

APPENDIX 4

PORTIONS OF PROSECUTING PSYCHIATRIST PARK DIETZ'S TESTIMONY IN THE
ANDREA YATES TRIAL*
MARCH 7, 2002

DIRECT EXAMINATION BY MR. OWMBY:

1

1 March 7, 2002
2 DR. PARK DIETZ
3 having been first duly sworn, testified as follows:
4 DIRECT EXAMINATION
5 BY MR. OWMBY::
6 Q Good afternoon, Doctor.
7 A Good afternoon.
8 Q Will you state your name and your
9 profession for the jury?
10 A I'm Dr. Park Dietz, and I'm a forensic
11 psychiatrist.
12 Q And, Dr. Dietz, will you tell the jury,
13 and we may have heard this before, what it means to
14 say that you are a forensic psychiatrist?
15 A It means I'm a psychiatrist who
16 specializes in the field of forensic psychiatry,
17 which basically means psychiatry applied to matters
18 that are in dispute, typically in court, but any
19 time people disagree because the purpose of forensic
20 psychiatry is to try to find the truth about
21 matters --
22 MR. PARNHAM: Your Honor, we object to
23 that at this time. If I may, Doctor.
24 It's nonresponsive to the question asked
25 by Mr. Owmbly, and we would object.

2

1 THE COURT: Doctor, let's try to answer
2 the question that's asked of you.
3 And, Mr. Owmbly, continue in question and
4 answer.
5 Q (BY MR. OWMBY) Doctor, you were
6 explaining an aspect of what forensic psychiatry
7 was, but I couldn't exactly hear what you were
8 saying.
9 Would you continue to explain to the
10 jury what it is to be a forensic psychiatrist?
11 A It's an area of psychiatry. Some people
12 get special training in it and some don't. But the

13 purpose of it is to help find the truth about
14 matters that are in dispute.
15 Q Now, would you tell the jury your
16 educational background that qualifies you to be,
17 among other things, a forensic psychiatrist?
18 A My education began in college at Cornell
19 University in Ithaca, New York, where I earned a
20 degree in biology and psychology.
21 I then entered medical school; and in
22 1975, received the M.D. degree from Johns Hopkins
23 University School of Medicine in Baltimore. In the
24 same year, I received a master's degree in public
25 health, also from Johns Hopkins and have completed

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1 the course work for PhD in sociology, also with
2 Johns Hopkins. And later, as the deadline
3 approached, I submitted a dissertation and was
4 awarded the PhD. So, that was my basic education.
5 Q All right. And -- excuse me -- what
6 training did you have after your basic education?
7 A Then -- in medicine, one has to enter a
8 residency, if one wants to take up a specialty. I
9 entered a residency in psychiatry and spent two
10 years as assistant resident in psychiatry at the
11 Johns Hopkins Hospital in Baltimore, and then I
12 spent a third year as resident and chief fellow in
13 forensic psychiatry at the hospital at the
14 University of Pennsylvania in Philadelphia.
15 And it was during that year I did a
16 fellowship in forensic psychiatry. That was unusual
17 at the time, and I finished that in 1978.
18 Q What kind of work -- what positions have
19 you held since you completed your training?
20 A Well, my first job after fellowship was as
21 an assistant professor of psychiatry at the Harvard
22 Medical School in Boston; and my assignment was at
23 the McClain [sic] Hospital, which is a private hospital in
24 the suburbs. But through them I was assigned to a
25 maximum security institution for the criminally

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1 insane called the Bridgewater State Hospital. And
 2 for two years, I worked there trying, without much
 3 success, to improve the quality of care and to turn
 4 it into a Harvard teaching hospital. There was a
 5 whole group of us who commuted to this very
 6 scandalous, awful place.
 7 And then I spent my third year at
 8 Harvard, primarily involved in research -- no, got
 9 that wrong.
 10 My third year, I was primarily
 11 commuting back and forth to Washington, D.C. because
 12 I was asked by the US Justice Department to be in
 13 charge of the evaluation of John Hinckley after the
 14 assassination attempt of President Reagan.
 15 And then my fourth year, I spent
 16 doing research on mentally disordered offenders
 17 doing a study of defendants who had killed, or
 18 nearly killed, their victims and looking at the
 19 details of their criminal behavior and their mental
 20 problems.
 24 A Then I received an offer from the
 25 University of Virginia to become head of its medical

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1 program on psychiatry and law and accepted a
 2 position there, initially, as an associate professor
 3 and then later as professor of law and professor of
 4 behavioral medicine and psychiatry.
 5 MR. PARNHAM: Your Honor, may we proceed
 6 in question and answer format as opposed to the
 7 format in which we are proceeding?
 8 Q (By Mr. Owmbly) I think you answered the
 9 questions -- excuse me -- that I asked regarding
 10 positions that you held since completing training.
 11 And what was the last position that you
 12 mentioned?
 13 A The second position was at the University
 14 of Virginia where --
 15 Q Go ahead. I'm sorry.
 16 A -- where my responsibilities -- well, as
 17 an associate professor and professor were as medical
 18 director of the Forensic Psychiatry Clinic, medical
 19 director of the Institute of Law of Psychiatry and
 20 Public Policy. And I taught a course load in the
 21 law school co-teaching courses on law and
 22 psychiatry, psychiatry and criminal law, psychiatry
 23 and civil law, law and medicine, law and public
 24 health. And I taught a seminar of my own called
 25 crimes of violence.

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1 In the medical school, I was
 2 responsible for the forensic psychiatry fellowship
 3 program for training medical students, residents and
 4 various nursing and social work students.
 5 Our institute did the training for
 6 all the people in Virginia who were certified by the
 7 state to evaluate people for competence or insanity.
 8 We consulted with the state on the laws on these and
 9 similar issues regarding the mentally ill.
 10 And during those years at Virginia, I
 11 also engaged in a program of research on violent
 12 crime, including a project for the US Department of
 13 Justice that was the first study of threats and
 14 stalking and that led to general recognition of
 15 stalking as a problem.
 16 Q Did you have experience working with the
 17 Federal Bureau of Investigation?
 18 A Yes, I had first done some informal
 19 consulting with the FBI starting in 1979, but in the
 20 early 1980s, they made me officially a consultant to
 21 what was then the behavioral science unit at the FBI
 22 academy in Quantico.
 23 And from 1982 up to the present, I
 24 have been the forensic psychiatrist for the various
 25 successors to that unit. It's part of the critical

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1 incident response group of the National Center for
 2 the Analysis of Violent Crime, but this particular
 3 unit has changed hands.
 4 Today it's the Profiling and
 5 Behavioral Assessment Unit. And with them, I have
 6 done research, trained for many years. Agents
 7 coming through and specialists in profiling and I
 8 consult with them on open cases so that they will
 9 sometimes bring the unsolved cases to provide a
 10 formal or informal opinion.
 11 Q All right. Do you do that frequently,
 12 like once -- at least once a year or how frequently
 13 do you consult?
 14 A It really varies. I think the contract
 15 has me down for ten days a year or something less.
 16 They don't always use it up and sometimes they use
 17 more.
 18 Q Have you published any scholarly writing?
 19 A Yes.
 20 Q And would you tell us a few of them that
 21 might be relevant, especially those that might be
 22 relevant to your testimony here today?
 23 A Well, nearly all my publications, of which
 24 there are about 100, somewhat over a hundred, have
 25 been about violent behavior, injurious behavior or

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1 both. So, I have tended to look at the extremes of
2 human behavior and the horrible things people do to
3 others and to themself.

4 I have written quite a bit about
5 homicide and about mentally ill offenders, about how
6 to do forensic evaluation and evaluate criminal
7 insanity and topics related to that.

8 Q How long have you been examining criminal
9 defendants for purposes of sanity evaluations?

10 A Well, the first one I ever attended was as
11 a freshman in medical school and that would have
12 been in 1970 or '71, but I begin doing it
13 myself prior to trial in 1977 and have done it ever
14 since.

15 Q How many criminal defendants do you think
16 you've examined for the purposes of sanity or some
17 related to forensic -- in the forensic area in the
18 criminal field

19 A I stopped counting at a thousand, and that
20 was in 1979 or '80. So, thousands.

11

2 Q All right. You worked on the Menendez
3 brothers case?

4 A On the retrial, yes.

5 Q And you didn't work on the original
6 O.J. Simpson case; is that correct?

7 A Correct. I turned it down when I was
8 approached for the criminal matter.

9 Q Right, but I understand you worked on the
10 civil matter?

11 A Yes, I did.

12 Q And there was a case -- and I probably
13 can't pronounce the name -- in Hawaii?

14 A Uyesugi. Mr. Uyesugi shot and killed
15 seven co-workers at the Xerox facility in Honolulu.

16 Q And did you also testify or assist the
17 State in that case?

18 A I was a defense expert testifying that he
19 was insane.

20 Q You worked on the -- Dr. Resnick, I think
21 mentioned, that you worked together with him on the
22 Ted Kaczynski case; is that right?

23 A Yes, in fact, I brought him into it.

14

18 Q Doctor, you are consulting and now
19 testifying with the District Attorney's Office of
20 Harris County for a fee. And would you tell the
21 jury the fee that you charge?

22 A Yeah, I'm charging the Harris County DAs

23 Office my standard government fee which is \$500 an
24 hour.

25 Q Doctor, did there come a time when the --

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1 as is obvious, the Harris County District Attorney's
2 Office asked you to conduct an evaluation within the
3 framework of the prosecution of Andrea Pia Yates?

4 A Yes.

5 Q One of the things that you -- and I want
6 to get back to that in a moment. One of the things
7 you plan to do during that evaluation was videotape
8 and interview with Andrea Pia Yates; is that
9 correct?

20

21 Q Now, you have done work with parents who
22 kill their children?

23 A Yes.

24 Q Which we learned in testimony here is
25 referred to as infanticide, as a general term?

21

1 A Yes.

2 Q What is your work in that area?

3 A Well, anyone who sees large numbers of
4 homicide defendants will see the occasional --

5 MR. PARNHAM: Judge, I don't think that's
6 responsive.

7 THE COURT: Sustained.

8 Q (By Mr. Owmbly) What has been your work in
9 the area of parents who kill their children?

10 A I have seen the usual proportion in the
11 course of my early career, and then I have been
12 invited to see an usually high proportion because
13 I'm often asked to consult on such cases.

14 And in addition to the ones that you
15 mentioned previously, like Susan Smith, I have been
16 involved in cases in, perhaps, 15 or 20 states of
17 mothers killing their children.

18 Q Have you done any work in relation to --
19 well, drownings, in particular?

20 A Yes. My early research was on drowning
21 and the variety of ways in which drowning occurs
22 with a focus on how to prevent drownings. That was
23 published in the American Journal of Public Health
24 in the 1970s.

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1 A Yes.
 2 Q And slide 4 shows your contact date, July
 3 6, 2001, which was, as you testified, 16 days after
 4 the homicides. You requested all records and
 5 examinations -- and the word we use is ASAP, as soon
 6 as possible -- and you were notified September 26,
 7 2001, that the Court has signed the order
 8 authorizing the examination?
 9 A That's right.
 10 Q Can you list for the jury -- and I assume
 11 that you might need your slides to refresh your
 12 memory -- sources of information that you eventually
 13 reviewed to help form your opinion in this case?
 14 A Yes, I would need my slides to refresh my
 15 recollection.
 16 Q I will show you a series of slides that
 17 has been marked for identification as State's
 18 Exhibit No. 229. I'm going to give them to you now
 19 just to help you refresh your recollection as the
 20 sources of information.
 21 And, Doctor, as to the sources of
 22 information that you reviewed in connection with
 23 your evaluation in this case, would you tell us what
 24 interviews that you reviewed or were made aware of
 25 in connection with your evaluation?

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1 A Well, I conducted four interviews myself.
 2 I interviewed the defendant, Andrea Pia Yates, for
 3 two days in November of 2001. That was on
 4 November 6th and 7th. And I also interviewed two
 5 of her then treating doctors, Dr. Ferguson and
 6 Dr. Osterman.
 7 Q Did you request an interview with Russell
 8 Yates?
 9 A I did.
 10 Q And were you able to interview Russell
 11 Yates?
 12 A No, he refused to see me.
 13 Q Did you request an interview with Dora
 14 Yates?
 15 A Yes, I did.
 16 Q Were you able to interview Dora Yates?
 17 A No, she refused to see me, too.
 18 Q Did you have the opportunity to interview
 19 Mr. and Ms. Robert Holmes? That would be Robert
 20 Holmes and Debbie Holmes?
 21 A Yes, they were very gracious and allowed
 22 me to interview them in their home.
 23 Q Do you remember the date that you
 24 interviewed them?
 25 A That was the 8th of November, 2001.

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1 Q Now, the interviews that you conducted,
 2 were they just videotape interviews or did you also
 3 record them?
 4 A Well, the interview with the defendant,
 5 Andrea Yates, was recorded in its entirety on both
 6 videotape and audiotape, except for one time when I
 7 forgot to turn it on and I missed some of them on
 8 one of the tapes. I missed some on one of the
 9 tapes.
 10 Q All right. You don't know if that -- you
 11 don't recall if it was on the audio or video?
 12 A I think I forgot to start the audiotape.
 13 Mrs. Yates then reminded me that I had forgotten.
 14 Then I got it started, but I had to get the
 15 transcript off the video for that one, that portion.
 16 It was a few minutes.

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7 assistant in my office initially transcribed it from
 8 audiotape. I then went over the transcript and
 9 corrected from memory what I knew were errors. And
 10 then I listened to one particular important segment
 11 and tried to get it absolutely accurate, but I never
 12 did that level of accuracy with the early parts that
 13 were about her life history. And I'm sure there are
 14 typos and other inaccuracies.

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4 Q Did you review videotaped interviews by
 5 others?
 6 A Yes, I did.
 7 Q And would you tell the jury what
 8 videotaped interviews conducted by others that you
 9 reviewed?
 10 A I received and reviewed a videotape of an
 11 interview done by Channel 13 of Russell Yates on
 12 June 21st, the day after the homicides. I reviewed
 13 a videotape of Dr. Resnick's examination for -- I
 14 guess 15 minutes of the examination were recorded on
 15 July 14th, 2001. I also received and reviewed
 16 portions of the examination by Dr. Puryear on
 17 7-27-01 where she had recorded a segment of her exam
 18 of the defendant. And, likewise, another segment of
 19 exam by Dr. Puryear on 8-10-01.

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19 A. Well, it's really a matter of what's the
 20 method used here. What's the method used here. And
 21 the method that I used here, as elsewhere, is to try
 22 to understand the entire story; that includes the

23 life story of Andrea Kennedy, then Andrea Yates, so
24 that I understand what the history of her life is;
25 then with special attention to the things that

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1 surround the crimes and how they came to be. So,
2 for crimes of this kind, that means paying special
3 attention to the marriage and the children and the
4 family. And then to focus even more closely on
5 mental state.

10 Q. (By Mr. Owmbly) Now, the aspect that you
11 focused on is kind of the context of Andrea Yates as
12 a person from as far back as you can look at that
13 until the day of the offense; is that correct?

14 A. Correct, yes.

15 Q. I believe you said that your focus is on
16 the marriage and the relationships she has. How
17 does that relate to your findings as far as your
18 evaluation?

19 A. Well, all human behavior, and that
20 includes criminal behavior, arises from the
21 interaction between a person and a context, the
22 environment, both the person and the environment
23 matter. So to understand the crime, we need to look
24 at both the person and the context in which criminal
25 conduct occurs.

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1 Q. Now, you are looking at the person and the
2 context. How do you fit -- and I suppose that
3 you -- that the illness, if there is an illness, it
4 is made a part of that contextual picture also; is
5 that correct?

6 A. Well, if there is an illness, it's part of
7 the person, but it interacts with the environment.
8 And, so, I'm always looking for whether there is an
9 illness; and if there is, what, if any, relationship
10 did it have to the crimes.

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5 Q. (By Mr. Owmbly) These would be your
6 findings; is that correct?

7 A. That's correct.

8 Q. What were your findings as to the illness
9 of Andrea Pia Yates?

10 A. Well, that's actually somewhat of a
11 confusing issue in this case because the signs and
12 symptoms that she's exhibited are found in more than
13 one condition. All of the treating doctors, prior
14 to the crimes, have diagnosed her with a serious
15 depression, usually calling it major depression,
16 sometimes saying with psychotic features, sometimes

17 saying postpartum.

18 My own impression as opposed to
19 diagnosis, when I met with Mrs. Yates, was that she
20 was suffering from schizophrenia; and the reason I
21 had that impression, despite having heard all the
22 other doctors diagnose her with depression, was that
23 despite being on appropriate doses of antipsychotic
24 medication, she was still showing what are called
25 the negative symptoms of schizophrenia, of being

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1 rather passive and her mood being flat. We call it
2 flat affect [sic]. So she impressed me as more
3 schizophrenic.

4 There is a diagnosis given in the DSM
5 call schizoaffective disorder that is supposed to be
6 given when a person has both those conditions -- or
7 has the features of both schizophrenia and major
8 depression. And, so, I considered as part of the
9 deferential diagnosis all three of those, that it
10 was major depression with psychotic features, it was
11 schizophrenia or that it was schizoaffective
12 disorder.

13 I don't happen to like the conception
14 of schizoaffective disorder and don't use it other
15 than for Court because -- I use it in Court only
16 because it's in the book. I don't really believe in
17 it as a separate condition, and the researchers I
18 speak to about it don't believe in it either.

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25 Q. You consider it, what you have kind of

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1 referred to as contextual factors from 1999; is that
2 correct?

3 A. Yes, because the question is has mental
4 disease impacted her life where she is, what's
5 happening, what's the context.

6 Q. All right. And what were your findings
7 relative to those?

8 A. Well, I thought that there were
9 significant parts of what was going on in the
10 context of Andrea Yates' life that help explain her
11 decline and how it came to this. And, so, what I
12 have put in my findings here are the ones I believe
13 to be significant.

14 Q. All right. And what was the first -- not
15 necessarily the first significant thing, but what do
16 you list first to explain to the jury as a
17 significant contextual factor?

18 A. I think it's unescapable that living in a

19 bus with a family; three children and a newborn and
 20 a husband is a big stressor for someone. That's a
 21 significant part of a woman's context at that point
 22 in time. So, I believe that that can't go
 23 unnoticed, that in 1999, as she gets sicker to the
 24 point everyone notices it, that plays a part in it.
 25 Q. All right. As a stressor. And the word

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16 Q. Did you have a finding related to home
 17 schooling?

18 A. Yes, I thought that the fact that she was
 19 home schooling in that circumstance, living in the
 20 bus with the children, was another enormous
 21 stressor. It's tough for anybody to raise multiple,
 22 small children. To be home schooling them, too,
 23 is -- is an awful lot to ask. To be home schooling
 24 them in a bus is, I think, something anyone would
 25 find quite stressful.

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1 Q. All right. What was your next finding?

2 A. Well, it's in that context that she's
 3 feeling depressed and overwhelmed; and she describes
 4 her feelings at that time in various ways, depending
 5 on when she's interviewed. But what she told me in
 6 November was that she felt depressed and overwhelmed
 7 at that time and that she asked her husband for
 8 help. His attitude was that she needed some rest;
 9 and he suggested that if she talk to her mother or
 10 if she talked to her friend, Debbie, about it, that
 11 that would make it better.

12 And to try to get her some rest, he
 13 took her over to her mother's house which is where
 14 she took the overdose of Trazodone, with her
 15 father's medication, which in that context to take
 16 an overdose of sleeping pills when you are feeling
 17 tired, aren't sleeping, and are told to go take a
 18 rest, has more than one meaning. And when her mom
 19 goes in to get her to wake her up to breast feed,
 20 she said she couldn't because she had taken an
 21 overdose of sleeping pills, and that's when she gets
 22 hospitalized; first at Ben Taub in the emergency
 23 room and then at Methodist.

24 Q. Doctor, she was -- as you've noted, Andrea
 25 Yates was treated at Ben Taub and admitted to the

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1 Methodist Hospital in June, kind of a -- that's what
 2 happens, you go to the emergency room and then she's
 3 admitted to Methodist Hospital; is that correct?

