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COUNTY COURT  
COUNTY OF CAYUGA STATE OF NEW YORK

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THE PEOPLE OF THE STATE  
OF NEW YORK

- against -

INDEX NO. 99-986  
INDICTMENT NO.  
99-131

MICHELLE DAVIS,

Defendant.  
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Interview of September 21, 1999 between  
Michelle Davis and Stephen McCloud.

TAPE 21 - SIDE A

MR. MCLOUD: Have a seat here. I'm going to grab a  
cup of coffee, want me... (can't hear)...., Pepsi, 7 up?

MRS. DAVIS: No, water's fine.

Q. Okay. Are you warm enough, there's a little draft  
in here.

A. Well, it can't be very cold, so, I going to be  
getting out there in a couple days.

Q. Alright, you say that you've been offered, the  
church, somebody's found some place for you....

A. The Red Cross, Sacred Heart Church had an  
apartment and they ... (can't hear) ... with me above, you know  
downtown at Tony's Tattoo Parlor used to be that got hit and  
they remodeled it, that's a hair style presently, but they  
remodeled upstairs and they had a family from Kosovo coming

1  
2 but they didn't come, so they found out about my situation  
3 and they offered it to me and my girls and it's fully  
4 furnished, so that helps us out a great deal.

5 Q. And both the girls are back to school?

6 A. Mmmm, yes, and every day because they ... (can't  
7 hear).. ( I wanted to pull Kimie out of Forbes School so I'm )  
8 going to take her every day ... (can't hear).... I went back  
9 today to college for the first time.

10 Q. Is that at CC?

11 A. No, I'm going to BOCES, the Adult Continuing  
12 Education Program, I go three hours a day, so that's where  
13 I have been going since I lost my job in April when that  
14 Health Care shut down, so, I needed to update some computer  
15 skills, so I went there.

16 Q. Sure.

17 A. I had come here... (can't hear)... I had taken the  
18 911 federal civil service exam and I scored well and back  
19 in May I talked to Sheriff, I forgot the man's name, some  
20 of a part time fill and I really wanted to do it at that  
21 time, but Daniel, I needed to take care for Dan and the  
22 other kids so, at the time I had to turn it down to go to  
23 school.

24 Q. Sure.

25 A. It's very strange to me, it is. I'm not used to

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2  
3 having time on my hands that I've had lately and it's very  
4 strange to me cause I always had Dan ...(can't hear)... It  
5 will take some time.

6 Q. I'm sure it is. What I'd like, what I need to  
7 try to be able to do is, we have completed, we have  
8 completed the investigation into the scene, the cause of  
9 the fire there at the scene and there are some things that  
10 I need to go over, I've got some diagrams and things like  
11 with...(can't hear)...and what may have been plugged in and  
12 what wasn't plugged in, cause obviously you were there and  
13 had been there, so those are some of the things that I need  
14 to go over with you and because when you were in the other  
15 day, that was the first stage of the fire investigation  
16 report. We're at a point now where we've gone beyond that,  
17 still don't know exactly what happened with the fire, so at  
18 a normal procedure, at this point, that we talk to anybody,  
19 whether we're talking to you or we're talking to Leroy....

20 A. I'm a little bit, I'm a little, were you at the  
21 scene when the altercation took place between Leroy and I,  
22 were you with the Sheriff....

23 Q. Yes.

24 A. Okay.

25 Q. I was there.

A. I want you to, I mean, ..(can't understand)..in

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2  
3 the front with you cause I want you to know what you're  
4 dealing with here, and I have need to tell you this stuff.  
5 There's no love lost between us.....

6 Q. What I need, because of my departmental rules,  
7 because I've got to do it otherwise my bosses get upset  
8 with me, there's some procedures and policies and things  
9 that I have to go through with cases like that and I'm sure  
10 that you've seen it on television and those things.....

11 A. I just want you to know that this man has  
12 prejudice against me, but I..(can't hear)...because for  
13 four years, the last four years of Daniel's life, the visits  
14 that Leroy has had with his son has been three. That's it,  
15 I don't know what he's going to offer you.....

16 Q. And these are all things and these are all areas  
17 that I need to be able to discuss with you but before I do  
18 that, again, for my policies and procedures, I have to  
19 advise you, as well as anybody else that I talk to, whether  
20 it's Rob or whether it's Leroy, whether it's Sue or whether  
21 it's neighbors that I'm bound to inform you that you have  
22 certain rights...

23 A. Okay.

24 Q. That you've probably watched television and watch  
25 all those things in dragnets and that you have certain  
rights, I can't make you talk to me and I'm not here to do

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2  
3 that, what I'm trying to do is to be able to offer you the  
4 opportunity to talk to me as I will anybody, but before I  
5 do that, I need to advise you that you have certain rights  
6 and those are your Miranda rights, right to an attorney, so  
7 what I would like to do with that, again and you saw the  
8 forms that we had before....

8 A. Mmmm.

9 Q. ...as I have another one, that documents these  
10 things and again, this is just the way that we operate with  
11 paper work and we have, as you can see, paper work every  
12 where, so, let me fill this form out here and, I'm sure as  
13 I said, that you've heard, you have heard this thing on  
14 television and seen it. And your middle initial is?

15 A. A.

16 Q. And you're 36?

17 A. Mmmm.

18 Q. Date of birth again?

19 A. 2/26/63.

20 Q. And do you when, when you're planning on moving?

21 A. October 1st.

22 Q. Okay, so let's for right now, we'll use the West  
23 Lake Road address as your address.

24 A. Yes, I'm going to maintain my home address.

25 Q. Okay, again, this is a standard form that we are

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using again, I'm sure that you've heard this before on television: the right to remain silent and do not have to make any statement if I don't want to. If I give up that right, anything I do say can and will be used against me in a Court of law, I have a right to have an attorney present before making any statement or at any time during this statement, if I should decide I do want a lawyer and I can not afford to hire one, a lawyer will be appointed for me free of charge and I may have that lawyer present before making any statement. Also understand that I have the right to stop at any time during this statement and remain silent and have a lawyer present. Do you understand that?

A. Mmmm.

Q. Okay, do you want to talk to me without....

A. I'm fine talking to you.

Q. Super. Okay. If you would give me your signature there and then after each one of this, just place your initial, look them over.

A. Right here?

Q. Yup.

A. No problem talking to you, any of your..(can't hear)... There you go.

Q. It's about 4:06 p.m. Okay, alright, you mentioned a little bit, and you brought it up about, I guess, your

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feelings of some of the things that are going on with and have gone on with Leroy and I guess what I would like for you to do, Michelle, just tell me a little bit of it or actually, tell me a lot about what's happened and well maybe what led up to it and certainly there's been probably several things over the years, but.....

A. Oh, sure.

Q. ....that the disagreement, the argument that I over heard bits and pieces of there the other day, you know, obviously there's things that precipitated that, you know, you know that, I don't, so if you could.

A. Leroy and I divorced in 1992, ...(can't hear)... involved none ...(can't hear)...no big deal, he remained to be a good father for several years until he met his girlfriend, Cheryl, and that's when a lot of the problems started with the children. I never his visitation or stopped his visitation but his oldest daughter decided to stop going about four year ago. Daniel, being autistic, he didn't force Daniel to go if he didn't want to go. Daniel, up till about four years ago, didn't want to go either. I went to Court, Judge Corning said these children are old enough to decide for themselves whether they wanted to go or not. Not Kimberly, she still visits her father on a regular basis. I've had problems with Leroy because of his

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3 not being there as a father. He'll try to pin that on me  
4 but his oldest daughter made up her own mind, Daniel has  
5 autism and he just could not make him go and after a point,  
6 Leroy's visits, his visitation with me was to call me on the  
7 phone, tell me with he's picking up Kimberly from school  
8 and that's it and it's once a week for four hours, that's  
9 what it's always been. Several months prior, back in the  
10 CSEA meetings, a committee of special education meeting we  
11 went to with Dan and if you really want to know ..(can't  
12 understand)...involvement with Dan, you need to talk to  
13 Clair Colella and the special ed people cause that's who Dan  
14 and me and those are the people that connected ...(can't  
15 hear)... Bob and I took care of Danny and the kids. Bob  
16 and I raised them. I met Bob, we've been friends since we  
17 were 15, we went ..(can't hear)...together, we broke up  
18 young. When Leroy left in 1991, Bob had a room in our  
19 house and we started a romantic relationship probably a  
20 year later, got married in 1995 and Bob has been the one  
21 there that has been the father figure and done everything  
22 for the kids and helped with Dan, but the incident that you  
23 witnessed was several months before, several months before,  
24 probably back in May, we had a committee of special  
25 education meeting for Dan and I've been involved with all  
of these meetings and the teachers every day, I wrote a

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3 journal to discuss Dan's needs for next year, what was  
4 going on and he was having some puberty related behavior  
5 problems with his autism and I wanted to take him to a  
6 physician, Leroy didn't like my choice of physician, he  
7 wanted to take him to a different physician, so instead of  
8 cooperating with me, I know what Danny's problems were, the  
9 teachers knew, we had to get some behavior help right away,  
10 some medication help right away. Leroy wanted to take him  
11 to a child psychologist-neurologist, you know. Danny's  
12 autistic and would have problems here, so he, at the  
13 meeting, he came out after the meeting of special education  
14 meeting in front of the teachers and threaten to report me  
15 to child protective, which he did. He filed a report on me  
16 to child protective...

16 Q. He, meaning Leroy.

17 A. Yes. He alleged medical neglect and I was placing  
18 my two older children in danger because I was always honest  
19 at these meetings and I sat there with the teachers and  
20 everybody around me like a support group and I told them,  
21 I'm having trouble here, Danny's becoming violent, I need  
22 some help, I need to do this, I was always honest. Leroy  
23 never, I didn't have any phone conversations with him, we  
24 never spoke other than picking Kimie up for visitation.  
25 Well, he reported me to child protective, child protective

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3 came out, we went through the hold rigmarole, they did what  
4 they had to do and he did, what do you call that, un-  
5 warranted?

6 Q. Unfounded.

7 A. Unwarranted, that, there is no medical neglect  
8 and that, my children were being taken care of .(can't hear).

9 Q. And when did that happen?

10 A. Probably May.

11 Q. I got an appointment with Danny's neurologist in  
12 June or July, I can't remember which one, but we did, we  
13 went to a new neurologist in Syracuse, he put Dan on another  
14 medication and ..(can't hear)...June and July, Dan's  
15 behavior's became severe to where every day he was hurting  
16 me and was traumatizing my little one, but he was, his  
17 seizures became worse and that's when ... (can't hear)....  
18 who loves me, of course, ... (can't hear)....you've got to  
19 do something Shelly, cause the Sheriff's were called twice  
20 to my house because the only way to stop him was to bring  
21 a male figure in and he stopped and when they came, you can  
22 talk to your own Sheriff, they'll tell you how resistant I  
23 was for them to interfere at all.

24 Q. Sure.

25 A. But, he was a safety danger at that point, so I  
ended up calling the neurologist back and ended up putting

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3 him on two medications. I ended up having to monkey with  
4 meds and experiment to get him in line but the same time I  
5 was in contact with the lady down at one of the Chapters  
6 to help me find, maybe a program, a behavior modification  
7 program more suited for Dan, the idea being Danny needs  
8 some help here with his behavior, he needs some medication  
9 management, I probably can't do it, I'm his Momma taking  
10 beatings from this kid. I need to put him in a program for  
11 three months, six months. They can teach him, medicate him,  
12 bring him home to me safe because he was getting to be where  
13 he wasn't safe; however, I got all the information, I never  
14 followed through because the medication helped, both the  
15 meds and for six weeks after that I had peaceful days with  
16 Dan, so I was on the right track with the medication and  
17 that's what I wanted. I did not want to send my son away.  
18 I would fight it with all my being but I had two little  
19 girls here crying every day, witnessing this and I was  
20 afraid for their safety too and I thought... (can't hear)  
21 teacher, he said Shelly, you know, he's just going through  
22 his autism now, his puberty and you need to get some help,  
23 you need, there's programs in Canandaigua, there are  
24 programs in Rochester that can help Danny, just geared for  
25 these children. The hardest thing for me to do was to send  
him some where else, I've had him all my life.

