

1 child's face for over ten minutes; isn't that true?

2 A Yes.

3 Q You went to the scene and you saw there was, in fact, a
4 very slanted driveway there, didn't you?

5 A On February 15th, yes.

6 Q You went to the scene and you saw there was a very
7 slanted driveway there, didn't you?

8 A Yes.

9 Q That's in that photograph Number 83; isn't that true?

10 A Yes, it is.

11 Q And while you were there, you talked to Mrs. Mickey,
12 didn't you?

13 A Mr. Mickey was there.

14 Q You talked to Mr. Mickey. Let's talk about him for a
15 minute. When you were there and talked to Mr. Mickey, did you
16 ask him if there was a history of car doors shutting on that
17 property when it was parked on that driveway?

18 A I can't recall if I exactly asked him that statement --
19 or that question.

20 Q Because you didn't ask him if car doors shut on people
21 on that driveway; isn't that true?

22 MS. WALSH: Object as argumentative. Asked and
23 answered.

24 THE COURT: Overruled. You can answer that. "Because
25 you didn't ask him if car doors shut on people on that driveway;
26 isn't that true?"

27 THE WITNESS: I don't recall if I asked him that.

28 THE COURT: Next question.

1 Q (By Mr. Brown) You interviewed Mrs. Mickey, didn't you?
2 A Yes.
3 Q You had the opportunity to ask her if any car doors had
4 shut on people on that property; isn't that true?
5 A Yes.
6 Q You didn't bother asking her, then, either, did you?
7 A She made a statement later about that.
8 Q I asked you, sir, did you ask Mrs. Mickey if any car
9 door had shut on anybody on that driveway prior to the car door
10 -- you receiving information that the car door had shut on
11 Kerianne Bradley's head?
12 A Did not ask that.
13 Q Did you ask Mrs. Mickey what it is that they were
14 putting ice on for ten minutes?
15 A Child's head.
16 Q Did you ask her why they were putting ice on the
17 child's head?
18 A Because her son said a door struck Kerianne's head.
19 Q She also told you that she saw a red mark along the
20 side of the child's face where the door hit the child; isn't
21 that true?
22 A Yes.
23 Q You are not a medical professional, are you?
24 A No.
25 Q You have no medical license, do you?
26 A No.
27 Q Do you have any idea what kind of blow it takes to a
28 child's head that has a preexisting head injury that caused it

1 to become symptomatic and have that child collapse?

2 A No.

3 MS. WALSH: Objection. Assumes facts not in evidence.

4 THE COURT: Sustained.

5 MS. WALSH: Move to strike.

6 THE COURT: The answer is stricken. The jury's to
7 disregard it.

8 Q (By Mr. Brown) Do you have any skill, training,
9 education, or background to determine what kind of blow is
10 required to a head in order to cause a subdural hematoma?

11 A No.

12 Q Do you have any skill, training, education, or
13 background to determine what kind of force would be necessary in
14 order to cause a child that had a preexisting head injury to be
15 symptomatic after a blow?

16 MS. WALSH: Objection.

17 THE COURT: Sustained.

18 Q (By Mr. Brown) Do you have any information available,
19 sir, as to what potentially could cause a subdural hematoma in a
20 child?

21 A No.

22 Q But yet you were receiving information from the
23 officer, or at least from Officer Ganley, who was talking to the
24 doctors about there, in fact, being a subdural hematoma with
25 this child; isn't that true?

26 A Yes.

27 Q Now, this strategy thing we're talking about, every
28 time you interview somebody, you've got a little strategy, I

1 suspect, to go in and talk to them, don't you?

2 A We have an idea what we're going to ask.

3 Q You can ask it multiple different ways sometimes,
4 which, I guess, is part of the purpose as to why you were going
5 to have multiple interviews; correct?

6 A Yes, and new information arises.

7 Q Is it part of your strategy, sir, to tell somebody that
8 you are on their side?

9 A Not always.

10 Q Is it part of your strategy, sir, in this case to tell
11 Jennifer Bradley that you were on her side?

12 A No.

13 Q You told her you were on her side, didn't you?

14 A Yes.

15 Q Was it part of your strategy, sir, to tell Mrs. Denise
16 Pou -- and I can quote this -- this, if you bear with me for one
17 second, please.

18 "We're making sure there are no holes as far as any
19 defense he has, as far as any, saying, no, this family had her,
20 and, obviously, no, the injuries were caused not by me but by
21 this person." Was that part of your strategy, sir, to tell
22 Mrs. Pou that?

23 A It was a question.

24 Q Was it a question or was it a statement?

25 A It was a question.

26 Q Let's go to Page 12 of the interview on February 13th,
27 sir. Do you have that in front of you?

28 A Yes. Okay.

1 Q With me? About halfway down the page?

2 A All right.

3 Q You already testified this is a true and accurate copy
4 of the transcript. If -- this transcript is a true and accurate
5 copy of your conversation you had with Denise Pou, February 13,
6 2006; isn't that true?

7 A Yes.

8 MS. WALSH: I'm going to object as it misstates his
9 testimony. The recording was a true and accurate recording.
10 Not the transcript.

