a stand in the operating room that
5 would have been right next, adjacent to where my desk is.
6 There was a wall, there is a wall with a stand. That
7 stand contained all kinds of that equipment that we might
8 use from time to time. But on the top shelf there were
9 baskets, plastic baskets. Each basket contained one
10 particular drug already drawn up in syringe, the Demerol,
11 Valium, Compazine. They were color coded so you wouldn't
12 be confused as to what you had and so forth.

13 Q. You rely on the nurse to draw the appropriate
14 amounts?

15 A. That's correct.

16 Q. So, you had syringes. What do you do with
17 the syringes? Do you stick them in Miss Herron's arm?

18 A. The attachment from the I.V. solution tubing
19 has a small rubber end that is attached to the plastic
20 tube, plus the tube that goes into the bell valve or the
21 end of the needle. And commonly when you give an I.V.
22 solution, you give I.V. medication into an existing I.V.
23 solution that's running. You would put the needle
24 through the rubber portion and draw back a little bit
25 just to be sure that you are in the stream and see some

1 of the fluid come back, then push your syringe in, the
2 interior solution.

3 Not immediately -- push, is a poor term.

4 Push, means just pushing on the end of a syringe, letting
5 it all go in, one, two, three. You really do this on a
6 gradual basis. You don't do it just one, two, three.

7 So, one after another was then given to the
8 patient.

9 Q. Okay. Now, do those drugs take effect
10 immediately?

11 A. Depends on the circulation time. From the
12 time the body receives the fluid, has to go through the
13 venous system and heart and takes a little bit of time.

14 Q. Do you wait for -- do you wait, in terms of
15 Miss Herron's situation, to proceed with your, with your
16 operation?

17 A. Yes, I did.

18 Q. Is there any set amount of time?

19 A. No, you have to judge this on the basis of
20 how the patient responds, whether they're falling asleep.
21 Sometimes they do very quickly, or when their eyes are
22 moving, rolling, something that would indicate to you
23 having some effect from the medication.

24 Q. Now, in Miss Herron's situation, did the
25 medication have any kind of effect on her?

1 A. Yes, it did.

2 Q. What did it do in terms of Miss Herron's
3 reaction?

4 A. Miss Herron became a little bit agitated.
5 She became very weepy and she started rambling about
6 things, and reaction in a sense we consider to be
7 decerebrate.

8 Q. What does that mean?

9 A. It's the reaction that a person has when, for
10 instance, they have a couple of alcoholic beverages and
11 they start loosening their tongue. They become a little
12 bit free in what they are saying and lose inhibitions,
13 reactions like that.

14 Q. Does that happen sometimes?

15 A. Yes, it does.

16 Q. Did you make any -- first of all, while you
17 were doing or noticing that, did you make notes of that
18 particular --

19 A. No, I don't.

20 Q. Does that tell you anything in particular
21 about this patient?

22 A. I had a strong suspicion, from doing this
23 with many patients over the years, that I had to be very
24 suspicious that she was having some form, either reaction
25 that is not usually seen, or sometimes when you have a

1 person who uses narcotics, they can react in this manner
2 too. So, there were things that were on my mind at that
3 time, and that was all there was. I just tucked it away,
4 said we'll keep an eye here.

5 Q. Did she appear to be under in terms of
6 medication?

7 A. Not really. She was relaxed. She continued
8 to talk. In fact, she talked in a fashion that was in --
9 she related some things that I, at that time, hadn't
10 known anything. One was an automobile accident. She was
11 becoming very -- she described how her husband had
12 cleaned out their bank account, taken all her money, and
13 left her with these two children to support. She was
14 very, very apprehensive, anxious. She was not moving
15 around or was not doing anything at that point to
16 interfere with the procedure.

17 Q. Sometimes we have heard something referred
18 to -- one of the other doctors during the trial that
19 testified, they call it the truth serum?

20 A. Yes, you could have that reaction, yes.

21 Q. Is that kind -- is that her kind of reaction?

22 A. Well, we were not asking for questions. This
23 was all very spontaneous from her. In fact, we often
24 would caution the assistants at times not to ask the
25 patient questions, not to talk to them because the more

1 person who uses narcotics, they can react in this manner
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23 was all very spontaneous from her. In fact, we often
24 would caution the assistants at times not to ask the
25 patient questions, not to talk to them because the more

1 you do that, the more active they become. You don't get
2 the full effect from the medication.

3 Q. Okay. But you felt at some point in time --
4 did you feel safe to proceed with the --

5 A. Yes.

6 Q. -- procedure on Miss Herron?

7 A. Yes.

8 Q. Who was assisting you in surgery that day?

9 A. Jenil Begay and Sylvia Aragon.

10 Q. And Jenil Begay was who?

11 A. She was a medical assistant.

12 Q. How long did you know Jenil?

13 A. Well, I knew Jenil for probably two or three
14 years. I am not quite certain. Fairly long period of
15 time.

16 Q. Did you have an opinion concerning her
17 capability?

18 A. I knew her to be very capable.

19 Q. Who else was with you, Sylvia Aragon?

20 A. Sylvia Aragon.

21 Q. Miss Aragon seemed to think she assisted you
22 in surgery quite often in the year and a half that she
23 worked for A-Z. Was that accurate, sir?

24 A. No, it was not.

25 Q. How often was it that Miss Aragon assisted

1 you in surgery?

2 A. Review of my records of the operating room
3 logs showed her to have been in the operating room six
4 times in the year I checked, and two other times when she
5 was with two other assistants.

6 Q. Now, did a medical assistant in surgery, for
7 example, like Miss Aragon, what would she do in surgery
8 with you?

9 A. Primary purpose of a medical assistant was to
10 get me any instruments that I did not have at my disposal
11 on the prepackaged tray that we start with, to give any
12 medications that I deemed necessary while we were doing
13 the procedure, and primarily to comfort the patient. To
14 be careful. To be watchful that the patient didn't do
15 anything as far as sudden movement, or if she were to
16 have a coughing spell, to assist her in whatever way she
17 could.

18 Q. Where would the medical assistant be
19 positioned in relation to you and the patient in the
20 operating room?

21 A. Usually at the -- along one side of the
22 operating room at about the level of the patient's waist.

23 Q. And you would be positioned...

24 A. At the foot of the table.

25 Q. Now, Miss Aragon seemed to indicate that --

1 equipment they need is there on the portion of the
2 machine which would hold it, and then physically push the
3 machine from that room through the hallway to the other
4 rooms, through the doorways, and into the operating room.

5 Q. Then reset up?

6 A. Reset up, yes.

7 Q. Then you used it?

8 A. Correct.

9 Q. How do you use it?

10 A. The abdomen. Patient is -- an application of
11 a gel is put on the patient's abdomen, and the --

12 Q. I want to know, were you using it?

13 A. I was not using the machine myself, no.

14 I was watching. The screen is turned so I
15 could see it sitting in my position that I am in, and we
16 try to stay sterile through the whole procedure, and the
17 transducer is put on the abdomen.

18 I watch, look for, say no, I can't see it, or
19 yes, I could, hold it right there. Or it's a little bit
20 of a combination of trying to direct the patient and who
21 is doing it; they can't see the screen. Usually it's
22 very difficult. The screen is very small. It's hard to
23 view from the angle that they are standing.

24 Q. Did that account for some period -- the need
25 to use the ultrasound instrumentation, did that account

1 for a period of delay during the procedure?

2 A. Yes, it took extra time.

3 Q. Can you tell us how much time it took?

4 A. I would estimate that it would take, it did
5 take at least five minutes for that machine to be brought
6 up and might have been even longer. And until we got
7 things settled, I would say, estimate at least another
8 five minutes. I would say a minimum of ten minutes,
9 possibly longer time.

10 Q. After the procedure was over, did you have a
11 sense that you had injured Miss Herron in any particular
12 way?

13 A. Not at all.

14 Q. Now, we've seen that there was a delay
15 between the time the procedure was completed and the time
16 Miss Herron entered into the recovery room?

17 A. That is correct.

18 Q. What happened there?

19 A. After I finished my procedure, just about
20 that time, the recovery room people would have brought a
21 gurney in from the recovery room. I went over to chart
22 whatever I would put on the chart.

23 Q. You would have gone back to the desk?

24 A. Yes, sir.

25 Q. You would have looked at the clock?

1 Q. Let me ask you a question. In Miss Herron's
2 case, the I.V., are we talking about the I.V. that you
3 had started prior, that had been started prior to the
4 time the procedure began?

5 A. That's correct.

6 THE COURT: Please turn that off. Take it
7 outside.

8 Q. (BY MR. KAZAN:) So, this was already in
9 place?

10 A. Yes.

11 Q. When the procedure was over with Miss Herron,
12 were you starting a new I.V. for her?

13 A. Well, we would have started another I.V. when
14 this one was finished. I don't recall exactly how many
15 was still in there, but we restarted, I restarted that
16 I.V.

17 Q. How do you restart that I.V.?

18 A. Same way I started in the first place. I
19 took out the old I.V., put a bandage over the site, put a
20 tourniquet back on the arm it was in, looked for the
21 vein, cleansed the skin with alcohol, put in a new
22 needle, started the I.V. over again.

23 Q. And that was done -- once that was done, was
24 she in the recovery room or brought back in the operating
25 room to do that? Did she ever actually leave the

1 operating room?

2 A. She never left the operating room. She was
3 still in there. There was a definite delay getting
4 whatever equipment. For some reason we did not have, at
5 that time, the equipment. So, I had to wait for the
6 assistant to get whatever it was I needed.

7 Q. Do you remember what equipment?

8 A. It had something to do with the I.V. tube or
9 needle or whatever equipment. We were delayed. Somebody
10 couldn't find what I needed.

11 Q. Now, at that point -- so I guess up until the
12 time she is actually moved into the recovery room, were
13 you with her?

14 A. Yes, I was.

15 Q. And she's laying on what kind of set-up?

16 A. Well, this is a gurney, or a cart with
17 wheels, and the patients have a -- there is a mattress on
18 it. It's made out of metal, and there is like a seat
19 belt strapped around the patient so they cannot fall off
20 if they roll over on one side or the other.

21 Q. Transferred from the operating table to the
22 gurney?

23 A. Correct.

24 Q. Still in the operating room?

25 A. Correct.

1 Q. And is she -- you said a mattress, is there
2 anything on top of the mattress?

3 A. A sheet.

4 Q. Anything on top of the sheet?

5 A. There is a Chux usually under the patient.
6 That's already on top of the sheet, and the patient is
7 then rolled up on to that.

8 Q. Now, as you were with Miss Herron -- I mean,
9 did you find when you have completed this procedure, was
10 she bleeding unusually?

11 A. Not that I am aware of.

12 Q. You didn't see it?

13 A. No, I did not see any bleeding.

14 Q. And she was put onto the gurney, you were
15 waiting for her tube to restart the I.V., then move her
16 into the recovery room. Did you notice any unusual
17 bleeding on the Chux pad?

18 A. No.

19 Q. Did you eventually get the I.V. started?

20 A. Yes, I did.

21 Q. Was she eventually transported to the
22 recovery room?

23 A. Yes.

24 Q. I want to ask you some questions about some
25 of the records.

1 We had another patient by the name of Heather
2 Page. I am showing you Exhibit No. 7, sir. Tell the
3 jury to remind them what Exhibit 7 is.

4 A. This is the operating room log for the 17th
5 of April, 1998.

6 Q. And what happened in terms of with Miss Page?
7 You've written down a begin time of her procedure at
8 what?

9 A. 1:17.

10 Q. Well, now, Miss Herron was still there?

11 A. No.

12 Q. Miss Herron was already gone?

13 A. That's correct.

14 Q. Miss Herron was in the recovery room?

15 A. That's correct.

16 Q. So, she was in the recovery before 1:30?

17 A. That's correct.

18 Q. So, it would be your recollection and
19 testimony that whoever wrote on the recovery room chart
20 that Miss Herron was there at 1:30, would not be
21 accurate?

22 A. That's right.

23 Q. Would you bring in, for example, Miss Page if
24 Miss Herron was still present?

25 A. No, I would not.

1 Q. Why not?

2 A. Well, as a privacy matter for number one, and
3 it's just not done.

4 Q. Okay. And when you wrote 1:17, did you write
5 1:17?

6 A. Yes, I did.

7 Q. When you wrote that, what did that reflect?

8 A. That was the time she walked through the
9 door.

10 Q. Now looking at Miss Herron, excuse me,
11 Miss Page's records, which have been admitted, they are
12 Exhibit 4. Can you tell me, you made a special note
13 concerning an adjustment in time on her record. What was
14 that about, sir?

15 A. Yes. Just at the time she walked through the
16 door, someone, one of the medical assistants, came into
17 the operating room and said lunch had been ordered, is
18 here now, and can we take a break. And I said, sure,
19 because at that time Miss Page had not been put onto the
20 operating table, nothing happened. So, subsequently
21 after we had finished our lunch, Miss Page was brought
22 back to the operating room. I didn't want to cross that
23 off. We don't do things like that, and so I made a note.

24 Q. What do you mean, you don't do things like
25 that?

1 A. I guess you call it redaction or something of
2 that nature.

3 Q. Okay.

4 A. But so I put an asterisk and wrote procedure
5 began at 1:50. And the asterisk was then put on the
6 operating room log after the time 1:09, which is the time
7 that, it's actually at that point, but it should have
8 been a little lower.

9 Q. Dr. Biskind, let me draw your attention to
10 the television screen. Let me -- this is Miss Page's
11 procedure time entered O.R., is 1:00...

12 A. 1:50.

13 Q. Well, it's 1:17 up on the top, the asterisk
14 that you are talking about?

15 A. Is right below that line.

16 Q. So, it says...

17 A. Procedure began at 1:50.

18 Q. Let me have this one. You tied that asterisk
19 into -- let me reduce this so we can see it all on one
20 page.

21 A. Appears that I got a little off the mark, but
22 it was meant to be after Heather Page's time, which says
23 1:10, then 2:05.

24 Q. You also, at the time, and zoom in, we have
25 who is the first patient, can you see that from where you

1 If I think there is any more there, you can't
2 see it, it's cut off, but to allow the uterus to push the
3 presenting parts into the vagina or into the cervix.
4 This was, in effect, trying to induce her labor at that
5 point.

6 Q. So, that's why her procedure was completed
7 that morning?

8 A. That's correct.

9 Q. After her procedure wasn't completed that
10 morning, and you put her on the Pitocin, where was she
11 placed, sir?

12 A. She was taken to the recovery room.

13 Q. She was kept there for how long?

14 A. I believe she left around four o'clock in the
15 afternoon.

16 Q. Now, on the cover of Miss S.'s page, we have
17 got -- you know what those numbers stand for, don't you?

18 A. The one circle?

19 Q. Yes.

20 A. The 18 and the 25?

21 Q. Yes.

22 A. Those are the number of laminaria. Beginning
23 the first day she had 18 laminaria put in. The second
24 day she had 25 put in.

25 Q. And did you make a special note concerning

1 what you did with respect to those laminaria?

2 A. On line, line 8, I believe it is, start of
3 13:15 p.m. taken to the O.R. and 25 laminaria inserted,
4 to begin Cephalexin, 500 milligrams, 100 gram stat, which
5 means immediately, then one T.I.G., which means four
6 times a day for ten days; that's on antibiotic.

7 Q. How did you make the determination that you
8 made to relam her?

9 A. When the patient was still in the recovery
10 room, I did a bimanual examination in the recovery room,
11 found that the cervix had not dilated, and the presenting
12 part of the fetus was not felt in the cervix.

13 Q. What time was that?

14 A. That was right around 3:15.

15 Q. You would have been in the recovery room at
16 3:15?

17 A. Yes.

18 Q. Then your final note on this chart would be,
19 let me zoom in on that again.

20 A. Double asterisk, then says relam'd at 3:30
21 p.m. and the date 4-17-98.

22 Q. Now, you have your break for lunch, I think
23 before I got into this utilized explanation for those
24 records. You were telling us that you broke for lunch.
25 What was done with Miss Page?

1 A. She remained in the waiting area, patient
2 waiting area.

3 Q. And you had lunch from approximately what
4 time until what time?

5 A. I was actually eating lunch over a period of
6 probably five minutes.

7 Q. What were you doing?

8 A. I went into the reception area, which was
9 where the food was. I had a cheeseburger from
10 McDonald's. Took me approximately two minutes to eat a
11 cheeseburger, which was about as much as I ever ate for
12 lunch.

13 Q. At some point in time, did somebody come and
14 say something to you concerning Miss Herron and bleeding?

15 A. That's correct.

16 Q. What happened?

17 A. I must have been on the last bite of my
18 hamburger, cheeseburger. Miss Lopez came in and said
19 that I needed to come into the recovery room to see a
20 patient who was bleeding, and that was how I was
21 notified.

22 Q. Did you?

23 A. Yes, I did.

24 Q. What do you go and find?

25 A. Well, I went into the recovery room. I find

1 LouAnne Herron, who was on the bed, or gurney, whatever
2 you want to call it, and --

3 Q. Was there bleeding?

4 A. Yes, there was.

5 Q. Did you make an estimate, excuse me, about
6 how much of that bleeding there was?

7 A. Yes, I did.

8 Q. What estimate did you make?

9 A. My estimate was about 100 cc's of blood.

10 Q. Why did you think about 100 cc's?

11 A. I have been doing this for a long, long time.

12 You have to make some form of a judgment, that was my
13 decision.

14 Q. You just thought that's right?

15 A. Yes.

16 Q. Did that amount of bleeding alarm you?

17 A. No, it didn't.

18 Q. Does it look like something that was
19 extremely unusual?

20 A. Not at all.

21 Q. Did you determine Miss Herron's other
22 information at that time?

23 A. I am sorry, I don't recall. I don't know
24 what you mean by "other information."

25 Q. Did you find, check either with the

1 medical -- were there other medical assistants present?

2 A. Yes, at least one, I think two individuals
3 there at that time.

4 My assessment of the situation, at that time,
5 was basically look at the I.V., which showed it to be
6 infiltrating, not running. I also, at that time, or
7 within a matter of a second or two, pulled the drapery
8 back, lifted the gown, and put my hand on Miss Herron's
9 abdomen, felt that the uterus was soft and relaxed in
10 what we call atony, a-t-o-n-y, and massaged the uterus
11 and put considerable pressure on the uterus to force any
12 blood that might be still present in the vagina out
13 because it's a way of doing that.

14 Q. Did any blood come out?

15 A. No.

16 Q. And when you found the uterus in what you
17 describe as a position of atony, or condition of atony,
18 what does that mean to you in terms of the uterus and its
19 bleeding?

20 A. Subsequent to emptying in a pregnancy, the
21 uterus can relax and the muscle then is soft and boggy.
22 The uterus can be still enlarged, and it means that the
23 control of bleeding, which the uterus normally does for
24 itself, is not working.

25 Q. And did you check Miss Herron's vital signs

1 at that time?

2 A. I looked at the chart, noted the blood
3 pressure.

4 Q. Okay. Was that blood pressure 90 over 50?

5 A. Yes, it was.

6 Q. With that blood pressure, did you think, oh
7 my God, I perforated this woman's uterus, she had
8 bleeding today two times?

9 MR. AHLER: Objection, leading.

10 THE COURT: Sustained, leading

11 Q. (BY MR. KAZAN:) What did you think, I had --

12 A. I think an atonic uterus that was not
13 contracting because the Pitocin drip, which was running,
14 was not running, and needed to be restarted. And the
15 blood pressure --

16 I am sorry, I did not let you finish the
17 question. The blood pressure was one which was not
18 uncommon to see in a patient in the second trimester and
19 we had drugs, and having had a procedure done.

20 Q. This drop, this systolic drop from 125 to 90?

21 A. That's correct, that was not subject to my
22 concern.

23 Q. That didn't --

24 A. Not at all.

25 Q. Okay. So, you saw the blood, you saw the

1 blood pressure, and, I mean, did the uterus perforation
2 even cross your mind at that time?

3 A. Absolutely not.

4 Q. Did any kind of internal hemorrhage cross
5 your mind at that point in time?

6 A. Not at all.

7 Q. When you checked with Miss Herron's fundus by
8 pressing on the abdomen, did she wince or yell out in any
9 kind of pain?

10 A. I don't recall, but I'd like to clarify the
11 pressure is not just a matter of putting a hand on, doing
12 pressure. You actually put your -- in a woman who is not
13 obese, you can put your hand on the entire uterus, as if
14 a ball in your hand and squeeze on it. So, it's a matter
15 of squeezing and pressure at the same time. It is not
16 just putting a hand flat on an abdomen and stopping at
17 that point.

18 Q. Okay. At this point, though, you thought,
19 your thought process was that whatever you were seeing
20 was the result of what?

21 A. It's a very common thing to have an atonic
22 bladder immediately right after.

23 Q. Atonic bladder?

24 A. I am sorry, atonic uterus.

25 Q. You thought the cause of that was...

1 A. Lack of Pitocin flowing in the I.V.

2 Q. When you say the I.V. was infiltrated, what
3 exactly do you mean?

4 A. Means that the needle is either not within
5 the lumen of the vessel, which you think of a straw,
6 meaning the inner portion of the straw. It's outside of
7 it. Therefore, the fluid that is still dripping from the
8 bottle or the bag containing the solution, is going into
9 the soft tissue around the vein, it becomes hard and
10 swollen and it makes that site not a site that you can
11 use to restart. You have to go into another site at that
12 time.

13 Q. And did you instruct somebody to do that?

14 A. Yes, I did.

15 Q. And what did you do after you instructed
16 that?

17 A. Well, at that point in time, I was made aware
18 of the fact that our nurse, Lois Montagno, was not there.
19 I guess I started looking for her.

20 Q. Okay.

21 A. And I became a little bit disturbed by this.

22 Q. What did you do?

23 A. Because I didn't know she was not there, and
24 I questioned where she was, and I don't recall the exact
25 answer, but I was made aware that she was no longer in

1 the building. And I asked for Carol to come over to the
2 O.R. so I could clarify matters.

3 Q. And did that happen?

4 A. Yes, it did.

5 Q. Did you have a conversation with
6 Miss Schadoff?

7 A. We had a conversation and bottom line was
8 that additional help was going to be summoned from one of
9 the other facilities to take up the slack.

10 Q. Okay. And you went back into the O.R.?

11 A. Yes, I did.

12 Q. And completed Miss Page's procedure?

13 A. That's correct.

14 Q. And after that, did you conduct any more
15 procedures for the day?

16 A. At the time I talked to Carol in the room, I
17 said I am not going to do any procedure today, other than
18 the fact that I did have the patient.

19 Q. And, at this point in time, did you give the
20 medical assistants that were in charge of Miss Herron any
21 instructions with respect to her bedding, for example?

22 A. Yes.

23 Q. What did you tell them?

24 A. I instructed them, the medical assistants, to
25 remove the soiled Chux and sheet. I don't believe there

1 is anything on the sheet but a soiled Chux, and to
2 replace it so that we could evaluate any bleeding that
3 might occur later on while she was there.

4 Q. When you went back into the operating room
5 with Miss Page, I think you indicated her procedure began
6 at 1:50, were you apprised of the bleeding condition of
7 Miss Herron?

8 A. I believe I may have talked with Michelle
9 Price, who told me that once the I.V. was started, the
10 drip was running, that everything looked good, that there
11 was no further bleeding at that time.

12 Q. As a result of that, did you have any further
13 concerns at that point in time?

14 First of all, had you really any concerns
15 about Miss Herron prior to that time?

16 A. Not about -- not as far as any bleeding was
17 concerned.

18 Q. And what was your feeling about Miss Herron
19 after Miss Price came in and told you that there was no
20 more bleeding?

21 A. There was -- she was totally out of my mind
22 in that respect.

23 I knew she was there. I didn't have any
24 concern that she was having a problem.

25 Q. Okay. You finished Miss Page at a little bit

1 after two o'clock?

2 A. I believe so.

3 Q. What did you do after that?

4 A. I relaxed.

5 Q. You did?

6 A. I went back into the recovery room to check
7 on LouAnne Herron. I went in recovery to check on my
8 patient with the twins. I might add, at that time,
9 periodically all throughout the morning and after lunch
10 and the rest of the day, I periodically checked my
11 patient with the twins. I felt her abdomen for
12 contraction, discussed with the nurse whether she was
13 having any problems with vitals; this was an ongoing
14 thing all afternoon.

15 Q. And the reason you were continuing to check
16 on her was why?

17 A. I wanted to know whether we were going to be
18 able to abort her yet that day, by the natural processes
19 was our hope, or whether I was going to end up having to
20 stop the I.V. and relam her, and have her come back the
21 following day.

22 Q. And at approximately 3:15 you made that
23 decision?

24 A. Yes, I did.

25 Q. Were you going to, for example, after you

1 learned Miss Montagno was gone, were you still going to
2 try to abort the lady with twins as well?

3 A. I hadn't really given it a thought because I
4 felt that if we were going to do anything, nature would
5 probably do this for us. And this may sound peculiar,
6 but patients frequently, when they are on Pitocin drip,
7 especially if they are not a full-term pregnancy, will
8 push the contents of the uterus literally right out onto
9 the bed, and they just, you know, if you observe it,
10 obviously you take steps and actions, but really, except
11 for checking for bleeding, checking for completeness,
12 there is really nothing else to do at that point. It's
13 completed for you. I was hopeful that would be what
14 happened, and under those conditions, whether Lois was
15 there or not, really was not too important.

16 Q. Okay. Because you were there?

17 A. Yes.

18 Q. So, you relaxed, you went into the recovery
19 room, you checked, besides Miss Herron and Miss S., was
20 there any other patients in the recovery room at that
21 time?

22 A. I don't recall.

23 Q. If there were, you would have checked on
24 them?

25 A. Only if the nurses, medical assistants, would

1 have asked me to pursuant to any problem that they felt
2 existed at that time.