*how about Danny  
needs*

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3 Q. And I am not familiar with the symptoms of an  
4 autistic child, you are, can you, so that maybe it will help  
5 me understand a little better, what it is that you had to  
6 deal with with Danny. Can you tell me what his symptoms  
7 were and things that happened and how it effected, how it  
8 effected you and the girls.

9 A. Well, autism is a, okay, Danny was not, they're  
10 non-verbal, they are not able to communicate very much,  
11 although Dan could. He has...(can't hear)...he was able to  
12 talk to me at times, tell me peanut butter-jelly sandwich.  
13 He expected ...(can't hear)...but he was very much, if you  
14 had met Dan, he would pretty much ignore you, he was in his  
15 own type of world, he'd like to run and play and do things  
16 like that but autism is where they withdraw into themselves  
17 and it's hard to reach these kids, it's hard. Danny was...  
18 (Can't hear)...functioning because he had so much love  
19 around him, he knew his Mom, he knew his sisters, he knew  
20 his home and he loved it, but when he hit puberty, something  
21 chemically happened with all the chemical changes. Dan  
22 always had behavior problem even from being really little  
23 but we had the support of teachers then. He hurt a teacher  
24 in sixth grade, gave her a concussion. This is when I first  
25 put him on medication. I got my, I did medication him up  
until sixth grade and he needed medication because he had

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3 violent tendencies. I never seen it pressed toward me till  
4 the last year and I couldn't understand why the one person  
5 who loved him the most, he would become violent with and  
6 what I was dealing with severely, I would tell him I work  
7 around him, I'd leave work for him all the time and I'm  
8 make sure I was here. Bob and I worked separate shifts so  
9 someone was always there to care, not for my girls, but for  
10 Dan, to make sure there was always an adult present, but I  
11 was facing the last several months, up until August when  
12 things improved, more beatings. He would come in the door  
13 and just beat me for no reason and this was how he was,  
14 you couldn't stop him. Being autistic, he had what they  
15 call rage attacks, he'd go off for no reason and if he was a  
16 normal teenager, you know, you'd beat the hell out of him  
17 back or you'd go send him away, but you can't do that with  
18 Danny, he doesn't understand what he was doing, he was in  
19 a violent rage and I was the person chosen to be beat on  
20 and he'd pick up every object, he'd hit me with objects and  
21 I could not defend myself, I could never bring myself to hit  
22 him back so...(can't hear)...I tried, I tried to defend  
23 myself by hitting him back. It only infuriated and made  
24 it worse so the Sheriff stepped in ...(can't hear)....  
25 Autism is hard, they're non-verbal, they're in their own  
world, they are, you really have to do a lot to draw them

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3 out. He only eats specific foods and, you know, he couldn't  
4 bath himself or shower himself cause he didn't like to  
5 feel things in his hands and things like that, but yet,  
6 Danny was different because we went to Block Buster every  
7 week and ... (can't hear)... McDonalds and I took him every  
8 where with me. I just took him into the community, but June  
9 and July were very tough and I had no support from Leroy,  
10 even when I told him, Kimie is traumatized, Melissa was too.  
11 ... (cant' hear).... Kimie would run and cry and I told  
12 Leroy, I said, Kimie is traumatized and not once did you  
13 offer, not once, to say I'll take Kimie out of this  
14 situation, I'll take her overnight, I'll take her for a  
15 weekend, I'll take her for a day, not one time.

15 Q. Sure.

16 A. So, when he came to the scene, the next day after  
17 Danny's funeral and I had his ashes and when he came out  
18 there and the first words out of his mouth were how in-  
19 appropriate my family was at the services and my mother  
20 granted you, because we know you already had no relationship  
21 with Dan and his parents had no relationship with Dan, my  
22 mother could not acknowledge them and that's just the way  
23 she felt with that. I acknowledged them but when Leroy  
24 said that how inappropriate we were, everything just came  
25 out, the fact that #1, after a child dies, that does not

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3 make you the loving father and the loving grandparents,  
4 that you weren't here to help me, all you do is make things  
5 hard for me, you didn't help the girls and that's what....  
6 (can't hear)..... I had no support from Leroy and when  
7 you talk to him, you're going to, he can tell you about  
8 things when Danny was 5 and 6, but he really has no  
9 knowledge from the age of 9 up, he just was not...(can't  
10 hear)... Things were improving thought, we were doing good,  
11 Dan had been non-violent for about six weeks, the meds were  
12 on track, I was due to meet his teacher, we were going to  
13 go school shopping and that day I bought him a toy, we ...  
14 ..(can't hear)...to Video King and, you know, things were,  
15 he was back to being, you know, the big guy that I loved so  
16 much. You know, I still had to shower, give him a shower  
17 every night and I probably, I probably take some neglect of  
18 my girls because I had to care for Dan first.

18 Q. Sure.

19 A. And that's just the way you do when you have a kid  
20 with special needs, it's just what you do and there were  
21 certain routines, they followed routines, they have certain  
22 rituals and routines. He had to go to bed with his two  
23 pillows and his radio and I had to kiss him. Just things  
24 like that that you didn't break with Dan and you become used  
25 to it and you become, build your life around it.

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3 Q. I think that you had told me that that Saturday  
4 that you had gone shopping with Kimie.

5 A. Friday.

6 Q. Yes, that's right. You had gone shopping with  
7 Kimie and got home and that Bob had watched Danny while you  
8 were away shopping and you got home. Can you tell me again  
9 what, from the time you get home, I guess and there  
10 obviously there's a time that Robert leaves.

11 A. Bob, yea Bob had separated amicably a week before  
12 and we had known this, we planned it this way at the end  
13 of August. Loved the man, was not in love with the man  
14 and I wanted him to be happy and so, you know, but he still,  
15 he loved my children and one of the things that we agreed  
16 on was he could back here every day while I went to school  
17 and cared for Dan, especially around the summer, with Danny,  
18 when they weren't in school. When they went to school, then  
19 I wouldn't have to have Bob come out cause they were in  
20 school. Friday was Melissa had her big concert she had  
21 been waiting for so ... (can't hear) ... had picked her up to  
22 take her to the concert and I went to school and come home  
23 from school and I picked up Kimie and Bob stayed with Dan  
24 for the day and we shopped and probably got home, I would  
25 say somewhere around the area of 6:00 o'clock and then Bob  
left and gave him his kiss and hug like he always did and

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3 I had taken the kids to Video King to rent some videos.  
4 Dan wanted to get a toy, so he had been good so I said,  
5 since you've been such a good boy, we'll go to Cayuga Toy  
6 Store and you can have a toy, bought him toy, came home and  
7 we had pizza and Danny was self-sufficient too, it's not  
8 like I had to watch him every minute, I had to be there but  
9 he swam and I think he went in the lake two or three times  
10 that night because every time he goes in the lake, he comes  
11 out and I have to change his clothes, he won't stay in his  
12 wet clothes, you know. Well, somewhere around the area  
13 after that, Danny was swimming, Kimie was playing with  
14 Abbey, next, a couple houses down and I had a whole load of  
15 clothes to fold, so, I put on the fan, the ceiling fan in  
16 the dining room, it was hot, started to fold the clothes  
17 and I'm folding the clothes and then, I think what got me  
18 to look up was I hadn't turned the fan on for a while so  
19 the dust started to come up...(can't hear)...and I looked up  
20 and that's when I thought it was going a little slow and  
21 that's when I clicked it off and I clicked it back on and  
22 it back to the regular speed again and I just continued to  
23 fold some clothes and then Dan came in and I had to change,  
24 the first water change and give him his dry clothes and  
25 towel and when I went back to the table again, it looked  
like it was going really slow so I said, okay, the fans are

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3 on in the house and the two fans are on and I've got a  
4 radio going on and I've got this going on. I really don't  
5 know much about circuits or maybe I'm over loading some-  
6 thing, so I went to the stairway and clicked the power off  
7 to the fans and I continued as usual. Danny swam a couple  
8 times, he came in. He wanted to watch the cartoon network  
9 line up, Friday night line up which he loved so much, so I  
10 let him stay up an extra half of hour and Kimie played with  
11 the neighbor till 10:00 o'clock, I called her home and I put  
12 Dan to bed about 10:15-10:30, I said, come on, you've got to  
13 go to bed. He always was good about going to bed as long  
14 as he had his pillows, the usual routine upstairs, give him  
15 a kiss, hug, you know, no school tomorrow, Mommy and I said,  
16 no school, put him to bed and then Kimie to bed and I told  
17 her I'd be back in a little while because, she had been  
18 sleeping downstairs quite a bit during the summer, it's  
19 cooler downstairs plus the incidents we had with Danny, she  
20 just felt a need to be with me and Mom, so she always slept  
21 on the back porch on the pull-out couch and I normally would  
22 sleep in the bed, but today since we wanted to do a mother-  
23 daughter thing and it was hot, Danny had previously broken  
24 my bed frame, I had a full bed but Dan liked to bounce when  
25 he was watching the VCR tape and my frame broke so I had, I  
was stuck with a twin and Kimie and I can't fit in a twin

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3 so I told her, you know, go on out back, watch tv for a  
4 little while and turn tv off at 11:00 and Mom's got to  
5 finish up some dishes and (I talked to Sue on the phone  
6 briefly between the hours of 10:00 and 10:15, 10:30, after  
7 I put the kids to bed for about 15 minutes and I told her  
8 I was going to finish the clothes and fold what I hadn't  
9 folded and wash the dishes and around, I would say around  
10 quarter to twelve, locked up the house, flipped on the fans  
11 again to cool the house down and I laid ... (can't hear)....  
and that's all. )

12 Q. Which ones of the friends was it that Kimie went  
13 over to?

14 A. Abbey, Abbey Con... a couple houses down.

15 Q. When you say down, you mean south, looking at the  
16 water?

17 A. That way.

18 Q. So to the left, you're looking at the water?

19 A. Mmmm, yea, and the people at camp got a kick out  
20 of me cause I was yelling for her, cause the kids don't hear  
21 you unless they want to hear you.

22 Q. Sure. I have those myself.

23 A. Kimberly, your mother's calling you and I've ....  
24 (can't hear)...normally I put him to bed 9:30 but I don't  
25 know what the cartoon line up is on Friday night, but there

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3 was something special coming on, power pump girls or some-  
4 thing between 9:30 and 10:00, he insisted on watching that  
5 so (Sue said, are you putting him to bed, I said, no, he  
6 wants to watch this whole thing and it's a warm night and  
7 it's summer time and we don't have very many summer days  
8 left so I'll let him watch it.)

9 Q. And he did that down on the back porch?

10 A. He loves the back porch. Wouldn't let me put the  
11 sofa sleeper back in cause he just loves that thing, yes.  
12 He watched the line up back there and we used to drag my  
13 fan out of that bedroom and plug it in back there and he  
14 had the boom box going, he had the radio, the boom box and  
15 the fan at the same time going and I was like, so.

16 Q. Did you have, were there, did Danny act out at  
17 all that night, from the time you got home from shopping,  
18 did you have another incident with him, I thought.....

19 A. With Dan?

20 Q. I thought you had mentioned to me the other day  
21 that there was an incident?

22 A. There was a, he got a little irritated with me  
23 about changing something on him. Well, the incident that I  
24 had with Danny that night was nothing compared to what I'm  
25 used to, it was a, what did he do, he give me a slap on the  
butt and I looked at him and I said to him, Danny you've

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3 been good for six weeks, you really don't want to start  
4 doing this now, do you honey, and he said, I love you Mom.  
5 It calms quickly, it wasn't an escalated incident where I  
6 needed any type of ... (can't understand)...at all.