11 THE COURT: Overruled. The detective understood the
12 question. He answered, "Yes."

13 Q (By Mr. Brown) Read along with me, Detective. Here,
14 Page 12, about midway down.

15 "Ullrich: All right. Some of our detectives have
16 already talked to.

17 "Nancy Pou: Uh-huh.

18 "Ullrich: I -- I didn't, uh, another detective did, so
19 we already got --

20 "Pou: Okay.

21 "Ullrich: -- Nancy's statements. We're just making
22 sure that there's no holes.

23 "Pou: Uh-huh, oh, yes, please.

24 "Ullrich: As far as, as far as --

25 "Pou: Ask me anything.

26 "Ullrich: -- any defense he has as far as saying, no,
27 this family had -- had her and obviously --

28 "Pou: Right.

1 "Ullrich: No, the injuries were caused not by me but
2 by this person."

3 Did I read that accurately?

4 A Yes.

5 Q And at the very last portion of your sentence here on
6 Page 12, bottom line, is there a question mark at the end of
7 that?

8 MS. WALSH: I'm going to object as relevance.

9 THE COURT: Sustained.

10 Q (By Mr. Brown) I read that accurately, didn't I?

11 A What's on paper, yes.

12 Q Is that part of your strategy to tell Mrs. Pou that
13 you're trying to close any holes that Mr. -- any defense that
14 Mr. Mickey may have in this case?

15 A Part of the questioning.

16 Q You never told Rosan Mickey that you were on her side,
17 did you?

18 A I don't recall. I don't think so.

19 Q You never told Gary Mickey that you were on his side,
20 did you?

21 A No.

22 Q And you didn't tell Ryan Mickey you were on his side,
23 did you?

24 MS. WALSH: Object as to relevance. Outside the scope.
25 402s.

26 THE COURT: Overruled. You can answer that just "yes"
27 or "no."

28 THE WITNESS: No.

1 Q (By Mr. Brown) Couple things I wanted to talk with you
2 about in Mrs. Pou's statement of February 13, 2006. You
3 interviewed her twice; isn't that true?

4 A The 4th and, um, the 13th, yes.

5 Q And you prepared two reports relating to that, correct,
6 to both of those interviews, one report per interview?

7 A Yes.

8 Q And those reports accurately reflect what Denise Pou
9 told you; isn't that true?

10 A Yes. Summation of the facts.

11 Q All right. Can you show me in your report, sir, where
12 Mrs. Pou told you that on Thursday morning, February 2, 2006,
13 that Kerianne was sitting upright, watching a Barney movie and
14 eating breakfast?

15 A It's not in the report.

16 Q In fact, the only thing that she told you is that she
17 brought the child downstairs on February 2, 2006, and rocked her
18 in the rocking chair; isn't that true?

19 A No.

20 Q She didn't tell you that?

21 A She told me that, but she told me, I think, another
22 fact.

23 Q What detectives were working on in this meeting that
24 you had with Mrs. Pou on February 13th, what -- you talked --
25 let me ask you this way.

26 You talked with her about the voice messages that were
27 on the phone; correct?

28 A Yeah, it's in there.

1 Q And that's a phone that was used by Ryan Mickey; isn't
2 that true?

3 A I believe she's referring to that.

4 Q And you seized that phone, didn't you?

5 A Correct.

6 Q You took the phone, didn't you?

7 A No.

8 Q You had one of your officers take the phone?

9 A It would have been, um, probably Detective Failde, and
10 then Detective Martin, I think, bagged it and logged it in.

11 Q You've had custody as the lead investigator since
12 February of 2006; isn't that true?

13 A It's been in our evidence, yes.

14 Q Tell us about the time when you listened to the voice
15 messages on that phone?

16 A I have not.

17 Q Never listened to them?

18 A No.

19 Q You know, there's a message on that phone from 911 to
20 Mr. Mickey; isn't that true?

21 A Not aware of that.

22 Q You don't know?

23 A Don't know.

24 Q Didn't Mrs. -- Ms. Pou tell you that there was a call
25 back from 911 to Mr. Mickey during your interview with her?

26 A What report are you referring to, the transcript or the
27 report?

28 Q The transcript.

1 A May I refer -- what page are we talking about?

2 Q Page 16.

3 A Go ahead.

4 Q Down at the bottom of the page, sir, continuing to the
5 next one. Jennifer's cell phone number. This is to get into --
6 her codes to her messages. 911 is on there. You can hear the
7 whole thing?

8 A Yes.

9 Q Correct?

10 A Yes.

11 Q You never listened to what 911 had to say, did you?

12 A No.

13 THE COURT: And, Mr. Brown, with that, we're going to
14 take our afternoon recess and reconvene in fifteen minutes.

15 Remember the admonition, please. Keep an open mind.
16 Don't draw any conclusions about the case. Please don't talk
17 about the case.

18 Detective, see you back in fifteen minutes. Court's in
19 recess.

20 (Recess taken.)

21 THE COURT: SWF015286, parties are present before the
22 Court.

23 Detective, do you understand you remain under oath?

24 THE WITNESS: Yes.

25 THE COURT: Outside the presence of the jury.

26 (Outside the presence and hearing of the jury.)