3 Q. Now, you went back where after you went
4 through this period?

5 A. I most likely stayed in the O.R., at that
6 time, because it was being cleaned up, and it was being
7 cleaned up rather slowly. It is my feeling that we
8 should proceed at a reasonable pace. It was not
9 happening. It was just everything was sort of dragging
10 getting things done. I knew I had a number of patients
11 that I had to examine, go through the charting, and then
12 put in the laminaria that were waiting.

13 Q. In fact, in terms of that number of patients,
14 the operating lab for the following day, April 18th,
15 revealed how many patients, sir, that had laminaria
16 insertions?

17 A. Well, we did -- sorry, I have to check this.
18 We did nine patients the next day that had laminaria
19 insertions.

20 Q. Those laminaria insertions the next day being
21 April 18th?

22 A. Yes. Some of these were placed that day, and
23 some were placed the day before.

24 Q. Some?

25 A. That was when I stopped doing procedures.

1 There were still patients that had laminaria that hadn't
2 been done, we sent them home, and ones who were due for
3 laminaria insertion for the next day were done that day,
4 done the 17th.

5 Q. Can you tell me how many were done on the
6 17th that had not been done on the 16th?

7 A. I would have to look at the chart, but I know
8 that there were probably five altogether.

9 Q. That were left over from the day before?

10 A. No, that I lam'd on the 16th. I am sorry,
11 lam'd on the 17th.

12 Q. So, you did about five laminaria insertions,
13 that would be prior to the time when -- would that be in
14 relation to the time you relam'd Miss S.?

15 A. The lady with twins, close to 2:30. Between
16 2:30 and 3:15, thereabouts.

17 Q. Somewhere in that time frame?

18 A. Yes.

19 Q. And you're judging that time frame on the
20 basis of what, sir?

21 A. The times that I have put on the O.R. log,
22 the times that I have put on the chart with the patient
23 with twins, and, in retrospect, I established a time
24 sequence.

25 Q. Were there any problems in terms of laminaria

1 insertions that afternoon?

2 A. No, there were not.

3 Q. And while you were -- by the way, at some
4 point in time, do you remember Deryl Whitlock arrives at
5 the center?

6 A. That's correct.

7 Q. Were you aware, or somebody tell you that
8 Deryl is here?

9 A. I don't recall whether somebody told me or
10 when I happened to walk into the recovery room, saw her
11 at that time, but it was pretty much sort of
12 simultaneous.

13 Q. Have you worked with Deryl Whitlock?

14 A. Yes, I have.

15 Q. What did you think of Deryl Whitlock in terms
16 of capability?

17 A. Highly competent, very experienced, and I had
18 complete confidence in her ability to do recovery room
19 work.

20 Q. In terms of complete confidence in her
21 ability to do recovery room work, what did you think of
22 her in terms of actual job title?

23 A. Well, I knew Deryl for quite some time, and
24 even though she didn't work at the Phoenix Center
25 frequently, she worked enough that I was aware of her.

1 And until this whole episode came on, we started seeing
2 the interviews with all the M.A.'s, I thought that she
3 was a Licensed Practical Nurse, not a medical assistant,
4 and it was subsequently, the interview, that I found out
5 that she was a medical assistant.

6 Q. Until that time, I mean on the 17th, when,
7 during Miss Herron's procedure and with Deryl Whitlock in
8 charge, you felt that, you thought that Miss Whitlock was
9 an LPN?

10 MR. AHLER: Objection, leading.

11 THE COURT: Sustained, leading. Ask in a
12 non-leading manner.

13 Q. (BY MR. KAZAN:) Did you think a particular
14 job status on the 17th?

15 A. Yes, I thought she was a practical nurse.

16 Q. Miss Whitlock's notes indicate that at
17 approximately 2:30 she has some sort of contact with you,
18 that you look at the patient, request that she change the
19 I.V. bag?

20 A. I believe so.

21 Q. What was the reason you had her check the
22 I.V. bag?

23 A. I think it was just practically out, and when
24 they are practically out, usually ask by the recovery
25 room staff, do we want to give additional fluid.

1 Q. When you looked at Miss Herron, and this
2 would be around 2:30, per Miss Whitlock's notes, did you
3 see anything unusual about her that caused you some sort
4 of concern?

5 A. No, I did not.

6 Q. After you instructed Miss Whitlock to change
7 the I.V. bag, what did you do?

8 A. When I was in the recovery room doing this
9 literally all morning and afternoon, I checked my patient
10 with the twins. When Miss Herron came into the recovery
11 room, as long as I was there, I stopped by, checked her
12 as well, and literally felt the uterus, looked for any
13 signs of additional bleeding and had some words,
14 depending on what the situation called for.

15 Q. But after you told Miss Whitlock -- after you
16 checked her, told Miss Whitlock to change the I.V. bag,
17 do you stay in the recovery room or did you go someplace?

18 A. Within a matter of -- I went back into the
19 operating room.

20 Q. To do what?

21 A. To start working on laminaria insertions.

22 Q. Now, at 3:15, your records show that you did
23 something with respect to the lady with twins. We talked
24 about that already this morning.

25 A. I already talked about that.

1 Q. Where were you when you made that
2 determination?

3 A. In the recovery room.

4 Q. Miss Whitlock indicated that approximately --
5 by the way, when you checked on Miss Herron between 1:30
6 and 1:50 when you began Miss Page's procedure, what was
7 Miss Herron's mental status?

8 A. Miss Herron, the entire time she was in the
9 recovery room that I witnessed her, she was talking. She
10 was anxious to get up off the gurney, go to the bathroom.
11 She had to be restrained so she didn't hurt herself.

12 We knew that she was still under the
13 influence of some medications, and she was talking
14 loudly. And I can't repeat the exact words she was
15 talking about, but she was having cramps from the
16 Pitocin, and I tried to reassure her that she was having
17 uterine contraction discomfort, that everything was fine,
18 and she was. Of course the I.V.'s were disturbing to her
19 because they were in her arm. She couldn't quite move
20 around. We don't have side rails on these gurneys; there
21 are just straps that hold the patient like a seat belt
22 would, and I think I have answered your question.

23 Q. Okay. Did you come into the recovery room
24 ever to see if Miss Herron was ever knocked out,
25 unconscious?

1 A. No, I didn't.

2 Q. During the time that you came into the
3 recovery room, was she awake?

4 A. She was always responsive talking to her. As
5 far as responding too, not just moving around.

6 Q. Did Miss Whitlock express concern to you, at
7 some point in time, that the patient was groggy?

8 A. Yes.

9 Q. What did she tell you?

10 A. She told me she was falling off to sleep and
11 asked me whether it would be acceptable to give her some
12 Narcan.

13 Q. And what did you say?

14 A. I said, absolutely, no problem.

15 Q. You said that? Why?

16 A. Why, it's very common for the individual to
17 have a sustained effect from the Demerol, and the Narcan
18 is an antinarcotic preparation that is going to relieve
19 the effects of the Demerol, wake her up, if that's the
20 problem.

21 Q. Was there any chance that the Narcan would
22 harm the patient?

23 A. None whatsoever.

24 Q. Does the Narcan operate to contradict the
25 Compazine or the Valium, sir?

1 A. Not at all.

2 Q. Did Miss Whitlock inform you after, or did
3 you see the results of having given Miss Herron the
4 Narcan?

5 A. Yes. I was in the recovery room subsequent
6 to that, and, again, saw Mrs. Herron, examined her, and
7 talked to her. And I said, I suppose, in some sense, how
8 is she doing? And Miss Whitlock never said she was
9 having a problem. She just said still groggy. I said,
10 okay. We are going to watch her for a while.

11 Q. What was your thought process going on in
12 terms of grogginess?

13 A. I wasn't certain it was either. As I said in
14 the beginning, an unusual reaction to drugs, which some
15 people do have. I think, at that time, I might have
16 suggested to Carol to see if she could get us any
17 background information, even though the chart did not
18 reflect any information. It's not unusual for a patient
19 to not give us pertinent information as opposed to
20 misleading information. And so I think I suggested that
21 she try to reach a family member, find out if she had any
22 information about being a drug user or having any
23 problems from, quote "allergies to drugs," that's a very
24 commonly used term, which has many, many meanings.

25 Q. Did you think, or did you have a thought

1 process concerning what you, I guess, believed would be
2 the cause of Miss Herron and the grogginess?

3 A. Yes, I felt this would eventually wear off.
4 We had seen this before. . . It's not totally uncommon. You
5 don't see it very often, but you do see it, and the
6 patient just literally has to sleep it off, and hopefully
7 their kidneys flush things out of their system so they're
8 able to then ambulate and able to be taken home.

9 Q. Did Miss Whitlock apprise you that there was
10 some unusual bleeding?

11 A. Not at all.

12 Q. Did she ever apprise you that Miss Herron's
13 blood pressure was dropping significantly?

14 MR. AHLER: Objection, leading.

15 MR. KAZAN: I don't think so.

16 THE COURT: Overruled. Asking him whether or
17 not it occurred doesn't suggest an answer.

18 A. THE WITNESS: I don't understand.

19 Q. (BY MR. KAZAN:) Did Miss Whitlock say
20 whether or not Miss Herron's pulse sped up?

21 A. Not at all.

22 Q. Did you have occasion to see documentation
23 that Miss Whitlock kept concerning Miss Herron's course
24 of treatment?

25 A. Yes, I did.

1 Q. You didn't see the particular notes that
2 Miss Whitlock made? I am not talking about those.

3 A. Not those notes.

4 Q. I am talking about the day that Miss Herron
5 was in recovery.

6 A. The date Miss Herron was in the recovery
7 room, recovery, I had occasion to see a small piece of
8 paper with several vital signs on it which pertained to
9 Miss Herron, which were adjacent to her chart on the
10 gurney area, and these were normal values. Very common
11 thing for recovery room nurse, assistant, whichever, to
12 make these notations, then to subsequently chart them on
13 the chart when the patient is discharged later in the
14 day.

15 Q. Can you specifically recall today what
16 exactly those numbers are?

17 A. No, I can't give you exact numbers. I know
18 that they were within the realm of 110, 105 over 60 or 70
19 diastolic, that they were, my estimation, clinical
20 judgment, to be within the normal values.

21 Q. Did those blood pressures cause you any
22 alarm?

23 A. Not at all.

24 THE COURT: Let's take the morning recess.
25 Take a ten minute recess. Remember the Court's

1 admonition.

2 (Recess taken.)

3 THE COURT: 99-00198. Show the presence of
4 counsel, defendants, all members of the jury.

5 You may continue, Mr. Kazan.

6 Q. (BY MR. KAZAN:) John, we left off, you made
7 mention of having been in the recovery room and having
8 viewed next to the chart a small piece of paper that
9 contained blood pressure or vital signs; do you remember
10 that?

11 A. Yes.

12 Q. In your experience, was that something that
13 was not unusual for medical assistants to do?

14 A. Very common for recovery room personnel to
15 do.

16 Q. In terms of...

17 A. Following the patient.

18 Q. Keeping their notes?

19 A. Keeping their own notes, yes.

20 Q. That would be something that you would rely
21 on?

22 A. Absolutely.

23 Q. Following your completion of the laminaria
24 insertion on Miss S., the lady with twins, what did you
25 do?

1 A. Went back into the recovery room, saw LouAnne
2 Herron, and what I had done before, I believe at that
3 time or time before that, I took her vitals myself.
4 There was one period of time that I did a blood pressure
5 check, checked her pulse. I know I did that. I think it
6 was to confirm, trying to be confirmatory. Always two or
7 three people around her, so she was being attended to
8 extremely well, if you wish.

9 Q. Did any of the time you were there, either
10 inserting laminaria, or in Miss Page's procedure, other-
11 than the one episode when Mabel Lopez came to get you,
12 did anybody come out of the recovery room come, and tell
13 you any kind of problem with Miss Herron?

14 A. No, they did not.

15 MR. AHLER: Objection, leading.

16 Q. (BY MR. KAZAN:) Did not --

17 THE COURT: Sustained. Mr. Kazan, ask in a
18 non-leading fashion, please.

19 Q. (BY MR. KAZAN:) Dr. Biskind, with respect to
20 the last time you were with Miss Herron, can you tell us
21 approximately when that was?

22 A. As best my recollection, it was about 3:45.

23 Q. And you judge that from what?

24 A. Finished doing the re-laminaria of the
25 patient with twins, taking more or less a final look,

1 made a decision as to whether or not it was suitable for
2 me to leave the premises.

3 Q. And did you make that assessment?

4 A. Yes, I did.

5 Q. Throughout any of this time, had uterine
6 perforation crossed your mind?

7 A. Never.

8 Q. Did any kind of internal hemorrhage issue
9 cross your mind?

10 A. No, neither at all.

11 Q. Was that even a thought?

12 A. Not at all.

13 Q. Did you -- the assessment you essentially
14 made was what?

15 A. That it was drug related, and there wasn't a
16 bleeding problem because -- there wasn't a bleeding
17 problem. There was no visible bleeding since that first
18 episode. The only affectation of her personality, at
19 that time, and this all led me to believe, with the
20 vitals being within the normal parameters, that we were
21 dealing with a drug problem that would resolve itself.

22 Q. And on that basis you felt comfortable doing
23 what?

24 A. I felt comfortable changing my clothing,
25 leaving her in the hands of Deryl Whitlock who I had all

1 the confidence in the world.

2 There was a small discussion, at that time,
3 as to whether she foresaw any problems with her being
4 able to ambulate at a somewhat later date. And it was my
5 understanding, even at that time, that they were still
6 waiting for somebody to come to take her home, because it
7 was my understanding that throughout the afternoon, there
8 were no individuals that were related to her, per se.
9 Retrospectively, I have heard otherwise, that was my
10 understanding.

11 Q. At the time?

12 A. Yes.

13 Q. And did you, in fact, leave?

14 A. Yes, I did.

15 Q. Approximately what time?

16 A. A little after four o'clock.

17 Q. Now, sir, the next thing you hear is what?

18 A. The next thing I heard, my pager going off.

19 I was give or take ten minutes away from the facility.

20 Q. What are you told when your pager goes off?

21 A. My pager had the telephone number of A-Z
22 Center. The pager does not tell me anything other than
23 numbers.

24 Q. What did you do?

25 A. I got out of traffic as soon as I could. I

1 called. Pulled over to a safe spot along the road, took
2 my cell phone and answered the call.

3 Q. Who did you talk to?

4 A. I am really not sure who I talked to the
5 first time. I thought about this a lot, but I am really
6 not 100 percent sure. I talked to somebody. I believe
7 it was one of the medical assistants.

8 Q. And were you informed information?

9 A. The information that I was given was that the
10 individuals attending to LouAnne, it was sort of a
11 somewhat hysterical voice, said we can't get a pulse,
12 she's having difficulty breathing, what should we do.

13 Q. What did you tell them to do?

14 A. I told them I couldn't do anything, call
15 9-1-1, I will call back later.

16 Q. Okay. Now, prior to the time you left, had
17 you seen any exhibition of Cheyne-Stokes respirations,
18 sir?

19 A. No.

20 Q. Did you see any indication of agonal
21 breathing?

22 A. No.

23 Q. Did you hear any complaints from Miss Herron
24 that she was cold or could not feel her legs?

25 MR. AHLER: Objection, leading.

1 THE COURT: Overruled, you may answer.

2 A. THE WITNESS: No, sir, I did not.

3 Q. (BY MR. KAZAN:) And did you observe any
4 condition of groping with consciousness by Miss Herron at
5 the time?

6 A. I am sorry, you want to repeat?

7 Q. Did you see Miss Herron groping with
8 maintaining consciousness in your presence?

9 A. No, I did not.

10 Q. None of that?

11 A. No.

12 Q. Did any of the medical assistants apprise you
13 of any of that type of behavior?

14 A. No.

15 Q. Did you call back to the clinic?

16 A. Yes, I did.

17 Q. Approximately how long a wait?

18 A. I really have to look at that chart. I have
19 gone over this so many times, time frame was a little
20 strange. I think 15 to 20 minutes.

21 Q. At that time, do you recall who you spoke
22 with?

23 A. No. Again, I think it might have been Sylvia
24 Aragon, but I'm not sure.

25 Q. Now, at the second time you called, did you

1 become apprised of any other information concerning
2 Miss Herron's condition?

3 A. Yes, I did.

4 Q. What was that?

5 A. I was told that the paramedics were there.
6 They were taking her to Good Samaritan Hospital emergency
7 room, that they were unable to get a pulse, that she had,
8 quote, flatlined, which was --

9 Q. Which meant to you what?

10 A. Means the cardiograph record attached to her
11 chest showed no heart activity.

12 Q. Which meant to you?

13 A. Meant to me that she was probably gone. She
14 was probably gone.

15 Q. What were you thinking when you got that
16 first call?

17 A. I couldn't imagine. It was mind boggling
18 that such a thing happened in the short period of time.

19 All afternoon, watching Miss Herron, not
20 really seeing any problem that would be a
21 life-threatening problem, then to have this happen
22 suddenly. As a physician, you know, there can be sudden
23 insult to the body that can cause sudden death. It was
24 an overwhelming thing, and, you know, it's a terrible
25 thing when a patient dies, and that was it.

1 Q. Did you want anything bad to happen to
2 Miss Herron?

3 A. No. It's terrible when a patient dies.

4 Q. John, if you had any indication that
5 Miss Herron had been in trouble prior to the time you
6 left, would you have left?

7 A. No.

8 Q. Now, at the time the -- at the time of your
9 second call, were you apprised where the paramedics were
10 going to take Miss Herron?

11 A. Yes.

12 Q. And did you kind of presume where that would
13 be?

14 A. I presumed that she would be taken directly
15 across the street.

16 Q. The hospital.

17 Eventually, did you call the hospital to
18 check on her condition?

19 A. Yes, I did.

20 Q. And where did you make that call from?

21 A. I made the call from my home.

22 Q. And what were you informed, at that time,
23 when --

24 A. When I finally got a hold of the secretary in
25 the emergency room, I told her who I was, and I said that

1 I was calling on behalf of a patient who was brought in
2 by the paramedics by the name of LouAnne Herron. And she
3 looked at the records, and took her a few moments, she
4 said that the patient had been pronounced dead, and I
5 don't recall whether I asked her directly, but I think
6 she told me that there was a family member, she thought
7 it might be the patient's father, had come into the
8 emergency room subsequently.

9 Q. Did they know the cause of death at that
10 point?

11 A. I'm not aware that they did.

12 Q. When did you find out what happened to
13 Miss Herron?

14 A. Following day, I talked with Dr. Brown, the
15 medical assistant who performed --

16 Q. The Medical Examiner?

17 A. Medical Examiner, this was after the autopsy
18 had been performed. And the information that Dr. Brown
19 gave me was there had been a perforation of the uterus,
20 that there has been internal retroperitoneal bleed, and
21 that her final diagnosis was still pending, but
22 laboratory reports, she felt that it was secondary to
23 hemorrhage, and that was the end of the report at that
24 time.

25 Q. Had you gotten paged the evening before of a

1 need to fax records over to the Medical Examiner?

2 A. Yes, the Medical Examiner had paged the
3 clinic with a request to have the medical records sent to
4 them.

5 Q. Did you go back down to the clinic?

6 A. Yes.

7 Q. That evening?

8 A. That evening.

9 Q. For purposes of what?

10 A. To make sure the record was sent
11 appropriately.

12 Q. And did you do that with anybody else?

13 A. Carol was there, Carol Schadoff.

14 Q. And what happened with respect to the
15 transmission? How were you supposed to transmit the
16 records to the Medical Examiner?

17 A. I wasn't personally involved, but...

18 Q. Were you present?

19 A. I was present, and Carol was preparing to
20 fax the records over to them.

21 Q. Did something happen with the fax machine?

22 A. The fax machine that we had at the facility
23 apparently wasn't working properly after one or two pages
24 had been sent, and she said, I am just going home, use my
25 own fax machine at home, get it over to them right away.

1 MR. KAZAN: I don't have any other questions.

2 THE COURT: All right, thank you.

3 Mr. Morgan.

4 MR. MORGAN: Thank you, Your Honor.

5 Just one second.

6 CROSS-EXAMINATION

7 BY MR. MORGAN:

8 Q. Dr. Biskind, when was the first time you met
9 Carol?

10 A. On April 16th, 1998.

11 Q. That was the first time you ever met her?

12 A. I am sorry, Carol?

13 Q. Carol.

14 A. I am sorry, I thought you meant LouAnne
15 Herron.

16 Some time early in March. I don't have an
17 exact date.

18 Q. Would have been about the middle of March?

19 A. My recollection was close to the beginning of
20 the, but I may be mistaken.

21 Q. And had you worked with her very many times
22 at the A-Z Clinic prior to this event with LouAnne
23 Herron?

24 A. No.

25 Q. Did you know that she did not have any

1 medical --

2 A. I believe so.

3 Q. Did you know that she was a counselor?

4 A. Yes.

5 Q. Had you had any meeting with her where she
6 explained what her role was?

7 A. Would you repeat?

8 Q. Did you have any meeting with her where you
9 discussed what her role at the clinic was?

10 A. No.

11 Q. How about Dr. Hachemovitch, did you talk to
12 Dr. Hach about it?

13 A. There was one occasion when he was in the
14 city, we had lunch, and I believe, I am trying to recall
15 the time frame, because I have no way of relating, other
16 than the fact that I believe Carol had been hired at that
17 time. And he requested that I try to cooperate because
18 he realized that the situation had been difficult with
19 nobody in charge for a period of time, having repeatedly
20 new faces coming in to look at the, quote, "job," and see
21 if they wanted to take it, and that we should all pitch
22 in to try to make the best of the situation until it was
23 resolved.

24 Q. At that time, when talking to
25 Dr. Hachemovitch, did you know whether or not they were

1 looking for a clinical director, a medical person to
2 handle the back office?

3 A. I don't really believe that was in the
4 conversation at all.

5 Q. Now, on April 7th -- 9th, you indicated you
6 weren't working?

7 A. That's correct.

8 Q. Were you even in the state?

9 A. No, I was in Ohio.

10 Q. When was the next time you came to town?

11 A. Early the following week. I think it was
12 Tuesday or Wednesday.

13 Q. And with the idea that you worked Thursday,
14 Friday and Saturday?

15 A. Yes.

16 Q. Now, if LouAnne was seen on the 7th, were you
17 in town the following week available to do any kind of
18 procedure that she might need?

19 A. Well, I don't remember whether it was Monday
20 or Tuesday that I came back to Phoenix, and if I was in
21 town Tuesday, Wednesday before the Thursday that I was
22 supposed to be coming in, certainly somebody might have
23 called, and I was there. And if there was nothing that
24 interfered with my ability to come to the facility to do
25 the procedure, I suppose you could say I was available.

1 Q. But the next scheduled time that you had
2 available at the clinic to see LouAnne would have been
3 the 16th?

4 A. That's correct.

5 Q. Now, you indicated that on the 16th, you
6 talked to Carol and were given two files?

7 A. I am sorry, I didn't hear what you said.

8 Q. You indicated on the 16th you talked to Carol
9 and to Michelle Price, you were given two files?

10 A. Two files, you mean patient charts?

11 Q. Yes.

12 A. Correct.

13 Q. Chart, I am sorry.

14 A. Correct.

15 Q. And that one was on the twins, one was on
16 Miss Herron?

17 A. That's correct.

18 Q. And that with respect -- was there something
19 special that you needed to know about the twins patient?

20 A. It was unusual to have twins that far along
21 in a pregnancy, and so it wasn't an every day occurrence.
22 That's all I honestly recall about it.

23 Q. You were told, at that time, some question
24 about prior ultrasounds?

25 A. No.

1 Q. I am sorry, with respect to Miss Herron?

2 A. No. The conversation, as I recall it, was
3 with Carol, that an issue had been raised as to the
4 gestational age.

5 Q. Do you know what that issue was?

6 A. What the date, what the gestational age was,
7 I presumed that was the issue. Was she under 24 weeks or
8 at 24 weeks, that's always the issue.

9 Q. Did she tell you, at that time, that she had
10 discussed the case with Dr. Hachemovitch?

11 A. Not to my recollection, no.

12 Q. And you were not informed that there were any
13 prior ultrasounds at all?

14 A. No.

15 Q. When you looked in the chart, you didn't see
16 any prior ultrasounds?

17 A. There were none in the chart, no.

18 Q. And you have a distinct memory of actually
19 looking?

20 A. Yes.

21 Q. Michelle Price, was she privy to that
22 conversation with you and Carol?

23 A. Yes, she was.

24 Q. Now, later on that day, or you indicated that
25 you had a discussion with Michelle Price, and you told

1 her to do the ultrasounds, and you never indicated to her
2 that she should change the ultrasound in any way that
3 would make them less than accurate; is that correct?

4 A. That's correct.

5 Q. You indicated in your direct, in your direct
6 testimony, that there was some basis to think that
7 Miss Herron might be over 24 weeks. What was the basis
8 that you were talking about?

9 A. I don't know. I don't recall saying that.

10 Q. Okay. As far as you're concerned, there was
11 merely a question?

12 A. That's correct.

13 Q. As a doctor, you've indicated that you wanted
14 to make sure that you had an accurate ultrasound to see
15 if she could have the procedure done, correct?

16 A. One, the modalities that I would use to make
17 that decision.

18 Q. Now, we heard the doctor yesterday, I forgot
19 his name.

20 A. Hoffman.

21 Q. Hoffman. Dr. Hoffman told us that basically
22 when you look at ultrasound for purposes of doing
23 abortion procedures, most concerned about the size?

24 A. The size.

25 Q. The size?

1 A. Yes, that's true.

2 Q. You would agree with that?

3 A. Yes, I would.

4 Q. So, that would be your major concern in
5 looking at the ultrasound that was generated by
6 Miss Price?

7 A. Absolutely.

8 Q. I believe you indicated that you thought all
9 of the ultrasounds were good?

10 A. Correct.

11 Q. You did three ultrasounds?

12 A. As far as I recall.

13 Q. Do you have any idea what happened to the
14 other two?

15 A. No.

16 Q. Did you -- were they already in the chart,
17 stapled in some way, or laid in the chart, or just handed
18 to you?

19 A. She just came in, had three ultrasounds in
20 her hand.

21 Q. No chart, just --

22 A. Not to my recollection, no.

23 Q. Now, after you finished your clinical
24 examination and looked at the ultrasounds, do you
25 remember what happened to the chart?