7 Q. Mmmm.

8 A. Because I hadn't seen it in six weeks and he got  
9 a little irritated because I changed his channel and I got  
10 slapped and I think I got a towel thrown at me and then I  
11 turned around and I confronted him and this time, he just  
12 stopped. And these are things that I've dealt with Danny  
13 for years. I mean, he's always been a little pinchy or, you  
14 know, he might come up and sniff my hair, but the severe  
15 violence I saw before I put him on the combination of  
16 Respirdol and Maloril, that calmed him. I hadn't seen that,  
17 I wasn't afraid of that, no, and we had a wonderful night  
18 and went to bed just like he always goes to bed with a kiss  
19 and his pillows.

19 Q. Was Kimie home when you and Danny had the.....

20 A. Mmmm.

21 Q. So she had come home when....

22 A. She was home at that time. I can't remember  
23 exactly what time it was, whether it was from 6 to 7 or 6  
24 to, well, she went over to Abbey's somewhere between 7:30  
25 and 8:00, I don't remember, she stayed over there for

1  
2 several hours, yes, she was home and she did run upstairs  
3 cause she hadn't seen this and her reaction when Danny got  
4 angry. Danny did yell a lot, the neighbors will tell you,  
5 Danny was loud, he would be like a deaf child, Ah, Ah, Ah,  
6 Ah,, but when he got mad, typically out of his mouth would  
7 be, shut up, Mommy ... (can't hear)... maybe a little angry  
8 and then my decision is do I jump in his face or do I step  
9 back and let him be, and this night he started to get, she  
10 was with me on the couch, actually, when he got angry and  
11 he came and he hit me once and she immediately bolted and I  
12 thought, we're not going through this again. I will get on  
13 the phone, I will call the Sheriff, they will come, they  
14 will stop this if this happens, but I didn't expect it  
15 because I hadn't had it, for six weeks I hadn't it, he'd  
16 been calm and there hadn't really been an incident. He did  
17 get agitated that night, but it stopped within five minutes,  
it was nothing that I was used to having.

18 Q. Do you, ... (Tape cut off just before end of Side A)  
19

20 TAPE #1 - SIDE B - September 21, 1999  
21

22 MRS. DAVIS: I would never permitted it, at that point  
23 I would had to have him removed from the home because, as  
24 his mother, I'll take it, I love him, I'll take it....

25 MR. MCLLOUD: Sure.

1  
2  
3 A. But never would I let him hurt his sisters, I  
4 mean, I can't say he hasn't swatted them once or twice but  
5 nothing, nothing. They would be priority to me if he would  
6 ever hurt them and I place them second and third behind him  
7 all the time. No, I wouldn't allow that, ...(can't hear)..  
8 ever.

9 Q. How about, how did, how did Bob and Danny, how did  
10 they hit it off, how did they get along, can you tell me  
11 a little bit about that?

12 A. Danny had, oh, yea, Bob and Dan had a really good  
13 bond and I'll tell you one thing, Danny knew that Bob  
14 wouldn't take his crap and Bob is a man and he was the  
15 authority figure in that house and all that Bob had to do  
16 was raise his voice and Dan would stop. They had alterca-  
17 tions maybe twice, Dan tried to pull some stuff with Bob  
18 and all Bob had to do was take him up, cause Bob would take  
19 him and take him in the bedroom, lay in the bed with him  
20 and that was, ...(can't hear)..calm right down. He knew, I  
21 think he feared men more than he feared women, he knew the  
22 possibility that Bob could, I can hurt you back Dan and  
23 Bob has never hurt Danny, maybe swatted him on the butt  
24 once. Usually, all just all you have to do is restrain him,  
25 pick him up and bring him in the room and talk to him ....  
(can't hear)... See, Danny knew this cause when Bob was

1  
2  
3 home from work, Dan would say, oh, no, Bob's not home again,  
4 Bob go to work and no, Bob's not going to work. I think  
5 Dan had respect for Bob he didn't have for me. I'm a  
6 little Mommy and I'm going to let him do this stuff and I  
7 did it. Bob is the one that taught Danny to use the bath-  
8 room, Bob is the one that taught how to dress himself, Bob  
9 was the one who showered Dan most of the time cause he's a  
10 young man, he didn't want Mommy doing it any more.

11 Q. Sure.

12 A. And Bob was also the authority control in that  
13 house because Dan did not act up when Bob was there. All  
14 those incidents I had , Bob ... (can't hear)...first shift,  
15 Bob was not there, Danny would not do it in front of a male  
16 dominant figure, he just wouldn't, maybe he realized the  
17 size difference, the fact that, you know, the crack that  
18 Bob gave him on the ass that one time hurt and he can hurt  
19 you back, Mom can't, but he can and their relationship was  
20 special, I mean, they did have a bond. A lot of times  
21 they were hugged and cuddled together and a lot of time, but  
22 he respected, he got agitated and ornery with Bob and he  
23 never pulled a stunt he pulls with me, cause Bob wouldn't  
24 take it, put that way.

25 Q. Sure.

A. Bob's a male figure and would take him up and put

1  
2  
3 him in the room and say, you're going to stay in this room  
4 till you calm down and you're not coming out. If I tried  
5 to do that, Dan would just plow right through me because he  
6 out-weighed me by 40 pounds and I was Mom and he knew that  
7 I would not raise my hand ... (can't hear)... I didn't see  
8 any reason to hit him back, to prove that I could hurt him  
9 back. Sometimes, I wish I could of.

9 Q. How big, how big was Danny?

10 A. 5', say about 5'6", 160 pounds at 13 years of age  
11 and he was built like Leroy, he's stocky and he could of  
12 easily inflicted some very serious, he did, I mean I had  
13 contusions that, you know, I showed to anybody here, they  
14 would think, oh, my God, what you doing and I had the  
15 nurses at the ... (can't hear)... you know, ... (can't hear)..  
16 but it's my son.

17 Q. Sure.

18 A. And you just don't give up on your children until  
19 you've tried everything you can try and I was hoping the  
20 medication would work and it did, it did, that's not to  
21 say on the last night of my son's life, when I thought....  
22 (can't hear)... agitated that I wasn't scared again, but I  
23 had a clear head this time, I had people in the community  
24 an agency that was going to help me and maybe that would of  
25 been the push I needed cause the Sheriffs couldn't push me,

1  
2  
3 my mother couldn't push me, Bob, Sue, nobody, as much as  
4 they said, Shelly, you need help and you need to get him  
5 help, you can't keep doing this, you can't keep getting  
6 beat here, ...(can't hear)... I still wouldn't of ...(can't  
7 hear)..a damn thing, it's just the way I am and I think  
8 when he agitated that night and I thought, okay, I'm alone  
9 now, there is no Bob come into the house, but I don't have  
10 a male figure here, maybe Dan senses that, if it's going  
11 to get really violent again, I'm going to get the help I  
12 need and if that means placing him for five months in  
13 Canandaigua in the school for autistic children, then they  
14 teach him, you know, home is home, Mommy ...(can't hear)...  
15 will teach him behavior modification...(can't understand)...  
16 but if I needed to remove him from my home for a short  
17 amount of time to get him help, I would of done it, I think,  
18 if I had the resources to do it and I had people willing to  
19 help me, I had agencies willing to help me do that.

20 Q. Can you tell me a little bit of yours and Bob's  
21 breaking, you say that it was....

22 A. Amicable.

23 Q. Amicable and planned.

24 A. Mmmm.. We were to get, when Leroy left me in 1991  
25 or 92, I was, I was a very young, three children and Danny,  
and I was probably afraid and Bob and I had always remained

1  
2  
3 very good friends and always good friends and best friends  
4 I can tell you, if I married him for the wrong reasons, you  
5 know, if I married him ... (can't hear) ...

6 Q. That you married Bob?

7 A. Bob. I could say that I was not in love with him,  
8 I do love him and he's like a best friend to me, but at this  
9 point in our relationship, like last year we had been  
10 strained, our relationship had been strained, we were  
11 drifting apart a little bit and I felt that, I know, he  
12 wasn't happy and I wasn't happy the way things were going,  
13 not that we didn't love the kids or even love each other  
14 but we weren't in love so, he needed to get financially  
15 things together and I wasn't, I'm not one to kick someone  
16 out on the street that stayed with me for 9 or 8 years, so  
17 we made an agreement. We've been living together in the  
18 house, he would care for my children when I went to school,  
19 I would care for Christopher when he came every other week-  
20 end, we would watch it, we would be like best friends,  
21 roommates and at the end of August, he would leave to go to  
22 his own apartment, we would separate but that's how it  
23 remained and that's why it was planned, but we're still very  
24 good friends, my daughters with him now.

25 Q. Sure.

A. I mean, we remain very good friends, we just are

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2  
3 not in love with each other. We had separate bedrooms, we  
4 didn't have a sexual relationship for the last year, we had  
5 separate bedrooms and a lot of that was earlier because due  
6 the fact that he snores like a bear and I need the sleep,  
7 but my kids loved him and, you know, I love him as a person  
8 deeply and we're very compatible as friends, we just are not  
9 as husband and wife, we just are not, so I want you to be  
10 happy, and, you know, I was actually looking forward to,  
11 when he moved, I went in there with Dan and we painted, Dan  
12 got on the floor and played with a stick while I painted the  
13 room cause my intention was to move into the bigger room  
14 downstairs and I had another room set up for the kids if  
15 one of them wanted to sleep down, including Dan and have  
16 that be a ... (can't hear)... but wonderful guy, just not  
17 for me and, you know, I can't tell you why things didn't  
18 go well/or why the last year was the pits in our relation-  
19 ship, our personal relationship, well, we still continue  
20 to be very good friends and always have been since we were  
21 15 years old.

22 Q. One of the things that we had some, actually a  
23 couple of things that we had some information about and....  
24 (can't hear)....and again, you know when things like this  
25 and a lot of things happen but the rumor mill runs and those  
things but there was information that had come to us, both

*what about  
Darry needing  
a male figure*

1  
2  
3 that either Dan, er I'm sorry, either Bob or you, one or  
4 the other of you or maybe both, had had a relationship  
5 going with a different person, you know, another individual  
6 and that it wasn't going to work out and that was the  
7 reason that you and Bob split up, and again, I'm just asking  
8 if there's anything like that, if that....

9 A. I don't know if Bob has a relationship going with  
10 someone, it wouldn't bother me if he did, okay. There's  
11 big rumors, rumor mill, about me and questioning of my  
12 sexuality and whatever, but I can honestly tell you that Sue  
13 and I have been friends for nine years, best friends, she's  
14 like a big sister to me, we have no sexual relationship  
15 going on, ..(can't hear)...rumor hill has...(can't hear).it,  
16 between you and, this is between you and me, right.

17 Q. Yes.

18 A. Between you and, I'm telling you information  
19 that's probably not my business to say, but Sue happens  
20 to be a gay lady and she's my best friend and, of course,  
21 if you're a straight woman with a gay best friend, people  
22 are going to assume that there's a relationship there that  
23 there's not.

24 Q. Well, let me tell you this, what your sexual  
25 preference has no bearing to me or....

A. Okay. But Sue and I are not having a relation-

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2  
3 ship, we're just really good friends, but that's all the  
4 crap that hit me in the face too, because we have been very  
5 close friends and she's been like the older sister I haven't  
6 had, but people around that they know of Sue's sexuality,  
7 and see me with her, are going to say that Shelly and Sue,  
8 Shelly's leaving Bob for Sue and that's not the case. I  
9 know that Bob has, I know that he's been seeing someone  
10 and it doesn't bother me, it doesn't implicate me, in fact,  
11 I'm happy. / I would be happy if this person made him happy.

12 He may not want to share that with you, but I'm telling you  
13 that for a couple, I think a couple months that's been on  
14 and as long as it makes him happy, I'm happy with it, we  
15 will be divorced but, you know, it had no effect on how he  
felt about my children or how he dealt with my kids.

16 Q. That was one of the other things that we had heard  
17 was that the strain and certainly the environment that you  
18 and your family lived under every day with Danny's autism  
19 and all those issues that you've told me about, that Bob  
20 had gotten to a point that he just could not deal with it  
21 that any more on a daily basis, not that he wouldn't be  
22 there at different times to help you but that he couldn't  
23 deal with that on a daily basis and that that was one of  
24 the reasons that you people had reached the amicable  
25 agreement to, and I mean, if that's part of it, that.....