4 A. Yes.

5 Q. What was the next significant finding that
 6 you made in this contextual situation?

7 A. Well, then she's discharged from the
 8 hospital, from Methodist, and she has a prescription
 9 for Zyprexa. Dr. Flack had been treating her there.
 10 She's given a prescription for an antipsychotic
 11 medication and she flushes it down the toilet
 12 without taking it. And she would later say that she
 13 didn't want to take it.

14 And the most consistent story she's
 15 indicated is that she didn't think she was
 16 psychotic, didn't want to be thought of that way and
 17 resented someone calling her that.

18 Q. Now, next -- the next significant factor,
 19 I believe that you found, was an incident with her
 20 husband and a knife?

21 A. Yes. That incident, which also occurs in
 22 1999, has been described in quite a variety of ways
 23 in different records. What all accounts agree on is
 24 that she took a kitchen knife into the bathroom and
 25 that her husband took it from her. Sometimes it's

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1 described as if she had had it to her throat,
 2 sometimes it's described as if she actually nicked
 3 herself and sometimes it's described with varying
 4 degrees of intent, but everyone agrees that a knife
 5 was taken from her.

6 Q. What did you -- what was the significance
 7 of this finding? Why is this finding significant
 8 rather than some other finding?

9 A. Well, on a couple of levels it's
 10 significant. First, it is sometimes said that --
 11 that's even been described as a suicide attempt.
 12 What she has said repeatedly is that she intended to
 13 cut herself, intended to kill herself. And so, of
 14 course, that's a significant part of her psychiatric
 15 history.

16 The context in which it's happening
 17 is, she asked for help, gets admitted and a week
 18 away from the stressors, only with an overdose, and
 19 now she's discharged again back to the same
 20 environment, the same circumstance.

21 Once again, when she's at her
 22 mother's house, there's a dramatic incident that
 23 leads to hospitalization. And in this case, the
 24 dramatic incident was with the knife rather than the
 25 pills, so she's upped the ante.

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1 Q. You said upped the ante?

2 A. Yes. I can't know -- no one can know
 3 whether this is conscious or unconscious, but as a
 4 psychiatrist, I can't help but notice that she got

5 help the first time only with an overdose. She
6 didn't get enough help, so now she's going to do
7 something more, which can get her more help. And,
8 in fact, this time it not only got her hospitalized,
9 it got her a house.

10 Q. All right. And she was admitted to Spring
11 Shadows Glen. And at some point during that time
12 was when Russell Yates purchased the house. They
13 were intending to move out of the bus; is that
14 correct?

15 A. Yes.

16 Q. What was the next significant event during
17 this period of admission to Spring Shadows Glen
18 Hospital or the next significant finding that you
19 made?

20 A. Well, I think not on this chart, but
21 around this time is when Dr. Thompson's report was
22 written. And Dr. Thompson's report is the only
23 thing in the entire record prior to the crime that
24 suggests that Mrs. Yates ever had, ever gave some
25 basis for saying she had hallucinations.

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1 Q. The only report prior to the crime?

2 A. The only thing written by a mental health
3 professional -- well, let me phrase it differently.

4 There is some suggestive nursing
5 notes in which the point as to when she might be
6 hearing voices, where she checked boxes without
7 giving data, but the only person who gives any data
8 consistent with the possibility of hallucinations is
9 Dr. Thompson's report in 1999, and that report
10 struck me as exceedingly important.

11 MR. PARNHAM: Your Honor, may I ask
12 question and answer at this time?

13 THE COURT: Yes, sir.

14 Q. (By Mr. Owmbly) That report struck you as
15 important, and would you tell the jury why?

16 A. Because it suggested the possibility of an
17 important symptom that isn't documented anywhere
18 else with any data; that is, I make a big
19 distinction between suspecting something and
20 actually being able to give an example of why you
21 think it's true.

22 And there are examples in that
23 report, which I learned only recently, he didn't
24 write.

25 Q. And by "he didn't write," you mean --

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1 A. Dr. Thompson.

2 Q. All right. And you are talking about the
3 fact that some of the things in that report were
4 actually observations by an assistant?

5 A. Yes.

6 Q. You note on the chart that ECT was
7 recommended by Dr. Thompson and Dr. Rios?

8 A. Yes. Dr. Thompson recommended it based on
9 the full evaluation that he had. Dr. Rios is a
10 specialist, a psychiatrist who has experience with
11 ECT who saw her specifically to evaluate whether or
12 not the electroshock treatment would be appropriate
13 for her. They both recommended it.

14 Q. But she did not receive electroshock?

15 A. No, both she and her husband refused it.

16 Q. What was the significance of your finding
17 there?

18 A. Well, I think it was a very appropriate
19 treatment to recommend and consider and tragic that
20 it wasn't provided. Because, although we still
21 don't know what effect it would have had, it may
22 have had a dramatic effect on her.

23 Q. And I believe the next finding concerns a
24 move into the house?

25 A. Yes. It's after that discharge that the

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1 family moves from the bus into the house. The house
2 had been purchased by her husband while she was in
3 the hospital. She had never seen it. She had no
4 say in the decision of which house. But she's
5 discharged from the hospital and goes home to this
6 house, which, of course, removes the great stressor
7 of living in the confined spaces of the bus, but
8 it's a new stressor of a new environment with the
9 change and the move.

10 Q. As you said, any move, even a good one,
11 can stress?

12 A. Yes.

13 Q. You found it significant that Andrea
14 Yates, as you put it, secretly went off medication;
15 is that correct?

16 A. Yes, she had been followed by
17 Dr. Starbranch after the discharge from Spring
18 Shadows Glen. Dr. Starbranch had put her on Haldol
19 and was continuing to treat her with antidepressants
20 and Haldol, but then Mrs. Yates, unbeknownst to
21 anyone, stopped taking all the medication in
22 November of 1999 and kept going to Dr. Starbranch
23 for some months after that, finally revealing in
24 January of 2000 to Dr. Starbranch that she had
25 stopped her medication.

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1 Q. Now, there were other factors leading from
2 1999 into 2000 related to medical advice she had
3 been given as opposed to behaviors that she took
4 Can you discuss some of those findings with the

5 jury?

6 A. Well, Dr. Starbranch had considered that
7 Mrs. Yates suffered a postpartum depression. And
8 she was not the only one who thought that might be
9 the right diagnosis, but the lesson that Dr.
10 Starbranch attempted to teach Mr. and Mrs. Yates was
11 that because she had had a postpartum depression, it
12 was important for her not in the future to be
13 pregnant because of the high risk of recurrence.
14 Dr. Starbranch wrote in the chart if
15 she becomes pregnant again, it virtually guarantees
16 a reoccurrence. And both Mr. and Mrs. Yates had
17 been talking about wanting to have more children,
18 wanting to have as many children as they could. And
19 you can see in the hospital records the frustration
20 of the staff in trying to educate them and getting
21 nowhere on that.
22 MR. PARNHAM: Your Honor, I request
23 question and answer --
24 THE COURT: Let's proceed in question and
25 answer.

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1 MR. PARNHAM: -- as opposed to narration.
2 Q. (By Mr. Owmbly) You mentioned that the
3 hospital charts reflect there were, you said
4 frustration on the part of the hospital staff in
5 trying to educate them about this danger of
6 reoccurrence due to pregnancy. What makes you say
7 that the records reflect frustration?
8 A. Well, it's the use of explanation points,
9 the repetition of it in the nursing notes.
10 Dr. Starbranch's note on this is very strongly
11 worded.
12 But there were multiple efforts by
13 the staff, not just in Spring Shadows, but elsewhere
14 to educate Mrs. Yates and Mr. Yates on the
15 importance of staying on medications and on the
16 importance of not having another pregnancy; and if
17 she did, despite that advice, that she should be
18 medicated during and after the pregnancy.
19 Q. Now, did she follow the advice regarding
20 medication during and after pregnancy?
21 A. No. Against advice she got pregnant --
22 MR. PARNHAM: Objection. He's answered
23 the question.
24 THE COURT: Sustained.
25 Q. (By Mr. Owmbly) Did she get pregnant

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1 against medical advice?
2 A. Yes.
3 Q. And what was significant as far as your
4 contextual findings about that?

5 A. Well, it's one of the repeated examples of
6 Mrs. Yates not following the advice of her doctors
7 and thinking she knows best and maintaining control.
8 She's the one deciding what to do. She will not
9 take the medicine unless she wants it. She will get
10 pregnant when she wants to. She's not taking the
11 medicine during pregnancy.
12 Q. Mary, the fifth child, was born in
13 November and we are into 2000 now. And I think
14 you've explained, that good or bad, a pregnancy like
15 that acts as a stressor?
16 A. Yes.
17 Q. Again, she failed to -- well, let me ask
18 you this. After the baby was born, did she go back
19 to the doctor or did you find records indicating she
20 went back to the doctor to find out how to medicate
21 and treat herself for her own problems after the
22 baby was born?
23 A. No, she didn't.
24 Q. Did she abandon any of the other
25 stressors? For example, did she stop home

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1 schooling?
2 A. She was continuing to home school even
3 with another newborn.
4 Q. And Mary, the last child, was born late in
5 the year 2000. Her father had some problems early
6 in 2001. Did that have an impact on her life?
7 A. Yes, it had a big impact. Parental
8 illness, injury and death usually do. And in
9 Mrs. Yates' case, it had a particularly big impact.
10 Her father fell in January and declined badly until
11 he died on March 12th. She was very affected by
12 that.
13 Q. All right. Well, I don't want to use the
14 word led to, but I guess the next significant event
15 was the admission to Devereux Hospital; is that
16 correct?
17 A. Yes.
18 Q. And would you explain to the jury the
19 context that -- the significance that you attached
20 to this contextual factor?
21 A. Well, there are -- there's more than one
22 version of how well she did between November and
23 March. There are different versions of this that
24 are discrepant, but everyone agrees she got
25 extremely depressed after her father's death and was

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1 functioning so poorly that she needed to be admitted
2 again; and that's what led to the first Devereux
3 admission.
4 Q. All right. She was released from

5 Devereux, and what was the next significant event
6 that you found?
7 A. Well, first of all, it's not clear how
8 improved she was the first time she was released
9 from Devereux, but what gets her back into the
10 hospital, back to Devereux, is the incident in which
11 she's filled the bathtub with water. While Dora
12 Yates is there, Rusty comes home; and they don't
13 know what to make of that. She doesn't give a
14 reasonable account of why she did that, and they
15 take her back the next day or the day after.
16 Q. You state that after this happened she was
17 admitted to Devereux; is that right?
18 A. Yes.
19 Q. Now, I believe while at Devereux, again,
20 ECT, electroconvulsive therapy, was recommended?
21 A. It was recommended by Dr. Saeed.
22 Q. What happened in relation to that advice?
23 A. It was -- the advice was rejected. She
24 never got ECT.
25 Q. All right. Now, Doctor, one of the things

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1 you mentioned a little earlier -- and take me back
2 to slide 26 -- was ECT recommended by Drs. Thompson
3 and Rios.
4 And you mentioned, also, this report
5 contains the first evidence that there may be some
6 psychosis. Is that -- would that be a fair thing to
7 say, or how did you describe it?
8 A. Well, it's the first time there is a
9 description of what could have been a hallucination.
10 Q. And why do you say what could have been a
11 hallucination?
12 A. Because there is more than one type of
13 symptom that can account for a patient saying
14 something like I had a vision. And the three most
15 common things that account for somebody saying that
16 are that they are talking about a thought that came
17 into their head where they pictured something,
18 that's imaginary, that's imagination. That's not
19 psychosis. Might be abnormal, but it's never
20 psychosis to have a thought pop into your head.
21 The second possibility is that it is
22 true that they are hearing something, but they are
23 mistaken about what they are hearing. That's a
24 distortion. That's called an illusion. That's like
25 if the wind blows at night and you hear your name

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1 called. That's not a hallucination, that's an
2 illusion and that's not psychotic. Normal people
3 can get that.
4 And then, third, is a true

5 hallucination in which you hear something when there
6 is nothing there to hear and it sounds as though
7 it's coming from the outside world through your ears
8 and you are positive you heard it because you had a
9 very realistic experience.
10 Q. I suppose it's important for the therapist
11 to make a diligent attempt to understand what he's
12 hearing from the patient?
13 A. Only if you want to know what symptom it
14 really is. If you want to know what symptom it
15 really is, you have to explore that detail with the
16 patient, and here there was a description that
17 didn't settle the question.
18 Q. So, from the descriptions that you read,
19 mainly summarizing Dr. Thompson's report, could not
20 settle for you whether these were psychotic
21 hallucinations, illusions, thoughts with
22 imagination, or something else that was not
23 psychotic?
24 A. Right. The thing that sounded most likely
25 was obsessional intrusive thoughts, but I couldn't

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1 be sure which because the other questions had not
2 been asked.
3 Q. Did you explore the issue with Andrea
4 Yates during your interview with her?
5 A. Yes.
6 Q. And did you make an excerpt of that
7 portion of the interview?
8 A. I hope so.
9 Q. Yeah, you did.
.....
24 Q (By Mr. Owmbly) Doctor, we mentioned that
25 you had four tapes that comprise the entire

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1 interview of Andrea Yates; is that correct?
2 A. Yes.
3 Q. And out of that, you prepared six excerpts
4 which you call Excerpt A through G and which I have
5 labeled State's Exhibits 231 through 237.
6 What I would like to do now -- we've
7 provided the Defense with the transcript of the tape
8 and they have had a copy of the entire videotape.
9 MR. OWMBLY: What I would like to do now is
10 offer the excerpts into evidence, State's
11 Exhibit No. 231 through 237.
12 MR. PARNHAM: We have no objections to
13 that, Your Honor.
14 THE COURT: As I understand it, is that
15 the excerpts on one exhibit?
16 MR. OWMBLY: No, Your Honor. They are all

17 separate.
 18 THE COURT: 231 through 237?
 19 MR. OWMBY: Yes.
 20 THE COURT: No objections?
 21 MR. PARNHAM: No, that's fine, Judge.
 22 THE COURT: All right.
 23 Q (By Mr. Owmbly) What we were talking about
 24 last was the thoughts that -- you gathered
 25 information about those thoughts of Andrea Yates

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1 from Dr. Thompson's report; is that correct?
 2 A. That was one source.
 3 Q. That was one source. And you -- I think
 4 the last you had told the jury was that your best
 5 classification of them was this obsessional
 6 intrusive thought; is that correct?
 7 A. That's what the data in Dr. Thompson's
 8 report seemed to me to be saying that, although he
 9 drew a different conclusion, he said they were
 10 hallucinations.
 11 Q. But based on the data he was recording,
 12 this appears to be obsessional thoughts to you?
 13 A. That's what it looked like to me because
 14 there was no evidence of hallucination prior to the
 15 crime.
 16 Q. And when you said prior to the crime, you
 17 mean throughout this history, no evidence other than
 18 this and you've talked about some isolated entries
 19 without supporting data of hallucination?
 20 A. There were suspicious things I regarded as
 21 suspicions of hallucination. The one person that
 22 said he thought she had them was Dr. Thompson based
 23 on the comments about vision of a knife or image of
 24 a knife that happened in '99.
 25 Q. And did you ask her about these thoughts

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1 when you interviewed her in November?
 2 A. Yes.
 3 Q. Of 2001?
 4 A. Yes, I did.
 5 Q. And is that what's contained, basically,
 6 in what you call Excerpt A and we labeled State's
 7 Exhibit 231?
 8 A. Yes.
 9 MR. OWMBY: And we asked to publish that
 10 to the jury at this time. Thank you.
 11 (Video played for the jury.)
 12 Q. (By Mr. Owmbly) Except for the very, very
 13 end, would you explain to the jury the significance
 14 of what you found from that part of your interview?
 15 A. Well, first, let me say I had a far better
 16 quality tape than this. The color is off and the

17 sound is bad on this.
 18 What happened there is that she
 19 talked about the thoughts that she had about a knife
 20 and said that -- or agreed when I said is it really
 21 more thoughts and fear you had and she said it was.
 22 She didn't give me a description there of anything
 23 that's remotely hallucination.
 24 Q. So she told you there was a thought and a
 25 fear --

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1 A. Yes.
 2 Q. -- that she had. And, mentally, she is
 3 reflecting back on a -- something that happened in
 4 1999?
 5 A. That's right.
 6 Q. That's how she characterized it when you
 7 interviewed her?
 8 A. Yes.
 9 Q. You also mentioned among the contextual
 10 factors that in 2001 she had filled a bathtub with
 11 water?
 12 A. Correct.
 13 Q. Now, did you find in your review of the
 14 material any explanations that would help you kind
 15 of explain the significance of filling the bathtub
 16 with water?
 17 A. There were several contradictory
 18 explanations that I saw at various points, all of
 19 which were given after her arrest. There is no
 20 explanation before the arrest except what she tells
 21 Rusty and Dora, which is, I might need it.
 22 After her arrest, there are a variety
 23 of different explanations. Sometimes she told
 24 doctors that she was thinking of drowning the
 25 children then. Sometimes she said she thought she

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1 might drown the children then. Sometimes she said
 2 that she might need it because they might have their
 3 water cut off by the utility company; and at those
 4 times, she said that she wasn't thinking of drowning
 5 the children then.
 6 Q. Now, what explanation did she give you?
 7 A. It was the utility company truck
 8 explanation rather than drowning the children.

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.....
 3 Q. (By Mr. Owmbly) One of the things I want
 4 to ask you about before I ask you to explain your
 5 findings in relation to the excerpt, you just used a
 6 phenomenon known as thought blocking, and there was

7 a long pause at the first.
 8 Can you explain what thought blocking
 9 is and whether that was an example of thought
 10 blocking?
 11 A. Well, thought blocking is when an
 12 individual, due to a psychosis, has interference
 13 with their thoughts and doesn't have the ability to
 14 follow a train of thought and has the thoughts
 15 interrupted, so that they are lost and they won't
 16 remember where you left off. This is certainly not
 17 an example of thought blocking.
 18 What it does seem to be an example
 19 of, and what I would have called it, had you asked
 20 me, is speech latency, a very long interval, like 25
 21 seconds or more, before she answered. But she
 22 ultimately answered exactly the question that is
 23 asked. It's not as though she forgot the question.
 24 It was not that her thought was blocked. It could
 25 be that she's thinking of an answer, but I think

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1 it's because she's still depressed at this time that
 2 I'm seeing her. And her depression has often led to
 3 long pauses before answering.
 4 However, she doesn't give long pauses
 5 on all questions. It's on the significant
 6 questions, and that was an example of a significant
 7 question.
 8 Q. And would you explain how this excerpt,
 9 how this portion of your interview fits in with your
 10 finding?
 11 A. Well, one of the theories that's been
 12 proposed is that Mrs. Yates had worked herself up to
 13 almost drown the children that day in May, but what
 14 she's telling me in this interview directly
 15 contradicts that theory. It also illustrates that
 16 there is some confusion on her part. I think she's
 17 confused during the excerpt that was just shown and
 18 she is confused because of her illness and because
 19 we are talking about very difficult things for any
 20 mother to talk about.
 21 But it makes it such that I would not
 22 be able to say that she filled the tub in May to
 23 kill the children. She's telling me in a seemingly
 24 honest moment, another not very sensible reason for
 25 filling the tub, that didn't involve killing the

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1 children, while recalling that she wouldn't have
 2 thought to kill them while there were witnesses.
 3 Q. All right. And I assume that the fact
 4 she's telling you that she wouldn't have filled the
 5 tub while there were people there, is that
 6 significant to any finding?

7 A. If she were charged with a crime that day,
 8 it would be, but she didn't.
 9 Q. Continuing on, did there -- did you notice
 10 in the record whether Dr. Saeed ever advised that
 11 someone should be with Andrea Yates?
 12 A. Yes. In April of 2001, Dr. Saeed
 13 recommended that someone be with her.
 14 Q. And what did you find significant about
 15 that?
 16 A. I think that's exactly right. When you
 17 have a mother who is this severely impaired,
 18 somebody has to be with her at all times. It's not
 19 safe to leave her alone with the children.
 20 Q. And you say you found in the records that
 21 he told Mr. Yates that?
 22 A. Yes, since it's Mr. Yates who would be the
 23 only one who could control it. Mrs. Yates wasn't in
 24 a position to ensure that happened.
 25 Q. Now, you've mentioned that, that what you

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1 described or what your best estimate as to the
 2 proper description of obsessional thoughts in '99
 3 was, as close to any description of hallucination or
 4 delusions to an M.D.; is that correct?
 5 A. That wasn't to an M.D., but, literally,
 6 the only description of something that someone might
 7 mistake for a hallucination prior to the crime was
 8 the knife talk in '99 to Dr. Thompson's assistant.
 9 And some things that I haven't mentioned yet about
 10 the television characters talking to her, that were
 11 known only to Mrs. Yates and Mr. Yates in 2001. No
 12 doctor was told about that.
 13 Q. All right.
 14 A. That could be taken as a hallucination,
 15 again inaccurately, but it could be.
 16 Q. But other doctors asked her about whether
 17 she was having hallucinations?
 18 A. Every doctor asked her constantly whether
 19 she had hallucinations and she always said no or
 20 didn't answer, when she was close to mute.
 21 Q. And you mentioned that there were two
 22 delusions known, as you put it, known only to Mr.
 23 and Mrs. Yates and they were kept secret from
 24 everyone else. Would you explain what you meant by
 25 that?