1 A. I'm not sure what you're asking me about.

2 Q. Well, at the time you did your bimanual
3 examination, would you -- would the chart have been with
4 you in the room?

5 A. Yes.

6 Q. Okay. And after you made the determination
7 that she was less than 24 weeks, could have an abortion
8 at your clinic, then what happened to that chart?

9 A. Well, excuse me, whoever would have been in
10 the room with me, she then had laminaria placed, at that
11 time, and after the laminaria were placed she would go to
12 the recovery room, so that the chart would be taken by
13 the medical assistant, who would have been in the room
14 with her doing the laminaria, that's when the chart went
15 back to recovery. From there, I presume, it went to the
16 reception area until the following day.

17 Q. How long would she have been in the recovery
18 room after the laminaria?

19 A. Fifteen minutes.

20 Q. Was there some kind of standard practice or
21 procedure for what happened to that chart after that?

22 A. I have no way of knowing.

23 Q. Now, you indicated that after you made the
24 determination that she could have the ultrasound, you did
25 some kind of consult with Miss Herron about information,

1 consent, and the possible problems that could be, could
2 happen in this procedure?

3 A. Yes. It was all sort of interwoven at the
4 same time, examination, discussion.

5 Q. And that's something that you do with every
6 patient?

7 A. Yes, every patient..

8 Q. And that's in addition to any informed
9 consent that might be given by the counselors or M.A.s,
10 correct?

11 A. In a sense we are going over that, picking up
12 the, you might say the most important parts of it,
13 emphasize to the patient.

14 Q. And the emphasis to them, at that point, they
15 don't have to have an abortion?

16 A. My personal feeling is they made that
17 decision already when they get there.

18 Q. Now, with respect to the ultrasound machines
19 that were used in that facility, we've seen the chart,
20 shows an age and plus or minus nine days, I believe, on
21 these 22, 23 week ultrasounds. In your experience, is it
22 the ultrasound that did it, or is it two weeks like the
23 doctor said?

24 A. In the beginning, I am not an ultrasound
25 stenographer. I have had no formal training in

1 ultrastenography. I have not been taught how to the use
2 machinery, equipment. I have watched it being used.
3 I've looked at it. I have not been trained in how to
4 read an ultrasound. This is all secondhand. So, I sort
5 of learned it on the job, if you wish.

6 I don't consider myself to be an expert by
7 any means. I looked, I looked to see what the biparietal
8 diameter is on the ultrasound, look to see if my
9 orientation appears to be satisfactory. If the
10 biparietal diameter is below the numbers, that would
11 indicate it to be under 24 weeks. I accepted that, along
12 with my clinical evaluation.

13 Q. On the next day, the 17th -- let me back up.

14 Did you have any further discussion with
15 Carol on the 16th concerning LouAnne Herron?

16 A. No, I did not.

17 Q. How about the twins?

18 A. With the twins with Carol?

19 Q. Yes.

20 A. Not that I recall.

21 Q. On the day of the 17th, did you have any
22 discussion with Carol about Miss Herron's procedure?

23 A. During the day?

24 Q. In the beginning of the day.

25 A. Now, are you asking, excuse me, are you

1 asking before I did the procedure?

2 Q. Yes.

3 A. No.

4 Q. Okay. Did you have any discussion with Jenil

5 Begay whether to do --

6 A. Not that I recall, no.

7 Q. How about any of the other M.A.s?

8 A. Not at all.

9 Q. Did anybody complain to you?

10 A. Not that I recall.

11 Q. Did you have any discussion with Lois

12 Montagno that morning?

13 A. No, we just said hello, that's all.

14 Q. Did she mention to you, at any point, that
15 she would be leaving?

16 A. No.

17 Q. Did she, did Lois come into the operating
18 room with the drugs that morning?

19 A. My only recollection of Lois' activity was
20 she started the I.V. that was done on the first patient,
21 gave the medications, and then went into the recovery
22 room after the procedure was over with. She might have
23 been back and forth. I don't really recall.

24 There was nobody in the recovery room, at
25 that point in time, so there would be no reason for her

1 to go over there. So, as soon as the first patient was
2 finished, then she took over the job of recovery room
3 nurse.

4 Q. Excuse me, now that -- look at Exhibit No. 7,
5 which is the operating room log. It shows that the twins
6 patient was the first patient that morning, correct?

7 A. That's correct.

8 Q. And you had some difficulty because you could
9 not do the procedure, correct?

10 A. Wasn't difficulty, I just could not do the
11 procedure.

12 Q. And was Lois in there that entire time?

13 A. I don't recall.

14 Q. It indicates that Jenil is listed on the
15 nursing spot?

16 A. That's correct.

17 Q. Would she have been a nurse also in there
18 that day?

19 A. No, no.

20 Q. Shows Lois as being the nurse in the
21 operating room that morning, correct?

22 A. Yes, it does show in that location.

23 Q. Do you know who filled out that the nurse was
24 both Lois and Jenil?

25 A. That particular day, I filled out that sheet.

1 That is not my normal job, but I did it that day.

2 Q. Okay. Now, it indicates that the twins
3 patient was finished at 9:55, then she was taken to
4 recovery, correct?

5 A. Yes, sir.

6 Q. Did you give Lois any special instructions
7 with respect as what to do with this patient?

8 A. No.

9 Q. You did tell her that she needed Pitocin
10 drip, did you?

11 A. I think Lois knew that routine, pretty much
12 she had done it before.

13 Q. Okay. Do you remember her reporting back to
14 you as to what was happening with that twins patient that
15 morning?

16 A. As I indicated before, I was back and forth
17 into the recovery room just about between each patient,
18 so I had the capacity, or had the ability to see Lois
19 directly, and see the patient myself, and so that's how
20 it was.

21 Q. And between ten o'clock and when that patient
22 went into the recovery room at twelve o'clock, did Lois
23 ever tell you she was leaving?

24 A. No.

25 Q. And it would be your testimony that you saw

1 her on several occasions between 10:00 and 12:00?

2 A. Yes.

3 Q. Now, you've indicated that at approximately
4 1:17 or so, that you had lunch?

5 A. Correct.

6 Q. Now, prior to that --

7 A. Excuse me, I'd like to correct that
8 statement.

9 Q. Sure, go ahead, Doctor.

10 A. 1:17 was the time I had the recovery, the
11 surgical log, that was for the next and last patient
12 procedure to begin. At that time, we were still working
13 on the I.V. for LouAnne Herron before she had been
14 transferred to recovery at 1:17. I was still in the
15 operating room, and LouAnne Herron was on the way, or
16 more or less on the way, was a little bit closer to 1:30,
17 maybe 1:25, that this was, it was announced. I am sorry,
18 it wasn't -- it was right around 1:17, close to 1:20
19 lunch was here.

20 Q. Okay.

21 A. LouAnne had gone over and, then repeating
22 what was repeated, told to you this morning, that the
23 last patient had walked in, we told her to go back, then
24 we went and had lunch.

25 Q. And the page entry, entry for 1:17, you say

1 she came --

2 A. Initially, the last patient.

3 Q. And you decided to go ahead, have lunch?

4 A. Correct, correct.

5 Q. Around that time is when you think LouAnne

6 actually went to the recovery room?

7 A. She was gone, she was out of the room.

8 Q. Okay. Now, prior to that, had you talked to

9 Carol at all about any patient that morning prior to 1:17

10 or 1:20?

11 A. Talked to her about any patient?

12 Q. Yes.

13 A. Except for our initial conversation when I

14 first came in in the morning, no.

15 Q. What was your initial conversation in the

16 morning?

17 A. Well, when she came in about the substance of

18 the twin pregnancy, and the fact that there was a concern

19 of the basis for the procedure to be done on LouAnne

20 Herron.

21 Q. I thought that was the day before?

22 A. I am sorry, I am sorry. You got me a little

23 confused on the days we're talking about.

24 Q. I apologize, on the 17th now.

25 A. The day of LouAnne Herron's procedure?

1 Q. Yes. Did you talk to her at all that
2 morning?

3 A. I don't recall talking to her about anything.

4 Q. Now, at this point, you go get some lunch and
5 I believe that Mabel Lopez comes, asks you to come look
6 at Miss Herron?

7 A. That's correct.

8 Q. You go in and see Miss Herron, and you saw
9 some bleeding, but not enough to alarm you?

10 A. That's correct.

11 Q. Now, during this period of time when you are
12 in the recovery room, did you talk to Carol at all?

13 A. Yes.

14 Q. Okay. She comes into the recovery room, and
15 because you have been informed that the nurse is gone...

16 A. I asked one of the medical assistants to have
17 her come in, yes.

18 Q. Now, what was the discussion that you had
19 with Carol concerning the nurse at that point?

20 A. I don't recall the exact words, but the
21 conversation was literally about the fact that Lois
22 Montagno had left, we had no recovery room nurse, and
23 that we weren't going to do any procedures. And she said
24 she'd get some additional help, to move her from wherever
25 she could get it, presumably check with the other

1 facilities to give us some assistance in the recovery
2 room for the rest of the afternoon.

3 Q. Did you specifically request Deryl Whitlock?

4 A. No, I did not know who was available.

5 Q. Now, did she immediately leave to go make
6 phone calls?

7 A. As best I recall.

8 Q. You don't remember making phone calls from
9 the recovery room, do you?

10 A. I don't believe so.

11 Q. Did she report back to you, at some point, as
12 to who she found to work?

13 A. My recollection is that somehow or other the
14 information got to me that Deryl was coming over, that's
15 all I could tell you.

16 Q. Did you have any conversation with Carol
17 while you were doing the last procedure on Miss Page?

18 A. Not that I recall.

19 Q. Now, you indicated that you believe that
20 Deryl was an LPN?

21 A. I knew she wasn't a registered nurse, but I
22 didn't feel that she had the stature of an M.A., and
23 somehow or other my feeling was that she was an LPN.

24 Q. Can you -- is there something specific that
25 led you to have that belief?

1 Q. Got to wait, Doctor.

2 A. I am sorry.

3 Q. How about -- you knew Jenil was there. You
4 had the same kind of faith in her ability as you did with
5 Deryl too, right?

6 A. Yes.

7 Q. As far as you're concerned, three experienced
8 medical assistants to assist in the recovery room as
9 necessary?

10 A. When Deryl got there, yes.

11 Q. Now, you've indicated that you continued to
12 watch Miss Herron over the, a few times over the next
13 couple of hours, correct?

14 A. Periodically, yes.

15 Q. Periodically. You didn't notice any
16 bleeding, correct?

17 A. Correct.

18 Q. And you checked vital signs that were being
19 taken by Miss Whitlock and kept on a piece of paper on
20 the side. They appeared to be normal?

21 A. That's correct.

22 Q. Now, at around some time after 3:00, Deryl
23 asked if she could give Narcan to the patient?

24 A. Respectively, it was about 3:15.

25 Q. And at that point did you check the patient?

1 A. No, I don't know.

2 Q. Now, if I understand your prior direct
3 testimony, you felt that having yourself with the
4 experienced medical assistants in the recovery room was
5 adequate in terms of the available medical care for the
6 patients that were in recovery, correct?

7 A. Yes, I did.

8 Q. Now, you indicated that at some point you
9 decided to leave. You felt that everything was all right
10 in the recovery room and you could leave?

11 A. That's correct.

12 Q: Did you tell the medical assistants that you
13 were leaving?

14 A. I don't really recall. It was my habit to
15 definitely go into the recovery room to be sure people
16 were in satisfactory condition. Usually I stopped in the
17 reception room if I didn't find anybody that was, quote,
18 "in charge," to let them know I was leaving, and I
19 believe that I did that procedure. I don't recall who I
20 saw or who I talked to. We have a lot of new faces.
21 These weren't all familiar faces to me.

22 Q. Did you see Carol on the way out? Did you
23 tell her?

24 A. I don't recall.

25 Q. Now, do you remember whether that day, or

1 specifically in the afternoon, did you have any
2 discussion with Dr. Hachemovitch about the twins patient?

3 A. None whatsoever.

4 Q. You've indicated that Miss Herron was, at
5 least around two o'clock, was talking and anxious to go
6 to the bathroom, and she had to be restrained at some
7 point?

8 A. Yes.

9 Q. Do you remember if, at any point, she was
10 eating a Popsicle or ice pop?

11 A. No, I don't.

12 Q. Would that be something that would be
13 normally given to a patient in there?

14 A. I have -- interesting, I have read it and
15 seen it in testimony from medical assistants. The entire
16 day I don't recall seeing anybody with a Popsicle, so I
17 don't know whether they had them or didn't have them.

18 Q. Now, you've indicated that after you left,
19 ten minutes afterwards, your pager went off. You pull
20 off to the side of the road, you called the clinic back?

21 A. Correct.

22 Q. Do you know whether you talked with Carol at
23 that point?

24 A. No, I'm not sure.

25 Q. And you called again later while the

1 recess for the lunch recess.

2 Please be back at 1:30. Remember the Court's
3 admonition.

4 (Recess taken.)

5 THE COURT: 99-00198. Show the presence of
6 counsel, defendants, all members of the jury.

7 Cross-examination, Mr. Ahler.

8 CROSS-EXAMINATION

9 BY MR. AHLER:

10 Q. Mr. Biskind, when you were paged at 4:12 p.m.
11 on --

12 A. Excuse me, I am having trouble hearing you.

13 Q. When you were paged at 4:12 p.m. on April
14 17th, 1998, where were you?

15 A. I was in my automobile driving on Thomas
16 Road, Street, whichever.

17 Q. You indicated you were about ten minutes from
18 the clinic?

19 A. It was my estimate, yes.

20 Q. And when you returned the call, you returned
21 it immediately, didn't you?

22 A. As soon as I could pull over, stop the car,
23 yes.

24 Q. In fact, records indicate that you returned
25 that call at 4:12, correct?

1 A. Yes. If that's what it says, I will agree
2 with you.

3 Q. And you spoke to a medical assistant. In
4 fact, you spoke to Michelle Price, didn't you?

5 A. I'm not sure.

6 Q. Isn't it true that Michelle, or the medical
7 assistant that you talked to, told you that LouAnne
8 Herron was in a serious condition?

9 A. That's fairly close, I believe.

10 Q. In fact, she told you that they were having
11 trouble finding a pulse?

12 A. Yes.

13 Q. That she was having trouble breathing?

14 A. Yes.

15 Q. And that they were having difficulty getting
16 a blood pressure?

17 A. I don't remember.

18 Q. In any event, you thought this serious enough
19 that you told this person to call 9-1-1?

20 A. That's correct.

21 Q. Isn't it true that what you in fact told
22 Michelle was: What do you want me to do, call 9-1-1?

23 A. I possibly said it that way.

24 Q. And, in fact, had you turned around at that
25 moment, gone back to the clinic, isn't it true that you

1 would have, in all likelihood, beat the paramedics there?

2 A. I have no way of estimating that.

3 Q. Well, you were ten minutes out, right?

4 A. That was an estimate, yes.

5 Q. If you had turned around, it would have taken

6 about ten minutes to get back, or a little more, correct?

7 A. I don't know if you've seen the traffic on
8 that street about four o'clock in the afternoon, but it's
9 pretty heavy.

10 Q. The paramedics got there about 4:24, didn't
11 they?

12 A. I believe that's correct.

13 Q. So, there is a good chance you could have met
14 them almost at the same time they arrived?

15 A. It's a possibility, yes.

16 Q. It's also a possibility that you could have
17 stayed on the phone and instructed them to call 9-1-1 and
18 tried to elicit more information about LouAnne's
19 condition, correct?

20 A. It's possible, yes.

21 Q. I mean, a lot of phones in that facility, or
22 there were back in April of 1998, correct?

23 A. There were a number of extensions. I don't
24 know if I consider that separate phones, but there were a
25 number of extensions around there.

1 Q. So, it would be possible for someone to pick
2 up the phone, call 9-1-1, and also stay on the phone with
3 you and talk about LouAnne's condition, right?

4 A. It's possible.

5 Q. You didn't do that, did you?

6 A. No, I didn't.

7 Q. In fact, what you did, you drove home, right?

8 A. No.

9 Q. Where did you go?

10 A. I had to make a stop.

11 Q. Where did you stop?

12 A. Tailor shop.

13 Q. So, did you feel it more important to go to
14 the tailor shop as opposed to going back to the clinic to
15 find out what was going on with LouAnne Herron?

16 A. I felt the paramedics were much more capable
17 of handling any problem that LouAnne was exhibiting at
18 that particular time than I could have.

19 Q. The paramedics, though, didn't have the
20 information that you had about the treatment that you had
21 given LouAnne that afternoon, did they?

22 A. They could have looked at the chart.

23 Q. Well, isn't it true, that there's not a lot
24 of information in that chart?

25 A. The medical assistants, I am sure, could have

1 A. The information that the paramedics needed at
2 that time, yes.

3 Q. So, after you stopped at the tailor, did you
4 then go home?

5 A. That's correct.

6 Q. And the second call that you placed to the
7 clinic indicates that that call came in about 4:34?

8 A. Yes, it was just before I left the tailor
9 shop. I was in the parking lot of the tailor shop.

10 Q. So, you hadn't gotten home yet?

11 A. Nope.

12 Q. You were still on the cell phone?

13 A. Correct.

14 Q. How far were you from the clinic at that
15 point?

16 A. Twenty minutes.

17 Q. And it was your understanding that the
18 paramedics were there treating LouAnne?

19 A. It was -- you through?

20 Q. Yes.

21 A. It was my understanding that they were there,
22 but they were on their way out with her on the way to
23 Good Samaritan.

24 Q. And you were led to believe, at that time,
25 that her condition was very serious and that she possibly

1 was dead?

2 A. That's correct.

3 Q. But didn't know for sure, at that point, did
4 you?

5 A. Not certainty, no.

6 Q. When you called that second time, you, in
7 fact, spoke to Sylvia Aragon, another medical assistant,
8 correct?

9 A. I'm not sure.

10 Q. Did you tell Sylvia Aragon during that second
11 interview, or second telephone call, that you weren't
12 coming back to the clinic?

13 A. No, I did not.

14 Q. In any event, you didn't go back, did you?

15 A. No, I didn't go back.

16 Q. And you had an opportunity, had you chosen
17 to, to try to talk to the paramedics when you called in
18 the second time, didn't you?

19 A. I don't know if I could have or not.

20 Q. Well, we have indication there were eight
21 paramedics or more there that day. Did you make any
22 effort, when you called the second time, to try to talk
23 to one of the paramedics to tell them what you knew about
24 LouAnne Herron?

25 A. It was my understanding, at that point in

1 time, they were out the door.

2 Q. Well, the medical records indicate you've
3 read EMT records, haven't you?

4 A. Yes, I have.

5 Q. I believe indicates they left the facility at
6 1439 hours which was -- about 1639, which was at 4:39,
7 which was about five minutes after you called.

8 MR. KAZAN: Objection as contrasting to what
9 is in the records as opposed to what he was informed
10 during the conversation, Judge.

11 THE COURT: Sustained, at this point.
12 Rephrase the question, please.

13 Q. (BY MR. AHLER:) Okay. Are you familiar with
14 the medical records from the paramedics?

15 A. I've read as much information that's been
16 available to me, so I have to assume. I don't know what
17 you are holding in your hand there.

18 Q. Let me show you what has been marked as
19 Exhibit 14, ask you if you ever reviewed that document
20 before.

21 A. The only thing that really looks familiar to
22 me is the top face sheet. I don't recall if I ever saw
23 this additional three pages that are attached to it.

24 Q. Okay.

25 A. I can't be sure.

1 abortions?

2 A. That's pretty correct, yes.

3 Q. And it was a policy of the office, was it
4 not, that on second trimester abortions that you would
5 have an ultrasound completed?

6 A. We do ultrasound on every patient that came
7 in the door.

8 Q. So, that would include even first trimester?

9 A. Yes.

10 Q. And so you began, I assume, back in the late
11 80's, reading and interpreting and documenting in the
12 files the result of ultrasound examinations?

13 A. No, sir.

14 Q. You want to explain that? You did not review
15 them?

16 A. Sure. No. What is your question now?

17 Q. My question is, starting back in 1989, did
18 the center rely on ultrasounds to help determine
19 gestational age?

20 A. It was some time in either '89 or '90, I
21 can't be sure exactly when, but it was in that general
22 area.

23 Q. But that was done on every abortion?

24 A. Every patient.

25 Q. Don't you believe, Mr. Biskind, that the

1 doctor is responsible, he has the ultimate responsibility
2 for interpreting the ultrasound to make sure that it's
3 accurate?

4 A. No.

5 Q. So, you delegated that responsibility to
6 medical assistants?

7 A. To a competent person. He might have been,
8 or she might have been, a medical assistant.

9 Q. So, you would disagree with the experts in
10 this case who indicated that it was below the standard of
11 care for a doctor who was doing these abortions not to
12 review the ultrasound and make their own independent
13 determination of gestational age based on the ultrasound?

14 A. That is correct.

15 Q. You indicated that the first contact you had
16 with LouAnne Herron was on April 16th, 1998?

17 A. Correct.

18 Q. And you indicated that Carol Stuart and
19 Michelle Price approached you in the O.R. room?

20 A. That is correct.

21 Q. Michelle, Michelle Price indicated she met
22 with you alone to discuss with you the ultrasound; is
23 that accurate?

24 A. I remember her saying that, yes.

25 Q. Okay.

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1 A. I don't think it's accurate. No, I don't
2 think it's accurate.

3 Q. So, your testimony is that you met with both
4 her and Carol Stuart?

5 A. Correct.

6 Q. And according to your testimony, there was no
7 ultrasounds in the file at that time?

8 A. What ultrasound are you referring to?

9 Q. Any ultrasounds.

10 A. No, I didn't say that.

11 Q. You weren't aware of any ultrasound?

12 A. Of what patient?

13 Q. LouAnne Herron.

14 A. That's correct.

15 Q. You were told, however, that there was an
16 issue concerning how far along she was, and a concern
17 that she might be over 24 weeks?

18 A. I don't know if the concern was verbalized as
19 being over 24 weeks. It was just a concern about the
20 age. I don't think it was specified.

21 Q. So, in any event, though, you knew an issue
22 about this patient and about how far along she was?

23 A. There was a question in Carol's mind.

24 Q. Now, Carol is not a medical person, is she?

25 A. No.

1 Q. She's not entitled to make decisions relative
2 to whether a patient should have an abortion, is she?

3 A. I don't believe so, no.

4 Q. She is not qualified to actually make the
5 determination that a person will have an abortion?

6 A. No.

7 Q. That's between the patient and you?

8 A. That is correct.

9 Q. Now, when you reviewed that file, what was in
10 the file when they brought it to you?

11 A. Well, you've seen in the past, patients are,
12 that are normally there, the informed consent, the face
13 sheet that is a summary sheet, and the history and
14 physical examination sheets, post operative, recovery
15 room sheet, follow-up recovery sheet. It was a complete
16 file as I would expect it to be on any patient.

17 Q. If you could, look at Exhibit 13, which has
18 previously been identified as both her records and the
19 O.R. log and the recovery room log from that day.

20 If you could, tell us what items were in the
21 file when you first saw it on April 16th, 1998.

22 A. Is it all right if I remove these paperclips?

23 Q. Yes.

24 A. What you're showing me here, collection of
25 papers, medical records, the front face sheet. There is

1 a picture of an ultrasound, copy of a picture of an
2 ultrasound, and there is an O.R. log sheet, and that is
3 two pages of that, and something else. I don't know what
4 this is. This is the recovery log. Those three sheets,
5 recovery log, the O.R. log sheet and the picture of the
6 ultrasound were not present. The other pages are
7 familiar enough that I would say they probably were
8 contained in the package that I got.

9 Q. Now, you hadn't done your pelvic examination,
10 so you hadn't completed that portion of the medical
11 record, correct?

12 A. Where are you referring to, at what stage of
13 my time frame?

14 Q. When you did the pelvic to insert the
15 laminaria?

16 A. I think you better restate the question so I
17 know what you are, what exactly you are talking about.

18 Q. Part of this document is a page entitled
19 "preoperative examination."

20 A. Correct.

21 Q. Can you see that?

22 A. Yes, yes.

23 Q. Now, you filled out a portion of this when
24 you did the laminaria insertion, did you not?

25 A. Could we see the whole page?

1 Q. Yes.

2 A. Uh-huh, that's correct.

3 Q. And which portion of this did you fill out?

4 A. Starting where it says "general mental
5 status," from there down, which is about the middle of
6 the page.

7 Q. Now, when this file was presented to you by
8 Michelle Price, you hadn't done the pelvic yet, had you?

9 A. That's correct.

10 Q. So, this area was not filled out, correct?

11 A. I don't fill it out until I finish my entire
12 examination. In other words, if I have done the
13 examination, including pelvic examination, I would not
14 have filled this form out until I was completely finished
15 with the patient. In other words, doing the entirety of
16 the procedure that was being done. You follow me, what I
17 am saying?

18 Q. Yeah. But that isn't done, that part of the
19 procedure, right?

20 A. Which part?

21 Q. The laminaria insertion.

22 A. That would have been done after my
23 examination.

24 Q. You hadn't done the examination at the time
25 that Michelle Price first contacted you on the 16th?

1 A. First contacted me?

2 Q. When Michelle first came to you and she had
3 LouAnne's file and there was a discussion about the
4 ultrasound, you had not done the pelvic examination, or
5 the laminaria insertion yet?

6 A. Nine o'clock in the morning when I first was
7 confronted with Carol and Michelle, when she had a
8 folder, the ultrasound examination had not been
9 performed.

10 Q. Okay. So, once the ultrasound examination is
11 done by Michelle Price, completed prior to that, you did
12 the pelvic and the lam insertion?

13 A. Say that one more time.

14 Q. Can you hear me okay?

15 A. I just want to be sure I had your question
16 correct.

17 Q. I want to make sure I am loud enough.

18 A. No, you are fine.

19 Q. Was the ultrasound that Michelle performed
20 completed before you did the pelvic examination and the
21 laminaria insertion?