27 THE COURT: Back on the record in SWF015286. All
28 parties are present before the Court, outside the presence of

1 the jury.

2 Detective, do you understand you remain under oath
3 again?

4 THE WITNESS: Yes.

5 THE COURT: I have to put that on there. We have to
6 ask that.

7 THE WITNESS: Yeah.

8 MR. BROWN: Your Honor, before the jury comes in, I
9 have two quick questions important to the examination.

10 THE COURT: Okay. As long as they are quick.

11 MR. BROWN: They are. I'm going to make them quick.
12 One is Doctor -- somebody testified there was evidence --
13 Dr. Swalwell testified there was evidence of iron pigment in the
14 child -- there was iron pigment in the child's head, subdural,
15 which is evidence of a preexisting head injury or bleed. I
16 asked those questions as to whether or not the officer --
17 detective had any ability to understand those things, and you
18 sustained an objection as assuming facts not in evidence.

19 THE COURT: I don't think there's any evidence before
20 the jury that there is a prior injury. I think the testimony
21 was there may have been iron pigment, which would be -- which
22 would be consistent with the prior injury, but there was no
23 evidence that there was a prior injury. That just could be
24 indicative or one sign of prior injury.

25 MR. BROWN: Then I'll reword my question. Thank you
26 for your edification.

27 Second issue, Detective Ullrich just said under oath
28 that Ryan Mickey told him the car door struck the child in the

1 head. I didn't ask for that testimony. He said it. It's in
2 evidence. It's the truth of the matter. And I'm entitled to go
3 into what it is they did to investigate whether or not this door
4 really hit or didn't hit.

5 THE COURT: That's what you're doing.

6 MR. BROWN: Okay. I didn't ask for the hearsay. The
7 Government put it in on their own. I think it's appropriate to
8 go forward on this.

9 THE COURT: Actually, I think this evidence is already
10 before the jury. There have been other witnesses that said --
11 and I think somebody -- investigators, the EMT, said, look, you
12 know, the only source of information is Mr. Mickey that the car
13 door hit the child's head. But that's why yesterday I said that
14 you could ask your -- your doctor a hypothetical about whether
15 or not those hematoma could be caused by a car door, because
16 that evidence actually is before the jury, and I assume that's
17 what you were doing right now, asking him questions about
18 follow-up, which are appropriate. But, yeah, that's in front of
19 the jury.

20 MR. BROWN: I think it also is now truth of the matter,
21 not just circumstantial evidence, because it's been stated by
22 the prosecution that they had evidence that, in fact, the car
23 door struck the child.

24 THE COURT: I agree with that.

25 MR. BROWN: Thank you. I want to make sure I'm on the
26 same page as the Court. I'll proceed. Thank you.

27 THE COURT: I thought that was the case before. I
28 think Mr. Walsh wasn't sure. He was saying circumstantial

1 evidence. I always believe that there have been people in this
2 case under oath that testified that Mr. Mickey made that
3 statement before the jury, so, yeah, that can be used.

4 MR. BROWN: Thanks.

5 THE COURT: Let's bring in the jury. What do you think
6 your time estimate is?

7 MR. BROWN: Trying to do this quickly, as you can see.

8 THE COURT: It's okay. What do you think?

9 MR. BROWN: I'm going to try to be done by 4:00.

10 THE COURT: Well, before 4:30.

11 MR. BROWN: I'm trying, Judge.

12 THE COURT: If not, we will take it up Monday.

13 MR. BROWN: I'd like not to, because we have got an
14 expert coming in.

15 THE COURT: I know, but if we're running out of time,
16 we're running out of time.

17 (In the presence and hearing of the jury.)

18 THE COURT: SWF015286, parties present before the
19 Court, in the presence of the jury.

20 Mr. Brown.

21 MR. BROWN: Thank you.

22 THE COURT: I've already told the detective that he's
23 under oath. So I'll let everyone know that we did that before
24 you came in. Go ahead.

25 Q (By Mr. Brown) I don't want to leave the voicemail
26 messages here right away because I have another issue I want to
27 go back to. But we were reading the transcript. I think on
28 Page 16 you had information available to you on February 13,

1 2006, that 911 had called that Samsung cell phone; isn't that
2 true?

3 A Yes.

4 Q You did not listen to that Samsung 911 voice message,
5 did you?

6 A No.

7 Q And you knew as of February 6, 2006, that there was
8 bystander CPR attempting -- excuse me. Let me rephrase.

9 911 was attempting to get bystander CPR instructions to
10 Mr. Mickey; isn't that true?

11 MS. WALSH: Objection. Assumes facts not in evidence.

12 THE COURT: Sustained.

13 Q (By Mr. Brown) You knew bystander CPR was being done at
14 the scene by Mr. Mickey?

15 MS. WALSH: Same objection.

16 THE COURT: Sustain.

17 Q (By Mr. Brown) You didn't read any of the reports from
18 any of the EMTs?

19 A No, only those by other investigators.

20 Q So, other investigators told you that at least one fire
21 department representative on the scene saw Mr. Mickey providing
22 CPR to the child; isn't that true?