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1 A. As far as I can tell from all sources
 2 combined, Mrs. Yates had a belief from the time she
 3 was hospitalized at Spring Shadows Glen in 1999,
 4 that there might be or were cameras in the ceilings
 5 of several rooms in the home that she moved into.
 6 It started while she was still in the hospital at

7 Spring Shadows Glen. But when they moved into the
8 home, she thought it then. And throughout the time,
9 moving into that home in '99 until the time of the
10 crime, she continued to think there might be or were
11 cameras there.
12 She told me that she spoke to Rusty
13 Yates about that, told him of her concerns about
14 there being cameras there, but it's never conveyed
15 to any of the doctors. Even though she saw multiple
16 doctors over those years, none of them was ever told
17 about this. Likewise, in the two weeks before the
18 homicide, when Mrs. Yates thinks the cartoon
19 characters are talking to her family, talking to
20 her, making comments about her, which is a symptom I
21 have called the delusion of reference. There are
22 other names people might want to apply to it, but
23 it's a series [sic] symptom, whatever it is, that delusion
24 she mentioned to Rusty Yates, she told me Rusty
25 Yates told her that she was just imagining things

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1 and he did not tell Dr. Saeed about that symptom.
2 So those are the only two psychotic
3 symptoms documented anywhere or known anywhere prior
4 to the homicide, and the only people who knew them
5 were Mr. and Mrs. Yates. No doctors knew about
6 either of those.
7 Q. Now, Rusty, Russell Yates, Mr. Yates did
8 mention according to a note by Dr. Saeed that I
9 believe the note was -- seems like, she seems a
10 little paranoid. Do you recall that?
11 A. Sure. And many people over the year
12 noticed she was paranoid, but being paranoid isn't a
13 psychotic symptom.
14 MR. PARNHAM: Judge, that's not
15 responsive.
16 THE COURT: Sustained.
17 Q. (By Mr. Owmbly) Is being paranoid a
18 psychotic symptom?
19 A. Not in and of itself. People get paranoid
20 because they smoke grass or had too much to drink or
21 are withdrawing from alcohol or had had that
22 personality or had bad experiences or a host of
23 things. Psychosis can make people paranoid. That's
24 not the only thing that does.
25 Q. Now, you noted that -- or Dr. Saeed told

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1 Mr. Yates that someone must be with his wife, but
2 she was left alone; was that correct?
3 A. Yes. And, of course, the significance of
4 that is that it gives her the opportunity to commit
5 the crimes.
6 MR. OWMBY: Your Honor, may we approach?

7 THE COURT: Yes, sir.
8 (Bench conference.)
9 MR. OWMBY: I didn't notice what time you
10 said when you said an hour. I'm at a kind of a
11 breaking point.
12 THE COURT: 6:30.
13 (In the jury's presence)
14 Q. (By Mr. Owmbly) Doctor, as far as your
15 findings that you have expressed as significant, as
16 far as your testimony here today to the jury that
17 would conclude the contextual findings through 2001,
18 at least the ones you've listed here?
19 A. Yes, I think those are the major
20 situational issues.
21 Q. Now, I think the next area of analysis
22 that you embarked on was an evaluation of her
23 knowledge of the wrongfulness of the act; is that
24 correct?
25 A. Correct.

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1 Q. And you kind of divided your analysis
2 relative to the offense, and would you explain to
3 the jury how you did that?
4 A. Well, I divided the offense into three
5 phases. The phase before it happened; that is, the
6 pre-homicide phase; the phase while it's happening;
7 that is, the homicide phase; and the time period
8 afterwards, the post-homicide phase. And I do that
9 in part to break it down into more manageable sizes,
10 but also because that time sequence often matters if
11 they are trying to analyze what she thought at
12 particular times or if you are trying to look at how
13 to prevent such things, breaking it down into the
14 three phases has proved very helpful.
15 Q. Now, you also made an excerpt from your
16 interview which contains major portions of what she
17 told you about the pre-homicide phases; is that
18 correct? Would that be Excerpt C?
19 A. Yes, that's right.
20 Q. All right. And let me do a little
21 housekeeping here. Doctor, I'm going to show you
22 some points from your evaluation that include the
23 pre-homicide phase through what you call the
24 post-homicide phase. I'm going to ask you to look at
25 these and see do they contain the significant points

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1 of your testimony here today and would they aid you
2 in your presentation to the jury?
3 A. Yes. These are what I regard as the most
4 significant points bearing on the question of
5 knowledge of wrongfulness.

6 MR. OWMBY: Your Honor, we are going to
7 offer State's Exhibit 238 and I'll show counsel
8 what we are actually offering because there is
9 one --
10 MR. PARNHAM: State's Exhibit 238,
11 consisting of four pages, Your Honor, we have
12 no objections.
13 THE COURT: State's 238 is admitted
14 without objection.
15 Q. (By Mr. Owmbly) Now, Doctor, the excerpt
16 that you made to kind of talk about, the portion of
17 your interview that concerns the prehomicide phase
18 that is fairly lengthy, do you think it would be
19 better to go through some of these points or show
20 that excerpt now, then go over these points?
21 A. It's better to show the excerpt.
22 Q. And that would be State's Exhibit Excerpt
23 C, 233, Excerpt C, 233, and I have a transcript with
24 that also. I'll tender the copy to counsel.
25 MR. ODOM: We have a copy. Thank you.

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22 (Video played for the jury.)
23 Q. (By Mr. Owmbly) Now, this was your -- the
24 portion of your interview in which you explored with
25 Andrea Yates the prehomicide phase; is that correct?

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1 A. Yes. It's not the only part of the
2 interview that covered that, but it was the main
3 consecutive sequence that covered it.
4 Q. Would you explain to the jury the
5 significance of this interview in relation to the
6 knowledge of wrongfulness, at least in the
7 prehomicide phase of your evaluation?
8 A. Well, the first point is that Mrs. Yates
9 indicates that at that time before the homicide she
10 had the idea of killing her children and she
11 attributed the origin of that idea to Satan. So, of
12 course, the idea comes from her mind, but she's
13 mistakenly thinking Satan put it there. The fact
14 that she regards it as coming from Satan is the
15 first indication of her knowing that this is wrong.
16 Because she recognizes even the idea of killing your
17 children is an evil idea that comes from Satan. She
18 doesn't think this is a good idea that comes from
19 God. She thinks it's an evil idea that comes from
20 Satan and she thought it was Satan who was somehow
21 urging or encouraging or recommending that she do
22 this. So she knows already it's a bad idea.
23 Q. Now, you found that she concealed these
24 thoughts?
25 A. Yes. She did talk to at least Debbie

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1 Holmes, and I think also Rusty about concerns for
2 the presence of Satan, the influence of Satan, just
3 as she had prior conversations with Rusty and with
4 Michael Warnike [sic] about her spiritual concerns about
5 the devil and Satan and demons. The Warnike
6 writings are filled with that talk. It's not that
7 she kept a secret her belief there were demons and
8 that Satan was trying to do things to people here on
9 earth. What she concealed was the thought of
10 harming her children and the plan to drown them.
11 That part she didn't share.
12 Q. Why do you find that significant in this
13 prehomicide phase of the evaluation?
14 A. Well, ordinarily, when someone keeps a
15 criminal plan secret, they do it because they know
16 it's wrong. That's why you keep it secret, hide it
17 from other people.
18 She has offered another explanation
19 of why she didn't share this plan to kill the
20 children. The explanation she offered was that if
21 she talked about it, it would happen. If it's true
22 --
23 MR. PARNHAM: Judge, we object and ask for
24 question and answer at this time. I thought we
25 were going to get a question.

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1 THE COURT: I think he was still answering
2 the question.
3 Q. (By Mr. Owmbly) You were saying if what
4 was true?
5 A. If it's true that she believed that
6 killing the children would save them, then why would
7 she not want it to happen. She would want to talk
8 about it so it came true and the children would be
9 saved. So, I concluded at that point that she's
10 keeping it secret, she knows that other people are
11 going to stop her, that it's wrong, that it's a bad
12 idea; and she admits as such. She admits that she
13 knows people will stop her.
14 Q. Now, we've heard kind of two different
15 ways, I think, in your testimony of looking at this.
16 We've heard a theory called rationality within
17 irrationality and we've also heard a theory that I
18 can't describe, but it is sort of like we have these
19 delusions -- and you might have heard it during Dr.
20 Puryear's testimony. We have these delusions and we
21 cannot put logic on it.
22 And it appears to me that's what you
23 are saying, that she has this, and you are not
24 calling it a delusion, I understand, but you are
25 saying she has this thought to harm her children but

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1 she doesn't follow the logic of that thought, which
 2 is to tell people that I'm going to save the
 3 children because they might be -- can you explain
 4 that to me, if you understand that question?
 5 A. Well, it's an area of great confusion and
 6 I don't know that I can make more sense of it than
 7 anyone else has. It is true when a patient is
 8 psychotic and has disordered thinking that there can
 9 be logical parts and illogical parts and
 10 contradictory parts. So, we can't always apply
 11 logic to it, that's true. There is no one rule to
 12 say it must be logical or must be all illogical. It
 13 can be a mixture.
 14 Q. But in this case you are -- it appears you
 15 are applying some logic to this thought. Why do
 16 you?
 17 A. Because at this point in time when she's
 18 concealing thoughts which we are saying goes on for
 19 a month, it is a plan to drown the children, when
 20 she has an opportunity, when she's psychologically
 21 ready. She already knows that she's not going to do
 22 it when there are other people there. She admits
 23 that that's because they would stop her. And that
 24 reflects her awareness that other people wouldn't
 25 want her doing this.

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1 Q. And your last point was that she waited
 2 for an opportunity when no one was home, which is --
 3
 4 A. The ultimate avoidance of witnesses to her
 5 and here she admits that she waited because she knew
 6 they wouldn't let her do this.
 7 Q. You also talked with her about the concept
 8 of the seven deadly sins and her thought about the
 9 seven deadly sins. Could you explain the
 10 significance of that?
 11 A. Well, she was interpreting the movie Seven
 12 and, obviously, thinking more than is healthy to
 13 think about sins and what they are. She wasn't
 14 correct about what the seven deadly sins are.
 15 Murder isn't even one of them. But she believed it
 16 was, and that's the important thing.
 17 She thought that killing the children
 18 was sinful. That's another piece of evidence that
 19 she knew it was wrong. If you know it's a sin, then
 20 you know it's wrong. Just as if you know Satan
 21 wants such things to happen or believe that, you
 22 know it's wrong.
 23 Q. She also mentioned -- and I can't remember
 24 if it's in this tape or the other tape -- that she
 25 was not raising the children properly?

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1 A. Correct. The explanation that she gave to
 2 the police and something she's always said to
 3 everyone is that she wasn't raising the children
 4 properly, so that they would not grow up to be
 5 rebellious. She wasn't able to give them enough
 6 attention. She wasn't able to take care of them
 7 well enough; and that if they continued to have
 8 inadequate supervision and inadequate guidance, they
 9 could become further rebellious, disobedient, get in
 10 trouble, might become a burden on society.
 11 She said that from the day of her
 12 arrest on. She's always acknowledged that. That's
 13 not delusional material. She's carrying it too far
 14 and being so guilt ridden about it. That's because
 15 she's depressed, but it's true if she stays that
 16 depressed and dysfunctional, she's not going to be
 17 an adequate mother. She can't adequately home
 18 school them. The children will become increasingly
 19 problematic and not going to be well-disciplined. I
 20 mean, she's not wrong about that.
 21 Q. And, obviously, as you said, it's not a
 22 delusion. She is sick and can't do what --
 23 A. It's because --
 24 Q. -- what she ordinarily would?
 25 A. Yes, because she's sick. She can't be an

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1 adequate mother. She's recognizing that and feeling
 2 terrible about that. She's feeling very guilty
 3 about it and she feels so guilty about it because
 4 she's so depressed.
 5 Q. You also, I believe, in the next -- the
 6 next conclusion you reach finding in this
 7 pre-homicide phase, you say she may have believed her
 8 children were being tormented. What did you mean?
 9 A. She describes rather consistently since
 10 June 21st when she first said that Satan was
 11 tormenting her.
 12 Q. Right. This would be June 21st after the
 13 homicide?
 14 A. The day after the homicides was the first
 15 time she said Satan tormented her, and since then
 16 she's been consistent in saying she felt tormented
 17 by Satan. Sometimes she has said that the children
 18 might be Satan's next target, might be tormented by
 19 Satan. Sometimes she said that they were going to
 20 go to hell if they continued in this course. Other
 21 times that doesn't occur to her and she doesn't
 22 mention anything about them going to hell.
 23 There is contradictory information in
 24 different interviews about whether she thought the
 25 children were actually in danger from Satan.

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1 Sometimes she says yes and sometimes she doesn't.
 2 But giving that idea the benefit of the doubt, even
 3 assuming that not just since June 21st, but even on
 4 the day of the crime she believed that the children
 5 were in danger from Satan, of being tormented or
 6 ruined or going to hell, she didn't do the other
 7 things you would expect someone to do if they had
 8 that delusion.
 9 MR. PARNHAM: Go ahead.
 10 A. That is other non-lethal ways of
 11 protecting the children.
 12 Q. (By Mr. Owmbly) So, in your experience,
 13 you would expect someone with this delusion to try
 14 some non-lethal way to resolve this problem?
 15 A. Well, I do expect people with delusions of
 16 imminent harm where somebody is going to get hurt,
 17 especially a loved one, to act as if that were true
 18 and to take steps to try to protect the one they
 19 love; and that can be calling the police, calling
 20 the FBI, calling a priest or a minister, pastor,
 21 sending the children away to a safe place. That
 22 doesn't involve killing them, take oneself away from
 23 the children, even suicide, but these are
 24 alternatives that are non-lethal to the children
 25 that, that I expect a person with that delusion to

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1 at least consider.
 2 Q. You have the same type of, kind of
 3 interpretation on the belief that Satan was in her.
 4 Would you explain the significance of your findings
 5 around that?
 6 A. Well, her answer to the question has to do
 7 with the -- with both the timing and her actions.
 8 From June 21st, the day after the homicides, until
 9 some later time that, I don't remember the exact
 10 date, she maintained that Satan was in her in a very
 11 direct way, and even said at times in June of 2001
 12 or July that she was Satan.
 13 Now, there is no time prior to the
 14 homicides that she said that she was Satan. But
 15 even if she thought that before and during the
 16 killings, if she thought she were Satan, why doesn't
 17 she do the things you would expect someone to do who
 18 believed they were Satan or that Satan was in her;
 19 and she doesn't.
 20 Q. Which is?
 21 A. Pardon?
 22 Q. What would you expect the person to do
 23 with this type of thought that they were?
 24 A. I would expect if someone feared that
 25 Satan was invading them or in them or controlling

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1 them or influencing them, I would expect them to
 2 seek counsel from whomever they believe could give
 3 good spiritual guidance in her case, Rusty Yates and
 4 Michael Warnike or one could hope some sensible
 5 religious leader who could guide her.
 6 Q. Perhaps her friend Debbie Holmes?
 7 A. Yes. And she did talk to Debbie about her
 8 concerns about Satan and asked Debbie to pray for
 9 her, but she never took it to the extreme of saying
 10 Satan is taking over or she had become Satan.
 11 Q. Now, you said they never did that until
 12 June 21st, and I'm assuming that you are saying
 13 because of this thought, shows up in Dr. Ferguson's
 14 interviews on June 21st; is that correct?
 15 A. Yes, and because there is a dramatic
 16 difference between everything we know about Andrea
 17 Yates up to and through June 20, 2001, and
 18 everything we know from June 21st, 2001, through Dr.
 19 Ferguson's eyes for six weeks or more thereafter.
 20 Q. All right. And I want to ask you a few --
 21 why do you say that?
 22 A. I say it from the data. We have data from
 23 many doctors from 1999 to 2001, but not on the day
 24 of the homicides. From the day of the homicides, we
 25 have observations from Rusty and Dora, which is

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1 nothing much out of the usual. We have the
 2 observations from the police that's already been
 3 shared and heard here, what she said to the police.
 4 And there isn't psychotic material there.
 5 There's nothing there about Satan
 6 being in her or Governor Bush executing Satan.
 7 There is nothing there about saving the children
 8 from burning in hell, none of it is there. But then
 9 a number of things happen. We are getting a little
 10 ahead of ourselves chronologically, but a number of
 11 things happen after the homicides, which is that
 12 she's arrested.
 13 MR. PARNHAM: May we have a question and
 14 answer at this time?
 15 THE COURT: Sustained.
 16 Q. (By Mr. Owmbly) All right. And you were
 17 about to say there were a number of factors that
 18 happened after the homicides. And perhaps we will
 19 take that up in the posthomicide phase, but I guess
 20 what you are saying that there are some intervening
 21 factors that change the character of her illness.
 22 Would that be fair to say at this time?
 23 A. Well, there are intervening factors that
 24 certainly might have changed the severity of her
 25 symptoms.

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- 1 Q. The severity of her symptoms?
 2 A. And the available evidence show a dramatic
 3 change in the severity of her symptoms.
 4 Q. The next point of analysis for you is the
 5 homicide phase, is that correct, I believe?

10 (Court called for a recess and
 11 testimony adjourned for the day)

12 -----

13 March 8, 2002
 14 DIRECT EXAMINATION CONT'D

15 BY MR. OWMBY:

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- 3 Q. And I'm trying to remember, I think we had
 4 completed the pre-homicide phase, we had talked
 5 about, give me the last slide. I think we had
 6 talked about the idea that Andrea Yates may have
 7 believed the children were being tormented by Satan.
 8 But she did not try any nonlethal ways of protecting
 9 them, is that correct? I believe that's where we
 10 left off. I'm not sure.
 11 A. That's right.
 12 Q. Would you explain to the jury the
 13 significance of this, and we will start there?
 14 A. Well, Mrs. Yates had given various
 15 accounts of what she was thinking before the
 16 homicides about the danger to the children.
 17 Sometimes she said that the danger was that they
 18 were developed poorly, have trouble learning, being
 19 disobedient, might get in trouble with the law and
 20 be a burden on society, but at other times she
 21 described worse fates for them, that included being
 22 tormented by Satan or the risk of burning in hell.
 23 With knowing that, after her arrest, she talked
 24 about that whole variety of things. Before the
 25 arrest, there weren't any comments, excuse me, of

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- 1 that kind about burning in hell or being tormented
 2 by Satan. Pardon me.
 3 Before her arrest, she had expressed
 4 concerns about the children having trouble
 5 developmentally and their lagging behind. She had
 6 not like [sic] the comparison between the progress the
 7 Holmes children were making and the progress of her
 8 own children, she saw that Debbie's children were
 9 reading and more advanced, on a more advanced level

10 than hers, but there were no comments about risks to
 11 the children from Satan until after her arrest.

12 In the very first interview, after
 13 her arrest, she talked about the children developing
 14 poorly.

15 MR. PARNHAM: Your Honor, may we have
 16 question and answer please. I'm sorry, Doctor.
 17 THE COURT: Sustained.

18 Q (By Mr. Owmbly) You were about to explain
 19 after the arrest she began to talk about the
 20 children developing poorly?

21 A. Yes. In that first statement to the
 22 police the concern she expressed, she was a bad
 23 mother, the children would develop poorly and might
 24 get in trouble, and she thought she should be
 25 punished for that. It's only the next day that she

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1 begins talking about torment and burning in hell and
 2 the need to save the children. That doesn't tell us
 3 what she was thinking at the time of the crimes, it
 4 is just significant that there were no statements
 5 until June 21st, the day after the crime, that
 6 talked about burning in hell or torment by Satan.