22 A. Yes.

23 Q. So, you had that information before you did
24 this procedure?

25 A. Yes.

1 Q. Isn't it true, Mr. Biskind, that during that
2 conversation with Michelle Price, you told her you can
3 turn the probe at different angles and get different
4 results, we need to make sure she is under 24 weeks?

5 A. No, sir.

6 Q. Now, you came, you told her, be sure the
7 calipers are on the right location, right?

8 A. Words to that effect. I don't know if that's
9 a direct quote or not.

10 Q. You had been working with Michelle Price for
11 over two years prior to this incident, right?

12 A. For a while, yes.

13 Q. So, at least in your mind, she was perfectly
14 capable of knowing where to put the calipers, right?

15 A. Just a reminder.

16 Q. And isn't it somewhat unusual for you to
17 bring the ultrasound stenographer in prior to the pelvic
18 examination to talk to them about the ultrasound?

19 A. I didn't bring her in. She presented herself
20 in front of me.

21 Q. Was that unusual that she would present
22 herself in front of you to discuss the ultrasound prior
23 to the time that the pelvic examination was going to be
24 done?

25 A. No.

1 Q. Was it your custom and habit to remind
2 Michelle Price where to put the calipers, even though you
3 say you'd been working with her for over two years?

4 A. No.

5 Q. So, it was not your habit and routine to do
6 that?

7 A. That's correct.

8 Q. So, this was out of the ordinary?

9 A. Many things that happened hadn't happened
10 before. There was a reason that I don't recall.

11 Q. Well, when you did the pelvic and the lam
12 insertion, you have the original file at that time,
13 right?

14 A. What are you referring to as "original file"?

15 Q. Well, her original medical chart.

16 A. Yes, the chart.

17 Q. And, in fact, the ultrasound -- how many
18 ultrasounds were in the file at that time?

19 A. In the chart?

20 Q. Yes.

21 A. You have referred to the file as a chart.

22 Q. Yes.

23 A. There was one ultrasound.

24 Q. And is that the ultrasound that we have
25 discussed in this case which was Exhibit 21?

1 A. Well, the one that we have seen here in the
2 courtroom is the one that was there. As far as I know,
3 that's the only one been made available.

4 Q. Well, in fact, that's the one that you noted
5 on her chart as the one you relied on, isn't it?

6 A. I looked at the others, too, at the time, and
7 I relied upon seeing all three of them.

8 Q. So, even though you relied on all three of
9 them, only one of them actually made it to the chart when
10 you examined her on the 16th?

11 A. That's correct.

12 Q. And you didn't have any concerns or questions
13 about why aren't the other ultrasounds in this file, too?

14 A. No.

15 Q. Were the other two ultrasounds, were they
16 better than this one?

17 A. They were all good.

18 Q. They were all good?

19 A. I felt they were all good.

20 Q. So, you felt the other two were just as good
21 as the ultrasound that we have previously had marked and
22 identified as Exhibit 21; is that right?

23 A. Correct.

24 Q. Let me show you what has been marked as 21,
25 ask you if you recognize that?

1 A. There appears to be a copy. I don't know if
2 this is the original or not. To me it looks like a copy
3 of a Polaroid picture, but it does have the same
4 information on it that the one that I used had, yes.

5 Q. And this is the one that you actually picked
6 out of the three and said we will use this one?

7 A. I didn't pick it out.

8 Q. Well, you did rely on this because you did
9 write it in the chart, didn't you?

10 A. This is the ultrasound, as best I can tell
11 you, that was on the chart at the time that I got it, so
12 I did rely on it, yes, sir.

13 Q. And, in fact, it's noted on the chart under
14 stenography report, isn't it?

15 A. What is noted?

16 Q. The gestational age in this photograph of 23
17 weeks three days?

18 A. That's correct.

19 MR. KAZAN: Objection, Michelle wrote that in
20 there.

21 THE COURT: What was written there?

22 Overruled, the answer will stand,

23 Q. (BY MR. AHLER:) Did you actually look at
24 this ultrasound?

25 A. Yes, sir.

1 Q. Why don't you tell us where the midline is in
2 this ultrasound.

3 A. I couldn't tell you.

4 Q. Where are halves of the brain?

5 A. Mr. Ahler, the experts could not even tell
6 you that.

7 Q. Where is the midline?

8 A. Midline, half way between one side and the
9 other.

10 Q. Isn't it true that you need to know where the
11 midline is to correctly estimate the biparietal diameter?

12 A. I have heard the experts testify to that,
13 yes.

14 Q. You have been looking at these for how many
15 years?

16 A. Oh, a long time. Probably eight or nine
17 years.

18 Q. And you don't know how to tell where the
19 midline is?

20 A. I don't believe so. I could find it if it
21 was there to see, but I don't think it's there to see.

22 Q. In fact, you can't see anything in this
23 photograph, can you?

24 A. I could see the biparietal diameter mark. I
25 could see what looks like a head, and I can read the

1 findings that the computer printed out on this picture.

2 Q. Can you see the thalamus there?

3 A. No.

4 Q. Now, you said that you told Michelle Price,
5 make sure you put the calipers in the right place?

6 A. Uh-huh.

7 Q. Where is the right place?

8 A. I was taught, not taught, but in discussing
9 this with anybody that I ever had occasion to tell me
10 what they were doing that, as Dr. Hoffman said yesterday,
11 put them on the center of the skull, outline both sides.

12 Q. By going from inside to outside?

13 A. No.

14 Q. You go out?

15 A. Middle to middle.

16 Q. Well, that wouldn't measure the longest
17 distance, would it?

18 A. It would be probably larger than the longest
19 distance.

20 Q. You think that would be longer if you, in
21 fact, measure from inside to inside as opposed to inside
22 to outside?

23 A. It's possible.

24 Q. Now, the calipers on this photograph, did you
25 actually look at them?

1 Q. Well, are you aware that in Arizona, that in
2 order to do an abortion of a viable fetus, that it can
3 only be done for the health and welfare of the mother?

4 A. I think that applies in any state you go
5 into. I don't think it's just with Arizona.

6 Q. And you would agree, would you not, that
7 fetuses, or at least a certain number of them, are viable
8 at 23, 24 weeks?

9 A. I am sure some of them survive, yeah.

10 Q. I wanted to know what efforts you made to
11 comply with Arizona law, in this instance, by determining
12 whether this fetus was viable or not?

13 A. She was -- go ahead.

14 Q. Did you do that?

15 A. I determined that the fetal age was under 24
16 weeks. I think that's complying with the law.

17 Q. Are you aware the law does not set any
18 specified week?

19 A. That's been my understanding, yes.

20 Q. So, 24 weeks is not some magical mark?

21 A. No. No, it's the facility, the clinic that I
22 work in.

23 Q. You are talking about a policy, right?

24 A. You can call it a policy.

25 Q. I am talking about the law. Are you aware

1 that in Arizona there is no set week that defines when
2 you can, and when you can't do an abortion, are you aware
3 of that?

4 A. I haven't seen anything in writing that would
5 specify that, no.

6 Q. Even though you have been doing these in the
7 State of Arizona since 1989, you are not aware of that?

8 A. That's correct.

9 Q. Now, your examination showed LouAnne Herron
10 to be healthy, correct?

11 A. Physical examination?

12 Q. Yes.

13 A. Yes.

14 Q. There were no issues with her, correct?

15 A. Well, she smoked a half a package of
16 cigarettes. She was preeclamptic toxemia with one
17 pregnancy. She was very upset emotionally about her
18 status. So, I think all of these things have a bearing
19 on one's physical health, which in a matter of a 10
20 minute or 15 minute examination are not, not able to be
21 totally ascertained. But, you know, ostensibly she was
22 healthy.

23 Q. You had no issues as far as her ability to go
24 through this procedure?

25 A. No.

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1 Q. What efforts did you make to determine
2 whether this fetus was viable or not?

3 A. I don't know that I had an issue to determine
4 this.

5 Q. Do I take it that you mean you made no
6 efforts?

7 MR. KAZAN: Objection, this is irrelevant.

8 THE COURT. Overruled. You may answer.

9 A. THE WITNESS: Well, really don't know what
10 kind of efforts you are referring to.

11 Q. (BY MR. AHLER:) You indicated that you had a
12 discussion with LouAnne Herron just prior to the pelvic
13 examination on April 16th, 1998?

14 A. That's correct.

15 Q. You didn't actually go over the entire form
16 with her, did you?

17 A. No, not line by line, no.

18 Q. And you didn't advise her that there were
19 increased risks to her the further along she was in her
20 pregnancy, did you?

21 A. She was due to come in for the procedure the
22 following day. I don't think that's particularly
23 relevant in this case.

24 Q. So, you do not advise her on that?

25 A. No, I didn't.

1 Q. You agree with me there are increased risks
2 the further along the woman is in the pregnancy?

3 A. Yes, I do.

4 Q. In fact, those risks go up every week?

5 A. Yes, sir, they do.

6 Q. And according to expert testimony we have in
7 this case, they can go up as much as 20 percent?

8 A. Twenty percent of what?

9 Q. Twenty percent from the previous week that
10 the risk goes up?

11 A. Twenty.

12 Q. Do you agree with or disagree with those
13 numbers?

14 A. I have heard it spoken. I have no opinion on
15 the validity of it.

16 Q. So, when you used Exhibit 21 as part of the
17 basis for your decision to terminate this pregnancy, did
18 you just look at the number 23, is that all you looked
19 at?

20 A. No, sir.

21 Q. How can you be certain that what was being
22 measured is actually the fetal skull?

23 A. I don't understand what else it would be.

24 Q. Do you see any eye sockets?

25 A. It's possible you could read that into this.

1 procedures you did that day were in the area of 15 to 20
2 minutes, right?

3 A. Something like that.

4 Q. So, this medication would have to take effect
5 fairly quickly so you could do the procedure, wouldn't
6 it?

7 A. Again, it's not a yes or no answer.

8 Q. Well, I assume that you wait until its
9 basically had some effect before you actually start the
10 procedure?

11 A. Oh, that's correct, yes. No question about
12 that, yes.

13 Q. In most instances, this procedure lasts about
14 15 or 20 minutes?

15 A. What's that got to do with the time it takes
16 for it to take effect?

17 Q. My point, it's a fairly short period of time?

18 A. The procedure or the medication?

19 Q. Both.

20 A. Well, it can be. Can be longer or shorter,
21 depends on the duration of the pregnancy.

22 Q. I am assuming that you felt that the drugs
23 had taken effect before?

24 A. Absolutely, absolutely.

25 Q. So, how long did it take, in her case, for

- 1 A. You need to take it out.
- 2 Okay, yes, this appears to be that letter.
- 3 Q. And this is a letter that you wrote to the
- 4 Board of, Arizona Board of Medical Examiners, on June
- 5 1st, 1998?
- 6 A. That's correct.
- 7 Q. And so this letter was written about six
- 8 months, or six weeks after the incident with LouAnne?
- 9 A. That's correct.
- 10 Q. And you were responding to a complaint that
- 11 had been filed by Dr. Keen of the Medical Examiner's
- 12 office in connection with LouAnne's treatment, right?
- 13 A. Correct.
- 14 Q. And I take it that since this was a death,
- 15 and since it was an important matter, that you would have
- 16 been, you were very cautious about writing this and
- 17 getting all the pertinent facts in there?
- 18 A. I try to be as helpful as possible.
- 19 Q. In fact you wrote -- this letter is over
- 20 three pages long, isn't it?
- 21 A. That's correct.
- 22 Q. And in this letter you have attempted to
- 23 outline all the significant things that happened to
- 24 LouAnne that day?
- 25 A. That's correct.

1 Q. Now, in that letter to B.O.M.E.X., you didn't
2 mention anything about these medications having any type
3 of unusual effect on LouAnne Herron, did you?

4 A. No, I did not.

5 Q. You didn't mention anything in there about
6 her talking during the procedure, and mentioning
7 something about her husband abandoning her, and that she
8 had been in a serious car wreck?

9 A. No, I didn't.

10 Q. Even though there was a concern to you, you
11 just testified, you didn't write it in this letter?

12 A. No. You through?

13 Q. Yes.

14 A. What are you referring to as a concern to me?

15 Q. You just testified that you were concerned
16 about whether she was having an unusual reaction to the
17 medication.

18 A. I was reminding myself that was something
19 sort of to keep in the back of your mind for future
20 reference.

21 Q. But you didn't mention that in this letter at
22 all, did you?

23 A. No, I did not. No, I didn't.

24 Q. Was Sylvia and Jenil in the room at the time
25 that she had this reaction that you are talking about?

1 your treatment?

2 A. In many instances.

3 Q. But apparently you did not feel it was
4 important in this instance?

5 A. Regarding the effects of the drugs?

6 Q. Yes, that you said that?

7 A. No, I didn't feel.

8 Q. You indicated that Jenil was a very
9 experienced medical assistant?

10 A. She was quite experienced.

11 Q. In fact, she was one of the more experienced
12 medical assistants in doing ultrasounds, wasn't she?

13 A. She had done them for quite a while.

14 Q. Of all the medical assistants in the
15 facility, wouldn't you rate her as probably one of the
16 best?

17 A. Talking about in the general sense in the
18 facility or specific time or --

19 Q. I am talking about in terms of doing
20 ultrasounds.

21 A. Compared with all the others?

22 Q. Yes.

23 A. Yes, I would say so.

24 Q. Now, the procedure in LouAnne's case took
25 about 37 minutes, correct?

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1 A. I believe it did.

2 Q. That amount of time was almost double of any
3 other procedure that you did that day, right?

4 A. I'd have to look at the list and be sure of
5 what you are exactly saying, but it took longer, yes.

6 Q. Let me show you what has been marked as
7 defense Exhibit 7 or Exhibit 7..

8 A. I would answer you with the codicil, each
9 case in this instance is different. They are all
10 different gestational ages, and they are all different
11 individuals. So, the fact that it was longer than all of
12 them is correct.

13 Q. Well, it's considerably longer than all of
14 them, wasn't it?

15 A. Longer.

16 Q. You wouldn't agree with me that it was
17 considerably longer?

18 A. What is your definition of "considerably"?

19 A. Almost twice as long?

20 A. No.

21 Q. Now, you were having some difficulty, at
22 least finding the fetal head, weren't you?

23 A. I wouldn't call it difficulty. I just
24 couldn't find it.

25 Q. Well, I guess in a normal procedure, you

1 would go ahead and extract it. You wouldn't have to call
2 in for an ultrasound machine?

3 A. Sometimes you're lucky, sometimes you are
4 not.

5 Q. In this instance, you couldn't find it,
6 right?

7 A. I couldn't find it in my usual way of looking
8 for it.

9 Q. So, actually you spent more time inside
10 LouAnne's uterus than say a termination where it's only
11 15 or 20 minutes to complete?

12 A. No, sir, that's not correct.

13 Q. So, even though in looking for it, and can't
14 find it, it takes no longer than the average procedure?

15 A. You are forgetting the time it takes to get
16 the ultrasound, then go back and do it.

17 Q. We have had testimony that it took about
18 five minutes. Is that pretty accurate?

19 A. No.

20 Q. So, you think it took longer than that?

21 A. Yes, I did. It did.

22 Q. Now, in your letter to B.O.M.E.X., you didn't
23 write anything about having to use an ultrasound machine,
24 did you?

25 A. No, I did not.

1 Q. You did not write anything in there, in there
2 about having any difficulty finding the fetal head, did
3 you?

4 A. No, I did not.

5 Q. It's your testimony that you didn't feel it
6 was significant?

7 A. That's correct.

8 Q. Is it your testimony that the injuries to
9 LouAnne's cervix were normal?

10 A. I don't believe there are any injuries to the
11 cervix at all.

12 Q. Did you see the picture of that, that the
13 medical examiner took, which she describes as "gross
14 tearing"?

15 A. Yes, I saw that.

16 Q. And you feel that's the normal amount of
17 tearing that would be expected in a procedure of this
18 nature?

19 A. I don't believe it was tearing.

20 Q. Is it your experience that's the normal
21 amount of trauma that you would see to the cervix in this
22 type of procedure?

23 A. I don't believe it was that at all.

24 Q. Well, you don't believe there was any trauma,
25 do you, trauma to the cervix?

1 A. Every time you dilate it.

2 Q. You don't feel the trauma in this instance
3 was anything unusual?

4 A. Not at all.

5 Q. You ended her procedure, according to your
6 log, at 1:09, right?

7 A. I believe so.

8 Q. You said that you had to redo the I.V., and
9 is it your testimony that she was actually transported to
10 the recovery room prior to the 1:17 notation noted for
11 the next patient?

12 A. Yes, sir, she would have had to have been.

13 Q. So, you don't have any explanation as to why
14 there is a difference between the 1:09 time and the 1:30
15 time that's indicated that they received her in the
16 recovery room?

17 A. No, I don't.

18 Q. Now, you went to some length to explain some
19 notations on Exhibit, Exhibit No. 7, which is the O.R.
20 log for that day. Do you recall being asked questions
21 about that?

22 A. Yes, I do.

23 Q. The various asterisks and stuff?

24 A. Yes, I do.

25 Q. You went to great length to document on this

1 record what had happened to those particular patients?

2 A. That's correct.

3 Q. Down in the right-hand corner there is a
4 notation that says Friday, Saturday, second term 2790,
5 what is that?

6 A. May I take a look, please.

7 This was a notation made for the bookkeeping
8 department of the organization that did the books for the
9 facility. And so they would not be of the mind that we
10 did two different procedures, but it was the same
11 procedure. I am sorry, I am phrasing it incorrectly.

12 She had lams done. This was the patient with
13 the twins, and that she was scheduled to have a procedure
14 done on the 16th. She was logged on the log sheet, which
15 is what they used to do their bookkeeping. Therefore,
16 she was not done on the 16th, she was sent home that day,
17 was brought back for the following day. That is a
18 notation to indicate that.

19 Q. Okay. Let me show you Exhibit 13, which is
20 the medical records submitted by the State, which
21 includes the recovery room log for that day.

22 A. Which day are we talking about?

23 Q. Not the recovery room, I am sorry, the O.R.
24 log.

25 Now, did you make remarks? Did you make all

1 the notations on this Exhibit?

2 A. You will have to show it to me.

3 Q. It's the same one you have in front of you.

4 A. Can I see what you are holding?

5 Okay, yes. I didn't write the day which was
6 listed here as Friday. I did not put notations of the
7 drug verification on the far upper left-hand corner which
8 is number 20 Demerol, 20 Valium. I did not do the
9 initials that are below the medical section which says
10 assistant. And it says initials, and the remainder of
11 the chart, I don't know about the -- well, these are the
12 first initials, just blacked out, the rest of the chart I
13 do myself.

14 Q. You did fill it out?

15 A. Yes.

16 Q. And so you filled out all the times that are
17 on the right side?

18 A. That's correct.

19 Q. You made the notations, that's the asterisks?

20 A. That's correct.

21 Q. Okay. And below that, in the right corner,
22 did you make those, those notations?

23 A. Yes, I do.

24 Q. So, those are yours?

25 A. That's correct.

1 Q. Can you explain why the State's Exhibit No.
2 13, which purports to be the same document, is different,
3 does not have the asterisks on it?

4 A. Yes, this -- well, I am not sure where this
5 copy came from.

6 Q. It was introduced by the defense as Exhibit
7 7.

8 A. Well, I'll explain to you what I explained to
9 you once before.

10 Q. Could you explain why the copy that the State
11 submitted doesn't have the asterisks?

12 A. No, I really am not sure why. I do remember
13 doing the notation on the 17th.

14 Q. Is it possible, Mr. Biskind, you put that in
15 there at some later time?

16 A. No, it is not possible.

17 Q. So, it's your testimony that you placed those
18 marks on the 17th?

19 A. That's correct.

20 Q. Even though it doesn't appear on the State's
21 document, Exhibit 13?

22 A. I couldn't give you the reason, no.

23 Q. I believe you indicated that at some point
24 you gave a bimanual examination to Erid S.?

25 A. Yes, I did.

- 1 Q. That was just prior to putting in the lams?
- 2 A. That's correct.
- 3 Q. You indicated that you actually did that, I
4 believe, in the recovery room?
- 5 A. Absolutely, correct.
- 6 Q. How long does that take you to do?
- 7 A. Fifteen seconds.
- 8 Q. It's a very short procedure, isn't it?
- 9 A. Depends on how you do it.
- 10 Q. So, you can do it longer and make --
- 11 A. Sure, sure.
- 12 Q. -- distinction with it?
- 13 A. Fairly restricted when doing it on a patient
14 who is in a bed.
- 15 Q. The best procedure would be to actually bring
16 them back into the O.R. and put them in stirrups,
17 actually do it in that manner, wouldn't it?
- 18 A. It's a little easier, yes.
- 19 Q. So, you could have done a bimanual
20 examination on LouAnne Herron when you were told about
21 her excessive bleeding?
- 22 A. I didn't see any indication to do -- the
23 answer, yes, I could have.
- 24 Q. That would have been a very easy procedure to
25 do?

1 A. It's not difficult, no.

2 Q. Had there been bleeding, internal bleeding,
3 there is a likelihood you would have been able to depict
4 that with bimanual examination?

5 A. Absolutely not.

6 Q. So, you don't think that's possible?

7 A. No.

8 Q. Even though there were, at least at the time
9 of her autopsy, estimated to be 1000 loss of cc of blood
10 in her retroperitoneal area?

11 A. I believe we are talking about a two hour
12 time span or even more than a two hour difference.

13 Q. When you were called in after the procedure
14 by Mabel Lopez, you indicated you were eating lunch,
15 right?

16 A. Finishing lunch, yeah.

17 Q. You went in and you noticed, at that time,
18 that the I.V. had been infiltrated for a second time?

19 A. That's correct.

20 Q. And that there were two medical assistants in
21 there at the time by the name of Teresa Jensen and Kaihya
22 Jimenez; is that correct?

23 A. Yes.

24 Q. You didn't know either of these young ladies,
25 did you?

1 A. Not really.

2 Q. In fact, you got really upset when you found
3 out that they didn't even know how to detect an I.V. had
4 been infiltrated?

5 A. Takes a lot to get me really upset. I was
6 disturbed by it, yes.

7 Q. In fact, when you called Carol Stuart in, you
8 mentioned that to her. In fact, you said words to the
9 effect, look at this, they don't even know how to detect
10 whether there's an I.V. that's not right.

11 A. I'm not sure, but I might have.

12 Q. So, you knew, at that time, that her care had
13 been in the hands of two very inexperienced medical
14 assistants, right?

15 A. At that moment?

16 Q. Yes.

17 A. For no specific time.

18 Q. And, in fact, you told Carol Stuart, did you
19 not, that we need more experience here?

20 A. That's correct.

21 Q. And you knew, at that time, that there were,
22 there was no nurse in the facility, didn't you?

23 A. Registered nurse?

24 Q. Yes.

25 A. I found out at that time, yes.

1 Q. And isn't it true that Carol Stuart actually
2 told you, I didn't know Lois was leaving?

3 A. I don't recall.

4 Q. It's possible that you -- that she said that
5 to you?

6 A. I have no recall of that at all.

7 Q. Did Carol Stuart tell you that she had made
8 efforts to contact other nurses to try to get them to
9 work the afternoon?

10 A. I don't recall.

11 Q. Did she tell you that Lois had informed her
12 that she had a medical appointment the week before?

13 A. Excuse me?

14 Q. Did she tell you that Lois had informed her
15 that she had a medical appointment, couldn't work in the
16 afternoon?

17 A. I wasn't there the week before.

18 Q. I am talking about that day.

19 A. No. I am sorry, you didn't phrase your
20 question that way.

21 Q. So, she didn't tell you that?

22 A. I don't believe so.

23 Q. Had Carol Stuart come in and told you at
24 12:15 when Lois Montagno left that there was no nurse,
25 would you have started the procedure on LouAnne Herron?

1 A. I couldn't say.

2 Q. So, knowing you had no nurse either to help
3 you in O.R. or in recovery room, you can't say whether
4 you would have gone ahead with the procedure?

5 A. What I thought almost three years ago and
6 what I am telling you today is very different. I might
7 have said let's stop at this point, I don't know.

8 Q. Don't you think a nurse is kind of important?

9 A. She has a place.

10 Q. Well, aren't nurses substantially more
11 trained than medical assistants?

12 A. Yes, certainly more trained.

13 Q. In fact, have to be licensed, right?

14 A. True.

15 Q. And medical assistants don't have to be
16 licensed?

17 A. I am -- I'm not aware.

18 Q. The blood pressure that you initially saw at
19 1:30, at 1:35, the 90 over 50?

20 A. Yes, sir.

21 Q. You weren't concerned about a 22 point drop
22 in her systolic rate?

23 A. No, I wasn't.

24 Q. And that doesn't even send up a red flag to
25 you?

1 A. When I saw her -- I think if we were to look
2 back on the recovery room log and take all these
3 patients, I bet we would find three or four on this list
4 that would have --

5 Q. That's not my question to you.

6 A. No, I wasn't concerned.

7 THE COURT: Mr. Ahler, let him finish his
8 answer. The next question.

9 A. THE WITNESS: Finish my answer, would be that
10 we would find three or four individuals who had at least
11 20 to 30 point drop initially after they came from
12 surgery into the recovery room.

13 Q. (BY MR. AHLER:) So, your own expert
14 indicated put up a red flag to him. So, to you, it
15 wouldn't have put up a red flag?

16 A. I had been doing a lot of procedures that day
17 and didn't feel that there was a red flag on any of them
18 regarding blood pressure.

19 Q. Now, this blood pressure was done by one of
20 those persons, people, that you came upon when you came
21 in and looked at the blood in the first place?

22 A. I don't think we know that for sure.

23 Q. Well, the testimony was that it was taken by
24 Teresa Jensen.

25 A. I am not sure. Whoever was in the recovery

1 room when she first got there.

2 Q. Well, I believe it was indicated when you
3 went in there that Teresa Jensen and Kaihya Jimenez were
4 already there.