1  
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3 A. Bob and I sat down like two adults and agreed  
4 that we weren't in love with each other, simple as that.  
5 He still, even in the end, offered to stay, to live with me  
6 for how ever long I needed to. (I'm the one that had to put  
7 the big knife in and say it's time for you to go.) We agreed  
8 on the end of August, but he said, Shelly, you don't have  
9 a job, you don't have this, you know, I said, I'm doing  
10 good, I have, I'm okay financially, I've been paying all  
11 my bills, I'm fine and my parents are going to help me out,  
12 I said, you need to go. I had to push him to go, so, no,  
13 it's not like he was at the end of his rope with my kids  
14 or any of that. He might of been tired of my crap, cause  
15 you know, we were good friends but I snot at him he would  
16 snot at me, it was time for him, I felt that he wasn't  
17 moving as quickly as he should of been moving, he wasn't  
18 getting financial things in order as quickly as the time I  
19 had given him to do it, cause at time I put no financial  
20 burden on him, I didn't ask him for money to help me with  
21 bills and I did and he gave me so much for groceries but  
22 that's all, I wanted him to be able to leave the house  
23 with something, not with nothing.

22 Q. That's my understanding, he had gotten laid off?

23 A. He got laid off the week that he left, yea, he  
24 was gone already.  
25

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2  
3 Q. And where was he working?

4 A. McQuay(?) McQuay, he just got laid off there and  
5 I felt bad, you know, ... (can't hear)... have him come back,  
6 no, that wouldn't be beneficial for anybody.

7 Q. Had he been at McQuay for a while?

8 A. A couple years.

9 Q. And during that time frame that you're together  
10 and he's working, he's not helping you support the household  
11 financially?

12 A. The last six months, but that was by doing.

13 Q. The last six months he was or he wasn't?

14 A. He was not, because we separated account, this is  
15 all stuff we did to prepare, this wasn't a fast acting  
16 thing, this was long time coming and two adults planning  
17 amicably because I could of said, get the hell out with  
18 nothing, but I wanted him to have something and I needed him  
19 there to help me care for the children, Dan, while I went  
20 to school and it just worked out good. We hardly saw each  
21 other anyway, you think about. I worked morning, he worked  
22 3 to 11 shift for several years. That last time he worked,  
23 he was working 4 to 2:30 in the morning so, our involvement  
24 with each other was minimal anyway, but he was always there  
25 for the kids and always, he was the one that got him off to  
the bus in the morning and I worked and we work out very

*every had only been  
good for last 6 weeks  
yet they planned this  
in a long time even though  
only Bob could handle Dan*

1  
2  
3 well as roommates, but not as husband and wife, and it was  
4 amicable, a very amicable split, there was no brawls, there  
5 was no intense fighting, we never had any, it was the way  
6 the time frame and the summer. The kids were going to go  
7 back to school this week, that following week and I had it  
8 all set, I knew how I take Melissa and Kimie, Danny would  
9 be going on a separate bus and I would go to school, cause  
10 I planned to go to school till the end of October then I  
11 would seek employment. Right now I'm getting, I've got a  
12 good severance from United Health Care, I have full un-  
13 employment right now, so it's not like working making as  
14 much money now as I would be working a full time job. I  
15 have child support coming in from Leroy, I was making my  
16 bills, I wasn't behind in any bills, I mean, things were  
17 okay, so, that's why at the end of August was the time for  
18 Bob to go and for me to really stand on my own two feet and  
19 Danny was calm and the incident we had that Friday was the  
20 ..(can't hear)...it might of been a little keep your eye  
21 open Shelly kind of thing. If he starts to act up again, the  
22 first thing you do is call a doctor back and we need to put  
23 your medicine. I wasn't done trying different medicines,  
24 you know, I had only been to one to two, I would of tried  
25 every med and could of before I would, but then I was, I  
could sought help from agencies to help me, no doubt about

*you filed  
Bankruptcy*

1  
2 it, especially with him.....

3 Q. How about the medication, let's talk a little bit  
4 about that, and you told me that was a couple months ago  
5 that, or maybe not that long ago, that the doctor prescribed  
6 it.

7 A. July, middle of July, I believe. He had been on  
8 Maloril(?) since he hurt his teacher, Maloril is one of the  
9 meds. He had been on Maloril since sixth grade. When I  
10 first took him to the neurologist, after a while he had  
11 become immune to it because he got bigger, it just wasn't  
12 quite effective and went into puberty, that chemical thing  
13 and he...(can't hear)...like I said, loose control. Danny  
14 had lost control of his ability to control himself, his  
15 rage, against, you know, when you're autistic, you pick one  
16 person and that's the person who will receive that and it  
17 happened to be. Good, I'm glad it was me because it  
18 couldn't be my girls or..(can't hear).. But I complained  
19 about that at the meeting and I knew about his violence  
20 and we all concurred and Eric, his teacher, and I told him  
21 we have to try different medicine, but I need a neurologist,  
22 I don't need the family doctor and so we went to the family  
23 doctor and he said you don't need a diagnosis, Danny's  
24 autistic, you don't need all these tests, you're here to get  
25 him help for his behavior. Thank you, I am, let's try

1  
2  
3 Resperdol(?). So he put him on Resperdol alone and I had  
4 some horrible, that week I had not good experiences with  
5 Dan but since, the Sheriffs came, I ended up calling him  
6 up and he said, put him on both, Maloril and Resperdol, a  
7 mixture. I'm not a nurse, I really don't know what I'm  
8 mixing here, ...(can't understand)...me how to do it and I  
9 bought the pill crusher and every morning after, Bob would  
10 give him his dose every morning and I'd give him his dose  
11 in the afternoon and it worked, it worked. It worked for,  
12 I wouldn't even consider the little incident I had that  
13 Friday as anything significant, that I hadn't been used to  
14 for many years.

14 Q. But it was the first time that you had.....

15 A. Seen it for a while.

16 Q. Had you started to switch the medication or the  
17 combination of something?

18 A. I mean, don't get me wrong, I have little pinches  
19 and stuff, but that's just Danny's position, and give you  
20 a little pinch or he'd sniff my hair, but he'd go away and  
21 he'd stop, that's normal for atistic people, but, the night,  
22 Friday night was the first time he had come to hit me with  
23 his fist, I hadn't seen that in a while, no, and then I gave  
24 him his medicine, because I knew, I probably had gotten a  
25 little laxadazel, I mean, he's been so good, I don't

1  
2  
3 remember whether I gave him his medicine on time that  
4 Friday or waited until after he got a little agitated and  
5 then gave him his medication, thought, well, you didn't  
6 give him his medicine, Shelly, give him his medicine, the  
7 night dose..(can't hear)...dose, but.

8 Q. Do you know, was there a differences in the  
9 dosages?

10 A. No.

11 Q. Same.

12 A. Same dose but Resperdol is fast acting, the  
13 Maloril actually is slow, it takes a long time. Resperdol  
14 gets in your body faster and they're anti-psychiatrics and  
15 what they're used for is to block his impulse behavior and  
16 Dr. ..(can't understand name)...didn't have the ability to  
17 control his impulse behavior that's why he went nuts when  
18 he went nuts. He showed me he could control it because if  
19 he wasn't going to, when I looked at him and said, Danny  
20 would you really want to start this shit now and he looked  
21 at me and said, oh, but I love you Mom and stopped, he  
22 controlled it, cause I'm telling you, Mr. McLoud, your  
23 Sheriffs can tell you, June and July, Danny would not stop  
24 for no one, nobody except when the big guys came in the  
25 door, that intimidated him, he knew what the authority was  
and his father would come in, he would of stopped, but he

1  
2  
3 just could not control himself back in those months and he  
4 was a basket case throwing and hurting and the girls were  
5 ...(can't hear).... The incident that Friday, I mean, it  
6 lasted all of maybe two hits and I stared him down, I never  
7 got in his face but I did that night, do you really want to  
8 start this shit, Danny and he just looked at me and said,  
9 oh, I love you Mom and then he just got up and went on the  
10 back porch and I knew enough to stay away, he was still  
11 agitated. He'd do one of two things, he'd go calm down or  
12 he would come after me and he didn't come after me, he came  
13 back after that and said, peanut butter and jelly sandwich  
14 and...(can't hear).... And I called Kimie down, said Kimie  
15 come on, he's okay, it's nothing, but, I saw a fear in her  
16 cause she had seen it, she hadn't seen it in so long and  
17 then she heard him get angry again and then...(can't hear)..

17 Q. Did you mention to me the other day that the  
18 doctor had given, I think you told me, had given you  
19 permission to, depending on Danny's behavior, to double the  
20 doses, was that, was that a full drugs that you would double  
21 them or just one?

22 A. ...(can't hear, some radio dispatch comes in, can't  
23 make it out)...give him a higher dosage of Resperdol, I  
24 couldn't. His old neurologist used to tell me, just give  
25 him more, give him more, I wouldn't do that. No, Dr.

*her  
foul*

1  
2  
3 ... (can't hear)..., not Dr.... (can't hear)..., Dr., I forgot  
4 his name now, when we called him, the Sheriff called him  
5 for me too, he told me to work him up dose, because, you  
6 know, you had to start out a half of pill then go to....

7 Q. They were tablets, the medication was tablets?

8 A.. And I had to split them and crush them and put  
9 them in liquids cause Dan would not take it, a pill, so I  
10 had to, this is what I did every morning. He eventually  
11 should of been on three pills a day, I didn't have up to  
12 full dose yet, I had him up to two and a half, because we  
13 expect every two weeks you could increase, you just couldn't  
14 go... (can't hear)... had him up to, I had him on full dose  
15 of his Maloril but I didn't have him on full dose of his  
16 Resperdol yet. ... (can't hear)... builds him up to the full  
17 dose of that but I remember giving him his medicine after  
18 the incident so, I probably did not give it to him at 4:00  
19 o'clock or 4:30 when I normally would of cause I wasn't  
20 home.

21 Q. Danny knew that you were shopping?

22 A. And Bob gave him the one in the morning so. Even  
23 if Danny has every dose of his medicine ... (can't hear).. it  
24 just would of made him tired, it wouldn't of done anything  
25 major to him. I never got him dopy where he was ... (can't  
hear)... and I didn't want that for him.

1  
2  
3 Q. What were Danny's sleeping habits, was he a good  
4 sleeper as a child of autism, a good sleeper?

5 A. When he was younger, no, he slept wildly, but the  
6 last several years, the last five years, he slept great. I  
7 put him to bed, he wouldn't go to sleep right away a lot of  
8 times, he'd roll around looking, had to have the Nerve on.  
9 That's another thing he didn't stray from, he had to put  
10 on 95.1, the Nerve. He had to have his clock radio fan on,  
11 even in the winter, that fan sound in his room and his two  
12 pillows, those were his requirements and Bob or Mom were  
13 the only ones that could put him to bed, so, he rolled  
14 around for a half a hour, I hear him rolling around but he  
15 slept straight through, never got up and I got up early in  
16 the morning, 6:00 o'clock, but he never, he never during  
17 the night did he ever get up.

18 Q. Did you think that with the medication that you  
19 started there, where you say you were working to get him to  
20 a full dose and you weren't to that point yet, you think  
21 that it was working through the last six weeks? It was not  
22 yet the full dose and then on this particular night you had  
23 the kind of a little relapse anyway in his behavior before  
24 he had gotten, before he had reached the full dosage, the  
25 full dosage.

A. Yea, I mean, no, I had...(can't hear)...August

*Bob was gone*

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1  
2 we had, we didn't have, I can't explain to you just that,  
3 you know, the severe violence and I don't know, I wish you  
4 knew a little bit more about autism but they are, you get  
5 used to little pinches and little, you know, tugs on your  
6 hair because that's just the way autistic kids are. I have  
7 other families that I talk to all the time and they're going  
8 through rough stuff too and so, Danny would be affectionate  
9 a lot too, we hug and kiss a lot but I get the little  
10 pinches every day, so the Friday night incident when he  
11 actually hit me and threw something at me, just put a little  
12 light in my head.