7 Q. And those statements, you first see those
 8 in the interview with Melissa Ferguson, I believe?

9 A. Correct.

10 Q. And that was one of your findings prepared
 11 on knowledge of wrongfulness, she did not believe
 12 she was raising the children properly. I'm at the
 13 wrong place, may have believed Satan was in her.
 14 Did not seek help for this problem. I believe you
 15 discussed some of that when you were testifying
 16 yesterday?

17 A. Yes, I did.

18 Q. Maybe you can reiterate that just briefly?

19 A. If she, in fact, believed that Satan was
 20 in her or that she was Satan, depending how troubled
 21 she was by that idea, I would expect her to seek
 22 some assistance for herself by talking to people
 23 about the problem, including spiritual leaders.

24 Q. The next -- and I guess it is just a
 25 conception construct. The next phase of your

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1 analysis is to look at the homicide phase, is
 2 that --

3 -----

9 THE COURT: You may proceed, Mr. Owmbly.

10 MR. OWMBY: I will in just a moment, Your
 11 Honor.12 Q (By Mr. Owmbly) Doctor, we were about to
 13 discuss what we've called as a kind of analytical, a

14 contextual homicide phase of your analysis, your
15 evaluation in the knowledge of wrongfulness. And I
16 believe at this point we might want to play an
17 excerpt, Excerpt D. And would you tell us what that
18 refers to?

19 A. Well, Excerpt D is a segment of my
20 examination of Mrs. Yates in which she gives the
21 longest description about the day of the offense and
22 the commission of the offense, and of course, what
23 I'm looking for there has to do with --

24 MR. PARNHAM: Judge, that's not
25 responsive.

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1 THE COURT: Sustained.

2 Q. (By Mr. Owmbly) And when you did the
3 interview that is reflected in Excerpt D, what were
4 you trying to accomplish? What were your objectives
5 in that portion of the interview?

6 A. To determine her recollection of the
7 offense, whether she was confused about the day of
8 the offense, the way she becomes confused after
9 she's in jail, and to see whether in her telling of
10 the offense she gives an indication of whether she
11 knew it was wrong or what she was thinking at the
12 time.

13 Q. All right. Excerpt D has been admitted as
14 State's Exhibit No. 234 and I would like to publish
15 that to the jury now.

16 And Your Honor, we have a transcript
17 to go along with that.

18 THE COURT: Deputy Bittner.

19 (Video played for jury.)

20 Q. (By Mr. Owmbly) Doctor, this was the part
21 of your interview that, that focused on the homicide
22 phase of your analysis; is that correct?

23 A. Yes. There were some other questions at
24 other times that did, but this is one segment that
25 is all about that.

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1 Q. All right. And could you explain to the
2 jury how this, this segment and the other things you
3 said fit into your analysis of the homicide phase of
4 this?

5 A. Well, this, taken in conjunction with all
6 the other evidence that I had access to, gave me a
7 series of findings about Mrs. Yates' mental state
8 during this phase. And those are illustrated in one
9 of the slides.

10 Q. I think 36. And what was the first
11 finding that, at least displayed on this slide that
12 --

13 A. They are not necessarily just from the

14 slide. The first was that she knew she would be
15 arrested and put in jail, that is something she said
16 in that portion of the interview. And it's
17 something she said on other occasions after her
18 arrest as well.

19 Secondly, she said that she knew what
20 she was doing was illegal. And that's something she
21 has told other people too, at various times, from
22 the time of her arrest on.

23 I don't think I have shown that
24 segment of the video yet, but in another excerpt
25 that's available I think there is a portion where

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1 she says that she knew that society would judge her
2 actions as bad. She certainly did say that in my
3 interview of her. I ask her how she thought society
4 would judge her actions and she said bad and I asked
5 her how she thought Rusty would judge her actions
6 and she said bad and I asked her how God would judge
7 her actions and she said bad.

8 And then the next point does not come
9 from this, from my interview of her, but from other
10 sources, particularly Dr. Rosenblatt saying that
11 Mrs. Yates said that she knew it was wrong to kill
12 the children.

13 Q. And I don't recall, that was either in a
14 report from Dr. Rosenblatt that you received or in
15 testimony by Dr. Rosenblatt?

16 A. Correct.

17 Q. Can we continue with the next slide.
18 Other findings that you had concern for what
19 happened, for example, you say she may have covered
20 each body between the homicides?

21 A. Well, Mrs. Yates reported, excuse me, to
22 the police, I think in my interview, too, that she
23 had covered each child as she laid the child on the
24 bed. And what I don't know for sure is whether she
25 covered the whole face and head of each child as she

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1 placed the four on the bed, as she put them on the
2 bed -- I do know that when all four children's
3 bodies were on the bed, they were totally covered;
4 and it's my understanding from her statements that
5 she covered each as she put them on the bed.

6 If that's true, that she covered each
7 over their head and face as she put them on the bed,
8 there is the possibility that she's doing that so
9 that the children who are still alive don't discover
10 the preceding homicide, but I don't know for a fact
11 that that's so.

12 Q. All right. And next you have a question
13 about whether she may have believed she was saving

14 the children from torment. Would you explain what
15 you mean by that?
16 A. Well, this is another one where I don't
17 know for sure it's so. Mrs. Yates, after her
18 arrest, talks about believing the children were in
19 danger from Satan, believing they could be tormented
20 by Satan, believing they could burn in hell. And as
21 she tells me this, that she was thinking that before
22 and during killing them, I'm inclined to believe
23 her, I think she's trying to be forthcoming. At the
24 same time, I have to be skeptical both because
25 that's my job and, also, because her behavior, as

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1 she kills them, doesn't do the things I would expect
2 a mother with that belief to do.
3 Q. And what would that be, Doctor?
4 A. I would expect her to try to comfort the
5 children, telling them they are going to be with
6 Jesus or be with God, but she does not offer words
7 of comfort to the children.
8 Q. Now, Doctor, there are two other segments
9 and they relate to, and I'm thinking we should play
10 them at this time, Segment E and F of the interview,
11 where she talks about Satan and whether she believes
12 Satan was in her and it was a little of that in the
13 other interview also where she talked about the
14 presence of Satan?
15 A. Yes.
16 Q. And, also, and I'm not -- I believe in F
17 she will talk about the police interview and her
18 interaction with the police?
19 A. That's right, because I asked her that.
20 Q. Can we play both of those now?
21 A. It's up to the Judge.
22 Q. Would it be appropriate for your testimony
23 now, if the Judge agrees?

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11 (Video played for the jury.)

.....
16 A. Those segments that were just played go
17 right to the heart of the issue of her knowledge of
18 wrongfulness. If one believes what she's saying in
19 that interview was the way she believed and felt at
20 the time, then this is complicated because there are
21 factors weighing on each side. On the one hand, she
22 knows that it's sinful and that, and she attributes
23 the idea to Satan and she knows it's illegal, and
24 she knows it will be judged as bad by society and by
25 God, but on the other hand she believes that this

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1 saves the children from torment or from having their
2 souls go to Satan. And that therefore it's the
3 right thing for the children.
4 Q. Perhaps you can talk to us a little bit
5 about the -- I guess my question is this, how her
6 explanation changes over time. We've heard talk
7 about memory alterations and that -- can you explain
8 to us a little bit about the effects on your
9 findings of changed memory or the changing memory in
10 the versions that Andrea Yates gives?
11 A. Yes, I think there are many possibilities
12 for what changes occurred and for how they occurred,
13 but one particular source of change that's dramatic
14 and has an obvious effect is the difference in Mrs.
15 Yates' mental state between the day of the crime and
16 the day after the crime and the period that follows.
17 Q. And what factors account for that in your
18 analysis?
19 A. Well, first you have to look at what's the
20 difference before you can see what might account for
21 it.
22 Q. What are the differences?
23 A. The dramatic difference is that according
24 to Dr. Ferguson's notes on June 21st and many
25 observations by Dr. Ferguson and Dr. Osterman and

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1 some other interviewers in the weeks that followed,
2 there was a period at the jail that Mrs. Yates was,
3 what could be described as grossly psychotic.
4 That's a period in which she is either hearing
5 growls and voices or at least having what's called
6 an illusion and when she hears a noise, she
7 misinterprets it as a growl or a voice.
8 There is a period when she is seeing
9 things in the flaws in the cinder blocks at the
10 jail, which are, I think, illusions where it is just
11 random patterns in the, in the structure, but she
12 sees teddy bears and ducks and marching soldiers,
13 which she thinks they are satanic. She talks about
14 a prophecy. She talks about being Satan and
15 Governor Bush executing her and a host of other
16 things that are very sick, psychotic thoughts and
17 her memory for that period of time is impaired.
18 And in all the interviews that
19 occurred from August on, when people asked her what
20 she remembers about a prophecy, she's puzzled. She
21 recognizes talking to Dr. Ferguson about it or that
22 someone told her that she did, but she can't recall
23 what that prophecy is.
24 I think that's a good example of a
25 tracking device to look at whether she was very

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1 sick. She was very sick at a time when she said
2 such things that she now can't even remember because
3 it was a period of psychosis and she's now confused
4 as she tries to recall it. And we know she was in
5 that state from June 21st for some period
6 thereafter. The question is was she in that state
7 on June 20th when she did these crimes.

8 And there, the evidence we have about
9 her state comes from what she did from the
10 observations made of her that day primarily by law
11 enforcement and from what she now says about that
12 day. And we don't find nearly as much evidence of
13 that kind of extreme sickness or gross psychosis on
14 June 20th as we have for the period beginning June
15 21st. That's not to say she wasn't sick on June
16 20th because she still had the beliefs about the
17 cameras and had recently thought the television was
18 speaking to her.

19 Q. Right. I guess she was, one way to put
20 it, she was sicker in a different way on June 21st.
21 As you've described it, she was apparently grossly
22 psychotic as she begins to talk about these
23 prophecies and that kind of thing and Governor Bush
24 executing Satan?

25 A. There seems to be new delusions and

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1 disorganized thinking on June 21st.

2 Q. That was not as readily apparent prior to
3 that?

4 A. It wasn't apparent at all prior to that.

5 Q. Wasn't apparent at all. I guess my
6 question was what could possibly account for this
7 change between June 20th and June 21st?

8 A. Of course, the biggest of all factors is
9 that there came a time on June 20th when Mrs. Yates
10 had killed all five of her children, and even when
11 those deaths are at the mother's own hands, it is an
12 enormous stress, or to lose a child, to lose five
13 children in one day, to realize one has killed them
14 oneself is a stressor beyond any of our ability to
15 imagine. And on top of that, she is arrested and
16 handcuffed and there are strangers in her home. She
17 is separated from her family. She's taken to an
18 unfamiliar place. And she finds herself in a jail,
19 and as I understand it, naked, on suicide watch.
20 That's a very dramatic set of stressors for any
21 human being, so it would not be surprising that she
22 would escape that through her vulnerability to
23 mental illness by becoming more psychotic.

24 Q. One of the findings that you do conclude
25 with a question is that she may have believed that

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1 Satan was in her. Put up slide 37 again. I believe
2 that's correct. May have believed that Satan was in
3 her or that she was Satan. Would you explain what
4 you mean by that finding?

5 A. Well, before the homicides, the best
6 evidence of Mrs. Yates' belief about Satan or her
7 conversation with Debbie Holmes, because she
8 consulted her friend, asking her to pray for her and
9 expressing concerns about Satan and about demons.
10 Just as she and Rusty had talked to the Warnikes
11 about demons and Satan before, but with real concern
12 on Mrs. Yates' part before the homicide. She
13 doesn't at that point to my knowledge tell anyone
14 that she thinks that she is Satan, but there is some
15 worry.

16 Mrs. Yates, after the crimes, talks
17 to many people about her belief that Satan was
18 nearby, or present, or even in her. She's
19 inconsistent in her later statements about why she
20 says this. And it's only on the 21st and later that
21 there is any talk about her being Satan and
22 execution of Satan and Governor Bush needing to
23 execute Satan and so on. So I think there is some
24 uncertainty as to what she believed when.

25 My opinion based on all that I know

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1 is that she did have concerns about the presence of
2 Satan and Satan putting these thoughts in her mind
3 before she did the crime, but that she doesn't
4 believe that Satan is -- that she is Satan and that
5 Satan will be executed until the 21st.

6 Q. And I believe, excuse me, the first time
7 that we have evidence that she expresses that is to,
8 well, to Dr. Ferguson or near the time of that
9 interview; is that correct?

10 A. Correct.

11 Q. Would you -- would you explain to the jury
12 what your focus was looking at the posthomicide, how
13 that phase played into your analysis?

14 A. Well, one of the reasons, the reasons for
15 looking at the posthomicide phase are that it may
16 still offer clues as to a defendant's knowledge of
17 wrongfulness at the time of the crime. It can also
18 show us whether they change after a crime, and for
19 other purposes, it helps look at how to prevent
20 future crimes of this sort.

21 Q. All right. And I believe your Excerpt G
22 is an interview where, you and I know there are
23 other places where you may have asked similar
24 questions or questions that bear on the posthomicide
25 phase, but I think you selected an excerpt, kind of

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1 an illustration of the posthomicide analysis that
 2 you did?
 3 A. I tried to choose the portion of my exam
 4 that dealt mostly with that particular issue.

.....
 20 (Video played for the jury.)
 21 Q (By Mr. Owmbly) All right. And we were
 22 talking about her belief that Satan was in her, in a
 23 formation after her, and I believe the words she
 24 used was after her arrest?
 25 A. Yes.

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1 Q. Doctor, I believe we talked about -- we
 2 were about to talk about the posthomicide phase of
 3 your analysis; is that correct?

4 A. Yes.
 5 Q. And would you explain what some of your
 6 findings were concerning posthomicide phase?

7 A. Well, the first point is that after all of
 8 the children had been killed, she then covered the
 9 faces of all of the bodies in the bed. And I
 10 interpret that as an indication of her feeling guilt
 11 or shame. And the reason I say that is that that's
 12 how we conventionally interpret the covering of a
 13 face at a crime scene, as the killer's feeling guilt
 14 or is ashamed.

15 The second point is that afterwards
 16 the first contact she made was to 911 and she asked
 17 for the police as she told me because that's who you
 18 call when you've done something wrong. And she
 19 thought she had done something wrong.

20 The third point is that she told
 21 Sergeant Mehl that she wanted to be punished and she
 22 was prepared to go to hell for what she had done,
 23 which indicates that she knows that what she's done
 24 is wrong.

25 Fourth point is that she told

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1 Sergeant Mehl she wanted to be punished and he asked
 2 her whether she wanted to be punished by the
 3 criminal justice system and she said yes; and after
 4 the interview concluded, during the questioning by
 5 him, when he gave her a chance to ask questions was
 6 when will my trial be, and that again, she knows
 7 this is illegal and going to the criminal justice
 8 system.

9 Now, at some point after her arrest,
 10 she believed her execution would kill Satan, but the

11 first time that's ever mentioned is the next day,
 12 June 21st, when she is, I believe, in a
 13 significantly worse mental state.

14 Q. And again that is the interview with Dr.
 15 Ferguson?

16 A. Yes.

17 Q. On the next morning?

18 A. Correct.

19 Q. Doctor, you have covered your, the
 20 materials you reviewed, your findings, and the
 21 findings on the knowledge of wrongfulness, divided
 22 into the three phases, the prehomicide phase, the
 23 homicide phase, and the posthomicide phase. As a
 24 result of your analysis, were you able to form an
 25 opinion relative to the sanity, sanity under the

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1 Penal Code, under 8.01, of Mrs. Yates at the time of
 2 this offense?

3 A. Well, I don't offer an opinion on the
 4 ultimate issue of sanity, but I do have opinions on
 5 the defendant's knowledge of wrongfulness at the
 6 time of the offense.

7 Q. I'm going to show you what's been marked
 8 for identification as State's Exhibit No. 239. And
 9 do you recognize what that is?

10 A. Yes. This is a summary of my opinions in
 11 this case.

12 Q. All right.

13 MR. OWMBY: Your Honor, we would offer
 14 State's Exhibit No. 239.

15 MR. PARNHAM: For the purpose of
 16 admissibility, Your Honor, we have no
 17 objections.

18 THE COURT: State's 239 is admitted
 19 without objection.

20 Q. (BY MR. OWMBY) Doctor, would you tell the
 21 jury your opinion, as you put it so correctly, on
 22 your evaluation of her knowledge of wrongfulness at
 23 the time of this offense?

24 A. My first opinion with reasonable medical
 25 certainty is that at the time of drowning each of

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1 the children, Mrs. Yates knew that her actions were
 2 wrong in the eyes of the law. In other words, that
 3 she knew it was illegal.

4 My second opinion with reasonable
 5 medical certainty is that at the time of drowning
 6 each child, Mrs. Yates knew that her actions were
 7 wrong in the eyes of society.

8 And my third opinion with reasonable
 9 medical certainty is that at the time of drowning
 10 each child, Mrs. Yates knew that her actions were

11 wrong in the eyes of God.
 12 And my fourth opinion is that at the
 13 time of drowning each child, Mrs. Yates may have
 14 believed that the killings were in the best interest
 15 of the children and that the ends, that is saving
 16 the children, justified the means, which was to
 17 wrongly and illegally kill them.
 18 Q. All right. Now, as to this fourth
 19 opinion, you say that she may have believed, would
 20 you explain to the jury a little bit why you phrased
 21 it that way?
 22 A. I'm phrasing it that way because of what I
 23 think can and can't be proved and how certain I can
 24 be about what she was thinking on that particular
 25 point. If I give her the benefit of the doubt and

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1 assume that she really believed that she was saving
 2 the children from burning in hell, which is
 3 something she's not been entirely consistent in
 4 saying, then it would be true that she believed this
 5 was in the best interest of the children, even
 6 though she knew it was illegally wrong in the eyes
 7 of God and wrong in the eyes of the law.
 8 Q. In other words, she may have believed that
 9 because it was in her opinion that they would be
 10 better off, even though it was illegal, she should
 11 kill them?
 12 A. Yes.
 13 MR. OWMBY: Pass this witness.

14 -----

15 March 9, 2002

16 DR. PARK DIETZ
 17 DIRECT EXAMINATION CONT'D

18 BY MR. OWMBY::
 19 Q Good afternoon, Dr. Dietz.
 20 A Good afternoon.
 21 Q One of the things I wanted to ask you
 22 about was your report which is marked for
 23 identification as State's Exhibit No. A.
 24 I'm going to hand it to you just so
 25 you can identify it as your report.