5 A. That was after 1:30?

6 Q. Right.

7 A. We are talking about probably getting to the
8 recovery somewhere around 1:17 or within a matter of a
9 moment or two of that.

10 Q. So, you can't say who was in there watching
11 LouAnne?

12 A. I don't think you could either. I can't, I
13 don't know.

14 Q. Did you look at the chart when you went in
15 there?

16 A. I don't recall whether I did or not.

17 Q. So, you can't tell us what was on the chart
18 as far as blood pressure?

19 A. I know one, 90 over 50.

20 Q. Then you must have looked at the chart?

21 A. I think I did.

22 Q. And 90 over 50 would have been what was made
23 at 1:35?

24 A. I don't know that.

25 Q. Did you have any concerns, at that time,

1 about the blood pressure and the fact it may have been
2 taken by two totally inexperienced medical assistants who
3 never worked in the recovery room before?

4 A. No, I did not.

5 Q. Did you make Carol Stuart aware that this
6 patient was having problems?

7 A. I don't believe she was having problems.

8 Q. You didn't say anything to her other than we
9 need more experienced medical assistants?

10 A. I don't believe I said anything other than
11 that, no.

12 Q. Now, with Erid Sandoval, the twin lady that
13 we have talked about, the one that you lam'd, according
14 to the records, at 3:15.

15 A. What is your question?

16 Q. I am asking, you recall that line of
17 questioning?

18 A. Oh, yes, sure.

19 Q. Now, with her situation, you couldn't leave
20 that day until something happened with her situation,
21 correct?

22 A. I'm not sure I understand your question.

23 Q. Well, she either had to abort the twins or
24 you had to relam her?

25 A. If we wanted, yes, I guess that's a fair

1 statement.

2 Q. And so until either one of those two things
3 happened, you couldn't leave the facility?

4 A. I wouldn't have left.

5 Q. Now, the log for the O.R. that's Exhibit 7,
6 indicates that these procedures went fairly quickly that
7 morning, would you agree?

8 A. Yes.

9 Q. And there really is very little time between
10 procedures, correct?

11 A. That's correct.

12 Q. So, you would have had very little time that
13 morning to go check up on Erid Sandoval in the recovery
14 room, correct?

15 A. No.

16 Q. Well, why don't you point to a period of time
17 between one of those procedures, tell me whether there
18 would have been time?

19 A. Well, I don't think I have to do that. I can
20 answer your question another way. The patient, when we
21 are finished, is transported to the recovery room. I go
22 in and I make notation of the time that we are finished.
23 That's all I needed to do at this point, except the O.R.
24 chart, which was sort of a check list.

25 It only takes about ten seconds to walk from

1 the O.R. into the recovery room where the patient with
2 the twins was. It only takes another five or ten seconds
3 to say, have you had any contractions? Yes/no. To talk
4 to the nurse at her bedside, is she showing any signs of
5 contractions? Yes/no.

6 So, the time factor is very, very short. I
7 could make it longer if I wished to.

8 Q. How much time is there between each of those
9 procedures as noted in your log?

10 A. We are talking, first of all, about patients'
11 entry into the room, not the beginning of the procedure.
12 First case, five minutes. Second case, two minutes. I
13 am just going down the list here.

14 Two minutes, three minutes, five minutes, one
15 minute, two minutes, three minutes.

16 Q. There is actually very little time between --

17 A. Absolutely.

18 Q. -- procedures, correct?

19 A. I would not argue that point.

20 Q. Takes very little time for medical assistants
21 to clean up for the next procedure?

22 A. Reasonably fast.

23 Q. Yet you say there was a big delay after the
24 procedures prior to the laminaria insertion?

25 A. I am sorry, why don't you refer -- when are

1 you referring to?

2 Q. You indicated --

3 A. After the procedures were finished, or the
4 end of the day?

5 Q. In the operating room that day.

6 A. Why don't you restate your question.

7 Q. When you were done with the termination, you
8 indicated that you did some lam insertion?

9 A. That's correct.

10 Q. You indicated that there was some sort of
11 delay between?

12 A. I did.

13 Q. And typically it does not take them 20 to 30
14 minutes to clean up after the procedures and prior to the
15 lams, does it?

16 A. We finished the last procedure, the patient
17 went into the recovery room, everybody just then
18 vanished.

19 Q. Was that noted anywhere in your letter to
20 B.O.M.E.X.?

21 A. No, it wasn't.

22 Q. You indicated that you reviewed a number of
23 O.R. logs concerning how many times you worked with
24 Sylvia Aragon.

25 A. For a one-year period, yes.

1 Q. And you indicated that you had worked with
2 her, I think six to eight times?

3 A. Six times when she was one of the assistants.

4 Q. Now, on the top of that log is a notation for
5 nurse and also one for medical assistant or assistants,
6 right?

7 A. Talking about...

8 Q. The logs that are used.

9 A. O.R. log?

10 Q. Correct.

11 A. Yes.

12 Q. There is an area for nurse, and there is an
13 area for --

14 A. Assistants.

15 Q. Can you point to any log that you have
16 reviewed that indicated that Deryl Whitlock was a nurse?

17 A. When I reviewed them I wasn't looking for
18 Deryl's name.

19 Q. You just indicated that you thought that she
20 was an LPN?

21 A. That's correct.

22 Q. You didn't see her name as a nurse on any of
23 those logs, did you?

24 A. Miss Whitlock rarely, if at all, ever
25 assisted in surgery.

1 Q. Now, you were aware that Deryl was primarily
2 assigned to watch after LouAnne in the recovery room,
3 right?

4 A. Are we referring to the day of the --

5 Q. When she got there on the 17th.

6 A. She was there after 2:30, yes.

7 Q. Now, you didn't list Deryl Whitlock's name in
8 your letter to B.O.M.E.X., did you?

9 A. No.

10 Q. You didn't make any mention in there about
11 your understanding or feeling that Deryl was a nurse or
12 an LPN, did you?

13 A. She wasn't mentioned at all.

14 Q. And, in fact, you didn't even put in the
15 letter that there was no nurse there, did you?

16 A. I don't think so.

17 Q. You didn't think that was important?

18 A. I was trying to be helpful as far as giving
19 them information that they needed to make some judgment
20 decision on whatever it was of their concern. I don't
21 think that whether a nurse being there or not being there
22 would really have anything to do with what they were
23 interested in.

24 Q. You said you were just trying to help them
25 out, in fact?

1 you would include the events that took place and try to
2 give them as much information that pertains to the
3 overall situation as it existed.

4 Q. So, having a nurse not available in there
5 would not be significant --

6 A. I didn't --

7 Q. -- as far as her treatment?

8 A. I did not feel it was significant at that
9 time.

10 Q. Now, these drugs that are given, the normal
11 course of cases, they are significantly, the effects of
12 these drugs are significantly gone by the time they leave
13 the facility; isn't that true?

14 A. What do you mean, "significant"?

15 Q. Well, they must be well enough to be, at
16 least be ambulatory, walk out of the facility on their
17 own two feet?

18 A. With help.

19 Q. I mean, you are not going to let a patient
20 actually having to be carried out of there, right?

21 A. Not carried, with help.

22 Q. So, the drug has to wear off to the extent it
23 allows them to walk?

24 A. Partially, yes.

25 Q. And talk, right?

1 the recovery room and saw her and examined her?

2 A. Only on the basis of the fact that I know I
3 did it. No, my memory of what happened exactly two and a
4 half years ago is not that good.

5 Q. You can't recall if she was complaining about
6 pain?

7 A. I don't believe she was.

8 Q. You said that you examined her, actually felt
9 her fundus?

10 A. Yes, I did.

11 Q. Were their medical assistants in the room
12 when you did that?

13 A. Yes, sir.

14 Q. Who was it?

15 A. I don't remember.

16 Q. Would they have been able to see you do that?

17 A. I am sure they could.

18 Q. According to Deryl's notes, she indicates
19 that after having laid LouAnne down for 45 minutes, that
20 she came in and discussed with you about whether she
21 could give Narcan, correct?

22 A. We had a discussion.

23 Q. And there is no indication in there that you
24 looked at LouAnne at that time?

25 A. I believe I was in the recovery room at that

1 time. I don't think she came in and talked to me.

2 Q. Did you note that in the chart?

3 A. I had no reason to.

4 Q. There is an area on the chart where it
5 designates if you have given Narcan?

6 A. That area happens to be for use of Narcan
7 from the operating room during the procedure.

8 Q. So, if you were to give it at some other
9 time, you wouldn't have noted that on the chart?

10 A. Medical assistants should note it.

11 Q. You just indicated you were in the recovery
12 room when you ordered it?

13 A. Deryl Whitlock asked if it would be okay to
14 give to her. I said, yes. If that's ordering, yes, I
15 said that.

16 Q. Do you have Exhibit 13 with you?

17 A. What is that?

18 Q. That's the medical chart.

19 A. No, I don't.

20 Q. Actually two areas on this chart where Narcan
21 is listed. It's listed under the surgical report,
22 correct?

23 A. That's correct.

24 Q. And it's also listed under the recovery room
25 log, correct?

- 1 A. Yes, it's on here.
- 2 Q. Neither of them are marked in this instance,
3 are they?
- 4 A. No.
- 5 Q. Correct?
- 6 A. Correct.
- 7 Q. Didn't you consider giving Narcan to be kind
8 of significant?
- 9 A. In what way?
- 10 Q. Well, you don't do it in every case, do you?
- 11 A. No, certainly not.
- 12 Q. You do it when you suspect the person is
13 having a problem coming out of the effects of the
14 narcotics, correct?
- 15 A. That's one. That's the main use of it, yes.
- 16 Q. In fact, doesn't it have something to do with
17 breathing, if people are having problems breathing?
- 18 A. No.
- 19 Q. No?
- 20 A. No.
- 21 Q. Do you consider it a significant event if you
22 order Narcan to be given to a patient?
- 23 A. Absolutely not.
- 24 Q. In fact, you thought it so unimportant you
25 didn't note it in the letter to B.O.M.E.X. either, did

1 you?

2 A. It's not noted, no.

3 Q. Now, at the point where you order Narcan be
4 given, which I think you said was around 3:15?

5 A. Correct.

6 Q. She had been post procedure for how long?

7 A. Approximately two hours.

8 Q. Okay. And how long had it been since she had
9 been given the Demerol?

10 A. Approximately two and a half hours.

11 Q. It's your testimony that at that time that
12 you reasonably believe that she was still under the
13 effects of Demerol?

14 A. Yes.

15 Q. And that's even though most patients after an
16 hour are able to get up and walk out of your facility
17 after having the same amount of Demerol?

18 A. Would you like me to explain this to you?
19 Yes or no answer is going to be meaningless.

20 Q. Well, I'd like you to try to answer the
21 question.

22 A. Restate the question.

23 Q. It had been two hours plus?

24 A. Two and a half.

25 Q. Over two and a half hours since you had given

1 gave the Narcan, right?

2 A. I'm groggy when I get up in the morning.

3 Q. I don't believe I asked you that.

4 A. I am sorry.

5 Q. She was still --

6 A. Yes.

7 Q. After -- how long after the Narcan was she
8 still groggy?

9 A. She remained the same grogginess from the
10 reports that I received.

11 Q. And you did not consider it at all on the
12 possibility that perhaps the grogginess was caused by a
13 blood loss?

14 A. Absolutely not.

15 Q. You indicated that you don't see these drug
16 reactions very often?

17 A. That's true.

18 Q. So, they are rare?

19 A. I don't know if you call them rare. What
20 does rare mean? One in a million, one in two million?
21 You don't see them often.

22 Q. How often do you see them?

23 A. I don't know. I don't keep track.

24 Q. You said that you saw a small piece of paper
25 next to the chart indicating blood pressure readings that

1 you believe were taken by Deryl Whitlock?

2 A. Yes, I did.

3 Q. Where are those readings now?

4 A. I haven't the slightest idea.

5 Q. You went down to get the medical chart that
6 night, right?

7 A. That's correct.

8 Q. And one of the reasons you want to get the
9 medical chart and go down there was to make sure it was
10 complete before you sent it off to the Medical Examiner?

11 A. Correct.

12 Q. And it didn't cross your mind that maybe that
13 piece of paper was important, as part of the record here,
14 to go to the Medical Examiner's office?

15 A. Not at all.

16 Q. Now, there is actually places on the chart
17 where you are supposed to put the blood pressure reading?

18 A. Correct.

19 Q. So, Deryl Whitlock would have had room on the
20 recovery room log to put additional blood pressure
21 readings, or BP readings, had she done them, correct?

22 A. That is correct.

23 Q. Now, you indicated that you actually, I
24 believe mentioned some of the numbers for those blood
25 pressure readings?

1 A. I stated some numbers.

2 Q. Yeah, you said you felt they were in the
3 normal range, didn't concern you?

4 A. That's correct.

5 Q. Now, in your letter to B.O.M.E.X., you didn't
6 mention anything about this piece of paper, did you?

7 A. No, I didn't.

8 Q. You didn't mention anything about the actual
9 blood pressure readings that you now say you observed on
10 this piece of paper, did you?

11 A. No, I did not.

12 Q. You consider that to be important in
13 responding to this complaint?

14 A. I think I had a period of time, at this time,
15 that many facts of the case were just not there at that
16 moment when I was writing the letter.

17 Q. This was six weeks after the incident. Isn't
18 it going to be a little fresher in your mind six weeks
19 after the event as opposed to three years later?

20 A. No question about it. Go ahead.

21 Q. It was freshest in your mind when you wrote
22 that letter, wasn't it?

23 A. Yes.

24 Q. And yet you totally neglected to put anything
25 about this piece of paper that had additional blood

1 Q. Now, this is around the same time that Deryl
2 claims that she was complaining about not being able to
3 feel her legs?

4 A. I really don't recall that. I don't recall
5 the time that Deryl might have said that.

6 Q. Deryl said it was 30 minutes after the Narcan
7 was given they tried to get her up, she couldn't feel her
8 legs.

9 MR. KAZAN: Objection, that's not even a
10 question.

11 THE COURT: Objection sustained. Ask in the
12 form of a question, please.

13 Q. (BY MR. AHLER:) Do you have Deryl's notes in
14 front of you?

15 A. I don't believe so. No, I don't.

16 Q. Let me show you Exhibit 19. You have seen
17 these before, I assume?

18 Have you seen this before, Mr. Biskind?

19 A. Yes, I have seen it before, true.

20 Q. About 8, 10 lines down says, "Dr. Biskind
21 instructed us to give her Narcan 1 cc."

22 I believe you indicated that you felt that
23 was about 3:15?

24 A. Yes, that's the best I recall.

25 Q. Within a half hour, again, she is

1 non-responsive. Patient stated she was alternating
2 between heat and cold. Could not feel her legs.

3 Do you see that?

4 A. Yes, I do.

5 Q. So, that would have been around the
6 approximate same time that you claim you went in and
7 talked to her and she was responsive and okay?

8 A. Uh-huh.

9 Q. Is that right?

10 A. That's correct.

11 Q. Now, at some point, you indicated that you
12 asked Carol Stuart to find out from the family if she had
13 any special, I don't know if you said drug problems or
14 reaction to drugs; do you recall?

15 A. Probably both, yes.

16 Q. So, when did you do that?

17 A. I don't recall. It was during the afternoon.

18 Q. Before the last time that you saw her?

19 A. Some time before, yes.

20 Q. Now, you claim that you actually left the
21 facility 15 minutes later?

22 A. About that time, as far as I can recall, yes.

23 Q. In fact, you said after four o'clock?

24 A. In my letter I marked 4:05.

25 Q. In your letter you indicated that the last

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1 time you actually saw LouAnne was just prior to leaving
2 at 4:05, right?

3 A. No, I don't believe so.

4 Q. Well, do you have that in front of you?

5 A. Yes.

6 Q. Refer you to page three, paragraph three.

7 A. Yes.

8 Q. Says that about 4:05, after seeing
9 Miss Herron the last time, I left the facility.

10 A. My interpretation of that sentence is that I
11 left the facility at 4:05, and it was after seeing
12 Mrs. Herron for the final time, but that doesn't connote
13 that I saw her at 4:05.

14 Q. You don't note anywhere in here that you saw
15 her at 3:45, do you?

16 A. That's correct. That's correct.

17 Q. So, now your testimony is that you didn't see
18 her at 4:05. You did not state that in the letter that
19 that's not what you meant?

20 A. That's correct. That's not what I meant.

21 Q. And in the letter to B.O.M.E.X., you indicate
22 that her condition was stable when you saw her?

23 A. Yes.

24 Q. Which means that her blood pressure was
25 normal?

1 A. I can't give a specific diameter of it, no.

2 Q. Clearly you would remember, wouldn't you, if
3 the blood was all the way to her knees?

4 A. I think I would, yes.

5 Q. And clearly that description of blood is
6 inconsistent with your estimation of 100 cc's, isn't it?

7 A. Who knows for sure.

8 Q. 100 cc's, it's just a little over six
9 tablespoons, isn't it?

10 A. 10 cc's.

11 Q. Not very much, is it?

12 A. No, it isn't.

13 Q. Did you notice the blood on her foot?

14 A. No.

15 Q. Wouldn't that be something that you would
16 consider if you saw blood on a patient's foot?

17 A. When?

18 Q. When you went in to look at her.

19 A. When?

20 Q. When you first went in.

21 A. Well, she had been transferred from one cart
22 to another, and she had to possibly bring her knees up,
23 put her foot flat. There might have been blood there for
24 whatever reason and gotten it on the foot.

25 Q. So, that would not alarm you?

1 A. Not at all.

2 Q. You believe that 100 cc's would be sufficient
3 blood for her to be able to pull her feet all the way up,
4 and put her feet in the blood?

5 A. I think you're talking about two different
6 things.

7 Q. There is evidence here, at some point, she
8 pulled up her legs, got into this puddle of blood that
9 she was sitting in. Is it your testimony that 100 cc's
10 would be a sufficient amount of blood for her to do that?

11 A. I am really confused by your question.

12 Q. How do you think she got the blood on the
13 bottom of her feet and between her toes?

14 A. During the afternoon, attempting to get off
15 the gurney, wanting to go to the bathroom. If I were
16 lying flat on my back on a gurney, I'd want to bring up,
17 bring my knees up. I am putting my foot flat trying to
18 get up. There was a Chux underneath that. Any blood on
19 it whatsoever might have gotten a little blood on it, it
20 would have not been noticed and dried, and that was
21 there.

22 Q. You claim that at some point she wanted to
23 get up and actually saying, I need to go to the bathroom?

24 A. Once, more than one time.

25 Q. Have you heard any medical testimony to that

1 statement?

2 A. No, I am surprised.

3 Q. Did you mention that, by the way, in your
4 letter to B.O.M.E.X.?

5 A. No, I didn't.

6 Q. You never did a pelvic exam?

7 A. Right. On who?

8 Q. On LouAnne Herron on the 17th?

9 A. After surgery?

10 Q. Yes.

11 A. Not after surgery.

12 Q. You never did a hematocrit?

13 A. No.

14 Q. You never really made an effort to look
15 inside her cervix to see if she was bleeding from either
16 the cervix or somewhere else?

17 A. There was no reason to.

18 Q. Well, you indicated that really what you did
19 was push on her stomach. So, you never looked inside to
20 see where the blood might be coming from, did you?

21 A. No, I did not.

22 Q. You write in your letter to B.O.M.E.X. that
23 the entire time during the procedure in the recovery room
24 that LouAnne was awake, talking and requesting to get up
25 to go to the bathroom?

1 Q. In Deryl's notes, there is one reference to
2 blood pressure that she took at some point 90 over 60.
3 Do you see that? It's on the side?

4 A. I see what you are referring to, I believe.

5 Q. Is there any reference in Deryl's notes, to
6 all these other blood pressure readings, that you claim
7 you saw on this piece of paper?

8 A. Once again, please.

9 I am sorry, I was looking at this and the
10 letter. Question again.

11 Q. Okay. Is that the only blood pressure
12 reading on there given by Deryl?

13 A. I presume there is nothing on the back of
14 this. It's not open, so...

15 Q. You can open it if you want. There is
16 writing on the back.

17 A. There is writing.

18 Q. The arrow goes down to the other side. I
19 believe it's open at the bottom.

20 A. Seems to me this might be written by somebody
21 else.

22 Q. I am asking you, is there any indication in
23 there, other than the 90 over 60, of any other blood
24 pressure reading written?

25 A. The reason I ask, because the question

1 basically was that Deryl wrote these notes. I think
2 somebody else wrote some of them.

3 I don't see any other blood pressure reading
4 on here.

5 Q. No indication on there about these notes that
6 you say you saw next to the chart?

7 A. No, there are none.

8 Q. On the last page of the document, it
9 indicates that according to Carol, Dr. Biskind stated
10 there was nothing he could do, and he was not coming
11 back, and we should call 9-1-1. Did you tell Carol
12 Stuart, on the phone, that you were not coming back?

13 A. No.

14 Q. I want to show you what has been marked as
15 Exhibit 18. Would you look through this?

16 A. Yes, sir.

17 Q. You recognize that document?

18 A. No.

19 Q. That's been introduced into evidence and
20 identified by Lynneal Woodard as nursing care standards
21 that were given to her by Gretchen Pacheco shortly after
22 she started employment at A-Z. Do you remember that?

23 A. Okay.

24 Q. I wanted to refer you to page 7, ask if you
25 agree with what is contained in those nursing standards?

1 MR. KAZAN: Objection --

2 A. THE WITNESS: Never seen them.

3 THE COURT: Sustained. Says he's not
4 familiar with them at all.

5 Q. (BY MR. AHLER:) Was it your understanding,
6 Mr. Biskind, that a nurse needed to be in the facility
7 until all the patients were discharged?

8 A. No.

9 Q. Was it your understanding, Mr. Biskind, that
10 the doctor was to be in the facility until all the
11 patients were discharged?

12 A. No.

13 MR. AHLER: I have no further questions.

14 THE COURT: All right, thank you.

15 Redirect?

16 MR. KAZAN: Thank you.

17 REDIRECT EXAMINATION

18 BY MR. KAZAN:

19 Q. Dr. Biskind, who was responsible in the
20 recovery room for documenting the recovery room records?

21 A. The assistant who would be taking care of
22 that specific patient or patients.

23 Q. Meaning either of the medical assistants?

24 A. Medical assistants or a nurse, either one.

25 Q. And with respect to the notes written by

1 Deryl Whitlock, do you still have those in front of you?

2 A. Yes, I do.

3 Q. First of all, did Miss Whitlock make a record
4 of everything she observed? Do you have any way of
5 knowing?

6 A. I would have no way of knowing.

7 Q. Number one.

8 Number two, can you say that Miss Whitlock
9 made these notes about the events as she was perceiving
10 the event?

11 A. I could not comment on that.

12 Q. Could you say whether or not she wrote these
13 at a later time?

14 A. I really can't say.

15 Q. There's -- I mean, they are apparently dated
16 and timed on the left margin, right?

17 A. I see that, okay.

18 Q. That's fine. 7:00 p.m., April 17th, of 1998?

19 A. That's correct.

20 Q. This would have been after Miss Herron was
21 pronounced dead at the hospital?

22 A. Coincides with that.

23 Q. Was Miss Whitlock in an upset state of mind
24 when she wrote these notes?

25 MR. AHLER: Objection, calls for speculation.

1 THE COURT: Sustained, calls for speculation.

2 Q. (BY MR. KAZAN:) Do you have any idea as to
3 whether or not these notes reflect all of the
4 observations that Miss Whitlock made in the afternoon?

5 A. No.

6 Q. There is a blood pressure noted that
7 Mr. Ahler talked about, 90 over 60, that's written on
8 these particular notes. Did Miss Whitlock write that or
9 any other blood pressure on the actual recovery room
10 record?

11 A. I don't know.

12 Q. Did you ever see a 90 over 60 on the recovery
13 room record?

14 A. I have to look at the record, I don't
15 remember.

16 Q. Does he have Exhibit 13? Do you have exhibit
17 13?

18 A. I don't think I do.

19 MR. KAZAN: Do you have them, Paul?

20 MR. KAZAN: Would you like to see if you have
21 it, Dr. Biskind?

22 MR. AHLER: I believe he has it.

23 THE WITNESS: The recovery room record, I am
24 sorry, it was underneath something.

25 Q. (BY MR. KAZAN:) Did you ever see a 90 over

1 60 by Deryl Whitlock on that?

2 A. No, I didn't.

3 Q. Does this mean that this was the only blood
4 pressure that she took in the afternoon, the one that's
5 in these notes?

6 A. I wouldn't interpret that, no.

7 Q. Is there any doubt in your mind that you saw
8 a separate piece of paper that contained other blood
9 pressure or vital signs that Miss Whitlock recorded?

10 A. Absolutely.

11 Q. Was it unusual, sir, for the medical
12 assistants working with your nurse to do that?

13 Was it unusual for the medical assistants
14 working at your center to do that?

15 A. As far as I know, no.

16 Q. Was not unusual?

17 A. Not unusual.

18 Q. Mr. Ahler asked questions concerning whether
19 or not it was your duty, or whether or not it was your
20 practice, to check patients in the recovery. Did you, in
21 fact, check patients in the recovery room?

22 A. Yes. Oh, yes.

23 Q. Did you do it on April 17th?

24 A. Yes, I did.

25 Q. Did you check Miss Herron?

1 A. Yes, I did.

2 Q. Did you check Miss Herron approximately every
3 30 to 45 minutes as you wrote in your letter to
4 B.O.M.E.X.?

5 MR. AHLER: Objection, leading.

6 THE COURT: Overruled.

7 You may answer.

8 A. THE WITNESS: Yes, I did.

9 Q. (BY MR. KAZAN:) Were you checking on
10 Miss Sandoval as well?

11 A. I was, yes, sir.

12 Q. Were you paying attention to anybody else
13 that would have been in there had they needed your
14 attention?

15 A. They were the only ones there.

16 Q. I wanted to know more about what a patient
17 looked like when they were being released.

18 First, let me ask you, were they of the frame
19 of mind, as they walked out the door of the center, to be
20 on Jeopardy, for example?