13 Q. And that was the night before the fire?

14 A. Right, just to watch him. Did I give him his  
15 medication on time, is this just a fluke, is something  
16 that's going to start again and I'm going to need to call  
17 my resources for help, cause when I went to talk to the  
18 lady who is an advocate, oh, she's an advocate for families  
19 of children with disabilities. She actually fights for  
20 Dan's right and my rights and she's the lady that I went  
21 to visit who talked about crisis intervention. I'm like,  
22 Jesus, what am I suppose to do, he's, you know, when he gets  
23 violent, I hate having the Sheriff come, but understand  
24 the people around me care about what we had to do, what they  
25 had to do.

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3 Q. Sure.

4 A. You know, so, I was angry at them, how dare you  
5 call the Sheriffs come to my house, you know, what are they  
6 going to do, you know, and the first officer that came  
7 really wanted to take Danny out of the home, the first  
8 night. They really felt that maybe they needed to place  
9 him somewhere to get his medication straight because if  
10 they left him with me, but they came to me and said,  
11 Michelle, it's up to you, you take, and I said, no, and  
12 then the same thing the next time. It was within a week,  
13 I think the Sheriff, two times in a week and they said,  
14 Shelly, it's up to you, you know, we can take him out and  
15 put him in a hospital and they can regulate him and put  
16 ... (can't hear) ... because he ... (can't hear) ... and I said,  
17 no ... (can't hear) ... I was looking more into what was out  
18 there for autistic children and I found a lot, that there's  
19 a place in Canandaigua just for atistic adolescents and if  
20 to place Danny anywhere it was going to be there for a  
21 while, and that's when I had a conversation with his father  
22 and I said, you know, at this time, before he calmed down  
23 and I always told him, you know, I said, he's violent when  
24 you leave ... (can't hear) ..., I said, and I am considering  
25 placing him in a program somewhere for three to six months  
to get him some behavior modification and his meds on line,

*Ever  
called*

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3 so he can return to this family and be safe and that's when  
4 he said, I'll take custody of him and I'm like, you're going  
5 to take custody of a child that hasn't gone with you for  
6 four years, you're not, I'm sorry, Leroy, but you're not  
7 aware of Dan's condition and in my opinion, I think in the  
8 Court's opinion, if I had to fight you in Court on this,  
9 they would say that in Dan's best interest, he needs to be  
10 with professional people that are trained to help him and  
11 help the family.

12 Q. Sure.

13 A. And to teach, you know, because it wasn't to just  
14 to send Danny to this program, it was family, me and my  
15 girls coming to learn how to do things and how to, cause I  
16 always thought I didn't need help and I ended up knowing  
17 that I probably would of needed help in helping me deal with  
18 him and even self defense course to help defend myself, if  
19 it ever got that bad because there's a period they say you  
20 get over this hump and a lot of times they calm down. It's  
21 just something about getting over this puberty period and  
22 some of the kids don't even know their parents and some are  
23 violent and some parents have institutionalized these  
24 children from when they were babies, they couldn't deal  
25 with them and then there are people like me and Emily  
Bushnell's mother who just love the kids and have to try

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3 and I hate having my son on medication, completely off  
4 medication, he was 20 times worse.

5 Q. Uncontrollable.

6 A. Uncontrollable and, you know, what he's doing to  
7 me is one thing, what he's going to turn around and do to  
8 you and you're a stranger on the street and you're  
9 irritating him in some way and he hurts you and you guys  
10 are coming to take him from me whether I want you to or not,  
11 and I didn't want to ever see that... (can't hear)...

12 Q. And certainly you had the two girls too, they were  
13 there as well.

14 A. They loved their brother and they ... (can't hear).  
15 Kimie's remark to me after the fire, and it will remain in  
16 my mind all the time, was, Mommy, I wanted Danny to stop  
17 hurting but I didn't want him to die and I said, honey,  
18 nobody wanted Danny to die and we were working on things  
19 to help Danny and they were just so happy that their brother  
20 was non-violent for that amount of time and that night that  
21 got her scared, but she came down, Mommy, that didn't last,  
22 I know honey, it didn't last, now he's fine, Danny's okay  
23 and I had ... (can't hear) ... that I'm okay and it was okay,  
24 he had calmed himself right down and ... (can't hear) ... but  
25 it wasn't, you know, if it had been up to me, .... (can't  
hear) ... living with this to know to watch him cause if he's

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3 triggering up again, #1, you need to call the doctor, you  
4 may need to switch the medication, and guess what, I'm not  
5 a nurse and maybe I shouldn't be playing nurse here, maybe  
6 some professional should be giving him meds and ... (can't  
7 understand)....on them, because I'm playing with fire here,  
8 I'm mixing this and that with this med and hoping that it's  
9 going to effect him the right way and I expressed this  
10 concern to the doctor, said I'm not the nurse, he's having  
11 violent tendencies right now, I will do what I need to do  
12 but if my girls' safety is ever an issue, I said, is there  
13 someplace that will do this for me, he said, well, if it  
14 gets bad again, Shell, we'll admit him to Benjamin Rush  
15 for medication so that can at least get his medication....  
16 (can't hear)...I didn't need to do that.

16 Q. So, you've never gotten to the point where you  
17 actually inquired or made any, I don't know, Michelle, how  
18 it works that you would have to make application to Benjamin  
19 Rush?

20 A. Right. I never got to that point, no. I sought  
21 the help with the case worker and ask him for special  
22 service, Danny didn't need... (can't hear)...and I also has  
23 his doctor know when the situation, cause if I had to call  
24 up and say, look, he's beating the crap out of me again, I  
25 couldn't handle this, my girls can't handle this right now,

1  
2 I'm not a nurse, you know, put him in Benjamin Rush, you  
3 refer him and let them change his meds and watch him until  
4 he, you know, he looked... (can't understand)... I didn't  
5 have to do that.... (Tape cuts off at end of tape)  
6

7 *She keeps repeating I'm not a*  
8 *nurse - It would seem that*  
9 *having to medicate Darryl was*  
10 *to much for her. Why what*  
11 *is the nurse comnet about -*  
12 *Her mother maybe?*  
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1 TAPE 2 - SIDE A - September 21, 1999  
2

3 MRS. DAVIS: And I called in to the doctor for another  
4 medication which is I had to and some help fast, even the  
5 teacher felt he needed some behavior modification and Eric  
6 had had him two years...(can't hear)..

7 MR. MCLOUD: Was he still, was he seeing a teacher now?

8 A. Yea, he was going to summer school. All during  
9 this rough time, Eric and I corresponded and he was helping,  
10 he's the one that got me the name of the, Beth Foreman is  
her name.

11 Q. So what's Eric's last name?

12 A. Corcoran.

13 Q. And he's, where is he?

14 A. He taught at East Middle, Danny, for two years,  
15 Claire Colella was the coordinator at BOCES, I talked with  
16 her too. All these people were involved in all of this  
17 and knew and were there to help me get help and he gave me  
18 that form and she ..(can't hear).... for special children  
19 and their families, protect his right. She's the one that  
20 said, we have Respite come in to give you a break, we have  
21 in-home, we have somebody come in and help you with ....  
22 (can't hear)...., we can teach you self defense, always have  
23 ...(can't hear)...at these places, there's a waiting list.  
24 If you really feel you need, just apply, Shelly, you don't  
25 have to say yes but you can apply to this one facility in

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Canandaigua that's just for these teen age adolescent autistic people and I never, I never even applied.

Q. Did they give you any idea what the, you mentioned a waiting list, what the waiting period was?

A. Six to eight months, maybe a year, but she said to me, in the mean time I was looking to having Respite come in so that once a week I'd take the girls out, just the girls and someone would be there for Dan, Bob was going to come in and be there so that I could, you know, do a couple things with the girls, they had a school event or whatever and this is how we worked it all out, I never really looked outside the community for help, I was going to now, I was a single Mom and I needed some help.

Q. But what was, how did Dan react to new people or strangers, if you will?

A. He was ... (can't understand) ... he would ignore you. Once he became accustomed to you, he might accept you into his little world, which means he would come to you if he needed something, but most of the time, he just, if you saw Danny, you'd think he was a deaf child, you would think he was ignoring you, and he basically was, you're not part of his world. He wouldn't be violent towards you or, you know, you may see him yelling or whatever, but he would just pretty much ignore you like you weren't there. Like, he

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3 might acknowledge, if you happened to be in his way and he  
4 wanted a cup, he might ask you for the cup. Strangers  
5 didn't bother him. Being separated from me did, you know.  
6 ... (can't understand) ... you'd be able to go to the store  
7 without Danny, cause I used to have to take him every where,  
8 but he got, he actually got used to me being able to go to  
9 Wegmans without him or something like that, but never  
10 Wal-Mart.. (can't hear) ... Wal-Mart.

11 Q. And usually when you were able to leave him, you  
12 would leave him with Bob?

13 A. With Bob.

14 Q. Anybody else that you can leave him with?

15 A. Yea, there were times where I had to do things  
16 later at night, I had to go to the store. As long as he was  
17 in bed, Kimberly was in bed, Melissa, she had number where I  
18 was. If I wanted to go meet girls for a beer at the bar,  
19 she's 15 1/2, she knows where I am, Dan's in bed, he never  
20 gets up, that's when I was leaving, not, never in her care  
21 when he was awake, other than there were times when I did  
22 work and we had a couple hours over time, I would call  
23 Melissa up and say, honey, I'll be home in an hour, an hour  
24 and a half, call me if you need me and she handled her  
25 brother for that hour, hour and a half, course he wasn't,  
when he got to be very violent or too much, never, never,

*see right*

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3 would I leave him with her, but, during the school year,  
4 yea, a hour during the day or maybe, or when they went to  
5 bed at night on a Friday night, Melissa would stay up and I  
6 would go out and, you know, go the store, go see some girl-  
7 friends or whatever, but that it.

8 Q. So it was going to be one of the, and you already  
9 mentioned the fact that you're now a single Mom again with  
10 Bob being out of the picture on a daily basis, that was  
11 going to be something that you were going to have to learn  
12 to be able to deal with it.

13 A. I felt like a single Mom anyway, though, because,  
14 you know, other than Bob being there, he'd always, he'd be  
15 if I needed something. Basically, the kids were in school  
16 when he was home and they were home with me when he went to  
17 work. So, I basically was the main caretaker of my children  
18 anyway. It wasn't going to be something new, new to me, but  
19 it would be new with not having Bob in the house at all,  
20 which might be new to Dan but for years, Bob worked nights  
21 and I worked days and I come home and he'd come up to school  
22 in the morning but that would be the extent of him seeing  
23 him during the school year plus on the weekends and then I  
24 would be taking care of them all evenings and what I had to  
25 do and I needed Bob to, you know, maybe give Dan a shower  
sometimes, but I still showered Dan when he, you know, he'd

*not what she said before*

*she said she showered Dan anyway*

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3 permit me, I'd still shower him. Sometimes he didn't want  
4 Mommy shower him but his hair had to be washed, you had to  
5 do it, yea, it wasn't like it was going to be a big life  
6 change for me cause I had been used to being alone with my  
7 children, but I was looking forward to being, you know, on  
8 my own, own and not being so reliant but knowing that I  
9 would need help from the community sources available to me  
10 that I didn't know were out there to begin with, I've never  
11 sought help from them. I kind of restricted it to just the  
12 family.

12 Q. How did, how did Dan and the other kids and the  
13 girls, how were they, how were they dealing with accepting  
14 the fact that Bob moved out, that he wasn't going to be  
15 there, how, do you what?