23 MS. WALSH: Objection. Misstates the testimony,
24 assumes facts not in evidence.

25 THE COURT: Overruled.

26 Detective, you can answer that if you know and if you
27 do.

28 THE WITNESS: Can you repeat the entire question again?

1 THE COURT: "So, other investigators told you that at
2 least one fire department representative on the scene saw
3 Mr. Mickey providing CPR to the child; is that true?"

4 Is that your question?

5 MR. BROWN: It is, your Honor.

6 THE WITNESS: They physically saw him -- I think it was
7 discussed on the phone.

8 Q (By Mr. Brown) So you had information, then, and -- you
9 don't know what Mr. Rimmer testified to in this courtroom, then,
10 do you?

11 MS. WALSH: Objection. Relevance. Argumentative.

12 THE COURT: Sustained.

13 Q (By Mr. Brown) Do you know if Mr. Rimmer testified in
14 this courtroom that he walked into this house and he saw
15 Mr. Mickey giving bystander CPR on the child?

16 MS. WALSH: Objection. Relevance.

17 THE COURT: Sustained.

18 That's a question of fact. The jury's going to make
19 that determination.

20 Q (By Mr. Brown) Let me move forward to what you said you
21 did know. You had telephone confirmation someone was trying to
22 provide bystander CPR; right?

23 MS. WALSH: Objection. Misstates the testimony.

24 THE COURT: Overruled.

25 You can answer that question.

26 THE WITNESS: Based on the --

27 Q (By Mr. Brown) "Yes" or "no," sir, did you have that
28 information?

1 A Yes.

2 Q All right. And who was the bystander trying to provide
3 CPR at that scene?

4 A I think it was over the 911 call.

5 Q Who was the bystander trying to apply CPR at the scene?

6 A I don't know who that person is.

7 Q You never conducted any investigation to determine who
8 that bystander was?

9 A No.

10 Q Who was alone with that child before the fire
11 department got there, sir?

12 A Mr. Mickey.

13 Q Who was alone with that child before the fire
14 department and EMTs got there?

15 A Mr. Mickey.

16 Q And you had no investigation at all to determine what
17 bystander CPR was being provided by whoever was there before the
18 EMT and fire department showed up on that scene, did you?

19 MS. WALSH: Your Honor, I'm going to object and ask for
20 a sidebar at this point.

21 THE COURT: Your objection?

22 MS. WALSH: Make objection under hearsay and our 402
23 before the trial, then.

24 THE COURT: Overruled.

25 You can answer that.

26 THE WITNESS: Repeat the question, Mr. Brown, again.

27 THE COURT: And you had no -- and you did no
28 investigation to determine what bystander CPR was being provided

1 by whoever was there before EMT and fire showed up on the scene?
2 Is that -- is that true?

3 Is that your question?

4 MR. BROWN: It is, your Honor.

5 THE COURT: You can answer.

6 THE WITNESS: I did not do "no investigation." I knew
7 that there was EMTs there.

8 Q (By Mr. Brown) That's not the question I asked. I ask
9 you to answer the question.

10 Did you conduct any investigation to determine what
11 bystander had performed CPR on this child before the fire
12 department or the EMTs arrived at the scene?

13 A No.

14 Q But you had a telephone call saying that there was
15 bystander CPR being performed; correct? "Yes" or "no," sir?

16 A I believe that's what the transcript says, yes.

17 Q And what does the word "bystander" mean to you?

18 A A secondary person.

19 Q And what secondary person was at that scene other than
20 the fire department or the EMTs?

21 A Correct.

22 Q I didn't ask you "correct."

23 I asked you, what person, what secondary person, was
24 there along with the EMTs and the fire department when they
25 first arrived at the scene?

26 A I don't know.

27 Q You don't know who that was?

28 A No.

1 Q Are you afraid to say the name?

2 MS. WALSH: Objection. Argumentative.

3 THE COURT: Sustained.

4 Q (By Mr. Brown) So, you're telling the jury today that
5 you don't know who was at the scene before the fire department
6 or the EMT showed up?

7 A Mr. Mickey is the only person I know of.

8 Q Okay. So, you would know who the bystander was, then,
9 that was on the scene before the EMTs and the fire department
10 showed up, then; isn't that true?

11 A Well, no.

12 Q You don't know. All right.

13 Let me go back to this event here on the overhead that
14 we have here. That's you on Exhibit Number 83; isn't that true?

15 A Yes.

16 Q You're walking kind of downhill there, aren't you?

17 A Correct.

18 Q It's a pretty steep slope, isn't it?

19 A Yes.

20 Q All right. And you had information, according to your
21 testimony, that Ryan Mickey told you the car door shut on that
22 child's head, and he gave you that information on
23 February 4, 2006; isn't that true?

24 A Yes.

25 Q And you had that car in your custody on February 4th or
26 5th of 2006; isn't that true?

27 A Yes.

28 Q And you had information that Mr. Mickey and his mother

1 had placed ice on this child's face for approximately ten
2 minutes in the area where the car door had struck; isn't that
3 true?