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 4 A Yes, this is my report and transcript of
 5 my examinations.
 6 Q All right. Now, Doctor, did you submit
 7 your report to a process called the peer review?
 8 A Yes, I did.
 9 Q Would you explain to the jury what peer

10 review is?
 11 A Peer review has more than one meaning, but
 12 the relevant meaning is to provide an opportunity
 13 for one's peers to review one's work --
 14 MR. PARNHAM: We object. That's
 15 bolstering.
 16 THE COURT: Excuse me?
 17 MR. PARNHAM: Object on the grounds of
 18 bolstering and hearsay.
 19 THE COURT: Overruled as to that question.
 20 Q (By Mr. Owmbly) You were explaining what
 21 peer review was.
 22 A In this context, the process of submitting
 23 one's work for review by peers to give an
 24 independent opinion of the quality of work.
 25 Q And how did you go about doing that

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1 process in this case?
 2 MR. PARNHAM: Judge, again, we would
 3 object. If -- and I presume that the Doctor
 4 will testify relative to opinions generated
 5 within his peer group.
 6 THE COURT: We haven't heard that,
 7 Mr. Parnham. We will take one question at a
 8 time. If you have an objection to this
 9 question --
 10 MR. PARNHAM: I have an objection. My
 11 objection is to bolstering and hearsay and
 12 denial of confrontation.
 13 THE COURT: I think at this time he's
 14 explaining what a peer review process is.
 15 That objection is overruled.
 16 Q (By Mr. Owmbly) What was the process that
 17 you undertook for peer review in the case of your
 18 report in this case?
 19 A I submitted a draft copy.
 20 MR. PARNHAM: May we approach the bench,
 21 Judge?
 22 THE COURT: Yes, sir.
 23 (Bench conference)
 24 (Jury's presence)
 25 Q (By Mr. Owmbly) What was the process of

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1 peer review that you undertook, Doctor?
 2 A I submitted a draft copy of my report to
 3 three colleagues, two forensic psychiatrists and one
 4 forensic neuropsychologist and asked them to give me
 5 a written opinion about their comments and
 6 critiques.
 7 Q Then what did you do?
 8 A I reviewed their comments and revised the
 9 report in accordance with what I thought were good

10 suggestions.
 11 Q All right. Now, yesterday, Doctor -- and
 12 I formed the question wrong. I mistakenly asked
 13 your opinion on sanity.
 14 Do you recall that question and do
 15 you remember what you answered?
 16 A Yes.
 17 Q And what did you answer -- well, what did
 18 you answer?
 19 A I answered that I was not offering an
 20 opinion on the ultimate issue of sanity, but rather
 21 opinions as to the defendant's knowledge of
 22 wrongfulness at the time of the crime.
 23 Q And why did you answer my question that
 24 way?
 25 A For two reasons. The first is that I was

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1 familiar with the holding of the Texas Court of
 2 Criminal Appeals in the case of Graham V State in
 3 1978 in which it was held that an expert should not
 4 invade the province of the jury by offering an
 5 opinion on the ultimate issue but rather provide a
 6 factual basis for the jury to reach its conclusions.
 7 And, secondly, because in forensic
 8 psychiatry, it's been the consensus of opinion among
 9 the leading figures as well as legal scholars to
 10 this issue that it's inadvisable for experts to
 11 offer an opinion on the ultimate issue, but rather
 12 they should address the underlying analysis, the
 13 data, their findings and their opinions regarding
 14 the elements of the legal test.
 15 Q Doctor, do you have an opinion on sanity?
 16 A Do I personally? Yes, but I don't believe
 17 I should volunteer it.
 18 Q All right. Doctor -- well, let me ask you
 19 this, then. I'm going to show you, again,
 20 Section 8 -- thank you. You can sit down.
 21 I'm going to show you -- or it's on
 22 the board there -- that, again, the Section 8.01,
 23 the legal defense of insanity.
 24 Let me ask you this first. How many
 25 elements -- and, obviously, when we use the word

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1 "elements," we mean kind of issues, questions -- how
 2 many elements are there to this test of insanity?
 3 A Well, the real forensic psychiatric
 4 elements, there are two. The first is whether the
 5 defendant has a severe mental disease or defect.
 6 The second is whether the defendant knew that the
 7 conduct was wrong.
 8 Q All right. Now, Doctor, I believe you
 9 stated as to the first element that you diagnose --

10 your differential diagnosis included three potential
 11 diagnosis; and you said all of them were severe
 12 mental diseases; is that correct?
 13 A Any one of them would be, yes.
 14 Q Any one of them would be a severe mental
 15 disease.
 16 So, your opinion on the first
 17 element, I assume, is that the actor had a severe
 18 mental disease or defect?
 19 A Yes.
 20 Q What symptoms of mental disease did she
 21 have at the time of drowning the children?
 22 A Well, the ones she certainly had were
 23 continuing symptoms of depression. And there were
 24 two psychotic symptoms that I believe she had prior
 25 to the killings and during the killings -- or at

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1 least recently had had.
 2 One was the continuing belief that
 3 she had had for two years that there were cameras
 4 hidden in the house, and I believe that to be a
 5 delusion because to my knowledge there are no
 6 cameras hidden in the house.
 7 And, secondly, she had recently
 8 believed that the television was speaking to her and
 9 giving messages to her and to her family. Now, that
 10 particular one wasn't happening on the day of the
 11 offense because she didn't have the television or
 12 radio turned on that morning.
 13 Q All right. Now, those are certainly
 14 symptoms that could be classified as psychotic
 15 symptoms; is that correct?
 16 A That's right.
 17 Q And I think later on in your testimony you
 18 use the phrase that you believed she was more
 19 psychotic on June 21st, particularly when she was
 20 talking to Dr. Ferguson, did you not?
 21 A Yes, I did.
 22 Q And what did you mean by, at that time,
 23 using the phrase "more psychotic"?
 24 A Well, on the 21st in the conversation
 25 documented by Dr. Ferguson, Mrs. Yates showed some

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1 disorganization of her thoughts and she had other
 2 delusions, new delusions, that she was Satan and
 3 needed to be executed and -- about whatever it was
 4 about the prophecy and other content that had never
 5 been mentioned anywhere before.
 6 Q Right. I believe you testified that --
 7 before to that and that your -- that what you were
 8 observing new at that time were her beliefs about
 9 Satan and the prophecy and the other things that you

10 mention; is that correct?
 11 A Correct.
 12 Q What is the second element, and as you put
 13 it from a forensic standpoint, in this test under
 14 8.01?
 15 A The second element here is whether the
 16 defendant knew that her conduct was wrong.
 17 Q And do you have an opinion on the second
 18 element whether her conduct was wrong?
 19 A Yes, I do.
 20 Q And what is your opinion on that, Doctor?
 21 A For each of the reasons that I gave
 22 yesterday, I believe that the defendant did know
 23 that her conduct was wrong.
 24 Q All right. But, Doctor, you also
 25 testified that she may have thought that she was

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1 sending the children to heaven.
 2 And how does this enter into your
 3 opinion on the second element of this test that she
 4 knew her conduct was wrong?
 5 A Well, it doesn't go to whether she knew
 6 her conduct was wrong. I think it goes to motive.
 7 Her motive for doing what she knew
 8 was wrong may have been to send the children to
 9 heaven, but in order for it to apply here, she would
 10 have to not know her conduct was wrong; and I don't
 11 think that's true. I think she did know the conduct
 12 was wrong.
 13 Secondly, for it to apply here, that
 14 belief that she is sending the children to heaven
 15 has to be the result of a severe mental disease.
 16 And even though she had a severe mental disease, I
 17 don't think that's what made her believe in heaven
 18 and I don't think it's appropriate to say that
 19 someone is psychotic if they believe in heaven or
 20 believe in hell.
 21 Q All right.
 22 MR. OWMBY: We will pass the witness at
 23 this time.
 24 THE COURT: Mr. Parnham?
 25 MR. PARNHAM: Yes, Judge. May I have a

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1 moment?
 2 CROSS-EXAMINATION
 3 BY MR. PARNHAM:
 4 Q Good afternoon, Dr. Dietz.
 5 A Good afternoon.
 6 Q Doctor, we have met. I think yesterday
 7 was our first day, and I saw you in the hallway. I

8 have questions on cross-examination of you, and I
 9 would like at this time to put that chart back on
 10 the board, the last chart.
 11 It's my understanding that you have
 12 indicated that -- that the -- that Mrs. Yates
 13 suffered from a severe mental disease or defect, but
 14 that -- on the 20th of June, but that as a result of
 15 that, she -- there was no nexus between the severe
 16 mental disease and/or defect and knowing that her
 17 conduct was wrong. And I want to break that down
 18 just a little bit further with you.
 19 You have testified that the disease
 20 that she suffered from, in your opinion, was either
 21 major depressive disorder, schizo affective disorder
 22 or schizophrenia; was that correct?
 23 A Yes.
 24 Q And it is also my memory that you
 25 testified that -- something along the lines of in

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1 all probability her mental disease was
 2 schizophrenia?
 3 A It would be my judgment that that's the
 4 most likely, yes.
 5 Q Okay. Now, the definition of insanity
 6 calls for a nexus, does it not; that is, as a result
 7 of?
 8 A Yes, a connection.
 9 Q Okay. And I take it that you relied upon
 10 various and sundry reports, as you testified to,
 11 concerning the nature of her mental illness in
 12 determining that in all probability her mental
 13 illness was schizophrenia? For instance, you
 14 indicated that you had reviewed Dr. George
 15 Ringholz' -- his report?
 16 A Yes, I did.
 17 Q Okay. I take it that you also reviewed,
 18 as you've indicated, the various and a sundry
 19 doctors' reports that had been submitted by various
 20 doctors that have been involved in the mental
 21 history, so to speak, of Andrea Yates; that is,
 22 Dr. Flack?
 23 You reviewed his report, did you not?
 24 A Well, not report, but certainly what he
 25 wrote in the medical records at Methodist.

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1 Q Right. And I apologize. The word
 2 "report" is incorrect, but at least his medical
 3 records?
 4 A Yes.
 5 Q You reviewed the medical records of
 6 Dr. Starbranch?
 7 A Yes.

8 Q And medical records of Doctors Thompson
9 and --
10 A Saeed.
11 Q -- Saeed. Pardon me.
12 A Yes, sir.
13 Q And the Devereux medical records?
14 A Yes.
15 Q Did you -- on the issue of mental illness,
16 before we get into the area of wrongfulness.
17 In arriving at the -- at your
18 conclusion that in all probability of the three
19 disorders that you have mentioned, schizophrenia was
20 the disorder -- did you have occasion to talk, for
21 instance, with Dr. Starbranch?
22 A No, I did not.
23 Q Did you talk to Dr. Flack?
24 A No.
25 Q Dr. Thompson or Dr. Saeed?

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1 A No.
2 Q Either one?
3 So we are clear, let me separate the
4 two. Did you have an occasion before you testified
5 yesterday to talk to Dr. Saeed?
6 A No.
7 Q But you did talk to Dr. Ferguson?
8 A Yes, and Dr. Osterman.
9 Q And Dr. Osterman. And I believe you've
10 indicated that you talked to Dr. Puryear?
11 A Not about the issues in the case.
12 Q Okay. You sat in, I think, during her
13 testimony, however?
14 A A portion of it I did, yes.
15 Q All right. And did you sit in during the
16 testimony about her reviewing Dr. Ringholz' report
17 and her opinion relative to schizophrenia?
18 A Yes, I did.
19 Q And you did or did not sit in during
20 Dr. Resnick's testimony?
21 A I did not sit in. I wasn't here, but I
22 have reviewed a transcript of one afternoon of his
23 testimony, I think, on March 3rd.
24 Q Okay. So, I guess where we are, kind of
25 bottom line, is that everybody agrees -- when I say

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1 "everybody," the people that I have mentioned, to
2 include yourself -- agree that we have a severe
3 mental illness. It's just the severity on July --
4 pardon me, June 20th that we may come into some
5 impasse about. Would that be a fair assumption?
6 A I think it is fair to say that everyone
7 agrees there is a severe mental disease --

8 Q Okay.
9 A -- that the specifics of which disease
10 really don't matter, but that there is disagreement
11 about severity on June 20th and which symptoms she
12 had on June 20th.
13 Q All right. Now, when we talk about the
14 types of mental illness that, I take it, does not
15 matter, is it fair to say that in terms of major
16 depression, that that is a mood disorder?
17 A Yes.
18 Q Okay. When we get into the area of
19 schizophrenia, that is a thought disorder; am I
20 right?
21 A That would be the primary classification,
22 yes.
23 Q Okay. Now, we are talking in terms of --
24 in essence, a thought disorder that is present and
25 now we are talking about the severity of that

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1 thought disorder as it relates to the activities on
2 June the 20th?
3 A Well, yes, in an abstract sense. But not
4 all people with schizophrenia have the symptom known
5 as thought disorder.
6 Q Okay.
7 A People with, for example, paranoid
8 schizophrenia have delusions but perfectly intact
9 logical thinking.
10 Q All right. Now, in the area of severity,
11 you acknowledge that -- we talk about the
12 combination, that is, the nexus between the mental
13 illness and whether or not she knew that her conduct
14 was wrong on that particular day, on the 20th,
15 according to the definition?
16 A Would you state it again, please?
17 Q Sure. Again -- and I know this is old hat
18 with you and my questions of you, but we are talking
19 about, basically, as a result of a nexus, are we
20 not, between the severity of the mental illness and
21 her actions on June the 20th?
22 A I mean, is that the question on the floor?
23 Q Yes, sir.
24 A Yes, it is.
25 Q Now, would you also agree with me that the

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1 definition on the board talks about the knowledge as
2 to the wrongfulness of the conduct through the
3 mind's eye of the actor?
4 In other words, we look as to what
5 and how she perceived her actions to be relative to
6 wrongfulness through her mind's eye on June the

7 20th?

8 A Well, it's certainly her mental state that
9 matters with respect to her knowledge of
10 wrongfulness.

11 Q And that's according to the definition,
12 right, sir?

13 A Yes, but I would not agree that it is a
14 matter of her subjective morality.

15 Q I didn't use the term morality, did I?

16 A Not yet.

17 Q Well -- and, Doctor, I guarantee you I
18 won't use it.

19 The issue of -- and we may take that
20 off -- in getting into the area of wrongfulness, I
21 believe that you discussed with the prosecution the
22 issue concerning, the issue of the best interest of
23 the children, how this may have been an issue in her
24 mind; that is, to save her children from eternal
25 torment in hell, but that doesn't necessarily

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1 correlate with her determination on the 20th as to
2 the wrongfulness.

3 May we put on slide No. 36,
4 Dr. Dietz? Thank you.

5 We have a list of questions or issues
6 that you've indicated that were important in a
7 contextual sense in a determination that she knew
8 that her actions were wrong on that day. And this
9 is part of the slide presentation that was made on
10 direct examination, correct?

11 A That's almost right. These aren't
12 contextual issues. These were my findings with
13 respect to her knowledge of wrongfulness during the
14 homicide. There was another slide with some other
15 ones, too.

16 Q This would be slide No. 36. Are you aware
17 of slide --

18 A Thirty.

19 Q Thirty-six?

20 A 37 would have more from that same topic.

21 Q And I'll get to 37 in a moment.

22 The No. 5 is that you relied upon in
23 order to make a determination that she knew it was
24 wrong to kill the children, the report of
25 Dr. Rosenblatt and Michael Stephens?

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1 A I don't remember if it was a report of
2 Dr. Rosenblatt or something else from him.

3 Q Okay.

4 A But I did not mention Michael Stephens in
5 my testimony yesterday.

6 Q And I understand why you didn't, Doctor,

7 but my question of you is that what was admitted
8 into evidence through the prosecution is the various
9 areas of the homicidal phase; and on the board is
10 the two sources, apparently, of information that you
11 relied upon in order to make a determination that
12 she knew that it was wrong to kill the children.

13 One is whatever information you
14 received from Dr. Rosenblatt and, two, a Deputy
15 Michael Stephens?

16 A Everything on this slide and the next one
17 is about her knowing it was wrong to kill the
18 children as she did it.

19 Q And Dr. Dietz --

20 A But those were the two sources that I
21 understood to be saying that she said close to the
22 time of doing it that while she did it she knew it
23 was wrong.

24 Q Did you interview Dr. Rosenblatt?

25 A No, I interviewed neither of those

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1 gentlemen.

2 Q Did you talk to Michael Stephens?

3 A Only to say hello in the hallway.

4 Q I'm sorry?

5 A Only to say hello in the hallway.

6 Q That was the deputy that preceded you?

7 A I believe so, yes.

8 Q Did you look at a report that Michael
9 Stephens had furnished the District Attorney's
10 Office on February 13th?

11 A I have not seen that report.

12 Q And who was it that told you the content
13 of Michael Stephens' report that would permit you to
14 include, along with a Dr. Rosenblatt, his name and
15 information relative to this particular issue?

16 A It was told to me by the prosecutors at a
17 time when I believed his testimony was preceding
18 mine such that I would be able to then have a
19 transcript of it and I made up the slides when that
20 was the plan, timing for reasons unknown to me, the
21 order of witnesses changed; and that's why I did not
22 mention it in my testimony yesterday.

23 Q Okay.

24 A And I have not seen a transcript of his
25 testimony.

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1 Q Right. And I take it that, that you were
2 told that Michael Stephens either participated in an
3 interview or overheard Mrs. Yates telling
4 Dr. Ferguson that she knew what she was doing was
5 wrong?

6 A I was told that he was outside the door

7 within earshot on the 21st of June and that he heard
8 a voice presumed to be Dr. Ferguson interviewing
9 Mrs. Yates and that there was a series of questions
10 about whether she knew it was wrong at the time of
11 drowning each children -- each child, excuse me, and
12 Mrs. Yates had said yes, she knew it was wrong, but
13 I have --
14 Q I'm sorry?
15 A I don't have a reliable source for that,
16 which is why I did not bring it up.
17 Q Well, who prepared this chart?
18 A I prepared it when believing that I would
19 have a reliable source by the time it was shown in
20 this courtroom.
21 Q Okay. And I take it that if Michael
22 Stephens could be determined to be an unreliable
23 source, his name really doesn't matter to you in
24 determining whether or not a circumstance was in
25 supporting -- knowing it was wrong to kill the

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1 children?
2 A I would delete his name from the slide and
3 not make it a basis for anything if he didn't say
4 what I was told or if he isn't reliable.
5 Q Now, you spent a lot time talking to
6 Dr. Ferguson?
7 A Pardon me?
8 Q Did you spend a long time talking with
9 Dr. Ferguson?
10 A I don't know whether it was a long time
11 but --
12 Q Relatively speaking, a few minutes?
13 A I couldn't tell you if it was half an hour
14 or what it was.
15 Q You obviously read her notes?
16 A Yes.
17 Q And her notes were helpful to you, were
18 they not, in formulating an opinion relative to the
19 type of mental illness that Andrea Yates was
20 suffering from?
21 A Yes, as a matter of fact, it was some of
22 the first informative information about serious
23 mental illness known of the prehomocidal records
24 conveyed, anything like the same severity of
25 symptoms or detail about what she was thinking.

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1 Q And I think you used the terminology
2 yesterday grossly psychotic?
3 A That's right.
4 Q And I think Mr. Owmbly mentioned that and
5 that related to her activities on June 21st?
6 A Well, that whole period from June 21st

7 until sometime in July couldn't tell you when it
8 peaked within that period without looking again at
9 the records, but within those weeks she had brand
10 new symptoms, like thinking she had the mark of the
11 beast and other profound bad symptoms.
12 Q Now, Mr. Owmbly asked you a question
13 concerning your testimony about her appearance; that
14 is, the way she presented herself on June the 21st
15 as being more psychotic. And I presume that that
16 related to her activities on the 20th when you used
17 the phrase "more psychotic"?
18 A More than the 20th, yes.
19 Q And, obviously, my next question would
20 include the presumption that it would be
21 acknowledged that she was psychotic to some degree
22 on the 20th?
23 A Yes, I think she had been psychotic for at
24 least two years.
25 Q Okay.

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1 A With the continuing belief there were
2 cameras now, that may have been the only symptoms of
3 psychosis.
4 Q Now, Dr. Dietz, you expressed to this jury
5 a reluctance to -- to venture into the area of the
6 ultimate issue because that's within the province of
7 the jury?
8 A That is the jury's realm and it's not for
9 me to volunteer unless you invite me to give it or
10 the Judge does.
11 Q And would it be fair to say that -- that
12 what you testified about is, is opinions based on
13 information presented to you on the issues that
14 you're called upon to talk about?
15 A Yes, and sometimes information collected
16 by me.
17 Q Sure. But I guess what is germane to my
18 question is what you're discussing and the
19 information that you're providing the jury, is your
20 opinion as to what, for instance, the evidence that
21 you looked at being collected by you or by others,
22 what that evidence shows?
23 A Well, the opinions that I express are that
24 they are opinions. And what I try to do, though it
25 isn't for me to judge, is to give the basis for it

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1 by revealing my sources, laying out my findings and
2 explaining why I come to these opinions.
3 Q I'm sorry?
4 A But the opinions are opinions.
5 Q And I guess that a one-word answer to that
6 would be -- or maybe three words, it's my opinion

7 and that's what you're expressing to this jury?
 8 A Sometimes I'm expressing opinions and
 9 sometimes I'm trying to correctly provide facts.
 10 Q Sure. Now, do you know, for instance --
 11 and if we may put 36 back on.
 12 Do you know, for instance, with
 13 Dr. Rosenblatt if Dr. Rosenblatt would tell you that
 14 the expression of wrongfulness by Mrs. Yates, he did
 15 not consider to be reliable, would that have any
 16 impact on judging -- or, for instance, putting him
 17 in conjunction with Sheriff Stephens?
 18 A I mean, if he reversed his testimony.
 19 Q That's not my question. My question is if
 20 the information relayed to you on the issue of
 21 Dr. Rosenblatt's opinion or at least what he -- on
 22 the issue of wrongfulness, if Dr. Rosenblatt would
 23 indicate to you that based on the circumstances he
 24 didn't necessarily consider that reliable, would
 25 that impact you at all? Would that impact that

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1 particular issue as far as you are concerned?
 2 A If he gave me a reason -- basis that he
 3 didn't think that's what she said or what she meant
 4 or that that wasn't a reliable finding at the time,
 5 that would impact that. I would strike that line
 6 off.
 7 Q Okay. Now, Dr. Dietz, the areas relative
 8 to you mentioning transcripts, I take it that -- I
 9 think you mentioned earlier in direct examination
 10 that your fee is \$400 or \$500 an hour?
 11 A Five hundred, that's right.
 12 Q And that is the normal charge that you
 13 make when you testify for the Government?
 14 A That was the normal charge at the time I
 15 accepted this case.
 16 Q Did you not testify that that is the
 17 standard fee arrangement when you testify for
 18 Governmental entity?
 19 A Yes, at that time it was; and then I don't
 20 raise rates during a case.
 21 Q So, it's still \$500 an hour?
 22 A Yes.
 23 Q Now, I take it that this is for in court
 24 time as well as preparation?
 25 A It's for anything I do on the case.