16 A. Melissa was fine with it, she's 15 years old and  
17 she loved him but she knew that we needed to be apart.  
18 Kimberly, I really didn't explain a lot to Kim. She's only  
19 9 years old, I didn't tell her a lot. ( Danny could care  
20 less, because he like it when Bob wasn't home because Bob  
21 was the big guy there, ) you know, so he knew that Mom, a wos,  
22 and if he wanted to go to Block Buster, I'd take him and  
23 stuff like that. ( Melissa was fine with it, with Bob moving  
24 out and being happy. I tell her everything, we talk very  
25 openly about things and she knew we were not in love with

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3 each other and there comes a point where you just don't live  
4 as a convenience any more, it doesn't make either person  
5 happy and I wasn't saying, oh, please stay with me for the  
6 kids, I just, he needs to have his own life and be happy  
7 and I was married young, 17, and it's the first ever that I  
8 would of been on my own, own but for the last six months,  
9 I pretty much have been on my own, you know, because I  
10 supported the family and myself and I Bob was very seldom  
11 home on weekends. In the last six months, I wasn't  
12 restraining, we had an agreement, you know, we knew we were  
13 not, so if he was seeing somebody or not, it didn't bother  
14 me so, these are my children, they were not his children,  
15 you know, even though he loved them and would do anything  
16 for him, they were my responsibility and I had no help from  
17 Leroy so, except for Kimberly, who was the only one of his  
children that go with him, you know.

18 Q. So it kind of sounds like maybe Danny, Danny may  
19 have perceived Bob leaving this, that Danny was going to be  
20 able to run the roost again, if you will. You already said  
21 that he could, that he could.

22 A. Sure, Danny could be in charge if he wants to be  
23 in charge. Mom back, I back down a lot to Dan, you just do.

24 Q. ... (can't hear) ..certainly.

25 A. The tv's on and the girls are watching it and

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3 Dan's wants to watch something, you know, it's like, let  
4 Danny watch it, you know, just not to agitate. You choose  
5 your battles, you know, I'm not going to fight with Danny  
6 over a tv show, that's why I had five tv's in this house,  
7 you know, this is how I got around things. Instead of maybe  
8 forcing Danny at a younger age to learn, and I love when  
9 people say that, you should of forced him to, no, no,  
10 there's no forcing with these children. Anybody who knows  
11 what autism is, knows you don't force these kids to do any-  
12 thing, so instead of a battle over Danny wants to watch this  
13 show and the girls want to watch this show, Danny's wins  
14 because I'm not going to fight that battle, but I did stand  
15 up to him and say, the girls, you know, are doing this and  
16 you need to go on that tv, things like that. I'm not sure  
17 if Danny understood Bob was gone, because he worked second  
18 shift and all Dan would say is it's time to go to work now,  
19 so, I mean, he wasn't there all, you know, all night and he  
20 wasn't there when Dan went to bed, you know, he'd be there  
21 in the morning sometimes and then he'd go to work, so.

21 Q. Did you ever have to, did you ever had conversa-  
22 tion with Dan to try to let him know that things were going  
23 to be changing and that Bob was moving out or?

24 A. I don't think he would of comprehended it.

25 Q. Just kind of let him take note but whatever he.

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3 A. Right, I don't think he would of comprehended it  
4 to be honest with you, I mean, because Bob came back every  
5 day.

6 Q. So he may not have ever realized that there .....

7 A. No, Bob was back every day to care for him and  
8 follow him to school and to bathe him and make him his  
9 sandwiches and stuff like that. Dan respected Bob and  
10 that's why he wanted him to go to work all time because I  
11 am a wos and I did spoil him horribly, all of them,  
12 especially Dan. He had a lot of toys, Mom...(can't hear)...  
13 new toys and then we went to Block Buster twice a week  
14 and had pizza twice a week and this is just what we did  
15 and just things you do and I would of wished that we were  
16 already been more supportive, you just don't force, you  
17 know,...(can't hear)...would go with his Dad, just picked  
18 him up and put him in the car. You can't do that with a  
19 child that big...(can't hear)... He did not want to go  
20 there, he had some resentment in the house from Cheryl and  
21 he just, Dan knew enough to look at me and say, no Daddy's  
22 house and I'd bring it up all the time, he tell his father  
23 to his face, no, no, no thank you and then he'd get a little  
24 agitated, and I would say, please, Leroy, just leave him,  
25 you know, he wants to swim, he doesn't want to go, you're  
not going to help me at all if you're going to agitate him

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3 by telling him he has to go, so Judge Corning ruled that he  
4 didn't have to go...(can't hear).. That incident you saw  
5 was brought on by Leroy coming on to my property ...(can't  
6 hear)....my family as not being appropriate at the services  
7 and I just did not want to hear that, at the time. If you  
8 cared and were so concerned about your children, you should  
9 of pulled your little girl out of here, you should of  
10 offered to take her for a day, for a weekend to get her out  
11 of this situation, you know, you should of and he didn't  
12 not once did you take her, or offer to take her, not once.

*Ken wanted  
every week -*

12 Q. Cause of the things that and I think what I heard,  
13 what I hear you say was that if Leroy, if Leroy had been  
14 more supportive for the last three or four years, that maybe  
15 this wouldn't of happened and I'm wondering what, you know,  
16 what was going on in your mind and certainly I'm not in your  
17 shoes, so and I don't know what you, what's the strains and  
18 the things you've lived under and how Leroy has acted with  
19 you or not been responsible and what you meant by that when.

20 A. I don't remember saying that. I do remember  
21 telling him that at the time, our relationship is with his  
22 son and your children what you make of it when they're  
23 alive. I don't remember saying.....

*Alive*

24 Q. I mean, obviously, you were upset and....

25 A. I was angry, sure I was.....

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3 Q. To put it mildly, yes.

4 A. Oh, I was ...(can't understand)...at him to come  
5 and accuse, his family comes to the funeral and the services  
6 ...(can't understand)...forever and they haven't, they  
7 haven't seen his grandparents in 9 years, they haven't seen  
8 Leroy in 4 years and now come to the services and act like  
9 you've been there for me, but I was angry at him for not  
10 being there for little girls, I was angry at him for not  
11 having a relationship with his son, I was angry at him for  
12 not supporting me, to do all this instead of supporting me  
13 and trying to help me with this, he's calling Child  
14 Protective on me, these are the things that he gave me angry  
15 with Leroy as a father for these kids. Melissa will have  
16 nothing to do with him, hasn't, won't and she can tell you  
17 why herself, but Dan the same way and he came to the scene  
18 at the fire, you were there, I think, and I don't know,  
19 Sheriff Pickney told...(can't hear)...off the property.

20 Q. ...(can't hear)..before I got there I was some  
21 place, I don't know.....

22 A. Cause his immediate action when he gets to the  
23 fire, not knowing anything, you know, he starts to blame,  
24 throw stuff at, I wasn't out there, they wouldn't allow me  
25 out there but say some derogatory remarks about how  
convenient and I would of killed him, I would of killed

*did talk to her  
she refused to  
listen "they are my kids..."  
Neither were they*

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him cause you haven't lived it, you were not on that roof trying to get this child, you were not here trying to do what you could do, you were not my neighbor with me breaking his window and screaming and going in, you were not here and don't tell me, you were never there and that's just, I don't know. I just wanted you to know that there's no ...  
...(can't understand, either love or blood)...lost between me and Leroy, I don't, I've never restricted his visitation, the two older children chose not to go, Kimberly still goes and that she still goes and I don't stop that, but don't come on my property and say after I buried my son, I have his ashes and tell me that we're inappropriate, because it's inappropriate for you to play the loving father when you haven't been there, you haven't helped me. As a father, you should of come to me and said, these are the problems, how do we help this, how do we do this, how do we handle, how can I help you and he just did not help me at all with any of my kids. That's what I was, you know, and I knew he ...(can't hear)... and I just don't like him.

Q. Okay. I've got some diagrams of things that I'd like to go over, do you want to use the restroom, do you want to get a drink of water, cup of coffee?

A. I'm okay. I'd rather <sup>you</sup> just <sup>keep</sup> get going cause I promised to spend the evening with my girls.

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Q. Okay.

A. I know my neighbors are getting tired of looking at that structure ...(can't hear).... Danny's room will haunt me forever.

Q. Okay. This is a diagram of the first floor. I guess what I'm interested in is you, you ...(can't understand)...you know, obviously, you were in the house afterwards, you've been in the and seen the damage that the fire has done to the home.

A. Mmmm.

Q. What I'm interested in, if you don't mind, just take the pen and you had told me the other day about waking up and those things and I guess what I'd like for you to do is, if you would, just kind of show me with a pen where you and Kimie were and what you saw and where you went and what you did just by kind of drawing and I just find it a lot of times that's the easiest way, because you're familiar with the home and I'm really not, other than after the fact and this kind of helps me understand or make sure that I know what it is that you....

A. Kimie and I were here on the bed and there was a radio playing here and two of these windows were open on the back porch and she started to cough and I said to her, what are you coughing for Kimie, do you need a drink of

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3 water and she said to me, it was foggy in there and I said,  
4 foggy and by that time I had got up enough to look and it  
5 wasn't only foggy in here, it was foggy outside, so, I went  
6 over here, the door was shut, the pine door here and..(can't  
7 hear).. opened up the back porch window, the doors shut and  
8 when I opened up this door, I could see that all this was  
9 filled with smoke and I can tell you that it wasn't black,  
10 it was white smoke and it didn't feel hot to me, but I  
11 immediately came back, I ran back in here and I told her to  
12 get out. Go run to the neighbor, tell them that we are on  
13 fire and Mommy needs help, I've got to get Danny. So she  
14 ran out the door to the Nolans house which is right there,  
15 I came back in and I came through this living room down this  
16 hallway and I turned this corner to where my staircase is  
17 and I intended to go upstairs. When I turned this corner,  
18 what had been white here, looking like white, whitish smoke  
19 as far as I could see and it was hard to breathe this stuff.  
20 I was met with black, I couldn't see, it looked dark,  
21 really, really, dark and I could feel, it felt hot at this  
22 point and I put my foot up to step on a stair and I did  
23 come, I felt a stair but then when I put my foot up the  
24 next one, I couldn't feel anything in front of me and that's  
25 when I couldn't breathe so, then again, I ran back out the  
house....

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3 Q. When you mention here that it was hot, that you  
4 felt....

5 A. I felt heat in this area.

6 Q. Do you know where it was coming from?

7 A. I didn't know.

8 Q. Upstairs, down.....

9 A. My intent was to get upstairs, but it was also  
10 dark. Where this was, all I could say it looked like Kimie  
11 had said, fog, I thought fog, but it wasn't fog it was  
12 smoke. I didn't feel heat here, I didn't feel intense heat  
13 so I thought, after I didn't think that I could get up the  
14 stairs, I couldn't see, I couldn't breathe about this point,  
15 I ran back out and I came out of the back.....

16 Q. Did you see any fire when you were in there?

17 A. I don't think so, I don't think I saw flames.

18 Q. I think you mentioned to me the other day that  
19 you thought possibly maybe up at the top of the stairs?

20 A. I don't, I don't know, ...(can't hear)..I know  
21 that it was dark and that struck me off, because here it  
22 looked, I could see smoke in the house. When I got to the  
23 stairs to look up, it was dark and I was wondering where  
24 my skylights, because the light from the moon shines in  
25 the skylight and I couldn't, and normally you have a little  
light and I couldn't see the light. At this time, I was

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3 panicking, I don't know. I couldn't breathe so I ran back  
4 out and I ran out the deck and there's this ladder, ...  
5 (can't hear)...ladder I keep here because Danny used to  
6 like to climb out on his porch window and I'd have ...(can't  
7 hear)..screen back in and at that point in time ...(can't  
8 hear)... and I went to my daughter's window, I must of had  
9 a mind block and thought she was in the room and I put my  
10 hands to her screen and the screen was hot and then I  
11 thought, oh, no, no, no, Melissa's not here, I've got to  
12 get Dan, so I shoved over and I tried to claw his screen  
13 and I couldn't get his screen...(can't hear)...about this  
14 time the neighbors had heard me screaming for help and  
15 ...(can't hear)...was the first thing ..(can't hear)...get  
16 to me and he threw me up, I told him I can't break his  
17 screen and he threw me up a picnic table bench and I ripped  
18 his screen and I don't remember whether I broke his window  
19 or whether I was able to lift his window, but I...(can't  
20 hear)...said where's the ladder and he came up on the roof  
21 with me and I looked at his window and I was not prepared  
22 for the smoke and the heat that hit me out of that room, I  
23 just was not and I tried, I screamed for him and I tried to  
24 go in, but I couldn't breathe so I backed out and...(can't  
25 hear)...reached in and he got out and said he couldn't do  
it...(can't hear)... The roof ...(can't hear)...people

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leaving me here, I need somebody to help me but in the mean-  
time I tried to go in again. I knew his bed was there and  
he was right there, I knew it. If I could just get in the  
window and yell and I've never felt heat like that and I  
cursed myself for being such a chicken and not going in  
there but I could not get in and I kept screaming for Danny,  
felt that he needed to hear me call me to the window and I  
had horrid picture that he tried to get up and..(can't  
hear)....., you know, I just didn't know and my neighbors were  
..(can't hear)..get the hell out ...(can't hear)....from  
that window, I had to get Danny out and then I don't know  
whether the skylights blew up or when I opened his window  
something, I don't know, all I know is a big black something  
knocked me flat. I was at Danny's window still trying some  
how to find the courage or just to be able to get in to get  
him and something blew me back, almost off the roof, and,  
at that point the neighbors had to come, they told me I had  
to get down and the police, the fire department were here.  
As you know, they were unable to get through.