4 A Yes.

5 Q And you had also information that Ryan Mickey's
6 grandmother was there, and she's the one who brought the ice
7 pack, that blue pack, to put on the child's face; isn't that
8 true?

9 A Yes.

10 Q And you knew they had told you that there was a bruise
11 on the side of the face where the car door had struck this
12 child; isn't that true?

13 MS. WALSH: Objection. Misstates the testimony.

14 THE COURT: Overruled.

15 You can clarify that.

16 THE WITNESS: Mark?

17 Q (By Mr. Brown) Mark, bruise, call it what you want, you
18 knew that something --

19 MS. WALSH: Objection. Argumentative.

20 Object to the form of the question.

21 THE COURT: I'm going to sustain the objection.

22 Counsel's testifying.

23 Go ahead.

24 Q (By Mr. Brown) You knew there was a mark of some kind
25 on this child where the car door had struck; isn't that true?

26 A Yes.

27 Q Tell the jury what kind of medical testimony -- what
28 kind of medical background you have to determine what kind of

1 outward-looking bruise or mark on somebody has to exist before a
2 subdural hematoma can be caused internally.

3 A None.

4 Q You don't know any of that, do you?

5 A No.

6 Q All right. Now, you had information that the car door
7 struck the child on the face; right?

8 A Correct.

9 Q You had information that ice is being applied to the
10 child for about ten minutes; correct?

11 A Correct.

12 Q You had information that the car door -- that other car
13 doors had shut on people on this driveway; isn't that true?

14 A Yes, one person.

15 Q You had Jennifer Bradley tell you the front door
16 closed; right?

17 A Yes.

18 Q And you knew Ryan Mickey told you the rear door had
19 closed where he was taking the child out of the car; isn't that
20 true?

21 A Yes.

22 Q And you had the car in your possession; isn't that
23 true?

24 A Yes.

25 Q All right. And you're telling us that with all that
26 information you never took the car to the scene to even try to
27 open the door to see if it would shut; isn't that true?

28 A Correct.

1 Q Let's move along here just for a second.

2 During your interview of Mrs. Pou on February 13th of
3 2006, well -- you were here during her testimony; isn't that
4 true?

5 A Yes.

6 Q You were here, you heard her tell us that the child
7 didn't wheeze; isn't that true?

8 A I believe -- I'm pretty sure that's what she said, yes.

9 Q You knew when you were sitting here you had taken a
10 report from her years ago where she told you that the child did,
11 in fact, wheeze; isn't that true?

12 A Based on the transcript, yes.

13 Q And you were here when she told us that the child
14 didn't have asthma; isn't that true?

15 A Yes.

16 Q You had a report from years ago where she had told you
17 that the child had asthma; isn't that true?

18 MS. WALSH: Objection. Argumentative and relevance.

19 THE COURT: Sustained.

20 Q (By Mr. Brown) Did you have information from several
21 years ago where Mrs. Bradley -- excuse me -- Mrs. Pou told you
22 that the child did, in fact, have asthma?

23 A Yes.

24 Q And you got that information back in 2006; isn't that
25 true?

26 A Yes.

27 Q And you went and you talked to another lady by the name
28 of Cynthia Bradley; isn't that true?

1 A Yes.

2 Q And Mrs. Bradley told you that Denise Pou had told her
3 that Kerianne had asthma?

4 MS. WALSH: Objection. Hearsay. Beyond the scope.

5 THE COURT: Sustained.

6 MR. BROWN: It's corroborative, your Honor.

7 THE COURT: Sustained.

8 Q (By Mr. Brown) Did you take a statement from Cynthia
9 Bradley?

10 A Yes.

11 Q Did Mrs. Bradley corroborate the fact Mrs. Pou had told
12 her the child had asthma?

13 MS. WALSH: Objection. Hearsay.

14 THE COURT: Sustained.

15 MR. BROWN: Impeachment, your Honor.

16 THE COURT: Sustained.

17 Q (By Mr. Brown) And you knew that the child had been
18 prescribed Albuterol; correct?

19 A Correct.

20 Q And you knew the child had been prescribed a mask,
21 which has been brought into court here; correct?

22 A That's the first I saw of it, yes.

23 Q You knew it had been seized; right? You had
24 conversation about it, haven't you?

25 A No.

26 Q Never before walking into this courtroom, you never saw
27 or heard anything about that?

28 A No.

1 Q You knew that Mrs. Jennifer Bradley had told you that
2 the child had breathing treatments when it was younger; correct?

3 A Correct.

4 Q You knew Jennifer Bradley told you that the child had
5 been diagnosed with asthma earlier in her youth because she was
6 smoking cigarettes; correct?