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1 Q Does that particular hourly rate include
 2 the time that you have to spend, for instance, in
 3 Houston when you are not in the courtroom; that is,
 4 overnight or staying in a hotel or whatever?
 5 A Well, I limit it to ten hours billed in a
 6 day, but it does include waiting time because I'm

7 still away from both my practices and can't be doing
 8 that while I'm here.
 9 Q Sure. And are you able, Doctor, to tell
 10 us how many hours you have put in in this case to
 11 include the very minute that we are speaking today?
 12 A I don't have a way to tell you the number
 13 of hours, but I readily volunteer that it's quite a
 14 few; it's been a great amount of time.
 15 Q Right.
 16 A And if you keep me here long enough, it
 17 will make up for my Enron losses.
 18 Q No further questions, Your Honor.
 19 I think we all -- well, not all of
 20 us. You have made a number of trips to Houston,
 21 have you not?
 22 A This is the --
 23 Q On this case?
 24 A This is the second trip on this case.
 25 Q And you have spent probably, here on this

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1 case, how many days?
 2 A The earlier trip, I believe, would have
 3 been three days in Houston because I spent two with
 4 the defendant and there was probably another travel
 5 day. And then this time, I flew in Tuesday evening,
 6 I think, and have been here ever since.
 7 Q Okay. Now, you put together a fairly
 8 lengthy report?
 9 A Quite lengthy, yes.
 10 Q And I take it that it took some time to
 11 put that report together?
 12 A Yes.
 13 Q And that would be in the area of \$500 an
 14 hour?
 15 A Yes.
 16 Q You're -- were you a consultant for the
 17 District Attorney's Office?
 18 A On this case?
 19 Q In this case?
 20 A I still am, unless you mean the
 21 distinction between consulting and testifying
 22 expert.
 23 Q Well, I guess -- let me kind of
 24 characterize it in this fashion. If the DA's Office
 25 needed questions answered relative to the defense of

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1 insanity, are there no -- at least the notice
 2 submitted by the Defense that we were going forward
 3 on the insanity defense, you would be the person
 4 they would pick up the phone and call?
 5 A Well, they were free to; they didn't do

6 much it of because they were worried about the
7 money.
8 Q But they did do some?
9 A Yes.
10 Q Would that be fair?
11 A Yes.
12 Q And I take it, do you recall when the
13 District Attorney's Office noticed that they were
14 going to seek the death penalty in this case?
15 A No, I don't know when that would have
16 been. That was, of course --
17 Q I'm sorry?
18 A I was not consulted on that issue.
19 Q All right. You're aware that you were
20 consulted after the notice was entered by the
21 District Attorney's Office to seek the death
22 penalty?
23 A I assume so, yes.
24 Q Right. As a matter of fact, when they
25 contacted you, you were aware that the State was

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1 seeking the death penalty in Andrea Yates?
2 A I think so.
3 Q Now, Doctor, they contacted you first or
4 did you contact them?
5 A What do you mean?
6 Q Was there -- was there any communication
7 between your office and their office, initially?
8 A No, of course not.
9 Q Just asking. You have, do you not,
10 Doctor, a -- you've testified to on direct
11 examination, you're into a lot of areas, are you
12 not -- I think you testified that three percent of
13 your time is spent in the entertainment area
14 providing information relative to, I guess, security
15 for want of a better phrase?
16 A And other things.
17 Q Approximately three percent. And
18 60 percent of your time is spent dealing with threat
19 assessment?
20 A Yes.
21 Q And that's the name of your company Threat
22 Assessment, Inc.?
23 A That firm is named Threat Assessment
24 Group, Inc.
25 Q And then the remainder -- the remainder

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1 percent of your time is spent consulting with and
2 testifying in cases around the country?
3 A And heading a group of 29 other people who
4 do that, too. So, there is some administrative
5 burden there.

6 Q When is the last time you treated a
7 patient?
8 A Many, many years ago. I stopped treating
9 patients in 1981 or 1982.
10 Q Okay. And are you -- are you -- would you
11 consider yourself to be, for instance, an expert in
12 the area of postpartum depression?
13 A Well, any well-trained psychiatrist who
14 stays current and reads about it has expertise on
15 the issue, but I'm certainly not a specialist in
16 that and would not claim unusually strong knowledge.
17 Q When is the last time, Doctor, that you
18 have treated a female patient who was experiencing
19 postpartum depression?
20 A It would have been in 1977 with a patient
21 I had hospitalized.
22 Q Okay.
23 A I have evaluated people since then, of
24 course, with that condition.
25 Q All right. And in the area of postpartum

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1 psychosis, do you remember the last time you treated
2 an individual, a woman for postpartum with psychotic
3 features, postpartum depression with psychotic
4 features?
5 A I'm not sure that I have treated one, but
6 I have evaluated one.
7 Q The group that I think you mentioned that
8 you, I guess, head, is that a group known as Park
9 Dietz & Associates?
10 A Yes.
11 Q Now, in the area of threat assessment,
12 that is a different company?
13 A Yes, with some overlapping consultants,
14 but it's a separate company.
15 Q Okay. And with threat assessment, I take
16 it that -- and the focus of the company is to
17 provide information to corporations that are
18 interested in workplace problems dealing with
19 employees that might go off the deep end and hurt
20 somebody?
21 A Well, not just corporations, schools
22 universities, individuals, and not just employees.
23 It's anyone who is making threats, domestic
24 violence, intruding in the workplace, bomb threats,
25 terrorism; it's a broad spectrum.

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1 Q There is an overlapping in those
2 responsibilities which is the group known as Park
3 Dietz & Associates?
4 A Cases come to one or the other, but there
5 are some experts who do work for both firms.

6 Q Okay.
 7 MR. PARNHAM: May we have this marked for
 8 identification? May I approach the witness,
 9 Your Honor?
 10 THE COURT: Yes, sir.
 11 Q (By Mr. Parnham) Dr. Dietz, I'm going to
 12 show you what's been marked as Defendant's 34; and I
 13 ask you, sir, take a look and see if you recognize
 14 that?
 15 A Yes, sir, it's a brochure.
 16 Q That is a brochure, is it not, relative to
 17 your company, Park Dietz & Associates?
 18 A Yes. We prepared this at the beginning of
 19 January, 2001, I think.
 20 Q Okay. And the brochure, does it not,
 21 Dr. Dietz, among other things, have a description of
 22 your company, who you are, an educational background
 23 and a list of the types of cases that you've been
 24 involved in and, also, with some of the individuals
 25 connected with your organization and the lists of

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1 the areas, major areas of expertise?
 2 A Yes, for the 17 experts we had at that
 3 time.
 4 Q Okay. Has that number increased or
 5 decreased?
 6 A It's increased since then.
 7 Q I think the list of experts are on the
 8 back page, are they not?
 9 A Yes.
 10 MR. PARNHAM: Now, I tender to the
 11 prosecution and ask it be admitted into
 12 evidence.
 13 MR. OWMBY: May we approach?
 14 THE COURT: Yes, sir.
 15 (Bench conference)
 16 MR. OWMBY: What is the relevance of this?
 17 MR. PARNHAM: Well, Judge, it
 18 basically shows he's a professional testifier.
 19 THE COURT: What's the relevance of this?
 20 MR. ODOM: It shows he's a professional
 21 testifier.
 22 THE COURT: Any objections?
 23 MR. OWMBY: Well, I'm trying to figure out
 24 the basis of relevance. There is a lot of
 25 information in there that's hearsay. I guess

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1 the relevance is not the -- you offering it for
 2 the truth of the contents.
 3 MR. ODOM: We are offering it.
 4 THE COURT: I think he's testified he
 5 testifies a lot. So, is there an objection or

6 no?
 7 MR. OWMBY: No.
 8 (Jury's presence)
 9 THE COURT: Defendant's 34 is admitted
 10 without objection.
 11 Q (By Mr. Parnham) Dr. Dietz, I'm going to
 12 show you what's been admitted as Defendant's Exhibit
 13 34. The document that we have here -- basically,
 14 it's what we previously talked about earlier --
 15 contains general information relative to the areas
 16 of expertise, things of that fashion.
 17 Now, was this brochure, if you know,
 18 sent to various members of the Houston legal
 19 community before you arrived for this case, if
 20 you're aware?
 21 A Well, probably. There was a mail-in to
 22 prosecutors and a mail-in to defense attorneys,
 23 criminal defense attorneys, and there was a mail-in
 24 to lawyers involved in premises liability for
 25 violent crime, maybe also elder lawyers.

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1 Q Elders?
 2 A Those that represent elder abuse victims.
 3 Q I was going to tell you I didn't get one,
 4 but you did send one to Mr. Odom, my younger
 5 counterpart?
 6 A It could be. If he belongs to the
 7 National Association of Criminal Defense Lawyers,
 8 then he got one.
 9 Q Okay. Now, the areas that are contained
 10 there in -- I think areas of expertise is contained
 11 on Pages 6 and 7. You mentioned that on direct
 12 examination that one of the areas that you were, I
 13 think, involved in or experienced in was in the area
 14 of drownings. Do you recall the question the
 15 prosecutor asked you?
 16 A Yes.
 17 Q And that basically dealt with, or deals
 18 with, drownings; for instance, swimming pools,
 19 apartments, other types of entity; would that be a
 20 fair characterization?
 21 A Anywhere it happens. My research was done
 22 through the State of Maryland, through the
 23 waterways; many of them were natural waterways.
 24 Q If the inference is like your predecessor
 25 that, when you sat in for Dr. Wilson's testimony,

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1 when he testified relative to drownings, per se,
 2 that's not the area of expertise you are talking
 3 about; am I right?

4 A I no longer would be qualified about the
5 pathology.
6 Q And tell us in this area -- if you would,
7 just take a look -- is there any area of major
8 expertise that is specified as women's mental
9 health?
10 A No, there wouldn't be.
11 Q Is there an area here that specifies your
12 area or your colleagues' area in the area of, for
13 instance, postpartum depression?
14 A It's not a forensic area, nor is women's
15 mental health.
16 Q All right.
17 A We are forensic psychiatrists and
18 psychologists, pathologists, criminal experts and we
19 have a couple of forensic social workers, but we
20 don't have any diagnosis; otherwise, we would have
21 to list every diagnosis in the DSM.
22 Q I take it as a forensic specialist you --
23 and I think you've indicated you aren't an expert in
24 the postpartum area or in women's mental health, you
25 don't hold yourself out as an expert?

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1 A What I said, I'm not a specialist in those
2 areas, but any psychiatrist has expertise beyond
3 that of a layman about that; and any of us are
4 incapable of reading up on it, per se, if I did
5 postpartum depression and postpartum psychosis in
6 connection with this case.
7 Q I take it that you read up on that area
8 before you interviewed Andrea Yates?
9 A Some of it, and I kept reading about it.
10 Q Did you talk to Dr. Puryear before you
11 interviewed Mrs. Yates?
12 A No.
13 Q You sat in during Dr. Puryear's testimony?
14 A Yes.
15 Q You heard her testimony in regard to her
16 area of expertise in this field?
17 A Yes, she's a specialist in that area.
18 Q My question is, you heard her testimony
19 about the area of expertise in the area of women's
20 mental health and postpartum depression?
21 A Yes.
22 Q The -- in the area of -- of determination
23 relative -- determinations relative to wrongfulness,
24 you mentioned that you did not talk to Dora Yates?
25 A I tried to.

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1 Q Yeah. Now, Dora Yates is the
2 mother-in-law of Andrea and the mother of Rusty?
3 A Yes.

4 Q You did not talk with her?
5 A Correct.
6 Q And she refused to talk with you?
7 A Yes.
8 Q You didn't actually pick up the phone and
9 try to make contact, you, I take it, went through
10 the District Attorney's Office in an effort to visit
11 with her?
12 A Correct.
13 Q And the same thing with Rusty?
14 A That's right, wouldn't be appropriate for
15 me to contact them directly.
16 Q Now, do you know why Dora Yates didn't
17 want to talk with you?
18 A Well, I have heard what she said about it,
19 but I don't really know why.
20 Q So, if she said because the State is
21 seeking the death penalty and, in fact, didn't want
22 to assist the prosecution in convicting her
23 daughter-in-law, you don't know whether that's true
24 or not, but you know that's something that was said?
25 A That one I believe.

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1 Q Okay. Dr. Dietz, this testimony that you
2 mentioned that you reviewed, how do you go about
3 doing it?
4 A For which?
5 Q For any of the witnesses that testify in
6 this court case in front of this jury, how did you
7 go about finding out what they testified about?
8 A Well, with the ones that I rely on for
9 anything, I had a transcript or I personally
10 observed it.
11 Q And let me ask you this question: Now, is
12 that transcript -- you know what a daily copy is?
13 A Yes.
14 Q And tell the ladies and gentlemen of this
15 jury what a daily copy is.
16 A A daily copy is an immediate transcript
17 that's riddled with errors, every couple of lines at
18 least there are errors, sometimes undecipherable
19 ones as opposed to a completed transcript that gets
20 90 percent of the words right or even better,
21 depending on who is doing it.
22 Q In other words, if this young woman in
23 front of me does a good job on it, but what happens
24 is that there's a transcript made of the testimony
25 and then that transcript is recorded, transcribed

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1 and given to you outside so that you, basically,
2 know the relevant portions or the relevant witnesses
3 that you would like to hear but can't?

4 A Well, I wasn't being given daily that way,
5 but it could be done that way.
6 Q Okay. But it certainly assisted you in
7 being able to prepare your little charts up here and
8 testify in front of this jury?
9 A Well --
10 Q To some degree?
11 A Actually, the only transcript I received
12 from this trial that I relied on for anything -- and
13 I'm not even sure it makes it into any of my
14 slides -- was the afternoon in which Dr. Resnick
15 gave his primary opinions and I had a very good
16 transcript of that.
17 Q Okay. Now, did you pay for that yourself?
18 A No.
19 Q Do you know how that was transcribed and
20 do you know who paid for it?
21 A I assume the D.A.'s Office, but I don't
22 know. I asked for it. I said that the most
23 important transcript they could get me during the
24 trial would be Dr. Resnick's about knowledge of
25 wrongfulness.

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1 Q Okay. Did they -- were you told or did
2 you read the transcript about what Dr. Rosenblatt
3 said?
4 A I don't recall which way that happened.
5 Q Okay. Would you keep the daily copy or
6 would you give it back to the prosecutor?
7 A Actually, before I got here, I was being
8 emailed whatever I received. So, there wouldn't be
9 anything to give back. I did get one daily while I
10 was here that I assumed was an extra copy for me.
11 Q So, it might have been word of mouth about
12 what Dr. Rosenblatt testified to as opposed to a
13 daily copy, much like Deputy Stephens or might have
14 been a daily copy presented to you by the
15 prosecution?
16 A For his testimony, I couldn't, as I sit
17 here, tell you which it was.
18 Q The charts that were put today -- and I
19 take it, were they done in conjunction with the
20 Tri-coastal Company?
21 A Actually, originally, I prepared all the
22 content. I did them on our standard power point
23 background, which is gray with stripes; and then
24 when I emailed them to the D.A.'s Office, they said
25 that Tri-coastal wanted to improve the quality of

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1 them. I was skeptical and we have our way of doing
2 it, but they made them prettier, but they did not
3 change the content.

4 Q All right.
5 A Just the colors and layout.
6 Q And that wasn't an out-of-pocket cost to
7 you to prepare those slides?
8 A No.
9 Q Strike that. To prepare the slides or to
10 have Tri-coastal the company in the courtroom today
11 with the charts, et cetera, with the screen, to have
12 them paid for what they do?
13 A That's right.
14 Q And I presumed that you would assume that
15 that was done at the -- paid by the State, if you
16 know?
17 A I can only assume.
18 Q Okay. When will you submit your final
19 bill, do you know, to the District Attorney's
20 Office?
21 A The first of April.
22 Q You have any approximation, Dr. Dietz, as
23 to how much you are going to bill the State for the
24 work done in this case?
25 A Well, I'm sure it's going to be quite a

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1 bit because I have been here four or five days
2 already on this trip.
3 Q Not to include the consultation, et
4 cetera; am I right?
5 A That's right.
6 Q Give me an approximation. Do you have a
7 figure in mind?
8 A Well, I estimated the time being that it
9 would be -- it would be \$50,000 by the time trial
10 was over, if there was a contested insanity trial,
11 and confident that it will hit that.
12 Q Okay. Probably perhaps go over?
13 A Could well.
14 Q Now, you are a consultant, are you not, on
15 the television program known as Law and Order?
16 A Two of them.
17 Q Okay. Did either one of those deal with
18 postpartum depression or women's mental health?
19 A As a matter of fact, there was a show of a
20 woman with postpartum depression who drowned her
21 children in the bathtub and was found insane and it
22 was aired shortly before this crime occurred.
23 Q The companies that you hire out to -- I
24 take it, some of the corporations would include, for
25 instance, Xerox Corporation?

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1 A Pardon me?
2 Q Are you a consultant or consult for Xerox
3 Corporation?

4 A We did one matter for them many years ago,
5 but no longer have any relationship.

6 Q Is that the matter relative to the Uyesugi
7 case?

8 A Uyesugi. A competitor of my firm tried to
9 help them on that one and didn't do too well. I was
10 working on the criminal case later for the defense
11 attorney.

12 Q And in that particular case, you testified
13 as a defense expert, did you not?

14 A That's right.

15 Q And that case involved a fellow that
16 planned in a meticulous fashion and did a lot of
17 preparation in order to have a firearm and ended up
18 killing seven employees of Xerox in a short
19 synopsis?

20 A Well, I don't recall any meticulousness to
21 his planning, but he indeed did kill seven
22 co-workers at Xerox.

23 Q Okay, Doctor --

24 A And there may have been a lot of planning,
25 I just don't recall.

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1 Q I'm sorry?

2 A There may have been a lot of planning, I
3 just don't recall. I know he bore his grudge for
4 nine years.

5 Q Right. And let's talk about the planning,
6 if we may. Do you recall, Dr. Dietz, the testimony
7 in that case?

8 A Not very well, but I may be able to
9 recollect it as we go.

10 Q All right.

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6 Q (By Mr. Parnham) Dr. Dietz, before the
7 break, I was asking you a question on the person who
8 is named -- I still can't pronounce it -- in Hawaii?

9 A Mr. Uyesugi.

10 Q Uyesugi. And we were talking about the
11 areas of preparation that, for instance, he went
12 through in order to carry out the killing of seven
13 people, I believe?

14 A You had asked about it, but I don't recall
15 this many years later what the preparation was.

16 Q Okay. That was back in 2000, do you
17 recall?

18 A I don't know when it was.

19 MR. PARNHAM: May I approach the witness,
20 Your Honor?

21 THE COURT: Yes, sir.

22 Q (By Mr. Parnham) I'm going to show you,
23 Dr. Dietz, what purports to be a copy of your

24 testimony in that trial; and it reflects the date of
25 May 30, 2000. And this is the case in Hawaii that

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1 the prosecutor asked you about on direct examination
2 relative to testifying for the Defense in this case
3 and what you might do just to guide you to that area
4 that I was making inquiry on.