21 A. Absolutely not.

22 Q. Could they run a 100 yard dash?

23 A. No.

24 Q. What kind of -- I mean, I understand I think
25 a little bit of what you said in terms of they would --

1 terms of ambulatorily, they would need assistance to
2 walk. What kind of shape are they really in when they
3 are allowed to leave?

4 A. Each patient is going to be different. No
5 question about that. Many of them could walk out, but
6 the majority of them walk with their assistant, meaning
7 the person that was there to take them home, if, in fact,
8 there was one, which was the practice.

9 Q. Would you let them drive?

10 A. Absolutely not.

11 Q. Why not?

12 A. Because they were in no condition from the
13 narcotic medications that they were given.

14 Q. They still be groggy, even as they walk out
15 the door?

16 A. Absolutely.

17 Q. The fact that medical assistants did not
18 recall, during this trial that, for example, Miss Herron
19 would make a comment concerning wanting to get off the
20 gurney to go to the bathroom, does that mean it didn't
21 happen, Dr. Biskind?

22 MR. AHLER: Objection, calls for speculation.

23 THE COURT: Overruled, you may answer.

24 A. THE WITNESS: Absolutely not.

25 Q. (BY MR. KAZAN:) Did you have any reason to

1 believe the blood pressure that the medical assistants
2 were taking were in error?

3 A. No.

4 Q. How long had you been relying on medical
5 assistants to take blood pressures at the A-Z?

6 A. Ever since I started work there.

7 Q. Had there been any rule requiring, as far as
8 you know, an RN to be present during procedures?

9 A. No.

10 Q. Was that just something, I guess a preference
11 that you had?

12 A. I was supplied with an RN for the most part,
13 and I accepted that.

14 Q. Would an RN do something that you couldn't
15 do?

16 A. No.

17 Q. And if a patient was, in your opinion or
18 estimate stable, soon to be released, that there would be
19 a need to leave that patient in the custody of an RN as
20 opposed to a medical assistant?

21 A. No.

22 Q. You indicated that Miss Whitlock rarely
23 assisted in surgery?

24 A. I don't recall any time that she ever
25 assisted me in surgery.

1 Q. Would her name, therefore, ever appear, for
2 example, in the top of the surgery log under nurse or
3 assistant?

4 A. Surgery log, excuse me?

5 Q. Operating, O.R. log. I am asking you, if she
6 wouldn't have assisted, would her name appear on that
7 log?

8 A. There could be a circumstance where she might
9 have initially been thought to be working, and before we
10 started the procedure, somebody wrote her name before we
11 started, and then they said I'd like to have you do this
12 today. They would leave, go somewhere else, the name
13 might not have been crossed and another name put down
14 there, it's a possibility.

15 Q. I mean, for example, on April 17th, the O.R.
16 log under nurse says Lois then slash Jenil after Lois.
17 Does it say RN?

18 A. I am sorry, I have to look to see what you
19 are referring to. Where are we here?

20 Q. The operating room, O.R. log, April 17th.

21 A. Okay. If I understand, does it say RN after
22 Lois' name, is that what you are saying. No, it does
23 not.

24 Q. Does it say after Jenil's name, MA, medical
25 assistant?

1 A. No, it does not.

2 Q. But what was your reason for believing that
3 Miss Whitlock was more of a practical nurse as opposed to
4 a medical assistant?

5 A. That she was highly, highly regarded by the
6 people that she worked with and the common scuttlebutt,
7 if you wish to call it that, pervaded the operating room
8 almost after day --

9 MR. AHLER: Objection, hearsay. I am not
10 sure what it is.

11 THE COURT: Overruled.

12 A. THE WITNESS: Has a good reputation.

13 The other aspect of this was that on the
14 occasions that I worked in the Scottsdale office, even
15 though they would be rare, I think for the most part, she
16 was always there. And possibly on one of those or more
17 occasions she was in the operating room with me.

18 Q. (BY MR. KAZAN:) Mr. Ahler asked you on
19 cross-examination questions concerning your feeling that
20 Miss Herron was potentially still under the effect of
21 Demerol nearly two hours after the procedure, and you
22 wanted to give an answer. I want you to explain why you
23 believe that.

24 A. When we give a medication, and we give it to
25 a patient intravenously, especially given slowly, each

1 time the blood circulates, there is what we call a
2 circulation time. Means the time it takes for one red
3 blood molecule, one red blood cell, to travel from point
4 A all the way through the body, come back into the heart,
5 be bumped back again, come back to where it started,
6 that's circulation time.

7 I am sorry, I am a little bit off on that.
8 It's been a long time since I really thought about this.

9 But circulation time means it goes from the
10 point of injection, injection to an arm or a leg,
11 whatever it is, till it goes into the lung, at which time
12 the patient is made to breathe or feel a sense of order.
13 When it goes in the circulation, it goes into the brain.
14 It, the brain, has what we call receptor areas. These
15 receptor areas pick up certain other molecules, among
16 which are certain drugs. Those drugs become bound, we
17 call them, they bind to receptor areas.

18 Now, in the normal metabolism, if you think
19 of digestion, then eventually the food gets into your
20 blood, blood stream. Metabolism is, in a sense, a little
21 bit like that, something you can certainly relate to, and
22 as long as it's bound to the brain, and as long as it has
23 been metabolized, it's going to excerpt an effect on the
24 brain.

25 If I were to push a drug intravenously into

1 anything, it's going to very rapidly, going to be a large
2 amount coming into the brain, and it's part of the brain,
3 in a sense, like a rush, like a wave within a beach. The
4 majority of that material is not going to be bound to
5 receptors in the brain. It's going right there and come
6 around again, and when it comes around again, a little
7 bit will be removed and bound. Goes around again, comes
8 in and a little bit gets bound.

9 So, the slower that you give the medication,
10 the more opportunity the body has to bind this
11 medication, and the longer acting it will then be as far
12 as in the body, and whatever the effect is, whether it's
13 drowsiness, sleepiness, or trying to eliminate pain, but
14 that is a reason that the individual may have a much more
15 prolonged effect.

16 I have to qualify this in one sense. It's
17 important for you to understand that the body makes what
18 is called an endorphin. Endorphin combats the fear that
19 individuals can have, anxiety, so that in the beginning
20 of a procedure, when we are not using general anesthetic,
21 we are not here, these endorphins may prevent the
22 individual from getting the same effect.

23 I am not going into detail. I don't think I
24 could explain in the first place, but as time goes on,
25 the patient is no longer being stimulated. The procedure

1 around the time that the 90 over 60 blood pressure was
2 taken?

3 A. I believe so.

4 Q. She notes that there was some responsiveness?

5 A. Yes.

6 Q. So, the condition that Miss Herron was in
7 when you made your observations of her, did you get the
8 idea that she was just laying around out of
9 consciousness, out of control?

10 A. Not at all.

11 MR. AHLER: Objection, leading.

12 THE COURT: Overruled. You may answer.

13 A. THE WITNESS: Not at all.

14 Q. (BY MR. KAZAN:) Is 750 cc's to 1000 cc's
15 blood observed by Mr. Barajas, the EMT, were you ever
16 shown any evidence, Doctor, that that was how much loss
17 there was?

18 A. Never.

19 Q. You have any way of confirming his accuracy
20 in terms of what he observed?

21 A. No, I don't.

22 Q. Regardless, did you see any blood loss after
23 the initial time you were called into the recovery room?

24 A. No.

25 Q. At any time during the afternoon when you

1 were in there, even just seeing the lady with twins, how
2 far were you from Miss Herron ever?

3 A. I had to walk right by her every time I went
4 back and forth in the recovery room.

5 Q. In terms of walking right by, if there is any
6 kind of blood loss that you would consider to be
7 significant, could you have missed it?

8 A. I don't think so.

9 Q. Did you ever become aware from anybody, or
10 Miss Herron herself, that she was having a hard time in
11 terms of feeling her legs?

12 A. No.

13 Q. Did you ever become aware about alternating
14 between hot and cold?

15 A. No.

16 Q. Did Miss Whitlock ever refer you to that
17 information?

18 A. No, not at all.

19 Q. Did that scenario occur while you were even
20 still on the premises?

21 A. I don't believe so.

22 Q. Were you -- you weren't present when the
23 informed consent was gone through with Miss Herron?

24 A. The first time?

25 Q. Yes, sir.

1 A. Excuse me, not the first time.

2 Q. That was a week earlier?

3 A. I believe so.

4 Q. And was your, was any part of your duties at
5 the center to be aware of payment?

6 A. No, none whatsoever.

7 Q. That would be nothing you have anything to do
8 with?

9 A. Correct.

10 Q. In terms of ultrasound here, did you just
11 rely on that one particular ultrasound?

12 A. No.

13 Q. Did you look at all three?

14 A. Yes.

15 Q. Miss Price told you that all three she gave
16 is 23.3 days, 23.6 days and 24.0 days in terms of her
17 three ultrasounds. How far apart in days were those?

18 A. I think just a few. I don't think they were
19 very many, maybe less than a week.

20 Q. Wasn't more than four?

21 A. I am sorry have to -- four, yes, I suppose
22 that's correct.

23 Q. Does the fact that all three ultrasounds were
24 relatively close in terms of the biparietal diameter
25 number of weeks, did that tell you anything with respect

1 to your ability to rely on them?

2 A. I felt the differences were insignificant, so
3 that any one of them could be relied on.

4 Q. Okay. Was that the only information that you
5 utilized in determining whether or not it was appropriate
6 for you to proceed with the termination?

7 A. No.

8 Q. What else?

9 A. I used my clinical evaluation, clinical
10 judgment, my pelvic examination, bimanual examination as
11 well. Looked at the LMP to see how it corresponded.

12 Q. And when you -- first of all, was it you that
13 put down the 23 week, three day ultrasound, as the one
14 referenced in the chart?

15 A. What exactly does "put down" mean? I am
16 never sure I understand.

17 Q. Wrote it down.

18 A. Wrote it on the chart? I believe I wrote it
19 on the surgery sheet.

20 Q. Why don't you look on -- I don't know, these
21 aren't numbered.

22 A. Under stenography.

23 Q. Stenography record, who wrote the biparietal
24 diameter in, and the weeks, and the name of stenographer?

25 A. Michelle Price.

1 Q. Did she write in the weeks?

2 A. Yes.

3 Q. She wrote in the biparietal diameter?

4 A. Correct.

5 Q. Preoperative diagnosis is there. Who wrote
6 that in?

7 A. I wrote that in.

8 Q. Postoperative?

9 A. I wrote that.

10 Q. How do you determine post operative?

11 A. There is no --

12 Q. I am sorry.

13 A. There is no way.

14 Q. Because of what?

15 A. We don't measure it.

16 Q. You don't measure the fetus?

17 A. It's not significant.

18 Q. It does not matter?

19 A. That's correct.

20 Q. But everything you saw was consistent, in
21 terms of LMP, pelvic examination, and the ultrasound, was
22 consistent with what?

23 MR. AHLER: Objection, leading.

24 THE COURT: Asking him what it was doesn't
25 suggest an answer. Overruled, you may answer.

1 A. THE WITNESS: I am sorry. It indicates to me
2 that it was less than 24 weeks.

3 Q. (BY MR. KAZAN:) Dr. Biskind, what
4 information could you have possibly given to the
5 paramedics that one of the medical assistants in
6 attendance could not have?

7 A. I don't think there was anything.

8 Q. First of all, at the time you got the call,
9 were you expecting any problems from Miss Herron?

10 A. No.

11 Q. I mean, could you report to the paramedics
12 this woman was suffering from a retroperitoneal
13 hemorrhage after all?

14 A. No.

15 Q. You couldn't give any information?

16 MR. AHLER: Objection, leading.

17 THE COURT: Sustained, that is leading,
18 suggests the answer. Please ask non-leading questions.

19 Q. (BY MR. KAZAN:) Other than the fact she had
20 gone through a second trimester abortion, what
21 information could you have given that wasn't in there for
22 them?

23 A. I don't know.

24 Q. When you wrote the letter to B.C.M.E.X., did
25 you put in the information that you thought would be

1 surgery.

2 Q. That was already on the chart?

3 A. I am just saying, this would be about the
4 only thing I could tell them.

5 MR. AHLER: Objection, that's misstating the
6 evidence. That's not on the chart.

7 THE COURT: Sustained. Don't make comments
8 as to what is in evidence or not. Ask questions, please.

9 Q. (BY MR. KAZAN:) Was 300 cc's blood loss on
10 the chart?

11 A. Yes, it was.

12 Q. Was an additional 100 cc's blood loss in
13 terms of Miss Herron's condition, sir?

14 A. No, sir.

15 Q. Can you think of any reason why you would
16 have wanted to get the woman's name that you talked to at
17 the emergency room?

18 A. None whatsoever.

19 Q. Mr. Ahler asked, when you got this call,
20 could you have gotten back while the paramedics were
21 still present. I ask you is that, retrospectively, you
22 could have?

23 A. Well, it's possible. I could have broken
24 some speed laws and gotten there, but I don't, really
25 don't think so.

1 Q. At the time you got that call, what was going
2 through your mind?

3 A. I suppose I was in sort of a very, I can't
4 say shocked state, but I was really surprised. I didn't
5 know what to think. I had no idea of what the cause
6 would be. All the things that would normally happen, or
7 could happen to somebody, had went through my mind in
8 that moment or two of thinking about it. I couldn't come
9 up with any apparent reason that had any substance to it.

10 Q. Well, retrospectively, you also know what?

11 A. Certainly ended up causing Miss Herron's
12 death, absolutely.

13 Q. Did you know that at the time?

14 MR. AHLER: Objection, relevance, leading.

15 THE COURT: What is your objection?

16 MR. AHLER: Leading.

17 THE COURT: Overruled, you may answer.

18 Did you know that at the time is the

19 question?

20 A. THE WITNESS: No, I did not know at the time.

21 Q. (BY MR. KAZAN:) Did you have any idea that
22 that was going on at the time you left the A-Z Women's
23 Center?

24 MR. AHLER: Objection, asked and answered.

25 THE COURT: Overruled, you may answer.

1 A. THE WITNESS: Absolutely not.

2 Q. (BY MR. KAZAN:) Did you have any idea that
3 earlier during the procedure you had caused a uterine
4 perforation?

5 A. No.

6 Q. Dr. Biskind, if you thought for a moment
7 Miss Herron was in some kind of medical trouble or
8 distress, would you have left the center?

9 A. No.

10 MR. KAZAN: I don't have anything else.

11 THE COURT: Ladies and gentlemen of the jury,
12 any questions?

13 At least one.

14 (Sidebar conference.)

15 THE COURT: Who usually performed the
16 ultrasound when the ultrasound machine was brought into
17 the operating room?

18 Who usually started I.V. in the operating
19 room?

20 There is some confusion on restarting the
21 I.V. Did you restart two I.V.'s? You said you had to
22 restart the I.V. on Miss Herron in the O.R. and again in
23 the recovery room. Who restarted the I.V. in the O.R.?
24 Who restarted the I.V. in the recovery room?

25 Next one crossed out.

1 Did witness check victim's mouth, nose or
2 pupils for any signs of distress or paleness?

3 Did victim feel cold to the touch at any
4 time?

5 What would be the standard procedure or drugs
6 administered if patient was having an allergic reaction?

7 How many uteruses have been perforated by the
8 witness in his experience?

9 Any of them serious?

10 I won't ask those two questions.

11 Does the Doctor feel it is important to keep
12 abreast of any recently published medical findings by his
13 peers on abortion procedures?

14 Why would victim have been restrained from
15 getting up? Wasn't this encouraged by the M.A.'s?

16 Was there any personnel -- I think personal
17 conflicts?

18 MR. AHLER: Personnel.

19 THE COURT: Maybe personnel conflicts between
20 the medical assistants that could indicate to the jury a
21 reason why they would intentionally misstate or dilute
22 their statements?

23 I will just ask if he's aware of any
24 personnel conflicts between the medical assistants. I
25 don't know that that means with the medical assistants.

1 THE WITNESS: The most common thing we use
2 for any allergy is Benadryl. It's given to a person
3 through the muscle, most of the time, so would have
4 probably given her 50 or 100 milligrams Benadryl
5 muscularly.

6 THE COURT: Do you think it's important to
7 keep abreast of recently published medical findings by
8 peers on abortion procedures?

9 THE WITNESS: No.

10 THE COURT: Why would the victim have been
11 restrained from getting up? Wasn't getting up encouraged
12 by the M.A.s?

13 THE WITNESS: This was before a time that
14 they felt, or I won't speculate, a time that probably she
15 was unable to be left alone in the bathroom, to be steady
16 enough on her feet to make it there on her own. So, they
17 felt it important to protect her, not to let her go.

18 THE COURT: Were there any personnel
19 conflicts between you and the medical assistants that
20 would affect their statements in this case, if you know?

21 THE WITNESS: I am totally unaware of
22 anything.

23 THE COURT: Do you agree with Dr. Hoffman's
24 opinion that the tearing of the cervix of the victim may
25 have required a suture?

1 THE WITNESS: Would you give me that again,
2 please?

3 THE COURT: Yes. Do you agree or disagree
4 with Dr. Hoffman's opinion that the tearing of the cervix
5 may have required a suture?

6 THE WITNESS: Well, I'll try to answer this
7 question. I don't recall that I heard Dr. Hoffman say he
8 would suture the cervix in the case that we are
9 discussing. Excuse me, from my look at that picture, I
10 do not see a laceration there, excuse me, that would
11 require a suture. The majority of -- let's put it this
12 way, anything that I would call a laceration, look like
13 you tore a piece of paper, you actually had a tear to the
14 surfaces, separated from one another, that is what you
15 see when you have a lacerated cervix. For whatever the
16 reason, that requires a suture there, whether it's
17 bleeding or not.

18 THE COURT: Any follow-up Mr. Kazan?

19 MR. KAZAN: Yes.

20 FOLLOW-UP EXAMINATION

21 BY MR. KAZAN:

22 Q. Dr. Biskind, did you ever notice that
23 Miss Herron was pale before you left?

24 A. No, I did not.

25 Q. Did you ever notice anything unusual about

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C E R T I F I C A T E

I, JUDY GIBBONS, do hereby certify that the foregoing 211 pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 14st day of August, 2000.

JUDY GIBBONS, RPR
AZ CCR 50141

1 one. And, number two, that, in and of itself, wouldn't
2 necessarily keep the patient down.

3 Q. Would the M.A. let the patient go to the
4 bathroom while she had a bag on?

5 A. Yes, it could be done without too much
6 trouble.

7 MR. MORGAN: Nothing further.

8 THE COURT: Mr. Ahler.

9 FOLLOW-UP EXAMINATION

10 BY MR. AHLER:

11 Q. You didn't give her any Benadryl type
12 medication?

13 A. No, I did not.

14 MR. AHLER: No further questions.

15 THE COURT: You may step down. Watch your
16 step.

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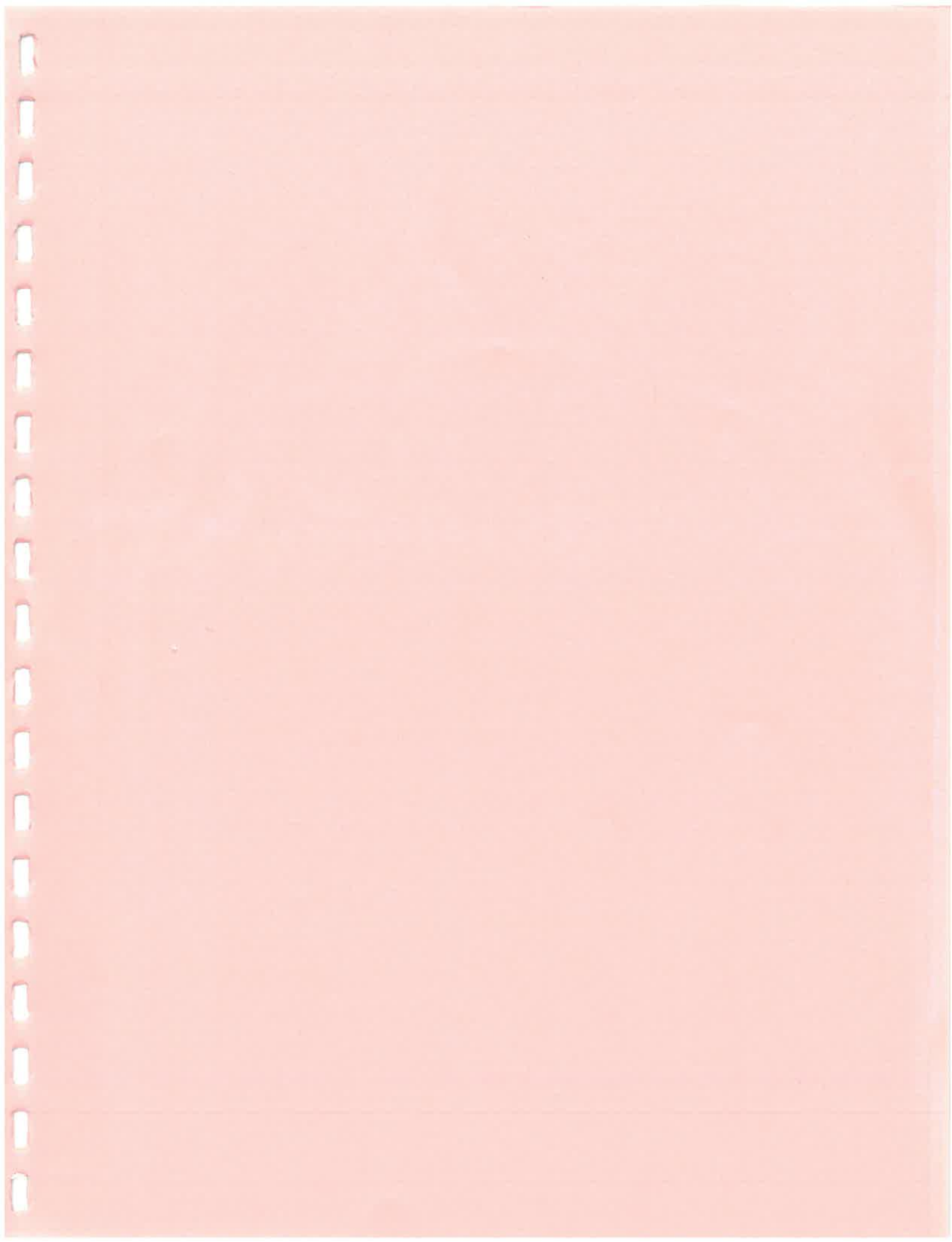
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[NEWS] [SPORTS] [ENTERTAINMENT] [BUSINESS] [TRAVEL] [CLASSIFIEDS]

ARIZONA CENTRAL

THE ARIZONA REPUBLIC

NEWS MAIN ▶

In the matter of:

- OPINIONS
- EAST VALLEY
- NE VALLEY
- WEST VALLEY
- BUSINESS
- WEATHER
- AUTOS
- COMPUTING
- ARIZONA DIGEST
- AP WIRE
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- REAL ESTATE
- EMPLOYMENT
- MEET YOUR MATCH

JOHN BISKIND, M.D.,

Holder of License No. 12642
for the Practice of Medicine
in the State of Arizona

INFORMAL INTERVIEW OF JOHN BISKIND, M.D.

Phoenix, Arizona
January 18, 1996
1:35 o'clock p.m.

BEFORE THE ARIZONA BOARD OF MEDICAL
EXAMINERS, INFORMAL INTERVIEW IN RE JOHN
BISKIND, M.D., holder of License No. 12642 for the practice
of medicine in the State of Arizona, held at 6151 East Morten
Avenue, Phoenix, Arizona, on January 18, 1996, at the hour of
1:35 o'clock p.m., called to order by Richard D. Zonis, M.D.,
Chairman.

(The indication "***" represents deletion of material to maintain
patient confidentiality.)

CHAIRMAN ZONIS: Come forward please, Doctor. Come
forward, please, with your attorney. Am I pronouncing your
name correctly? Biskind?

DR. BISKIND: Biskind.

CHAIRMAN ZONIS: Biskind. Short "i." License number
12642. Doctor, you've been notified of the material we're going

DR. BISKIND: Yes, sir.

CHAIRMAN ZONIS: And you've been notified that you could
bring with you an attorney?

DR. BISKIND: Yes.

CHAIRMAN ZONIS: And you have brought?

MR. RAUP: Calvin Raup, Mitten, Goodwin and Raup, Phoenix,
Arizona.

CHAIRMAN ZONIS: Thank you for coming, Mr. Raup. Doctor, we will have a presentation by one of our staff members of the matter under discussion and you will have an opportunity to present your position and answer questions from Board members. We will be talking about at least one patient and please, you must not mention patient names; use initials only in referring to this or any other patient. And if your voice tends to be weak -- and it sounds like you've got a pretty voice, but if it tends to be weak that little bulbous microphone in front you will help us to hear your responses. Our reviewing staff member is Dr. Pent.

DR PENT: Dr. Zonis, members of the Board, Dr. Biskind, Mr. Raup, this concerns the death of a patient from complications of a pregnancy termination. Patient was 26-year-old gravida IV para III abortus 0 seen in the A-Z Women's Clinic by Dr. Biskind on Feb. 16, 1995, at which time the uterus was felt to be slightly more than 20 weeks in size. She returned the next day. A suction curettage was performed followed by a sharp curettage to remove the remaining tissue. Apparently the patient elected to return to Flagstaff following the surgery. Further information that the Board received was that they looked around in Phoenix to find a place to stay but, it being February, the rates were rather high; they elected to go to Flagstaff. She was feeling rather ill. She and her boyfriend stopped in Camp Verde to get a motel room. She had the onset of breathing difficulty. Emergency medical services were called and transported the patient to the emergency in Cottonwood where she was pronounced dead at 4:55 p.m. At autopsy there was an 8 cm vertical laceration of the posterior wall of the uterus, along with approximately 2000 cc's of blood in the abdomen. Cause of the death was listed as interabdominal hemorrhage secondary to perforation of the uterus secondary to pregnancy termination.