7 A Yes.

8 Q And what of that information did you relay to
9 Dr. Kuelbs?

10 A I never spoke to Dr. Kuelbs.

11 Q What information did you instruct any officer working
12 for you in that regard to tell Dr. Kuelbs?

13 A Detective Ganley -- or Sergeant Ganley.

14 Q Did Sergeant Ganley tell the doctor anything along
15 those lines, to the best of your knowledge?

16 A I don't know.

17 Q Well, you were here when he told us that he didn't;
18 isn't that true?

19 MS. WALSH: Objection. Relevance.

20 THE COURT: Sustained.

21 Q (By Mr. Brown) Was it your job, sir, to relay this type
22 of medical information to one of the doctors?

23 Let me rephrase the question. Was it your job when you
24 found out information about the health, the physical or mental
25 health of this child, to share that with the doctor that was
26 evaluating the condition of this child?

27 A I shared it with Sergeant Ganley.

28 Q Who -- whose job was it to get that information about

1 the health, physical health, or mental health, of this child to
2 Dr. Kuelbs?

3 A Sergeant Ganley.

4 Q And do you know if Sergeant Ganley did that?

5 A I would assume so, but that's probably not a smart
6 thing to say. But I would assume he did.

7 Q Do you know if he did?

8 A No, not for sure.

9 Q You didn't do it, did you?

10 A No.

11 Q Now, when you had talked with Jennifer Bradley on
12 February 5th, you learned quite a few things about the health
13 and status of this child, didn't you?

14 A Yes.

15 Q For example, you knew -- she told you that the child
16 had slept all day Thursday and had vomited; isn't that true?

17 A Correct.

18 Q She told you that the child had been drowsy; isn't that
19 true?

20 A Accurate statement, yes.

21 Q She told you that on Friday the child had been sleeping
22 and was inactive; isn't that true?

23 A Yes.

24 Q And she told you that the child on Friday was acting
25 out of character; isn't that true?

26 A Yes.

27 Q Not acting normal; isn't that true?

28 A Yes.

1 Q She told you that the child woke up that Saturday night
2 acting fussy; isn't that true?

3 A On which day?

4 Q That Friday evening, child woke up; isn't that true?

5 A Yeah, around 2:00, yes.

6 Q And didn't Mrs. Jennifer Pou tell you that the child
7 was an easy child, that she always slept through the nights?

8 MS. WALSH: I'm going to point out a correction.

9 Question said "Jennifer Pou."

10 MR. BROWN: I beg your pardon.

11 Q (By Mr. Brown) Denise Pou told you this child was an
12 easy child and she slept through the nights; isn't that true?

13 A Yes.

14 Q And Jennifer Bradley told you that the child had woken
15 up on that Friday night fussy; isn't that true?

16 MS. WALSH: Objection. Misstates the testimony. I'm
17 going to object to relevance. We heard the tape.

18 THE COURT: Overruled.

19 You can clarify.

20 THE WITNESS: Yes.

21 Q (By Mr. Brown) She even at one point in time in your
22 discussion with her told you that the child woke up whining;
23 isn't that true?

24 A Yes.

25 Q Did you ever ask Jennifer Bradley what her medical
26 capability was to determine the distinction or to distinguish
27 between a child with a head injury versus a child that had the
28 flu?

1 A No.

2 Q Did you ever ask her to distinguish whether or not she
3 had the ability to distinguish whether a child had a head injury
4 versus gastroenteritis?

5 A No.

6 Q She told you on Saturday that the child was sleeping on
7 the way to work; isn't that true?

8 A Yes, in the backseat.

9 Q And she told you that wasn't normal for that child;
10 isn't that true?

11 A Yes.

12 Q She told you that the child was not reacting to
13 sunlight coming into the car; isn't that true?

14 A Yes.

15 Q She told you again that the child wasn't acting normal;
16 isn't that true?

17 A Yes.

18 Q And she told you that the -- well, let me stop there
19 just for a second. What of that information did you share with
20 Sergeant Ganley?

21 A You mean the status of the child?

22 Q All of those things that I just went through. Did you
23 share any of that with Sergeant Ganley?

24 A Yes, we had conversations.

25 Q And any of that information that I just went through,
26 did you share one iota of it with Dr. Kuelbs?

27 A Again, I did not speak with Dr. Kuelbs.

28 Q Did you share any of this information at all with

1 Dr. Swalwell?

2 A No.

3 Q Did you direct any of the investigators that were
4 working underneath you throughout the entire course of this
5 investigation to get any of that information that we just went
6 through to Dr. Kuelbs?

7 A Not underneath me, no.

8 Q Did you tell anybody that was working for you,
9 underneath you, or at your direction, to tell Dr. Swalwell about
10 any of this information we just went through?

11 A No.

12 Q During your first interview of her, you showed her a
13 photograph, a bright red mark next to her eye, and she told you
14 she had seen that on Saturday morning; isn't that true?

15 MS. WALSH: Objection. Misstates the testimony.
16 Transcript speaks for itself. Audio speaks for itself.

17 THE COURT: Overruled.

18 You can answer -- clarify.

19 Do you remember the question?

20 THE WITNESS: Yes. Yes.

21 Q (By Mr. Brown) Did you get that information to
22 Dr. Kuelbs?

23 A Again, I did not speak with Dr. Kuelbs.

24 Q Did you tell anybody under your command to get that
25 information to Dr. Kuelbs?

26 A Not under my command, no.

27 Q Was Detective Schnoor under your command?

28 A No. We're equal rank.

1 Q He attended the autopsy, didn't he?

2 A Yes.

3 Q He was on his way to the autopsy before you went there.
4 Did you say, "Hey, Detective, all these things we just learned
5 about this child, you and I just picked through here, including
6 this red mark on the side of the child's face, maybe ought to
7 relay that to Dr. Swalwell. He might want to know about these
8 things"?