5 You may refresh your memory,
6 Dr. Dietz, with pages -- well, with the entire
7 thing, if you care to.

8 But my question, specifically, would
9 relate to the areas of preparation beginning on page
10 14 through -- just the area relative to the
11 preparation that was undertaken in that fashion, and
12 I'll ask you a few questions about that.

13 A Thank you.

14 Q Sure.

15 A Yes.

16 Q You're ready. You may hold on to that.

17 Doctor, in the area of preparation --

18 and I'll start on Page 14 -- you mentioned that
19 there had been an upset going on between this
20 individual and Xerox or certain employees with that
21 particular company for a number of years?

22 A Yes.

23 Q In essence, we get to the level of
24 preparation where he got his gun, a Glock, from his
25 car and he had a number of rounds in the chamber?

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1 A Only one in the chamber.

2 Q And he had 15 in the magazine that was
3 inserted into the firearm?

4 A Correct.

5 Q He had selected a good brand of ammunition
6 in order to carry out what he needed to do?

7 A Particularly effective for his purposes,
8 yes.

9 Q Right. He mentioned to you that he had
10 slept well the night before and he was determined to
11 do what he was going to do the next day?

12 A Yes.

13 Q There were certain decisions that he made
14 the next day on who he would shoot and who he would
15 not shoot?

16 A Yes.

17 Q And he proceeded then to carry out in a
18 rather methodical fashion the shooting of the
19 individuals and was later tried, and I believe you
20 testified for the Defense?

21 A That's correct.

22 Q And he was convicted, was he not, and I
23 believe sentenced to life?

- 24 A I think that's right.
25 Q Now, let me talk to you a little bit about

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- 1 the area of what appears, in your mind, to be -- and
2 I -- let me rephrase that.
3 The area of planning. I take it that
4 planning or taking steps to effectuate an outcome is
5 not in and of itself definitive as to whether or not
6 a person is psychotic.
7 In other words, a psychotic
8 individual can do things that will end up with an
9 ultimate outcome; correct?
10 A It depends on which symptoms they have.
11 The general statement you make is correct. Someone
12 can have delusions and yet plan methodically.
13 Someone who is extremely thought disordered cannot.
14 Q Now, someone with an extreme thought
15 disorder cannot do the process that we've discussed
16 with the individual in Hawaii; that is, plan out
17 various steps of activity?
18 A Correct. And here I'm referring to a
19 symptom known as formal thought disorder, a disorder
20 in the form of thinking where people are quite
21 confused and incoherent when they speak, scrambled
22 thoughts.
23 Q So that we understand because a person has
24 a -- for instance, a plan does not necessarily mean
25 that the individual is not suffering from some type

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- 1 of mental illness; am I accurate?
2 A That's true.
3 Q Within that general -- all right.
4 Now, in the area of deliberateness, I
5 believe that there are some areas -- are you
6 familiar with the testimony of the individual that
7 preceded you, not the Sheriff's deputy, but
8 Dr. Wilson?
9 A I did observe Dr. Wilson's testimony.
10 Q Okay. And would it be accurate that if
11 Dr. Wilson interpreted certain things correctly, or
12 accurately, that were up to speculation, that in and
13 of itself, based on how we perceive the
14 deliberateness or the steps taken, would not
15 necessarily be indicative of the mental state or the
16 psychosis, if any, of the individual on a particular
17 day in question?
18 A Well, Dr. Wilson's testimony about
19 deliberate actions and decisive actions does not
20 tell us whether the defendant had a mental disease.
21 Q Okay.
22 A But it does go to the question of whether
23 she was so grossly impaired as to be unable to use

- 24 her frontal lobes properly. What he described
25 requires functional frontal lobes.

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- 1 Q Sure. And you looked at the offense
2 report, did you not?
3 A Yes.
4 Q Now, there was an issue, Dr. Dietz,
5 concerning -- and you sat in during the testimony of
6 Dr. Puryear?
7 A Yes, a portion of her testimony.
8 Q Okay. What portion of the offense report
9 would you consider important; all of it, Doctor, or
10 would there be certain specific areas -- and I would
11 include like the tape-recorded statement of Andrea
12 Yates?
13 A Let me answer you in two different ways;
14 first generic and then specific to this case.
15 Generically, I think it's important
16 for forensic evaluators to attempt to get the entire
17 offense report in every case. I have been in
18 situations where one couldn't, and it's not always
19 up to the evaluator.
20 Q All right.
21 A But the -- but they should always seek it
22 all. In this particular case, what turned out to be
23 the important elements in the offense report, I
24 think, are most importantly the description of what
25 the defendant said in both the unrecorded and the

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- 1 recorded interview.
2 Q Sure.
3 A Second most important would be her -- the
4 observation of her behavior and occasional comments
5 at the scene, such as pointing out where the clean
6 glasses were.
7 Q Sure.
8 A And where the car keys were hanging and
9 other things that showed she was attentive,
10 understood the surroundings, was oriented.
11 Thirdly, it would be the description
12 of the scene as it is found, the position of the
13 children, the footprints leading out to the kitchen,
14 the covering of the faces.
15 Next in importance would be the
16 photographs of those things, if you consider them
17 part of the offense, or the investigative package,
18 and that crime scene video. Then I suppose would be
19 the proximal witness interviews with Russell Yates
20 and Dora Yates.
21 And I can't recall offhand whether
22 any of the neighborhood canvass interviews were very
23 important at that point. There were some that

24 described the behavior of the defendant and her
25 husband recently, particularly in relation to a

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1 birthday party that one of the neighbors had for
2 their kids; that was of some importance. But there
3 were also some irrelevant neighborhood canvasses
4 that wouldn't matter one way or the other.
5 Q Okay. Let's talk about the availability
6 of the offense report. Now, that's in the
7 possession of the State and that's how you saw it?
8 A They made me a copy of it.
9 Q All right. Now, do you know whether or
10 not that offense report was made available to
11 Dr. Puryear or any defense expert?
12 A Yes, I do.
13 Q And would you tell us whether or not
14 Dr. Puryear or any defense expert was given the
15 opportunity to read the offense report?
16 A Yes, they were given the opportunity to
17 come to the D.A.'s Office and view it, but they
18 wouldn't be able to take a copy.
19 Q Who told you that?
20 A D.A.'s office told me that it's their
21 policy that defense attorneys and their experts are
22 free to come and personally review materials and
23 take notes, but can't copy it.
24 Q Did they tell you that I, I had to go to
25 the District Attorney's Office and copy verbatim,

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1 word for word, in hand, the offense report because
2 the experts in this case weren't permitted to read
3 the offense report earlier? Did they tell you that?
4 A No, but they led me to believe you would
5 have to copy it by hand rather than Xerox it.
6 Q Right.
7 A Seems like a strange policy.
8 Q Did they tell you I did that, that I went
9 up there and verbatim copied word for word, and
10 provided that information to our experts?
11 A I don't know anything about that.
12 Q Would that make any difference, Doctor, in
13 the issue relative to the information available to
14 the Defense experts as opposed to you having direct
15 access to the offense report?
16 A If you copied every word, then the words
17 would be the same. The photographs, I suppose,
18 couldn't be copied that way, nor the video.
19 Q Sure. You mentioned the importance of
20 items in the offense report. Did you see the area,
21 Dr. Dietz, that dealt with -- and let's do this.
22 Let's go to the second phase that
23 Dr. Dietz referred to earlier known as the homicide

24 phase.

25 Now, this is the second phase that

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1 you were talking about; and this is right after the
2 phase that was put on the board, 36, relative to
3 Dr. Rosenblatt's and Dr. -- not Dr., but Deputy
4 Sheriff Stephens?
5 A Second slide of the same case.
6 Q Slide of the same case. Sorry.
7 If you would, Doctor, you mentioned
8 in -- as a question, may have covered each body
9 between homicides to conceal the previous homicides
10 from surviving children?
11 A Yes.
12 Q Now, did you know that -- and in No. 2,
13 may have believed she was saving the children from
14 torment or hell, but did not try to comfort them
15 during the homicides?
16 Did you know, Doctor, that Mary had
17 been placed in the bathroom with her bottle during
18 the drownings of the other children?
19 A Yes.
20 Q Now, I take it that -- that that's a fact
21 that could be interpreted in a number of ways; would
22 that be fair?
23 A Yes.
24 Q It could be interpreted as a lure for the
25 children to come in, correct?

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1 A I don't see that. I understood Mary was
2 screaming; and, usually, the other kids would rather
3 mommy handle that.
4 Q Okay. Or it could be interpreted as
5 Andrea Yates, in the way of a loving mother, wanted
6 to make sure that Mary didn't fall off and hurt
7 herself?
8 A Feasible. Didn't fall off?
9 Q Fall away?
10 A Or crawl away.
11 Q And hurt herself?
12 A I think that --
13 Q Is that feasible?
14 A Sure.
15 Q May have believed she was saving the
16 children from torment or hell but did not try to
17 comfort them during the homicides.
18 Now, is it fair to say that that
19 is -- and you have a question mark there -- is a
20 conclusion or an opinion that you have reached a --
21 basically in a logical fashion; that is, placing
22 some type of logic of your own on the actions of
23 Andrea Yates on that day on the 20th?

- 24 A Or looking for consistent behavior.
25 Q All right. Now, Doctor, do you remember

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- 1 in researching the offense report about how the
2 children were positioned in the bed?
3 A Yes.
4 Q And their heads were placed on the
5 pillows, were they not?
6 A Yes.
7 Q And Mary's body was placed -- pardon me --
8 was placed in the bed with her head resting on her
9 older brother's shoulder?
10 A Yes.
11 Q And her hands were -- were cupped by her
12 older brother's hands?
13 A Cupped, is that the word you said?
14 Q That's what I said.
15 A Yes.
16 Q And the officers, their observation of
17 that, gave them an impression when they arrived that
18 it was as if the bodies had been posed, correct?
19 A Correct. I think one of them called it a
20 staged scene.
21 Q A staged scene. And that it appeared that
22 the older brother was taking care of the younger
23 sister?
24 A Nurturing. I don't remember what his word
25 was, but that's the impression.

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- 1 Q Okay. Now, if we are -- and I noticed,
2 that doesn't appear in your charts, does it?
3 A I don't see the relationship between that
4 and knowledge of wrongfulness.
5 Q Do you see the relationship between that
6 and comforting those children?
7 A Not really since they -- I think that's to
8 comfort herself. The children were already
9 unconscious and dying when she put them in that
10 position.
11 Q So, it would be your testimony that
12 placing that baby girl with that head -- that little
13 girl's head on the shoulder of John, would be an act
14 of comforting Andrea Yates, who had just drowned
15 those children?
16 A She was the only conscious one in the
17 room.
18 Q But if it were the other way around, what
19 does that say about her mental state at the time it
20 was taking place, Doctor?
21 A If what were the other way around?
22 Q Is it an important factor?
23 A I don't understand what you mean by the

- 24 other way around.
25 Q It doesn't appear -- and I -- I guess what

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- 1 I want to be able to develop here is that it appears
2 that this was some act of love on the part of Andrea
3 Yates, for whatever reason; would you agree with me?
4 A It could be seen that way.
5 Q Okay. And if it is an act of love on her
6 part, you have acknowledged that she -- that it
7 could be that she wants the best interest of those
8 children to send them to Heaven.
9 A There is certainly some sense in that she
10 thought it was in the best interest of the
11 children --
12 Q That's not my question. My question,
13 Doctor, is that you have acknowledged in the last
14 slide --
15 A That she may have believed --
16 Q -- that she may have believed that it was
17 in the best interest of those children?
18 A Yes.
19 Q And my question is, isn't trying to put --
20 isn't that an act of love, what could be considered
21 to be an act of love, on Andrea Pia Yates' part, in
22 wrapping that baby around the hands -- and cupping
23 those hands in the hands of her older brother?
24 A Yes, that could be.
25 Q Okay. And the last question I have of you

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- 1 on that part is that, that what I just described is
2 not part of your slides?
3 A Correct.
4 Q Let's go to the area of posthomicide.
5 That will be No. 19, Page 19.
6 Covered the faces of all the bodies
7 in bed indicating guilt and shame. Now, this is
8 posthomicide?
9 A Yes.
10 Q Where is there on the slide, taking Mary's
11 body -- putting Mary's body's head on John's
12 shoulder and cupping the hands?
13 A Not on the slide because it doesn't bear
14 on whether she knew it was wrong.
15 Q Okay. The areas that dealt with
16 information and statements that you relied upon --
17 could you put up State's 10. I'll just ask you
18 about it.
19 You mentioned that you did request to
20 talk to Dora Yates, but you were unable to?
21 A That's right.
22 Q And I asked you that question as to
23 whether or not -- that's all right -- whether or not

24 you made the effort, and you indicated that you did.
25 Did you talk to Randy Yates?

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1 A Pardon me?
2 Q Did you talk to Randy Yates?
3 A No.
4 Q Do you know who Randy Yates is?
5 A No.
6 Q As a matter of fact, if you saw him in the
7 hallway, you would not be able to identify him?
8 A That's right.
9 Q If I told you that he is the brother of
10 Russell Yates, you wouldn't -- I mean, obviously,
11 you don't know who he is and you wouldn't be able to
12 say yea or nay?
13 A Correct.
14 Q Had he told you, Dr. Dietz, that he had
15 been over at that house after the second Devereux
16 hospitalization and that Andrea appeared to be
17 totally disconnected with reality, would that be
18 something that you would want to incorporate into
19 your prehearing phase?
20 MR. OWMBY: I object to the form of the
21 question. That's not the testimony. Assumes
22 facts not in evidence; and, therefore, calls
23 for speculation on the part of this witness.
24 THE COURT: Mr. Parnham?
25 MR. PARNHAM: Ma'am?

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1 THE COURT: That's sustained.
2 Q (By Mr. Parnham) Would it be important
3 for you to try to get whatever -- and this testimony
4 is available -- whatever information you could out
5 of Randy Yates relative to her activities in close
6 proximity to the drownings of the children?
7 A Observations of anyone about her specific
8 behaviors as opposed to their conclusions could be
9 quite relevant.
10 I had some, of course, from what
11 Russell Yates told to other people and from Debbie
12 Holmes, but more would be interesting, particularly
13 if it was different from what I had.
14 Q Okay. Now, with Dora Yates -- obviously,
15 you mentioned that you tried to contact her and
16 tried through the District Attorney's Office to
17 visit with her.
18 Dora Yates -- would it be something
19 of importance to you to learn about Dora Yates'
20 observations of her daughter-in-law on the 19th of
21 June?
22 A Yes, that's why I wanted to interview her,
23 though I did have other sources from people who did

24 interview her.

25 Q Okay. Did you know, Dr. Dietz, that Dora

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1 Yates on the 19th had watched Andrea Yates with the
2 baby on her hip in the afternoon hours, less than 24
3 hours prior to drowning the children, stare
4 transfixed for 30 to 45 minutes at a cartoon?
5 A Not that particular one, but it's
6 consistent with other things I knew.
7 Q Did you know that on the 19th of June, the
8 day before she drowned those kids -- again, with the
9 baby at her hip -- she stared for 30 to 45 minutes
10 at a cartoon? Did you know that factor?
11 A I didn't know that factor, no.
12 Q Okay. You mentioned that -- I think on
13 direct -- let me go back for a minute on that.
14 Scratch that.
15 Did you know that on that day, the
16 19th, that Andrea Pia Yates was scratching her head
17 in an area that was commensurate with where she
18 later told Dr. Ferguson the 666 was?
19 A I knew that there were fresh scratches
20 there when she got to the jail, but I don't know
21 just when she was scratching.
22 Q Okay. Did you know that Dora had viewed
23 that?
24 A No.
25 Q The information concerning Debbie

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1 Holmes -- and I think on direct examination there
2 was an inquiry made concerning her journal, and I
3 think you indicated that it really wasn't a journal,
4 it was -- because it wasn't made contemporaneous
5 with, it was made after the fact.
6 Do you recall whether or not Debbie
7 Holmes told you that she had constructed this
8 ten-page document after the drownings?
9 A Debbie Holmes didn't even tell me that it
10 existed.
11 Q And who told you that -- because I believe
12 your testimony was that this journal of sorts had
13 been created after the drownings and, therefore,
14 lacked the indicators and reliability?
15 A It was my conclusion that it was created
16 later, based on my own analysis of it.
17 Q Okay. The day after?
18 A No. I said it was my conclusion that it
19 was created after the drownings, based on my own
20 analysis of the document.
21 Q All right. So, if the -- and, therefore,
22 would impact the weight to be given to that
23 particular document by a person such as yourself?

24 A Well, yes, but, in fairness, not because
25 of any distrust of Debbie Holmes.

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1 Q I understand that.
2 A It's just that when one tries to go back
3 and get dates correct of various events, that's hard
4 to matter -- how accurate one tends to be.
5 Q And that's because an individual's memory
6 kind of blurs after -- depending on one's age, I
7 take it?
8 A Depending on many things.
9 Q And for many reasons. Kind of blurs
10 between the activity and when that recordation is
11 made; am I correct?
12 A Memory is one of the factors that can
13 influence the reliability and validity of
14 information put down later.
15 Q Sure. A person can be -- for instance, if
16 I'm writing something down three weeks from now
17 about what you testified to on the stand, that's
18 going to be less reliable as far as credibility is
19 concerned. Not that I'm trying to lie or anything,
20 but less reliable than jotting it down
21 contemporaneous with your testimony today?
22 A That would be one factor, yes.
23 Q The further off you go from the event
24 itself, the less weight you could give to the
25 content of the writing; would that be fair?

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1 A That depends on who is preparing it. Some
2 people are careful observers who have occasion to
3 repeatedly rehearse the information and have it
4 vividly in mind. Other people won't remember the
5 next day.
6 Q How about Deputy Stephens?
7 A I have no idea.
8 Q Okay. Now, if Debbie Holmes told you and
9 testified in front of this jury -- you didn't get a
10 copy of her daily copy, did you -- of her testimony?
11 A Of Debbie Holmes? No, I didn't.
12 Q If she testified in front of this jury
13 that the journal, with a couple of exceptions, was
14 created by her or handwritten by her because her
15 sister told her I know you're worried, you better
16 start writing it down, would that be consistent with
17 your observations or at least opinion that that was
18 created after the fact?
19 A Yes.
20 Q If Debbie Holmes testified that she wrote
21 most of that journal contemporaneous with that day
22 prior to the drownings, or those days prior to the
23 drownings, would that be inconsistent with your

24 evaluation of her journal or her -- the document
25 that was prepared and presented to you?

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1 A Let me make sure I understand. If her
2 testimony was that some early entries were made
3 after the fact but then she began to make relatively
4 contemporaneous entries prior to the drownings? If
5 that's what she testified to, I believe her; and
6 that would be consistent with what I observed.
7 Q You found Debbie Holmes to be a credible
8 person, I take it?
9 A Yes, she is obviously the defendant's best
10 friend but she is -- and a caring person, but I
11 found her to be credible and a careful observer.
12 Q Okay. And the journal issue itself -- the
13 last question on that point. The information
14 contained therein, if, in fact, Debbie Holmes said
15 she did it when she did it, you have no reason to
16 disbelieve her?
17 A That's right.
18 Q Who -- is there any -- how did you arrive
19 at the conclusion that it was done after June the
20 20th?
21 A Really, just an inference based on the
22 sounder conclusion that the earlier entries where
23 the dates were changed were not made on the dates
24 originally written. I haven't seen this for a bit.
25 So, I don't recall what else there may have been,

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1 but I remember the big thing where some dates were
2 scratched out and I think there was a marginal note
3 saying something about uncertainty about the date.
4 Q The date itself was scratched out, but the
5 content was not; is that right?
6 A That's right.
7 Q All right. Now, if you would like to take
8 a look at that. It's not in evidence, but if you
9 would like to take a look at it, I'll be glad to
10 show it to you. I have no further questions on that
11 issue. Okay.
12 You testified on direct examination
13 that you saw a video of Dr. Puryear's interview with
14 the defendant, Andrea Pia Yates. And I believe
15 Mr. Owmbly asked you a question about that being a
16 blouse or something that I brought Mrs. Yates. Do
17 you recall that?
18 A Well, there were three of her videos that
19 I saw; the one in February of 2002, Mr. Owmbly asked
20 me if that's the one with the sweater that you
21 brought.
22 Q Sweater, right. And I think you mentioned
23 that that video of Andrea Yates that included

24 Dr. Puryear's interview of her, that that was taken
25 in Dr. Ferguson's office?

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1 A Yes, I think it was.
2 Q And do you recall that testimony?
3 A Yes.
4 Q And who told you that that was taken in
5 Dr. Ferguson's office?
6 A I thought I recognized it, from having
7 been in Dr. Ferguson's office.
8 Q And where is Dr. Ferguson's office
9 located?
10 A At the jail.
11 Q Do you recall what floor?
12 A No.
13 Q Okay. It's not on the first floor, is it?
14 A No.
15 Q Do you recall getting on the elevator and
16 going up to the third floor in that wonderful
17 facility over there?
18 A I recall an elevator, but I couldn't tell
19 you what floor.
20 Q And you had to get on the elevator to get
21 up?
22 A Or walk the stairs, but I never did that.
23 Q You don't know -- and this is, I guess --
24 well, it may be an unfair question. Do you know a
25 captain with the sheriff's department by the name of

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1 Lanny Hitchcock who offices on the first floor of
2 the building?
3 A I don't think so.
4 Q Okay. Do you have any idea as to whether
5 or not -- you don't know where that interview really
6 occurred, do you?
7 A No.
8 Q And if the question suggested to you some
9 type of, oh, collusion between Dr. Ferguson and the
10 Defense, did you notice any of that in the video
11 that was shot with Dr. Puryear on the 4th of
12 February?
13 A Collusion? No, I noticed some
14 differences. She -- somehow or other she had a more
15 comfortable chair that day. I thought they had a
16 rule about the hygiene of the chairs and the inmates
17 had to sit in plastic, hard chairs. Not that I
18 believe that's a good idea, it's just that she was
19 in a more comfortable circumstance.
20 Q As a matter of fact, I think when you
21 interviewed her, she was up in a room and the chairs
22 were creaking.
23 Do you know what day Dr. Puryear was

24 down there interviewing Andrea Yates on February the
25 4th?