Dr. Biskind in his letter to the Board notes that the consent form states that perforation of the uterus is a possible complication. He also says that he asked the patient if she knew that she would have to spend the next 48 hours in Phoenix and she said she would do so. And he says when a patient calls for an appointment she is informed that if she's from out of town she'll have to spend two days in Phoenix and there are several other occasions during the patient encounters when this is spelled out to the patient.

Dr. Biskind notes that on February 17th, 1995, patient LB came to the operating room at 10:33 a.m. She received 75 milligrams of demerol, 10 milligrams of valium, 5 milligrams of Compazine, all intravenously. He performed a suction curettage and finally curettaged the cavity with a sharp curette. At 10:47 a.m., five

patient who was seven months pregnant, not eight -- in a report he thought that she was seven to ten weeks pregnant. That's still a gross discrepancy, and I felt that that case and this raised concern regarding the doctor's competency.

THE COURT: Thank you for that concise summary, Dr. Pent.

Dr. Keen?

DR. KEEN: Good afternoon, Doctor.

DR. BISKIND: Good afternoon, sir.

DR. KEEN: I would like to ask you a few questions about, in general, how you conduct this sort of procedure in this setting, and then specifically about this patient. And specifically, for the first part, what pre-op work-up do you do for these patients? What evaluation do you do for them?

DR. BISKIND: The patient comes to the facility and a history is taken that the patient gives to us, which she fills out, a form, stating things that might have happened in her past, past surgical and medical problems, medications she might be on, allergies, and her obstetrical history last menstrual period. And at that time an ultrasound is then performed on the patient. And presuming that she is not too far for a pregnancy termination, she is then sent to our lab, in-house lab, where hematocrit pregnancy test, if necessary, depending upon the duration of the pregnancy, urinalysis, and the weight, blood pressure, vital signs in general, temperature, pulse, respirations, are all done and recorded. At that time if there are no problems that are found, the patient is then counseled by one of our counselors about the procedure and, presuming that there are no other problems, then the patient is prepared, so to speak, for the procedure.

When they call for the procedure -- for the appointment, if the person taking the phone message feels that they are probably a one-day procedure, they are told to come in NPO after midnight and -- so that they are in the facility. And if they, for any reason, have been found to have been -- have eaten, had anything to drink, they would be referred to me and I might verify this, talking to them about the possibly complication of aspiration and so forth, and more likely than not we schedule, then, if that were the case.

But presuming that they are capable of going through the procedure at that time, they are just taken in a certain order and the procedure is then performed -- excuse me. I will see that patient at that time, at the time the procedure is going to be done, look at the history, look at the chart, look at all the

various laboratory studies that have been performed and, in my own mind, make sure that -- or be certain that there are no problems that I'm not aware of, talk to the patient, go over the consent forms, asking them if they have any questions about the consent forms, asking the whether they have any questions about procedures, doing a physical examination at that time: Heart, lungs, abdomen, pelvic, skin, ENT, and if everything is alright at that point, then we go ahead with the procedure.

DR. KEEN: Specific to this case with patient LB, what were the results of the ultrasound?

DR. BISKIND: She was 20, I think 20.6 weeks pregnant.

DR. KEEN: Placental implantation site?

DR. BISKIND: We do not routinely look for one. It is probably of no necessity, meaning that if the procedure is going to be done, the placental site really doesn't enter the picture. Occasionally, we are confronted with individuals who have been sent to us where ultrasounds have been done by a lab or their physician, and they have a marginal [PRAOE/] [SRAOE] ... yeah or they have a low line placenta of sourts -- and again, depending upon when this was done, they duration of the pregnancy, these things are taken into consideration relative to the procedure as far as whether it's a problem.

DR. KEEN When you do ultrasound do you make a report of that ultrasound, too, or doo you just do it and look at that?

DR. BISKIND: I do not do the ultrasounds. We have an ultrastenographer, several, who do the procedure. When I get the chart, I get a pitcture that's attatched to the chart that has the vital information that shows that cavity and the presentation.

DR. KEEN: Is that the one for this patient?

DR. BISKIND: Yes.

DR. KEEN Can you tell from that where the placenta is?

DR. BISKIND: No.

DR. KEEN: The -- this patient was a little different than some, presumably, in that -- in that they are out of town. Do you treat out-of-town people differently than the in-town people?

DR. BISKIND: Yes.

DR. KEEN: An how -- when do they --- when they first know that? Do they first know that the telephone communication and

contact with the A-Z Clinic?

DR. BISKIND: That's correct. Their first contact with the clinic they are asked where they live. If they are living outside of the greater Phoenix area they are told about the necessity or the possibility, if they are a two-day procedure -- because we don't know at that point. Many times, the first trimester, on the basis of our LMP and dates, et cetera, can come in and she can be two or three months further along, which is not unusual at all. And so we have -- but she is told on that very first telephone visit -- occasion.

DR. KEEN: The duration of the procedure in this particular case, are we correct in our interpretation of the time frame here? That from the -- the actual procedure itself, to the time she is discharged is on the order of an hour, hour and a half?

DR. BISKIND: I haven't actually figured it all out, but the procedure began, I believe, -- I can give you it to you exactly so we're not talking --

DR. KEEN: If you would, please.

DR. BISKIND: -- in the realm of the unknown. Okay. The procedure, itself, meaning the starting of an intravenous solution, we have noted at 10:33 a.m. She left the operating room at approximately 10:52 and she was discharged from the recovery room at 11:30.

DR. KEEN: So approximately an hour?

DR. BISKIND: Approximately.

DR. KEEN: What signs and symptoms do you look for as independent indicators that there's a complication, either during or after the procedure, first. And then second, what signs and symptoms do you tell the patient to monitor and seek attention for?

DR. BISKIND: Well, in answer to your first question, I have learned over the years that my greatest feat is to find something that I didn't expect. So I'm trying to anticipate, right from the beginning, all of the various contingencies that might arise. The one biggest thing in this procedure that we're concerned about is the position of the uterus. Because of the axis of the uterus is not known and our instruments are going in on the wrong axis, then perforation is a very likely possibility.

The retroverted uterus, which we see statistically in 20 percent, I think we see in 35, 40 percent of patients. The farther along in the pregnancy there is, the less the retroversion, itself, plays a

role because the retroversion has a tendency to become indistinct, so to speak as the uterus enlarges, because the cavity just takes that position away. So when I sit down on an operation to do one of these procedures, the thing that's foremost in my mind is, from my pelvic examination, from anything else we may know, what is the position of the uterus and what axis is that instrument going to take or where will it go if I want it to go the appropriate way. So that is the one thing I think that is more important and most -- foremost in my mind.

The -- whether the woman is having a first abortion or the fourth or fifth abortion does make a difference, because the first abortion we're going to find tissue that has not been stretched. She has not been pregnant before, in many cases, so we're going to have to be much more careful in dilating the cervix -- assuming we're talking about the first trimester abortions, initially, here. The woman who's had multiple abortions, many times you dilate very little because the duration is such that you can get an appropriate instrument into the uterus without the need for that.

DR. KEEN: Let's tailor the response to this patient's gestations.

DR. BISKIND: In this patient we're dealing with a 20-week pregnancy. We're dealing with a situation where we are putting in laminaria, which are dilators that take overnight, usually 12 to 24 hours, to slowly, gradually, dilate the cervix so that it is appropriately dilated to prior to doing the operative procedure. The laminaria are hydroscopic and they absorb fluid and they swell overnight three to four times their previous size. She -- the patient was seen on one day. The laminaria were inserted. Again, knowing the nature of the cervix -- is this the first time around? Has it been done before? She had multiple abortions, multiple pregnancies. This is usually a procedure where very little can occur. If you were to force a laminaria into a nulliparous cervix, theoretically you might do some damages. But even under those conditions, the length being in the neighborhood of probably three to four centimeters, they aren't going to go too far into any part of the uterus to produce a problem.

So during that point, the first visit, first seeing the patient, there's not too much that you have to be concerned about getting involved in, as far as that's concerned.

Now, the second day where she comes in and the packing which is put in on top of the laminaria is removed from the vagina, the laminaria sometimes have fallen out; they've just literally come right out of the cervix. But basically, they're removed from the vagina. We count them to be sure we got all of them back and be

sure that the tally occurs. And from that point on, then, the procedure goes on.

Now, if the cervix has not dilated -- and this could be a concern to me -- we do another day's worth of dilating and put in additional laminaria, send the patient home, tell them to come back in another 24 hours.

DR. KEEN: This lady was properly dilated?

DR. BISKIND: This patient was satisfactorily. "Satisfactorily" means enough that we can remove the fetal tissue without having to be concerned about that.

DR. KEEN: Any abnormal version of her uterine fundus at this point?

DR. BISKIND: No, no.

DR. KEEN: So --

DR. BISKIND: By the time the patient is 20 weeks, we're talking pretty much midline. We're talking anterior, for the most part, or mid-position. Very rarely --

CHAIRMAN ZONIS: Doctor, can I interrupt you for a second? Dr. Keen is asking you specific questions and you're giving us CME on how to do a pregnancy termination. It might help your situation along if you're able to confine your answers to his specific questions.

DR. BISKIND: We'll try, sir.

DR. KEEN: I'll try to be even more specific.

DR. BISKIND: Okay.

DR. KEEN: During this procedure did you not anything abnormal, out of the way, from what you usually do?

DR. BISKIND: Absolutely not. Absolutely not. It was --

DR. KEEN: Was there any point in time in which you felt you might have perforated the uterus?

DR. BISKIND: Not at all.

DR. KEEN: What signs did you tell her to monitor as she was discharged? Did you give her any discharge instructions?

DR. BISKIND: I, personally -- I do not give discharge instructions to the patients on the day of surgery.

DR. KEEN: Who does?

DR. BISKIND: The recovery room nurse. And we have these all presented for the patient to take home with them. They're given to them when they first come in so that they can have a day or whatever to look them over. And I will tell the patient, usually, in the first interview that pain and bleeding are two things that we are concerned about most. We tell them how to contact somebody at the clinic over a 24-hour period of time for an emergency call to have them verify what's going on and to take whatever measures are necessary at that point.

DR. KEEN: If you have a patient who reports on or the other of the -- either the pain, excessive pain, or the abnormal bleeding -- and that's going to be quantitative by then -- what do you do with them?

DR. BISKIND: We will see them personally.

DR. KEEN: Any hour of the day or night?

DR. BISKIND: Any hour of the day or night, yes.

DR. KEEN: You're a 24-hour-a-day clinic?

DR. BISKIND: Yes. We can have somebody there in ten or fifteen minutes to open the clinic any time.

DR. KEEN: Okay.

DR. BISKIND: I know you had two parts to your question; I don't know if I answered both parts for you.

DR. KEEN: That's all right; we'll go on. At the moment of discharge of this patient -- I guess your contact with this lady is only during the actual evacuation procedure; is that correct? During that second day?

DR. BISKIND: Unless there's a problem; that's correct.

DR. KEEN: It's a relatively large size fetus at this point in time. In the post anesthetic recover phase does someone massage the uterus?

DR. BISKIND: Only if it's -- it's felt to be soft. The recovery room individuals -- there's more than one -- will periodically put their hand on the uterus, feel it. If it's not hard, they'll massage it. If it doesn't respond, they'll come and ask me what -- you know, what should we do? Patients have IV drops going with Pitocin, intracervical -- or oxytocics are given so this is not a problem. It's a rare problem, believe me.

DR. KEEN: In the record of this patient, anything abnormal whatsoever?

DR. BISKIND: None whatsoever.

DR. KEEN: Now, this patient was instructed to say near the night before?

DR. BISKIND: We ask them to stay within fifteen minutes of where the clinic is located, where the offices are located.

Q. Do you dispute the observation that was made at the post mortem examination of this individual, as a perforation being the etiology of her hemorrhage?

DR. BISKIND: Sir. I have not seen the records. I have not had a chance to review any of them. This information has not been given to me only verbally and what I have read in the review that was in the report that came to me. So in answering your question, in all honesty I have only that information that there was a vertical laceration of 8 cm and with laceration you are very likely to cause bleeding to take place. Certain lacerations, interestingly enough, do not bleed. But again, it is a possibility and I have no way of answering your question any other way.

CHAIRMAN ZONIS: Ms. Randolph, do you have any questions?

MS. RANDOLPH: The period in the recovery room, do you feel in retrospect that thirty minutes is an adequate period to observe for any complications?

DR. BISKIND: Well, "any complications" is covering a little bit of territory. Over the eight years that I've been working in this particular setting we have had so few problems that -- I guess, it works, is all I can say to you. I know this sounds peculiar, when you are working in a general surgical environment, when you are working in the surgicenter where general anesthesia is given.

I think this is a point that should be made clear to all of the members here. When I first began to work under these conditions giving the amount of drug, Demerol, Valium, Compazine, I, too, said, I want to see what happens. The individuals coming into the operating setting are usually so apprehensive and so anxious that the enorphins that are produced in advance of all this counteract the effect of the medication.

You would think that these people would be sleeping within a matter of two or three minutes after the IV, push but one of the reasons why that's pushed, to the best of my understanding, is,

MS. RANDOLPH: We have limited time, so --

DR. BISKIND: I understand you do. I would like to answer your question. I did a survey, a Medline survey back twenty years and found an article published this year where it covered 3,300 cases over five years. And I will only bore you with one statistic and that is in 547 15-20-week terminations there was only one perforation, and there were three perforations done in the first trimester in that group. I looked at my even record for the past --

MS. RANDOLPH: Was that the same amount of people in both groups? What --

DR. BISKIND: The number of patients in the first group; first trimester up to 13 weeks -- five to 14 weeks, pardon me, was 3,225. It was 547 in the 15-20 week group.

MS. RANDOLPH: So you can't compare raw numbers, then, because you've got different --

DR. BISKIND: No, but the overall total number of perforations was four: One in the first group -- or one in the second group, three in the other.

What I wanted to use was the comparison with this study to my own. And in my own, with the total number of procedures done and with the one perforation in this year 1995, my rate of complication of a perforation in a patient was .130 percent in my own group. They also conclude -- and Dr. Pent, you would be interested in hearing this because it's part of what was talking about in your discussion. Careful approach to the second trimester dilation and evacuation procedures can make them comparatively as safe -- as safe as suction curettage contrary to common belief derived large surveys done in the late 1970's. That's from the American Journal of OB/GYN, and I have copies if you would like to see them.

MR. RAUP: Dr. Zonis, can we offer that to the Board for its consideration?

CHAIRMAN ZONIS: Give it to one of the Board staff.

DR. BISKIND: And I would like to go back to one more point and that is your point of the time of recovery room observation. And I have this highlighted on page 3 when you get your copy. Very first line in the top paragraph. All patients were observed from four -- I'm sorry. For 30 to 120 minutes. So I don't think we're out of the territory as far as the time factor is concerned.

And one last paragraph on that same page is highlighted. One

second trimester perforation occurred, apparently in an uneventful procedure.

MS. RANDOLPH: That's all the questions I have.

CHAIRMAN ZONIS: I have a question, first, for Dr. Keen. Dr. Keen, if, at autopsy, there was an 8 cm laceration do you have a feeling of how big it may have been at the time that it was created?

DR. KEEN: Probably not larger than -- you're going to have --

CHAIRMAN ZONIS: Probably not larger?

DR. BISKIND: You're going to have some contraction, but depending on how they've measured this, if that's the dimension of that it could have been as small as 8 before; it could have been as large as 10 or 12. More likely, it's close to 8.

CHAIRMAN ZONIS: Close to it or less.

MR. RAUP: I'm sorry, Dr. Zonis, as small as?

DR. REEN: 8 is what was measured.

CHAIRMAN ZONIS: Doctor, is this your sole practice, is pregnancy termination?

DR. BISKIND: It has been since July of 1995. Prior to that I've been full obstetrics and gynecology for 37 1/2 years.

CHAIRMAN ZONIS: Okay. But since July of this past year it's been strictly pregnancy termination? -

DR. BISKIND: Correct.

CHAIRMAN ZONIS: And approximately how many a day -- how many pregnancy terminations do you think you've done? I know it's a difficult estimate. Have you done a hundred? A thousand? Ten thousand? What would you say?

DR. BISKIND: Without really going back, I can give you last year's experience if that would be --

CHAIRMAN ZONIS: Yeah. How many did you do last year?

DR. BISKIND: Reference to -- approximately seven hundred.

CHAIRMAN ZONIS: About seven-- hundred? - Okay. So you're certainly experienced in the procedure.

DR. BISKIND: I think so.

CHAIRMAN ZONIS: And you continue in active practice and your plans are to continue for the foreseeable future?

DR. BISKIND: Yes.

CHAIRMAN ZONIS: I hate to go over ground that's already been gone over, but I'm still terribly troubled about the question that Ms. Randolph asked you and that is, that you have a patient who's had 150 milligrams of Demerol, 10 milligrams of Valium and 5 milligrams of Compazine in IV, and within an hour this statement says she walked out with a steady gait. I think if that were I, I wouldn't be able to pick my head up off of the bed, never mind walk with a steady gait. And I know you've given us an explanation, but --

DR. BISKIND: Dr. Zonis, seeing is believing. And I would only say that I would welcome any of you to come to the facility and to see what we do and how it's done and actually observe these people doing that. There are exceptions, there's no question about that. You get a hundred-pound ~ patient who just literally accepts the drug and is out for an hour, hour and a half and she sometimes is kept there until, again, she is considered to be stable and able to leave.

CHAIRMAN ZONIS: You were not at any time contacted by recovery room personnel after you concluded your procedures?

DR. BISKIND: Nothing.

CHAIRMAN ZONIS: In other words, the last time you saw her is when you or she left the operating suite?

DR. BISKIND: Recovery room -- left the- operating suite, yes.

CHAIRMAN ZONIS: Right. You didn't see her in recovery at any time?

DR. BISKIND: No.

CHAIRMAN ZONIS: Mr. Cooper, do you any questions?

CHAIRMAN ZONIS: Doctor, do you consider that to be a good practice of not going to visit the patient in the recovery room after a procedure such as this?

DR. BISKIND: Well, I think that my experience has given me the ability to feel secure. And the fact that we have a registered nurse and we have people who are competent, who know what to look for if there's a problem, who can -- I'm as close as I am to you from those patients in the recovery area so theoretically, they know that I'm right there. If there's any problem of any

kind, we see them. And I think the experience that we have had over the years -- and I think this applies to other facilities, not just the one we have here -- are such that we can do this. And I suppose there's a constraint of time, that we have so much time to do the procedure and so forth and so on --

MR. COOPER: How much trouble is it, theoretically, from me to you to go see the patient?

DR. BISKIND: It is no trouble at all. That is not the point. The point is that --

MR. COOPER: It's not the point? Patient care? Follow up? -

DR. BISKIND: I cannot say that I don't see some patients, but I can honestly tell you that I don't see every patient because the majority of the patients that we do are very short terminations, take a few minutes, and are not a- magnitude -- now, you could ask me why not see all the second tri patients. Well, I think we used to do this years ago. It just wasn't needed.

MR. COOPER: And what was your belief. . . , with regards to the 8 cm laceration, the cause of that?

DR. BISKIND: I'm sorry, I don't understand the question.

MR. COOPER: Sorry. I should probably get a little closer to the microphone.

DR. BISKIND: Okay.

MR. COOPER: What was your belief that caused the 8 cm laceration of the uterus?

DR. BISKIND: I would have, and I still have, no way of making a judgment decision about that. Placental sites are sometimes very soft, and they can rupture. It could be old scar tissue. There are numbers of reasons, and I can't honestly give you an answer to that question. '

MR. COOPER: Can you give me any type of a medical cause other than the result of the surgical procedure that you performed?

DR. BISKIND: Well, if the patient was doing some vigorous physical activity it's conceivable that something that might have been small to begin with might have enlarged. If the -- acme of the uterus, where it's relaxed completely, doesn't respond, in other words, she's left the facility and the uterus softens up and the bleeding isn't exterior so she didn't realize the bleeding's taking place, talking drip by drip by drip so that it's so slow that

DR. BISKIND: Yes -- well, I'm aware of it in retrospect, but I don't feel that that change in blood pressure is significant enough to have the nurse come in and say, there's a small degree of change in her blood pressure. I think the pulse rate is probably a much more significant indication of bleeding than anything else. Until you reach a shock state.

DR. KRISHNA: That's correct, yes.

CHAIRMAN ZONIS: Dr. Pent, did you have a comment?

DR. PENT: Yes, a few, if I might. One, if I understood Dr. Biskind he said that 18 vigorous activity could extend that uterine laceration; is that right?

DR. BISKIND: I'm speculating, Dr. Pent.

DR. PENT: I would find that inconceivable. In the article that the doctor presented, the incidence of perforation in the late group is twice that of the early group; it's the overall complication rate that's the same. And actually, the figures are too small, 3 and 1.1 percent, .2 percent, and the doctor has .2 percent.

Not in your materials is a supplemental report by Lynn Johnson, the medical investigator who spoke to the boyfriend, and I just would like to quote to you from that. They returned to A-Z Women's Center the next day, Friday, and L had the procedure completed.

After leaving the clinic, parentheses, F recalls L looked very groggy, close parentheses, they stopped at Wendy's on McDowell for a milkshake for L. They tried to find a hotel/motel room but gave up after a while and headed north. At this point L appeared to be sleepy and it wasn't until they got to Camp Verde that she said that she was very uncomfortable.

CHAIRMAN ZONIS: Thank you. Okay. I'm sorry, were you finished, Dr. Krishna?

DR. KRISHNA: Yes, I'm done, thank you.

CHAIRMAN ZONIS: Mr. Raup, do you have some comments for us? -

MR. RAUP: Well, for the record the statement that Dr. Pent just read into the record was not provided to me. This is something about which we had no prior knowledge so it's very difficult to respond to that or defend whatever implication may come from that.

I would like to ask Dr. Biskind to correct the patient's obstetric history as presented by Dr. Pent. She was presented as an abortus 0 and if that's not correct, I would like that --

DR. PENT: No, it's pare 0. "As pare 0, abortus III..

MR. RAUP: Okay, I'm sorry. I heard it differently.

DR. PENT: I may have said it incorrectly; it's in my record.

MR. RAUP: She's had three other abortions. The only other thing is if the Board would like to know about Dr. Biskind's background.

He has a fairly distinguished background.

CHAIRMAN ZONIS: I think I inquired about the things that I wanted to know.

DR. KEEN: Mr. Chairman, obviously we're concerned whenever the outcomes are so dramatic as this. And I would -- my first response to this was; well, here was -- just seeing it on the surface without seeing it in depth was, here was a situation where an obstetrical complication resulted in demise.

I don't feel quite so harsh on the basis of the full review of the case. And specifically, the patient had an obligation, whatever the obligations of the doctor -- I think he had some obligations and I personally am happy that he hasn't had more complications than this, because that is a relatively brief period of time for recovery from this degree of anesthesia.

Notwithstanding, the patient had an obligation to remain near by and did not. And to the extent that that may have contributed to and certainly hampered the ability to recover her, we'll never know. And my recommendation will be for a letter of concern for the obstetrical complication.

CHAIRMAN ZONIS: Is there a motion?

Does anyone wish a recess?

DR. KEEN: I'll -- I think the range of things that we might consider in this case, of which I've said what I think my recommendation would be. I think that at the disciplinary end of this we could adopt findings of fact and conclusions of law with an eye towards a degree of censure. The -- and I think we -- at the very minimum, I don't think we should dismiss.

CHAIRMAN ZONIS: Well, I -- since no one is making a motion and I can't make one, but I would like to give a few of my

thoughts, if it would be helpful to the Board members. I guess my perception of this was a little different than Dr. Keen's.

I've listened to the doctor give a very detached clinical explanation of what went on. I haven't heard any emotion, any feeling of sadness, ~I'm sorry,- remorse, for a young woman in in-his care who died because of his care.

I think many of the things that were done were done because, quote, that's the way they're done and that's the way we do them. That doesn't mean I have to approve of them, and I don't. I think they're wrong. I think it's wrong to give a patient all this medicine and send her home within an hour. I think it's wrong that she did not have had a greater period of observation.

I also cannot ignore the past action of this Board with this doctor, who received a letter of concern for performing a pregnancy termination in a patient seven months pregnant who was probably -- when he said he thought she was 8 to 10 weeks pregnant. It's very difficult for me to accept that a doctor with his experience, training, knowledge, background, c.v., whatever, would not know a seven-month pregnant uterus from an 8 to 10 weeks pregnant uterus. And to me, that is dishonesty and I can't think of any other word for it. I don't think that's ignorance. I don't think the doctor is ignorant.

So I have much graver concerns and I am not happy with merely -- it would not be my recommendation that this doctor merely receive a letter of concern.

DR. KRISHNA: Mr. Chairman, can I-ask a question for Dr. Pent? Uterine perforation, can that go into an 8 cm laceration, a uterine perforation?

DR. PENT: Most probably with the curette it was a perforation and then extended as the curette was drawn down.

DR. KRISHNA: If you just had a perforation interoperatively, postoperatively can that go into a laceration? A perforation, can that become a laceration?

DR. PENT: No.

DR. KRISHNA: With any activity?

DR. PENT: No, no. The doctor said it's speculation. Uterus is sitting down in the pelvis. There's nothing -- you can be moving all around. Nothing it pulling on it or in any way extending it. There's no ligaments or anything that are holding it so that your muscular activity is going to do anything.

DR. KRISHNA: Thank you.

DR. PENT: There's a lot of uter--ne perforations that occur that are just perforations during D&C, and what you do is stop and observe the patient very carefully. Because usually the amount of bleeding from just pushing a hole through with a curette or a sound is so minimal that you can just leave it and observe the patient and do not have to explore that. So that I would think 8 cm -- I think Dr. Biskind would agree -- is probably a good possible explanation is, the curette perforated and then as it was withdrawn just cut down through the wall.

DR. BISKIND: Dr. Zonis, can I reply to some of the things --

CHAIRMAN ZONIS: I don't think that's necessary at this time, doctor. We're deciding what we want to do with this matter. I need a motion of some sort from someone.