9 A We had discussions.

10 Q Did you tell him to relay that to Dr. Swalwell? "Yes"
11 or "no"?

12 A No.

13 Q And, then, through Rosan Mickey you learned, sir, that
14 the child was brought over by Jennifer Bradley on Friday
15 afternoon at about 3:00 o'clock or so; isn't that true?

16 A Correct.

17 Q And we learned through your testimony that the child
18 was dropped off thrashing; isn't that true?

19 A Yes.

20 Q If Mrs. Mickey hadn't held on, that -- that child --
21 that child would have fallen to the floor; isn't that true?

22 A I don't believe I said that.

23 Q Well, you know that's what she told you?

24 A I'd have to look at the exhibit transcript to see what
25 the words were, but I don't know if the word "fall to the
26 ground" was said.

27 Q We have already been -- she even called you back the
28 next day where you wrote a report and paraphrased her

1 statements. Do you remember talking with me about that?

2 A Yes.

3 Q So, you knew that she had called you and told you that
4 she had taken the child outside and sat the child down, and the
5 child lied down on the cement; isn't that true?

6 A Correct.

7 MS. WALSH: Objection. Misstates his testimony.

8 THE COURT: Overruled. Detective answered.

9 THE WITNESS: Yes.

10 Q (By Mr. Brown) And the child put its head on the cement
11 on the patio; isn't that true?

12 A Yes.

13 Q And that the child didn't eat; isn't that true?

14 A Correct.

15 Q And the child fell asleep over at her house; isn't that
16 true?

17 A Lied down.

18 Q And did you relate any of that information to
19 Dr. Swalwell?

20 A No.

21 Q Did you instruct anybody in your command to relay that
22 information to Dr. Swalwell?

23 A Sergeant Ganley.

24 Q Do you know if Sergeant Ganley did that, yes or no?

25 A Not a hundred percent, no.

26 Q And did you tell Detective Schnoor when he went to the
27 autopsy this is information you might want to talk to
28 Dr. Swalwell about?

1 A Not positive.

2 Q Were you ever told by any medical provider in this case
3 or medical expert, sir, that this child had iron pigment in its
4 subdural area?

5 MS. WALSH: Objection. Misstates the testimony. Dura.

6 THE COURT: Overruled.

7 Do you understand the question, Detective?

8 THE WITNESS: Yes.

9 THE COURT: Then, you can answer. If you want to
10 qualify that, you can.

11 THE WITNESS: No, I was never told that.

12 Q (By Mr. Brown) Have you ever found out what iron
13 pigment in a brain is an indication of?

14 A Just what I heard here in court.

15 Q You never heard of any such thing about that before you
16 walked into this courtroom?

17 A No.

18 Q So, prior to you walking into this courtroom, you would
19 have had no idea at all whether or not iron pigment could be
20 consistent with a prior head injury, did you?

21 A Correct.

22 Q You had no idea before you walked into this courtroom
23 whether iron pigment could be consistent with any subdural
24 bleed?

25 A Correct.

26 Q Preexisting; correct?

27 A Yes.

28 Q And before you walked into this courtroom, did you hav

1 any idea at all what a lucid interval was?

2 A No.

3 Q You went and talked to -- didn't you go talk to
4 Dr. Hurwitz?

5 A Yes.

6 Q You went and did that personally, didn't you?

7 A Yes.

8 Q At the time you went and talked with her, did you ask
9 her if she had signed off on that February 4, 2006, medical
10 examination?

11 A I'd have to refer to the report. I haven't looked at
12 that in a long time.

13 Q If it takes you a moment, that's fine.

14 A Okay. All right. There's no mention of it in here.

15 Q Did you ask her if she signed off on that February 4,
16 2006?

17 A I can't remember.

18 Q If you -- if you had, it would probably be something
19 you would put in your report; correct?

20 A I would think so, yeah.

21 Q When you were there, did you ask her what her nurse
22 practitioner's medical background was that would allow her to
23 distinguish between a head injury and the flu?

24 MS. WALSH: Objection. Relevance. Hearsay. Beyond
25 the scope.

26 THE COURT: Overruled.

27 THE WITNESS: No.

28 Q (By Mr. Brown) Did you ask her if she had any ability

1 to distinguish whether or not a child had the flu versus head
2 injury?

3 A Referring to her employee?

4 Q Yes.

5 A No.

6 Q When you went to talk to Dr. Hurwitz, did you ask her
7 any questions at all about this nurse practitioner's
8 capabilities?