Q. Do you remember, either when you were downstairs  
in the stair way or on the porch roof, do you remember, do  
you remember a smoke alarm?

A. I thought I heard a smoke alarm upstairs, faintly.  
I'm so, you're so full of adrenalin, I don't remember.

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Q. But was there a smoke alarm upstairs?

A. Yes, there was one right upstairs between the two bedrooms, on the wall, between Danny and Melissa's room. ... (can't hear) ... smoke alarm and I know there was one downstairs and it's my fault the battery wasn't in there because the damn thing went off when I was cooking two days earlier and I just plucked it out.

Q. How about the one upstairs, to the best of your knowledge, did the one upstairs work?

A. It was operating, Mmmm, and I don't, I thought I hear my son and I opened his window, you know, I thought I heard him moaning and they tell me not, no way, you didn't hear Danny, but it's just the horrific heat and smoke that came out at me when I opened his window.

Q. But you said you think now that maybe you just opened it, you didn't break it?

A. I can't remember, ... (can't hear name) ... was with me, he might have been able to tell you, I don't remember. I know his windows weren't locked, they never were.

Q. You mentioned a fan, was there.....

A. He had a fan on his stand, yea, next to the, his room was set up where his bed and his little night stand... .. (can't hear) ... his radio and I knew where he was, I had just moved his room around and cleaned it.

*why would  
Danny  
be confused  
if he had  
heard  
what was*

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3 Q. Sure.

4 A. So, I knew that Danny would be on the bed right  
5 to the right of me, just on the right, near to the window  
6 and I couldn't get in the window and I don't know why I  
7 couldn't get in the window except for the fact that maybe  
8 I was chicken shit or whatever but, they tell me, of course,  
9 the firemen tell me that they couldn't get in the window  
as hot as that was.

10 Q. Could you see any fire from there?

11 A. No, I saw black smoke, I couldn't see a hand in  
12 front of me and when I ducked and went in to go in, I  
13 immediately lost my breath, I couldn't, just could not  
14 breathe long enough to even try to get in and I think if  
15 I had gotten in, I don't think I would of came out. Even  
16 that little short span of trying to get him, I don't think,  
17 I probably would of not made it out, but, as a mother, you  
18 ... (can't hear) ... watch your child die in front of your  
19 eyes, you just do not want to do it and the neighbors didn't  
20 want to do it either and.

21 Q. But do you know for sure whether or not you were  
22 even able to get the screen off?

23 A. Yes, I broke his screen with that, yea, I took the  
24 bench and brand it and it broke right off, I pulled it off  
25 and his window, I don't know whether I broke the glass or

1  
2 whether we shoved it up, I don't know. I know I opened it  
3 and I know we attempted to go in there and get him, I just  
4 could not get him.

5 Q. The fan was on a....

6 A. A table, a little table stand thing.

7 Q. That's not the fan that was in the window?

8 A. No. He had his favorite little fan on the stand  
9 that he had on all the time and his radio on to the Nerve..  
10 .(can't hear)... and his window will haunt me...(can't hear)  
11 ... I know when I went to the stairs, they were not, I  
12 didn't feel, I couldn't see in front of me but my foot  
13 wasn't hitting anything, after I went up. The first initial  
14 one, there was something there for me to step on, but after  
15 that, I wasn't hitting anything,...(can't hear)...look at  
16 your foot and there's nothing there and at that time I just  
17 could not breathe, so, I thought, Dan's in his room, there's  
18 his window, I got to get up there and that's where I went  
19 but then he, from his window in his room, there's nothing  
20 like that down here, nothing, in fact, Kimie and I on the  
21 back porch, maybe because the back porch is off the house,  
22 ...(can't hear)...utility room and we had windows opened  
23 for fresh air and this door here was shut, maybe, I mean,  
24 the smoke was coming in to us too and we had been sleeping  
25 for quite a while. It was there and it was outside, cause

1  
2  
3 it was foggy outside, she said so, but there was, there  
4 was no way heat down here, that was up here.

5 Q. How about the heat in this, at the bottom of the  
6 stairs when you were there and couldn't climb the stairs,  
7 you mentioned earlier there was.....

8 A. It was hot, it was hot, all I can tell you is that  
9 I was met, when I turned this corner, it was black and it  
10 was hot and I knew that where ever the heat was, it was  
11 here, you know, I thought it had to be some place here  
12 because it was hot. It wasn't hot here, it wasn't hot in  
13 here, it was hot over here.

14 Q. In that stairway?

15 A. Mmmm.

16 Q. How about the door to the bedroom that was  
17 Robert's, this bedroom here, do you know, would that door  
18 have been open or closed when you went through, do you know?

19 A. I don't know. It was open when I went out to bed  
20 because I had painted that room and so the door was open.  
21 My bedroom door..(can't hear)...were open.

22 Q. Do you remember as you came by here to go to the  
23 stairway....

24 A. ..(can't hear, both talking at once)....

25 Q. Do you remember seeing or noticing anything in  
this room here?

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3 A. No. I just wanted to get through the house to  
4 the stairway, get up the stairs and I know is that it was  
5 really smokey and it was hard, it was hard to breathe  
6 through this smoke, nothing like what hit me up in his  
7 window, which was just black smoke. I don't..(can't hear)..  
8 seen smoke, but down here was white and looked like fog and  
9 up here it was black and hot, like ones hot and ones cold,  
10 I don't know but I knew I couldn't get him this way and I  
11 had to him the other way.

12 Q. Have you even been, you know, been around a fire  
13 before where you've experienced that difference in heat  
14 that reminds you of anything that....

15 A. ...(can't hear)...No, our garage burnt down in  
16 1989 but that was outside, no, I've never, maybe a bonfire  
17 that we had in the back yard, but no, nothing, nothing.

18 Q. Anything that .....

19 A. I mean, you burn wood in the back yard, it's not  
20 black smoke except for what's coming out of his window....

21 (can't hear)...smoke that was black and it wasn't smoke  
22 that stopped me, it was the heat, I just could not get into  
23 the window, you know. I tried a couple times but I just  
24 couldn't do it and that's something I'll live with for the  
25 rest of my life, that I couldn't spare my son what had  
happened to him after wards and I know now, the coroner

*Sony  
Whist 17*

*What is her time  
Side of hours?*

1  
2  
3 has reassured me, ...(can't hear)...fire, the...(can't hear)  
4 ..told me that carbon monoxide takes you quickly and that  
5 Danny did not feel the ...(can't hear) of the heat on his  
6 body and the guy that tried and tried to get him ....(can't  
7 hear)...the best of your guys four hours to get him out.

8 Q. I think that they're, as a parent, there has to  
9 be some comfort to know that.....

10 A. He didn't suffer, yea. I couldn't deal with him  
11 burning in front of me, I just, I could not .....(tape cuts  
12 off at the end of tape)

13 TAPE 2 - SIDE B - September 21, 1999

14  
15 MRS. DAVIS: ...(can't hear or understand, can't tell  
16 if she's crying or laughing and talking at the same time)...  
17 I fell down, because the last I want to do is see a priest  
18 ...(can't hear)...and ..(can't hear)...he was okay and ....  
19 (Cant' hear)...you know, we got him out, he's okay and ...  
20 (Can't hear)..come tell me that and I never got to see him  
21 to say good by..(can't hear, humming sound)... I don't know  
22 why, on a normal basis, all my children are upstairs, I  
23 don't know, I wouldn't know how to be a religious person,  
24 ..(can't hear)...somewhat of a religious person, but my  
25 oldest daughter normally would of been home in her bedroom

*Shuts for  
Aunt*

1  
2  
3 on the computer, Kimie has been sleeping downstairs for a  
4 while, I don't know, I would of give anything to have my son  
5 back with me right now, that home doesn't mean squat, just  
6 to have my son.

7 Q. Sure.

8 A. And ... (can't hear) ... didn't understand that but  
9 I had Danny for 13 years and we've been through ups and  
10 downs and rough and we rode it out and the teachers helped  
11 us and I saw us having a very good future as he got older  
12 and got over this hurdle. | I saw him being very productive  
13 and independent, maybe in a group home or maybe even with  
14 me, but I didn't see myself as having, Dan did do things  
15 independently, he did go to the bathroom by himself, he did  
16 make his peanut butter and jelly sandwiches, we were working  
17 on skills now and once over this rough period, I saw him at  
18 17, 18 being an independent person, you know, maybe he  
19 needed some assistance, ... (can't hear) ... group home but  
20 being, never was the type of child that you had to always  
21 be there, I mean, we were, but it's not that we didn't go  
22 watch tv ... (can't hear) ... either swimming or playing  
23 nintendo or stuff like that and going to Wal-Mart, he bought  
24 a lot of joy to our life too. There's a lot of give and  
25 take here .. (can't hear) ..

Q. Sure.

*Lee + I did  
Mother*

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3 A. He ... (can't hear) .....

4 Q. Do you, the smoke detectors, you say a couple days  
5 before that you had taken the battery out of the smoke  
6 detector downstairs because cooking and that, that happens  
7 all the time?

8 A. Yea. How, you know, ... (can't hear) ... that your  
9 house doesn't burn down, you know ... (can't hear) ... your  
10 child and I did think that maybe then Dan ... (can't hear) ..  
11 had more time.

12 Q. The one on the second floor, you say that the  
13 battery was in that and was operational?

14 A. Yes.

15 Q. And did you have any periodic .....

16 A. I had just changed them the month before several  
17 months ago and in fact, April after I got laid off from  
18 work, you know when Bob was going, he's the only smoker in  
19 the house so I started to do some improvements on my house,  
20 I got new curtains in all the rooms, took down the mini  
21 blinds, painted the back porch, made it my own little  
22 special way, painted my room, new windows for Dan, new  
23 curtains, we were, I was making little improvements in the  
24 house so, the ceiling fan, the one we put up and then right  
25 up in the kitchen and the light fixture and the lantern  
outside on the front porch, I changed that ... (can't hear) ...

*which is it?*

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2  
3 couple months and I was looking forward to having a home  
4 without smokers, you know.

5 Q. Sure.

6 A. And just and I know that we put new batteries in  
7 the smoke detector and I know cause I cursed the damn one  
8 downstairs when it was going off when I was cooking and it  
9 doesn't...(can't hear)...shut up and normally I always put  
10 it back in but I was just distracted and did not and I'll  
11 live with that for the rest of my life, whether that would  
12 of made a difference, woke Kimie and I up a little earlier  
13 maybe, I don't know.

14 Q. And how long, how many days before that was it in  
15 when you took that battery out?

16 A. Probably two days.

17 Q. Two days?

18 A. Mmmm.

19 Q. But, as far as you know, the one upstairs was  
20 working and you think that maybe you heard it?

21 A. Mmmm, Mmmm.

22 Q. Did anybody else ever take care of those smoke  
23 detectors besides yourself? Who put the battery in, you  
24 say you put new batteries in?