MS. RANDOLPH: I'll start the ball rolling and see how it goes.

CHAIRMAN ZONIS: Thank you.

MS. RANDOLPH: If findings of fact and conclusions of law have been prepared I would ask them to be distributed at this time with an eye toward adopting them and issuing the doctor a decree of censure.

CHAIRMAN ZONIS: Is there a second to that motion?

DR. KRISHNA: Second. -

CHAIRMAN ZONIS: Seconded by Dr. Krishna. Those have been prepared in draft form and they will be distributed at this time.

MS. RANDOLPH: I would move that we adopt findings of fact one through nine, as presented in our draft findings of fact.

CHAIRMAN ZONIS: Is there a second to Ms. Randolph's motion?

DR. KRISHNA: Second.

CHAIRMAN ZONIS: Seconded by Dr. Krishna.

Is there discussion from any of our board members?

MS. RANDOLPH: I was wondering, the advice where I ask legal counsel if we put in the findings of fact and conclusions of law that Dr. Biskind had received a letter of concern, the date of that and what that was for.

only for a letter of concern at that time. '

MS. BECK: Mr. Chairman? The Board is not deciding the prior case. The board is simply taking administrative notice, here, in it's findings that there was a previous letter of concern.

CHAIRMAN ZONIS: Thank you, Ms. Beck.

So you don't feel that what has been stated is necessary?

MS. BECKR: I don't think an explanation of the underlying conduct is necessary.

CHAIRMAN ZONIS: Thank you. Any other comments, Mr. Raup?

MR. RAUP: I think that's it.

CHAIRMAN ZONIS: Okay. All those in favor, we'll have a roll call vote on findings of fact numbers 1 through 10.

MS. RANDOLPH: Mr. Cooper?

MR. COOPER: Yes.

MS. RANDOLPH: Dr. Guyette?

DR. GUYETTE: Yes.

MS. RANDOLPH: Dr. Keen?

DR. REEN: No.

MS. RANDOLPH: Dr. Krishna?

DR. KRISHNA: Yes. -

MS. RANDOLPH: Dr. Waldo?

DR. WALDO: Yes.

MS. RANDOLPH: Dr. Zonis?

CHAIRMAN ZONIS: Yes.

MS. RANDOLPH: And I vote yes. Six yes, one no.

CHAIRMAN ZONIS: By a vote of six to one you've adopted findings of fact. Is there a motion concerning conclusions of law?

MS. BECK: Mr. Chairman regarding the conclusions of law, I would propose a change. I would propose that paragraph 2 make reference to a different subsection of the Arizona revised

statutes. Instead of subsection L that is there presently, I would propose a reference to subsection LL that reads, conduct that the Board determines is gross negligence, repeated negligence, or negligence resulting in harm to or the death of a patient.

CHAIRMAN ZONIS: So instead of malpractice you're --

MS. BECR: It says negligence, but it says negligence resulting in harm to the patient.

That finding, even as using subsection L, is optional. If you want to take it out you can take it out.

CHAIRMAN ZONIS: But you would replace number two with subsection LL instead of L?

MS. BECK: That's Correct.

CHAIRMAN ZONIS: And the wording from our statute, we can --

MS. BECK: Right.

CHAIRMAN ZONIS: And number 3 you would leave the same, and obviously 1 is the same.

MS. BECK: Yes.

CHAIRMAN ZONIS: Thank you, Ms. Beck.

MS. RANDOLPH: I would move that we adopt conclusions of law as amended by Ms. Beck, 1 through 3.

DR. GUYETTE: Second.

CHAIRMAN ZONIS: Moved and seconded. Discussion? Roll call vote.

MS. RANDOLPH: Roll call vote.

Mr. Cooper?

MR. COOPER: Yes.

MS. RANDOLPH: Dr. Guyette?

DR. GUYETTE: Yes.

MS. RANDOLPH: Dr. Keen?

DR. KEEN: No.

MS. RANDOLPH: Dr. Krishna?

MS. RANDOLPH: And I vote yes. Six yes, one no vote.

CHAIRMAN ZONIS: By the same vote of six to one we issue the doctor a decree of censure.

Doctor, I think you understand what's been going on here. A decree of censure is a disciplinary action on your license. It says that we don't like what you did. We have problems with what you did, and we feel it was wrong. That is an action that is reported to everyone, basically.

The National Practitioner Data Bank, the Eederation of State Medical Boards, and an action which you will have to report when asked about it subsequently on any credentialling, managed care, hospital privileges, whatever.

Do you have any questions about what has happened here today? I don't mean disagreements or arguments, but do you have specific questions?

DR. BISKIND: No.

CHAIRMAN ZONIS: Okay, thank you for coming. And thank you for coming, Mr. Raup.

(WHEREUPON, at the hour of 2:33 o'clock p.m. the proceedings were concluded.)

I, KAREN DODGE, hereby certify that the foregoing pages numbered from 2 to 50, inclusive, constitute a full, true and accurate record of the proceedings had in the above matter, all done to the best of my skill and ability.

DATED this 24th day of January, 1996.

Signed
Karen Dodge, CSR, RPR
Court Reporter

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DR. KRISHNA: Yes.

MS. RANDOLPH: Dr. Waldo?

DR. WALDO: Yes.

MS. RANDOLPH: Dr. Zonis?

CHAIRMAN ZONIS: Yes.

MS. RANDOLPH: And I vote yes. Six yes, one no vote.

CHAIRMAN ZONIS: Thank you, Ms. Beck -- I mean -- and Ms. Randolph. Both of you. By a vote of six to one you have adopted the conclusions of law.

Is there a motion concerning the action that this Board is to take based on the adopted findings of fact and conclusions of law?

MS. RANDOLPH: I would move that we issue the doctor a decree of censure.

CHAIRMAN ZONIS: Is there a second?

DR. GUYETTE: Second.

CHAIRMAN ZONIS: Seconded. Was that by Dr. Guyette?

DR. GUYETTE: Yes.

CHAIRMAN ZONIS: Discussion? Roll call vote.

MS. RANDOLPH: Mr. Cooper?

MR. COOPER: Yes.

MS. RANDOLPH: Dr. Guyette?

DR. GUYETTE: Yes.

MS. RANDOLPH: Dr. Keen?

DR. REEN: No.

MS. RANDOLPH: Dr. Krishna?

DR. KRISHNA: Yes.

MS. RANDOLPH: Dr. Waldo?

DR. WALDO: Yes.

MS. RANDOLPH: Dr. Zonis?

CHAIRMAN ZONIS: Yes.

Near-abortion spurs investigation of Valley physician

Doctor under fire by board after delivery

BY JAMES RANNEY

THE INQUIRY 7-11-98

The Arizona Board of Medical Examiners is pursuing emergency action to suspend the license of a doctor whose attempted abortion ended in the delivery of a 6-pound 2-ounce baby.

The state agency sent out a flurry of subpoenas at 10 a.m. Friday for records involving Dr. John I. Biskind, said Eric Nickel, an ombudsman for the board.

Regulatory officials also visited medical facilities in search of evidence.

Biskind, 72, is being investigated for allegedly starting a late-term abortion on a baby he thought was in its 23rd week.

When realizing the child was near-term at 37 weeks, he delivered the fetus. The baby is reportedly at Phoenix Children's Hospital with a skull fracture and lacerations to her feet.

The board is pursuing the collection of all medical records relating to the mother and baby at this moment, Nickel said. "We take it very seriously and we have medical investigators ready to look at the reference."

The agency has met with the

Phoenix Police Department and the state Attorney General's Office is on call this weekend, he said.

People receiving subpoenas have 30 days to turn records over to the medical board, which oversees the state's 15,000 licensed doctors. After reviewing the evidence, the agency can call an emergency session within 24 hours to yank a doctor's license.

"A summary suspension occurs when (a doctor) presents an immediate danger to the public," Nickel said. "This may be one of those cases."

The board's rapid response comes as Biskind's case grabs national attention. The incident has become a lightning rod in the debate over late-term abortions.

And it has outraged doctors who can't understand how a doctor could confuse a 23-week pregnancy with one at 37 weeks.

"There is a big, big difference, and the fact that it happened is highly unusual," said Dr. John Garbacia Jr., who works in high-risk obstetrics at St. Joseph's Hospital and Medical Center in Phoenix.

"What happened, happened because he didn't take the time to examine the patient."

The incident, which took place at the A-Z Women's Center Inc. in Phoenix, sparked a firestorm of



Dr. John I. Biskind: Delivered baby during abortion, investigators say.

response from obstetrician-gynecologists. Many doctors shared their disbelief on an Internet Web site, said Dr. Clifford Goodman, an obstetrician-gynecologist in Chandler for 22 years.

"I'm horrified by it," Goodman said. "It's inconceivable that he wouldn't notice how big this lady is."

The high-profile case will be tough for the state medical board to ignore, and it may force the agency to take a closer look at Biskind's complaint record, sources say.

In 1996, Biskind was censured by the board for gross negligence when one of his patients died to board records. He has received two letters of concern for misdiagnosis of a patient's pregnancy and inappropriate prescribing.

There also is a pending complaint against Biskind that reportedly involves another case of a patient bleeding to death.

Biskind's complaint history demands a closer look by the board, Garbacia said. "I would hope the Board of Medical Examiners would take the appropriate steps and would really

examine how this physician is interacting with patients," he said. The board has been criticized for taking few serious disciplinary measures and dismissing most complaints against doctors. The last time the board took a summary suspension action was during fiscal year 1992-1993.

Critics also are concerned that the agency's backlog of more than

1,100 complaints bogs down the system, hampering the board's ability to resolve serious cases.

"They need to have these things looked into quickly, not just wait in line," said Tony Miller, who heads the Maricopa County Medical Society.

Agency officials say they have a priority system that gets the serious cases through the board first.

And Biskind's case may be placed on that fast track.

"This would probably be a 15-to-18 case, but we do have to get the evidence first," said Dr. Patrick Cornell, a board member.

"Every serious case I've dealt with has been dealt with fairly," he said. "I would be the first one to jump up and down... If I felt a case was given short shift."



Assigned to FS AS PASSED BY THE SENATE

ARIZONA STATE SENATE

Phoenix, Arizona

FINAL REVISED FACT SHEET FOR H.B. 2706 abortion clinics: regulation

Purpose

Establishes licensure requirements and standards for abortion clinics, an exception to the prohibition of abortion of a viable fetus for medical emergency, and pathological examination of fetal and embryonic tissues to verify estimates of gestational age.

Background

Events in 1998 at a Phoenix abortion clinic raised several questions about the responsibility of state agencies to ensure the public health and safety regarding abortion and other outpatient medical procedures. House Bill 2152 was introduced in 1998 to establish regulation of abortion clinics, but was held in committee primarily due to concerns that the regulations infringed on the rights of and would have a negative fiscal impact on doctors in private practice. The Joint Legislative Study Committee on the Regulation of Abortion and Other Outpatient Medical Procedures held several hearings, culminating in the 1999 proposed House Bill 2706.

Currently there are ten states that regulate abortion clinics through separate licensure classification procedures. There are less than 20 abortion clinics in Arizona, about half of which are already licensed through the Department of Health Services (DHS). The proposed legislation would require the remaining clinics to become licensed. It would also require DHS to adopt rules for licensure and medical emergency measures.

According to the Joint Legislative Study Committee, the three main issues are establishing the gestational age of the fetus, codifying the standards for obstetric gynecologic services, and monitoring compliance without infringing upon constitutional rights to practice. The proposed legislation requires the person performing the procedure to estimate the gestational age of the fetus using generally accepted standards, perform an ultrasound evaluation, and submit tissue samples for pathological verification of the estimate for all second and third trimester abortions. DHS is required to adopt very specific rules that conform to established standards for obstetric gynecologic services and emergency medical services. Finally, the pathology contractor is required to report monthly any instances of significant inaccuracies, possible extenuating circumstances, whether there was reasonable compliance, and whether the doctor should have filed a fetal death certificate.

A fiscal impact statement from JLBC was not requested. However, in testimony during the House Health Committee on 2/22/99, Dr James Allen, DHS Director, expressed concern that there FACT SHEET H.B. 2706 - Final Revised Page

is no direct appropriation in the bill, although he understands it was addressed in the budget. Bryan Howard of Planned Parenthood recommended that the \$300,000 for this purpose in the budget should be identified as such.

Provisions

1. Requires abortion clinics to meet licensure requirements for health care institutions.
2. Requires abortion clinics to comply with DHS rules and requirements for abortion clinics.
3. Requires DHS to adopt rules as specified on abortion clinics' physical facilities, supplies and equipment, personnel, medical screening and evaluation, the abortion procedure, the recovery room and the follow-up visit.
4. Requires ultrasound evaluation, physicians' estimate of gestational age, fetal and embryonic tissues sampling, and pathological evaluation of tissues for second and third trimester abortions.
5. Requires abortion clinics to file incident reports.
6. Requires confidentiality for patient and physician.
7. Ensures no limits on the ability of a physician or other health professional to advise a patient on any health issues.
8. Allows an abortion of a viable fetus to be performed to avoid the woman's death or for which a delay would create serious risk of substantial and irreversible impairment of a major bodily function.
9. Requires DHS to contract with qualified providers of pathology services through requests for proposals.
10. Requires pathology contractors to verify the accuracy of the estimate of the fetus' gestational age and that the estimate was made in compliance with recommended standards, and to make additional evaluations available for a fee.
11. Requires the pathology contractors to provide a monthly report of test results, which is confidential and disclosable only in aggregate form for specific purposes.

12. Requires DHS to adopt rules on pathological examination of fetal and embryonic tissues.
13. Exempts DHS from the rulemaking process for this act until December 31, 1999 and requires public hearing on proposed rules.
14. Exempts DHS from the procurement code until April 1, 2000 for the purpose of contracting for pathology services for fetal and embryonic tissues.
15. Contains definitions.
16. Makes technical and conforming changes.
17. Contains a delayed effective date from and after June 30, 2000 for rules on abortion clinics and pathological examination of fetal and embryonic tissues, and April 1, 2000 for licensure of abortion clinics.
18. Contains a severability clause.
19. Contains an emergency clause.

Amendments Adopted by Committee

1. Excludes termination of an ectopic pregnancy from the definition of abortion.
2. Clarifies that an abortion clinic must have a physician available who has admitting privileges from an accredited Arizona hospital.
3. Strikes the requirement that abortion clinics give special attention to patients' past histories of surgery, allergies and obstetrics and gynecology.
4. Clarifies that clinics need not offer separate facilities but only areas for enumerated operations.

Amendments Adopted by Conference Committee

1. Conditionally redefines the term "abortion clinic" as a facility where any number of first, second or third trimester abortions are performed, other than a hospital. Makes this definition effective only if the original definition is found to be unconstitutional.
2. Clarifies that only those patients who have not had an ultrasound undergo urine or blood tests for

pregnancy.

3. Redefines the professional standard to which physicians shall be held in estimating the gestational age of the fetus to "established standards of care." Applies this same standard to the abortion procedure itself and the pathological examination of the fetal tissue.

4. Redefines "serious injury."

5. Delays by three months the deadline for rule-making relating to the pathological examination of fetal tissues from December 31, 1999 to March 31, 2000, and delays the effective date of these rules by three months.

6. Assigns to the joint health committee of reference the task of reviewing the types of facilities that continue to be exempt from DHS regulation and recommending to the Legislature which facilities ought to be regulated to ensure the public health. The recommendation is due by December 31, 1999.

7. Adds a severability clause.

House Action Senate Action

Health DPA 2/22/99 5-0-3-1-0 FS 3/24/99 DPA 4-2-1-0

3rd Read 3/11/99 47-10-3-0 3rd Read 4/28/99 21-9-0

Final Read 5/6/99 39-16-5 Final Read 5/6/99 17-12-1-0

Signed by Governor 5/18/99

Chapter 311 without emergency

Prepared by Senate Staff

May 27, 1999

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ARIZONA HOUSE OF REPRESENTATIVES FIRST REGULAR SESSION - 1999

 DPA For Committee on HEALTH

 For Committee on

 X For Caucus and COW

 As Passed the House

Abstract for HB 2706 (abortion clinics; regulation) Sponsor: Groscost, Gerard, Brimhall, Foster, Jarrett, Avelar, Anderson, Johnson, Knaperek, Cooley, Senators Day, Petersen,

Bundgaard, Cirillo, Burns B, Aguirre

HB 2706 is an emergency measure providing for the licensure of abortion clinics and for the pathological examination of fetal and embryonic tissues.

History

Events at a Phoenix abortion center raised questions as to how state agencies protect the public pertaining to abortion and various types of outpatient medical procedures. A Joint Study Committee on the Regulation of Abortion and Other Outpatient Medical Procedures was established by the Speaker of the House of Representatives and the President of the Senate to make recommendations regarding the following:

The applicability of facility and personnel licensing requirements relating to the practice of abortion and other types of outpatient medical procedures in AZ; compliance with current laws and the adequacy of the current regulatory framework; the procedures in place to ensure compliance with AZ laws relating to the practice of abortion and outpatient medical procedures, including those relating to the abortion of a viable fetus; the existence and adequacy of current reporting requirements relating to the practice of abortion and outpatient medical procedures.

DHS Regulation

Health care institutions are classified and subclassified as follows: hospitals, nursing care institutions, outpatient treatment centers, residential care institutions, home health agencies, infirmaries and behavioral health service agencies. Outpatient treatment clinics (OTC's) are those health care institutions without inpatient beds and without the use of general anesthesia. These OTC's are also referred to as unclassified health care institutions.

The standards of regulation for unclassified health care institutions require adequate equipment and qualified staff, periodic inspections and compliance with fire and building codes and proper sanitation. These facilities are not licensed based on the specific services that they provide. They are licensed on the basis that they are health care institutions without inpatient beds and without the use of general anesthesia and which provide medical services for the diagnosis and treatment of persons on an outpatient basis.

Exemption

Private offices and clinics of health care providers are exempted from DHS licensure or regulation unless patients are kept overnight or treated under general anesthesia (except for dentistry). Health care professionals are licensed by their respective health profession regulatory boards.

The committee met twice and made various recommendations, which are included in HB 2706. The standards used by Planned Parenthood of Central and Northern Arizona were included in the bill.

Provisions

Exempts private offices and clinics of health care providers unless the office or clinic is an abortion clinic. Beginning April 1, 2000, an abortion clinic shall be licensed as prescribed by the Department of Health Services (DHS). An abortion clinic may retain their unclassified health care facility license until April 1, 2000, if the license was issued prior to January 1, 1999.

Adds a new article on abortion clinics.

Defines abortion clinic as a non-hospital facility, in which five or more first trimester abortions are performed in any month or any second or third trimester abortions are performed.

Requires the director of DHS to adopt rules, to include certain minimum standards, pertaining to an abortion clinic's facility, supplies and equipment, personnel, medical screening and evaluation of patients, the abortion procedure, recovery room, follow

up visits and accident and incident reporting.

Requires the director of DHS to adopt rules by December 31, 1999, to become effective April 1, 2000. Exempts DHS from rule making under the Administrative Procedures Act until December 31, 1999 for adoption of rules pertaining to this act. Requires at least one public hearing to be held on the proposed rules.

Requires a person who performs an abortion to estimate the gestational age of the fetus and to send this estimate along with tissue from second and third trimester abortions to the DHS state laboratory. Requires the director of DHS to adopt rules for this process.

Requires the state laboratory to perform a pathological examination of the tissues to verify the person's estimate of the age of the fetus. If the estimate is not in reasonable compliance or if the doctor has not filed a fetal death certificate, the state laboratory shall report this to the director of DHS.

Contains an emergency clause.

HB 2706 was amended by the Health committee as follows:

An abortion clinic may retain their unclassified health care facility license if the license was issued prior to the effective date of this act (was January 1, 1999).

Minimum standards for physical facilities:

Adds other fixed equipment, in addition to surgical or gynecologic examination tables; facilities for cleaning instruments; adequate facilities for storage of medical records.

Changes the requirement on signage in a clinic to displaying the clinic's current license.

Minimum standards for equipment and supplies, including emergency equipment:

Deletes all of the listed equipment items in the bill, except for ultrasound equipment and adds general language pertaining to equipment and supplies. Limits ultrasound equipment to those facilities that provide abortions after 12 weeks gestation.

Adds language addressing: adequacy of equipment and supplies to meet the needs of the patient, availability for emergency situations and for required laboratory tests.

Minimum standards for personnel:

Requires the medical director of the clinic to be licensed as a medical doctor, osteopathic physician or homeopathic physician. Deletes the requirement that residents perform surgery only under the supervision of the medical director.

Requires a nurse or physician assistant to remain at the clinic for the day until the last patient is discharged.

Minimum standards for medical screening and evaluation of a patient:

Added obstetric and gynecologic history.

Qualifies that urine or blood tests are to be performed before the procedure. Deletes hematocrit and adds a test for anemia. Deletes language pertaining to saline suspension and serologic test for syphilis.

Limits ultrasound evaluations for patients who elect to have an abortion after 12 weeks' gestation.

Adds that the original prints of each ultrasound examination shall be retained in the patient's file.

Minimum standards for the abortion procedure:

Stipulates that medical personnel are to be available throughout the procedure.

Deletes language pertaining to uterine evacuation and adds that standards be used that conform to guidelines of the American College of Obstetricians and Gynecologists.

Deletes language pertaining to the manual surgical aspiration procedure.

Adds language on appropriate monitoring of vital signs until the patients is stabilized in recovery.

Deletes language in the bill about monitoring consciousness, pulse oximeter and blood pressure and heat rate.

Minimum recovery room standards:

Clarifies that the physician with admitting privileges at a local hospital must remain until a patient is ready to leave the recovery room and to help with emergency cases when hospitalization of the woman or viable fetus is necessary.

Deletes language on prophylactic methergine. If Rh0(d) immune globulin is indicated for the patient it must be offered and available within 72 hours after the procedure. If the patient refuses, she must sign a form to be filed in the medical record.

Deletes that written instruction include contraceptive use and includes that a patient must supply a phone number in the event of an emergency.

Deletes specific language on minimum time in recovery and adds that the time depends on the type of procedure and duration of gestation.

Requires that a licensed health professional, as opposed to a physician, makes a follow up call to the patient (with the patient's consent).

Minimum follow-up visits:

Deletes language specifying what the medical examination is to include.

Deletes the requirement for a low sensitivity urine pregnancy test and language on undiagnosed gestational trophoblastic disease.

Minimum accident and incident reporting:

Adds that incident reports shall be filed with the department and appropriate licensing board.

Amends current statute pertaining to the abortion of a viable fetus by adding language that the provisions of the section do not apply if there is a medical emergency. Defines medical emergency.

Rewrites the section pertaining to pathological examination of fetal and embryonic tissues by:

Requires the department to adopt rules requiring a person performing an abortion to send tissue removed from a woman as a result of a second and third trimester abortion to a contractor as specified.

The person shall separate the remains and forward a copy of an estimate of the gestational age of the fetus.

The contracts shall require the contractor to perform a pathological examination of tissues to verify the accuracy of the estimate of gestational age made before the abortion and that the estimate was made in reasonable compliance with the standards for obstetric and gynecologic services.

Requires the contractor to use a statistically valid method of sampling to conduct the pathological examination of tissues as a result of a second trimester abortion of a fetus up to 18 weeks' gestation.

Requires the contractor to conduct a pathological examination of all fetal and embryonic tissues as a result of an abortion of a fetus of 18 or more weeks' gestation.

Contractors shall report to the director with test results and the department shall forward the report within 30 working days to the appropriate licensing board.

Adds that the department is required to adopt rules on the pathological examination of fetal and embryonic tissues by December 31, 1999. Adds an exemption for the department from the procurement code until April 1, 2000 in order for them to contract for pathology services.

Prepared by: Liana Martin

hb2706.cow 2/24/99 bh

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JANE DEE HULL, GOVERNOR
CATHERINE R. EDEN, DIRECTOR

RECEIVED

MAR 05 2001

ATTORNEY GENERAL'S OFFICE
EDUCATION AND HEALTH SECTION

March 5, 2001

Mr. Kevin Ray, Unit Chief
Office of the Attorney General
1275 West Washington
Phoenix, Arizona 85007

Dear Mr. Ray:

Per your request, I am enclosing a copy of the Request for Proposal (RFP) and the signed contract issued for the abortion clinic ultrasound review services pursuant to A.R.S. § 36-2301.02.

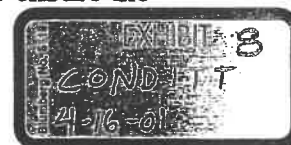
The drafting of the RFP Scope of Work section was a collaborative effort between Pamela Stinespring Reay, Acting Contract Management Specialist; Kathleen Phillips, Rules Administrator; Robert Frost, Administrative Services Officer; and me. I am the primary contact person for the Division of Assurance and Licensure Services in terms of the contract arrangements.

We determined that the contractor needed to have experience reviewing ultrasounds and to be certified in Radiology by the American Board of Medical Specialties. We believe that these qualifications are necessary for a physician to be able to determine whether another physician has accurately estimated the gestational age of a fetus.

The Department of Health Services' Procurement Office advertised in the newspaper and mailed copies of the RFP to individuals registered on a list maintained by that office as well as other individuals or entities the contract management specialist believed may be interested in submitting a bid.

An evaluation committee was established to review the bids submitted and award the contract. The Procurement Office received only one bid. The contract was awarded to Apex Radiology, Inc., located in Coral Springs, Florida.

Apex Radiology is aware of the court order that prevents the licensure of Abortion Clinics and ultrasound review services. Apex Radiology is also aware that, depending on the outcome of the legal action, there may not be any work for the radiologists to review. Lastly, Apex Radiology is also aware that the Department intends to institute a coding system to ensure the



anonymity of both the patient and the abortion provider should ultrasound review services be initiated in the future.

I hope this information is helpful. Feel free to contact me at 602-674-4255 if you have any questions.

Sincerely,



Vicki A. Conditt, R.N.
Rules Analyst

Enclosures