9 A I don't recall.

10 Q Well, if you had, would it be in your report?

11 A I would think so, yes.

12 Q And let me show you a picture of Number 52 here. Do
13 you recognize that?

14 A Yes.

15 Q What is that?

16 A Mr. Mickey and Jennifer Bradley's vehicle they had
17 rented.

18 Q Where is this picture being taken?

19 A I see the chain link in the back -- foreground, so I'm
20 assuming based on that -- yeah, that's at the Murrieta Police
21 Department carport.

22 Q The car's in your possession in custody right now?

23 A In that photograph, yes.

24 Q In the bottom of this photograph is February 5, 2006?

25 A Correct.

26 Q When did you give this car back, or when did you give
27 it away?

28 A I think I testified earlier I don't recall when it was

1 released.

2 Q Well, as of February 5th of 2006, you'd already had
3 information that the car -- that rear door of that car had
4 struck that child in the head, didn't you?

5 A Yes, based on interviews.

6 Q You already had all the information we talked -- not to
7 belabor the point -- you already had that information available
8 to you about the car door and the ice and all those other things
9 I've talked about here probably way too many times; right?

10 A Yes.

11 Q And, in addition to that, now, we know for sure that
12 you had the car in your care, custody, and control while that
13 information was available to you; correct?

14 A Correct.

15 Q And on February 5th of 2006, or February 6th of 2006,
16 was there anything, sir, that prevented you from taking a little
17 walk over there to Mickey's house, to see that driveway at all,
18 to see if that -- in any way at all that car door could have
19 shut as a result of the slant on that driveway?

20 A No.

21 Q In fact, you could have sent any number of people
22 working underneath you to go see if there was even a slant on
23 that driveway, couldn't you?

24 A Yes.

25 Q You had the ability to do that either through yourself
26 or someone working for you, all the way up until the time you
27 gave that car back; isn't that true?

28 A Yes.

1 Q Even when the car was given back, did anybody -- did
2 you instruct anybody from the police department to take any kind
3 of vehicle over there and see if any door would shut as a result
4 of the slant on that driveway?

5 A No.

6 Q Ever?

7 A No.

8 Q The other photograph I want to share with you here is
9 -- I just want to make sure we're all on the same page on these
10 photographs, sir. This is for the record. I'm talking about
11 Exhibit 51. That's a picture of the Vonage phone?

12 A Yes.

13 Q That's a picture of a phone that was upstairs; isn't
14 that true?

15 A Yes. I believe that's what Detective Failde testified
16 to, too.

17 Q Okay. This picture here, Number 50, is a phone
18 upstairs; isn't that true?

19 A Yes.

20 Q Okay. So, all the pictures that I've shown you that
21 were taken by your officers are of a hard-line phone upstairs;
22 isn't that true?

23 A Yes, in the loft.

24 Q You were at the Mickeys' home, weren't you?

25 A Yes, 15th.

26 Q You had other officers there with you on the 15th;
27 isn't that true?

28 A Yes.

1 Q And you had officers over at the Broken Arrow address;
2 isn't that true?

3 A Yes.

4 Q Okay. Now, tell me what officers you sent over there
5 to the Broken Arrow address to look and see if there was
6 crescent-shaped ice cubes in that ice maker?

7 A On which date?

8 Q Any date. You pick it.

9 A That was never done.

10 Q Tell me, when you were over at Rosan Mickey's house did
11 you ask for permission first of all -- they let you go through
12 the whole house, didn't they?

13 A Yeah. We had a search warrant.

14 Q You went through the whole house, didn't you?

15 A Um-hum, yes.

16 Q What officer there at the Mickeys' house did you have
17 open up the refrigerator door to see what the shape of the ice
18 cubes were?

19 A No one did that.

20 MR. BROWN: Your Honor, may I have a moment, please.

21 THE COURT: Of course.

22 MR. BROWN: Thank you. Appreciate the courtesy.

23 THE COURT: My pleasure.

24 Q (By Mr. Brown) Exhibit 48, have you seen this
25 photograph before?

26 A I think I have, yes.

27 Q Is that the bottle of milk that Jennifer says she went
28 down and got on that Saturday night -- excuse me -- Friday

1 night?

2 A I believe so, yes.

3 Q Did you ever have anybody check to see if anything has
4 been drunken out of it?

5 A No.

6 Q You didn't go to the autopsy, did you?

7 A No.

8 Q Show you a picture of Exhibit 82.

9 Detective, I don't want to reask the questions I've
10 asked you about the information that you talked about, the
11 child's physical or mental well being as to whether or not it
12 got to Dr. Kuelbs or Dr. Swalwell? Well, but do you have that
13 general area in mind?

14 A Repeat it again.

15 Q I don't want to repeat everything that I've gone
16 through with you today about what you learned about the physical
17 or mental well being of this child prior to February 5, 2006.
18 Do you have in mind those areas that we went through here today?

19 A The ones you discussed, yes.

20 Q The ones that I asked you, whether or not you got any
21 of that information to Dr. Kuelbs or to Dr. Swalwell, do you
22 recall generally each of those items?

23 A Yes.

24 Q Did you give any of that information to Dr. Murillo?

25 A No.

26 Q Did you instruct anybody in your command to give any of
27 that information to Dr. Murillo?

28 A Again, I did not instruct anyone under my command.