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1 A What day of the week it was?
2 Q Yes.
3 A No.
4 Q If it were the weekend, you don't know
5 that to be a fact or not?
6 A I don't know.
7 Q And if that were done in Captain
8 Hitchcock's office because of the lack of personnel
9 up on the second floor, you don't know that to be a
10 factor?
11 A Correct.
12 Q And if, in fact, Dr. Ferguson didn't even
13 know about the February 4th interview with
14 Dr. Puryear, when it occurred, you don't know that
15 to be a fact or not?
16 A I don't know one way or the other.
17 Q Okay. You -- in certain of the areas
18 concerning the actions, particularly regarding the
19 doctors and Mrs. Yates and Mr. Yates, you mentioned
20 that a contextual factor in 1999 -- and may we turn
21 to Page 13. That would be -- I don't know what
22 number that is.
23 A Contextual factor in 1999 was
24 obviously living in a bus with her husband, newborn
25 and three other children, began home schooling; and

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1 then you go to an area now feeling depressed and
2 overwhelmed, asked her husband for help, got medical
3 attention only upon taking an overdose.
4 Do you remember testifying relative
5 to, basically, taking an overdose because she was
6 seeking help and she wasn't getting it? Do you
7 remember testifying --
8 A I remember believing that, and I'm not
9 sure what I said here. But I think that the
10 overdose is an effort to get help and to get rest
11 and to get away from this intolerable situation.
12 Q Right. And then she takes a knife and she
13 is caught -- stopped from cutting her throat by her
14 husband, and then they buy a new house. Do you
15 remember that line of testimony?
16 A Yes, where I pointed out that that's been
17 characterized as a suicide attempt, it's at least a
18 suicide threat.
19 Q And this was a way for Andrea Yates, who I
20 take it is some type of a control-type person?
21 A Controlled, did you say?
22 Q A controlling type of individual, was that
23 the gist of your testimony?

24 A Andrea Yates controlling? No, just the
25 opposite. Controlled.

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1 Q Got it. That this was her way of getting
2 a new house?
3 A No.
4 Q Or getting into a better set of
5 circumstances?
6 A Escaping an intolerable situation.
7 Q Okay.
8 A I believe that most human behavior, even
9 the simplest, has multiple motivations at the same
10 time. And when people have an illness, they may
11 have various thoughts that they are putting around
12 it, but there are still underlying multiple
13 motivations and it's difficult -- I would hope for
14 any psychiatrist to read these facts and not realize
15 that escaping this awful situation of trying to home
16 school all these kids in a bus when you're already
17 depressed and sick is more than anyone can handle.
18 Q Sure.
19 A So, escaping that is a big part of it.
20 Q And I think you used the term stressors?
21 A Those are stressors, yes.
22 Q Much like the stressor of drowning your
23 five children on the 20th. That was certainly a
24 stressor, a live stressor that basically put her
25 over the edge?

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1 A The drownings certainly did, yes.
2 Q Sure. And putting that in the context in
3 which it was testified about, this issue of drowning
4 the children -- before we go back to the contextual
5 factors -- I take it, is put in the category of a
6 stressor that puts a psychotic individual into a
7 more psychotic state of mind, based on your
8 testimony?
9 A The facts available to me, everything I've
10 seen, are consistent with the view that she had a
11 delusion about cameras, she was withdrawn --
12 Q That's not my question.
13 A -- poorly functional --
14 Q I understand. I understand, but that's
15 not my question. My question was, you testified on
16 direct examination that the drowning of those
17 children was the, I guess, ultimate stressor that
18 really pushed her into a psychotic state?
19 A Realizing she had drowned her five
20 children threw her into a worse state.
21 Q And that acknowledges, first of all, it
22 seems to me, that she's in a psychotic state at the
23 time, correct?

24 A As defined by believing there are cameras
25 in the ceiling.

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1 Q And the factors that you have enumerated
2 here that we are going through, dictate to you that
3 this was simply a stressor as opposed to being an
4 act of a psychotic that did not know in her mind's
5 eye what she was doing was wrong?
6 A I didn't understand the question.
7 Q All right. Let's go to the area of the
8 ECT on contextual factors.
9 Oh, before we go there -- I'm sorry.
10 I mean, could, Dr. Dietz, the taking of the overdose
11 and the knife to the throat -- could that be,
12 Doctor, interpreted by medical experts as being an
13 alternative to hurting her children?
14 A Yes, it's one of the things that she has
15 said. At times, she says that she was thinking of
16 harming the children. At times, she says she had
17 thoughts of harming the children and was afraid she
18 might do it. At times, she doesn't -- she downplays
19 that. And I think it's quite reasonable to believe
20 that that was one of the motivations for those two
21 actions, but it's not the only motivation.
22 Q And the other motivations are motivations
23 that you have determined are incorporated in those
24 actions. I mean, she never told any doctor that, "I
25 wanted a new house"?

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1 A Not at all. No, no, I do not mean to
2 suggest that this is intentional manipulation.
3 Q Okay.
4 A It is just one of the factors that goes
5 into this. Escape from this situation, it seems to
6 me, is something she couldn't admit to herself she
7 needed. She couldn't say to people, I can't stand
8 this, get me out of here. She thinks she has to
9 accept passively her fate in this marriage with
10 these kids and the home schooling and the cult with
11 Warnike and all the rest. She doesn't have to --
12 but she doesn't have the skill to be able to say,
13 I'm out of here, get me a babysitter and a new
14 house.
15 Q Right, right. And you know, from our
16 view, that appears to be -- it's absolutely mind
17 boggling that this family was living in that bus?
18 A Yes.
19 Q I mean, I think we would all say that,
20 right?
21 A Certainly when they didn't have to. It's
22 not necessary.
23 Q Sure. And it -- if you -- if you go into

24 the mind's eye of the person of Andrea Yates, as she
25 views it, is it absolutely illogical to believe in

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1 her illness that she didn't want to say those things
2 because she was afraid Satan would make them come
3 true? You have heard that, have you not?
4 A Yes, I have heard that. What was your
5 question?
6 Q Yes. Has she told you that -- did she
7 tell you that on the tapes?
8 A Yes.
9 Q Let's go to the bottom before I pass the
10 witness.
11 Now, Doctor, you see the area
12 relative to the ECT being recommended by
13 Drs. Thompson and Rios?
14 A Yes.
15 Q Now, ECT is electroshock therapy. I don't
16 know -- what does ECT stands for? I call it
17 electroshock therapy.
18 A Yes. It was originally called ECT
19 because, originally, it was associated with
20 convulsions and that stood for electroconvulsive
21 therapy. The methods used over the last 30 or 40
22 years hasn't involved convulsions, but it has
23 involved sending electrical impulses through the
24 brain or a part of the brain.
25 Q And it's a pretty drastic step in mental

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1 health?
2 A Well, it's gotten a terrible reputation
3 thanks to One Flew Over a Coo Coo's Nest where they
4 gave it to the wrong patient. But the treatment
5 itself can be done very safely and is quite
6 effective with the correct patients.
7 Q All right. And it basically -- well, you
8 know much more about this than I do, but it's kind
9 of a -- you don't give somebody ECT as an
10 alternative to taking a dose of medication. It
11 requires hospitalization and supervision and things
12 of that nature, does it not?
13 A Actually, outpatient ECT can be given,
14 but, certainly, Mrs. Yates at that time should have
15 been hospitalized and ECT would have been indicated,
16 as these doctors thought. The way she presented at
17 the time, it was a very reasonable suggestion; and
18 it could have dramatically improved her within two
19 to three weeks.
20 Q Is ECT -- is that a procedure that can be
21 recommended for a person that is psychotic?
22 A It can be recommended for someone who is
23 psychotic, but that's not the primary original

24 reason. It was because she was massively depressed
25 and withdrawn, nearly mute, with many depressed

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1 features that it would have been done, psychosis or
2 not.
3 Q Is it something that can be done for
4 individuals that are schizophrenic?
5 A Yes. Although, it's no longer thought to
6 be one of the earlier treatments one would choose
7 for schizophrenia.
8 Q Now, I have two last questions, Doctor.
9 Your last issue here -- next to the last issue is
10 Mr. and Mrs. Yates refused. Now, you have not
11 talked to Dr. Thompson, have you?
12 A No, I'm relying on the medical records.
13 Q You don't know what condition Mrs. Yates
14 was in at the time that ECT was recommended to
15 Dr. Thompson -- to Mr. Yates and/or Mrs. Yates, do
16 you?
17 A Only what the medical records say.
18 Q And you don't know if she actively was
19 even able to participate in the decision concerning
20 ECT?
21 A That's right, but there is a statement
22 about their both refusing.
23 Q And at the end -- my last question of you,
24 Doctor, is, when you were asked to give an
25 evaluation in this case, as part of the parameters,

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1 the issue of future dangerousness was not one of
2 those parameters?
3 A You are correct.
4 MR. PARNHAM: Thank you, Dr. Dietz. I
5 have no further questions of you.
6 THE COURT: Mr. Owmbly?
7 REDIRECT EXAMINATION
8 BY MR. OWMBLY:
9 Q Doctor, you talked about the -- the
10 Uyesugi case -- I'm pronouncing it wrong?
11 A Uyesugi.
12 Q Uyesugi case. Was the standard in
13 Texas -- was the standard in Hawaii the same as the
14 standard in Texas, as far as legal sanity?
15 A No, there's a different legal test known
16 as the American Law Institute or Model Penal Code
17 Test that asks whether the defendant appreciated the
18 wrongfulness of the conduct.
19 Q And I am assuming because it's a different
20 test -- and, actually, I believe that we had
21 testimony that talks about substantial capacity
22 rather than absolutely does or does not --

23 substantial capacity to appreciate the wrongfulness?
 24 A Excuse me a second. I'm confused. I'm
 25 not sure what the standard is in Hawaii, come to

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1 think of it, but I think it is different wording.
 2 Q Oh, it is different?
 3 A I think you had a question about Texas.
 4 What was that one?
 5 Q I think it's getting really late in the
 6 day.
 7 A I think I gave the wrong answer about
 8 Hawaii.
 9 Q All I was really asking, is the standard
 10 different than the Texas standard?
 11 A I think that's correct, yes.
 12 Q And you were explaining that it's the
 13 American -- the AIL standard?
 14 A That's what I'm now unsure of.
 15 Q Okay. But it was different than the Texas
 16 standard?
 17 A Yes.
 18 Q You also talked a little bit with
 19 Mr. Parnham about Dr. Wilson's testimony, which you
 20 observed; is that correct?
 21 A Yes.
 22 Q And you have done some work in the -- in
 23 what he described as looking at organized behaviors
 24 around a crime scene; is that correct?
 25 A Quite a bit, actually.

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1 Q Would you explain what you mean by that?
 2 A As a field of study?
 3 Q Right.
 4 A Well, one of the -- one of the areas that
 5 I spent a portion of my career in is what's known as
 6 crime scene analysis, which is a technique developed
 7 by the FBI. In the unit that I have consulted for
 8 analyzing crime scenes to look at the behavior of
 9 the offender, done originally for the purposes of
 10 helping to solve unsolved crimes. And one of the
 11 early findings in that line of work was that it was
 12 helpful to distinguish between organized crime
 13 scenes and disorganized crime scenes. And although
 14 the decision of which, a crime scene isn't always
 15 easy, this is an easy one to say it was an organized
 16 crime scene.
 17 MR. PARNHAM: Well, I was going to enter
 18 an objection. Nonresponsiveness.
 19 Q (By Mr. Owmbly) You also mentioned the
 20 frontal lobes problem that Dr. Puryear referred to
 21 in her testimony and I had a -- kind of a confusing
 22 discussion with her about that.

23 Would you explain how this frontal
 24 lobe problem may or may not have impacted on the
 25 findings that you made or findings that anyone else

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1 made?
 2 A Well, Dr. Puryear relied on the findings
 3 of Dr. Ringholz of some impairment in the function
 4 of frontal lobes; and I saw his test findings about
 5 that regarding what kinds of tasks Mrs. Yates is
 6 slower at or doesn't do as well at. Those test
 7 findings were made in December of -- excuse me -- in
 8 December of 2001 and January of 2002. I had already
 9 examined her before that.
 10 And at the time I examined her, she
 11 certainly had the capacity for abstract thinking,
 12 knowing the difference between right and wrong and
 13 other executive functions that the frontal lobe was
 14 involved with. She also, obviously, had those kinds
 15 of functions in the videotape made by Dr. Puryear in
 16 February, 2002.
 17 If she had intact frontal lobe
 18 functioning before and after that testing, it makes
 19 no sense to me to say that testing shows anything so
 20 significant that it would have impacted her the day
 21 of the crime. And the particular behaviors --
 22 MR. PARNHAM: Judge -- I'm sorry,
 23 Doctor -- object as to responsiveness.
 24 THE COURT: Let's proceed in question and
 25 answer.

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1 Q (By Mr. Owmbly) Your conclusion about the
 2 frontal lobe problem, is it reflected in the
 3 behaviors that you observed through the -- your
 4 examination the day of the crime?
 5 A On the day of the crime, the behaviors
 6 that the defendant engaged in and what she told me
 7 later she engaged in, showed that her frontal lobes
 8 were working just fine that day. She had other
 9 problems; and there are areas where the experts are
 10 disagreeing about how serious the problems were, but
 11 it wasn't a problem in being able to carry out an
 12 organized plan, series of actions.
 13 Q Doctor, you were asked about the
 14 posing -- the posing -- the way the children were
 15 put in the bed. What does it say about the way Noah
 16 was left in the tub, as far as that issue that
 17 Mr. Parnham raised with you?
 18 A You mean, what is my interpretation of his
 19 being left in the tub?
 20 Q Yes.
 21 A I think he was too heavy for her to lift
 22 at 50 pounds. Nurses know not to lift heavy weights

23 or they risk back injury.
 24 MR. OWMBY: Thank you. We have no further
 25 questions.

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1 THE COURT: Anything else, Mr. Parnham?
 2 MR. PARNHAM: Yes, I do. Just a couple.
 3 RE-CROSS-EXAMINATION
 4 BY MR. PARNHAM::
 5 Q Now, Doctor, have you seen the
 6 information -- you've seen Dr. Ringholz' report?
 7 Have you seen all of the background and all the
 8 various tests that he conducted over the times that
 9 he spent with her?
 10 A No, I haven't and I wouldn't even be
 11 qualified to analyze some of the neuropsychological
 12 data that he relied on.
 13 Q You're aware that he is the chief of the
 14 neuropsychological department at Baylor College of
 15 Medicine here in Houston?
 16 A Yes, indeed.
 17 Q And the tapes that you -- the excerpts
 18 from the tape, I take it that the ones that were
 19 played to this jury are the ones you selected to
 20 emphasize the point that you were making in your
 21 presentation to this jury?
 22 A From my examination, yes, that's right.
 23 Q All right. And, obviously, that -- those
 24 excerpts are just a portion of the entirety of the
 25 tape recordings, the interviews of Mrs. Yates?

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1 A That was, perhaps, a total of less than
 2 half an hour of six to eight hours of videotape of
 3 mine.
 4 Q All right. So if -- if other portions are
 5 subsequently played to this jury -- I take it you
 6 are going back to California tonight.
 7 We wouldn't have a -- there is not a
 8 problem with other portions being played by the
 9 Defense, for instance, or the prosecution later on
 10 during the course of, say, Monday's testimony?
 11 A Not a problem for me.
 12 Q Okay. And the -- you mentioned the
 13 standard in Hawaii. I think you -- you did testify
 14 that it's basically up to the jury to determine the
 15 insanity, to place the evidence against the law in
 16 the State of Texas and make a determination as to
 17 whether or not Andrea Yates was able to, for
 18 instance, appreciate the wrongfulness of her act on
 19 June the 20th?
 20 A Well, they wouldn't be asked that because
 21 this is Texas.
 22 Q All right. As a matter of fact, they are

23 not asked any issue. They are asked to make the
 24 determination on the law as it applies to the facts
 25 in this case; and that's why you, as an expert, will

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1 not refrain and will not give an opinion on the
 2 issue of legal insanity; isn't that correct?
 3 A That's why I won't volunteer an opinion.
 4 It's for the jury to decide legal insanity based on
 5 everything and the instruction the Judge gives them.
 6 Q Okay. Did you -- Doctor, you mentioned
 7 the issue of abstract thought as it relates to
 8 frontal lobe problems; and you saw no evidence of a
 9 problem in Andrea Pia Yates from the date of
 10 February the 4th and the date that you saw her in
 11 November?
 12 A I wouldn't say no problem.
 13 Q All right.
 14 A But she certainly did have the capacity
 15 for abstract thought; understood right, wrong, God,
 16 Satan, who she was. She could think abstractly.
 17 Q Right. And that's your evaluation of her
 18 frontal lobe capabilities on those times?
 19 A Well, I put it in an overly simplistic
 20 way, but having spoke to her as long as I did, I saw
 21 the capacity for abstract thinking.
 22 I'm not saying that she would have
 23 done well on the SATs that day. I'm saying that
 24 more than normal abstract thinking capacity, more
 25 than average.

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1 Q Are you an advocate or did you tell
 2 Dr. Ferguson that you thought it's important, I
 3 think the term was crucial, to get in there as
 4 quickly as possible and interview and videotape a
 5 patient if there is a question on mental illness?
 6 A A lot of things in your question, but what
 7 is certainly so is that I believe that everyone
 8 doing forensic evaluations should videotape all
 9 interaction with defendants, even if that is never
 10 turned over to opposing counsel, to preserve the
 11 behavioral record before other people interfere with
 12 it and change it.
 13 Q Now, you saw her in November; that was the
 14 first time?
 15 A Correct.
 16 MR. PARNHAM: I pass the witness. Thank
 17 you.
 18 FURTHER REDIRECT EXAMINATION
 19 BY MR. OWMBY::
 20 Q Let me help the Defense attorney out here.
 21 Doctor, I believe you have other commitments and
 22 whatever interpretation they put on whatever

23 excerpts from these two days of tapes, we do not
24 plan to bring you back to offer your interpretation,
25 however valuable it might be, on those excerpts; is

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1 that correct?

2 A I hope you don't plan to bring me back.

3 MR. OWMBY: I appreciate that. We have no
4 further questions.

5 THE COURT: Mr. Parnham?

6 MR. PARNHAM: I don't have anything
7 further. Thank you, Dr. Dietz.

8 (End of requested testimony)

9

* Testimony of Park Dietz, M.D., Andrea Yates trial, March 7, 2002 (on file with the author).