25 A. Right. Sue put one in upstairs and I put one in.  
I know, she went through the house with me and that fire

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3 with those three children and ...(can't hear)....the smoke  
4 detector, I should of had more, I know that now but there  
5 was really nothing on, it wasn't like it was winter time  
6 and you had the heat on, you know, so Sue would monitor  
7 ...(can't hear)...for a while and I did, but.

8 Q. Any idea the last time you would of checked the  
9 one upstairs?

10 A. No. I know that the battery new, not more than  
11 a month old and I know the one downstairs, we did the  
12 battery at the same time and that thing went off when I  
13 was cooking.

14 Q. Did you ever have a problem with your kids  
15 monkeying with the smoke detectors?

16 A. They were up high, no, no. They wouldn't of got  
17 to them. I don't even think Danny realized where it was,  
18 you know, between him and his...(can't hear)... He never  
19 ..(can't hear)...smoke detectors.

20 Q. Do you think that when you remember hearing that  
21 smoke detector on the second floor, do you think that you  
22 were in the stairway or up on the roof, do you remember, I  
23 know it's got to be hard?

24 A. I thought I heard it at the base of the stairway  
25 when I rounded the corner, but it might have been faint, I  
don't, I thought I heard it down here and I don't remember

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3 hearing it any more when I broke into Dan's window...(can't  
4 hear)...cause I was trying to get ...(can't hear)... but I  
5 ...(can't hear)...or whatever. Even my neighbors have told  
6 me that they didn't see any flame till, it must of been  
7 when the skylight broke out that the flames came up cause  
8 I don't remember seeing flames, cause I remember looking  
9 back at the house....(can't hear)... the whole thing..(can't  
hear)...

10 Q. Sure.

11 A. But I thought I heard down here, but there were  
12 other noises, you know, noises crackling, noises and stuff  
13 and that I heard when I was running, but my main concern was  
14 I've got to get this kid. I wasn't really paying attention  
15 to, I'm in my house enough to know that I had to run around  
16 the couch here and ...(can't hear)...here and I wasn't  
17 looking at ...(can't hear)... See, I was having a hard  
18 time breathing through this stuff to get to him.

19 Q. Sure. So once you send Kimie to go call.....

20 A. To go ...(can't hear)...door.

21 Q. Then you come back in and that's when you go over  
22 to the stairway?

23 A. Right. I never left the house, I yelled at her  
24 from here, the back porch, Kimie get out and go over there  
25 and tell them there's a fire here and Mommy needs help and

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that's what she did.

Q. So you were here by the door ?

A. Right and I then immediately back track because I'm going to go up my stairs first, it's my only way up and the neighbors heard me screaming but they thought it was just partying, they couldn't really tell the difference till ... (can't hear) ... and then ... (can't hear) ... for them too ... (can't hear) ...

*you might*

{

Q. .. (can't hear) ...

A. To have me yelling, please help me and nobody's help, I know nobody could help me, I know James tried to help me but he's got a wife and a little baby too and I wouldn't want him to risk his life going into the room. I tried to fight ... (can't hear) ... I should of but people tell me you have two girls here and if you had went in you wouldn't of come out come out, I just, I know, Mr. McCloud that I wouldn't of pulled a live child from that room ... (can't hear) ..., I know that now, I just wish I could of ... (can't hear) ... cause I never got to him. I would of given him his kiss good by. .. (can't hear) ... I really have to say good by to him and that's hard.

*you might*

Q. Sure.

A. Going to that house now is horrible and I don't like going. I did have to go on the roof and I did have

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3 to look and put a flower on his bed but, just to have ...  
4 (can't hear)...of my rooms, my girls rooms and my kitchen.  
5 I didn't see anything in the kitchen, of course, I wasn't  
6 looking, I was going towards the stairs, but I can tell you  
7 I didn't see anything in the kitchen and they're saying that  
8 when you plumped water into Dan's room I guess it pushed  
9 the fire down, so there's no kitchen and there's no dining  
10 room and there's no living room. Even my bedroom, my  
11 normal bedroom, there's not...(can't hear)...

12 Q. But when you went into the stairway, you didn't  
13 see any fire or anything, or in the dining room?

14 A. No, no. I saw, when I'm looking for fire, I'm  
15 looking as a normal person would do, I was expecting flames  
16 burning and I didn't see that, no. I saw lots of smoke  
17 down here and ...(can't hear)...foggy, there was smoke  
18 outside my home, cause you looked out the window, it looked  
19 smokey, foggy out there and, you know, it wasn't fog it  
20 was smoke. I don't know where it was coming from but it  
21 was outside the window and probably from the porch we were  
22 in because we did have open...(can't hear)...and I don't  
23 know what time of the morning it was, I know I went to bed  
24 some where between quarter to twelve and twelve o'clock and  
25 I don't remember what time this all happened, somewhere  
they tell me, somewhere between 3:30 and 4:00 o'clock or

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*Was time being plumped  
4 hrs. / 67*

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3 4:30, I don't remember. I had been on the roof for a good  
4 twenty minutes before, 15 minutes before ...(can't hear)...  
5 I had been up there.

6 Q. Do you remember, cause you're pretty close to the  
7 fire house there, do you remember where you were when you  
8 heard the fire sirens start to blow?

9 A. Up on the roof, I believe. I mean, I sent Kimie  
10 over there to alert them, by the time the neighbors really  
11 realized what was happening and responded to her, I had  
12 already been through the house, back through the house and  
13 back and on the roof, so I was the only, probably even  
14 before your fire guys got their call, and I remained on  
15 that roof until, my intention was not to leave the roof till  
16 the fire fighters got there and I wouldn't interfere with  
17 them trying to help me but I was not going to my son there  
18 and something, something blew that had the force of a blast  
19 that I felt from his window that pushed me back and I almost  
20 fell off the roof, that's why my neighbor.....

21 Q. Was James up there at that point?

22 A. No, James came up when I....(can't hear)....opened  
23 the window and I think he tried to reach in and then he  
24 said, Michelle, you can't do it and ...(can't hear)... and  
25 I had a feeling of despair there like a ..(can't hear)...  
Oh, no one's helping me, but I know now that there was not

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3 much anybody could do but just watch this from the ground  
4 and I had the neighbors all around watching ...(can't hear).  
5 ...you're up there screaming for help and you can't get him,  
6 please help...(can't hear)...do is watch this and...(can't  
7 hear)...went back down to get, meanwhile his brother, Pat,  
8 I think told me he was trying to get in the kitchen window  
9 with a hose and I don't remember, what he said he was doing  
10 but he was trying to help that way. My concern was that  
11 back window, I knew my little girl was, I sent her out, now  
12 I had to get my son and I couldn't get him out. That's it,  
13 I can't tell you any more, just what I remember about the  
14 fan and told you that..(can't hear)...was my action that  
15 night, went out back to the stairs, realized I couldn't get  
16 up them and came back out and went right on the roof cause  
17 that was my only other way up there.

17 Q. Now, this, in this, this bedroom that was empty?

18 A. Mmmm.

19 Q. Was there anything in there at all as far as  
20 furniture goes?

21 A. A dresser, right here and I had a paint can and  
22 ..(can't hear)...I painted it, I ran out of paint. As I got  
23 here I had to get some more paint at Wal-Mart..(can't hear).  
24 to finish it cause my intention was to clean it up, was to  
25 move into this room, it was bigger.

*Who's gym set*

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Q. Sure, sure.

A. And I didn't have, I was over here and above me was Melissa and boom, boom, boom all night it hurt me, I'm going to go here, it's bigger and leave her gym set up for the kids to ...(can't hear)... There was a dresser here and that was the only furniture of mine that I had in that room.

Q. So, just, could you just draw for me there where the dresser, about where it was?

A. It was here and it was a long dresser so it was right about here. I pulled it out from the wall a little bit so I paint around it.

Q. Any, any lighting or anything in there?

A. No, I didn't have a light, did I have a light on the dresser, I'm not sure, I might of had a light on the dresser but I was painting during the day so I don't remember whether I kept a lamp on the dresser, I don't think so. See, I had a paint can, a paint tray, there was a chair one that's a, an old chair that Danny had brought in to sit in the room, so like right here ...(can't hear)... He had sat here to watch me paint ...(can't hear)...

Q. Do you know what kind of chair it was, was it a wood chair?

A. No, just one of those, well, one of my kitchen

1  
2  
3 chairs, okay, the wood was a ...(can't hear)..., it's not  
4 an expensive thing, so he brought that in and sat on that  
5 there and in the closet I think might of been hanging a  
6 couple of dresses or whatever in the staircase underneath  
7 the stair, the closet...(can't hear)...Sue and I had cleaned  
8 out this room...(can't hear).....whatever so he had cleaned  
9 it out three months ago and in the closet under here I had  
10 some ..(can't hear)..presents that I was going to give *Ball Shit*  
11 Danny on his birthday that I forgot were under the stairs  
12 ...(can't hear)... and then there was ..(can't hear)... I  
13 think there were a couple pillows and a couple blankets and  
14 I opened it cause I wanted Bob to have all of his stuff  
15 so there was some pillows and some blankets and some  
16 Christmas presents that and then I thought I had put the  
17 presents in there and ...(can't hear).....

17 Q. And again, what kind of Christmas presents, do  
18 you remember?

19 A. There was a, I believe, a set of connects, that  
20 we had gotten him, a board game, I think. A rack of paper  
21 was under here too...(can't hear)...paper under the stairs  
22 and just some assorted junk was there and I wanted to make  
23 sure that there was nothing of Bob's so I cleaned out, we  
24 just had the dumpster, I just filled up a dumpster with  
25 \$200 worth of junk from the house cleaning out, previously

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3 earlier in the summer and the day before, a couple days  
4 before I had Jeff..(can't understand name)...come with his  
5 truck and we cleaned out the garage cause I was attempting  
6 to make, to improve my home, make it ...(can't hear)...way,  
7 I wanted it..(can't hear)....., but that's all that was in  
8 this bedroom and there was a paint can, I was painting and  
9 some rollers and a brush.

10 Q. I think you told me you got the paint at Wal-Mart?

11 A. Mmmm.

12 Q. And what kind of paint was it, was it.....

13 A. A flat latex paint and I got it..(can't hear)...  
14 green color.

15 Q. And when you cleaned up with it, what did you have  
16 to use to clean up?

17 A. Just, I put it in the tub and used hot water and  
18 soap. We did spray the carpeting with like a Resolve, that  
19 kind to get the smoke smell out, you can ...(can't hear)...  
20 carpet cleaner and then you vacuumed it up a little later,  
21 that was one and my intention was had to clean the rest of  
22 the wall cause I had a little bit here and a littler here  
23 to go and I had some out in the cupboard to replace because  
24 they were cracking ...(can't hear)...to I went to place ...  
25 ..(can't hear)...cupboards and the door at the breaker box,  
that was wider and it looked like crap so I wanted to put

1  
2  
3 like a maybe a louver door there so that I hid that better  
4 and.

5 Q. What kind of slider, what do you mean a slider?

6 A. Just those cheap accordion type doors that you get  
7 for \$29.00, has a little magnetic catch here ..(can't hear).  
8 and snap it there. I wasn't familiar with the breaker box  
9 and when we put the porch light on, there's a lantern out  
10 here, outside the porch and the light in the kitchen, which  
11 is only to...(can't hear)... Bob had ..(can't hear)... and  
12 had to show me in the broker box ...(can't hear)... and  
13 label, you know, this is labeled kitchen, turn it off and  
14 shut the power to this area and this area, so I wasn't  
15 familiar with that and the improvements in the house, this  
16 light in the kitchen was new, this lantern out here was  
17 new and the ceiling fan in the living room was new. Those  
18 were the three electrical things that were new within a  
19 month.

20 Q. And the ceiling fan that you thought you saw  
21 change it's speed, was in this room?

22 A. Dining room.

23 Q. That was here?

24 A. Yes, this is the one I had for ten years and  
25 prior to this...(can't hear).....

Q. She seemed like a sweet heart?

*Electrical  
Circuit  
fan*

FORMERED-2 PENGAD • 1-800-831-6989

1  
2  
3 A. She is. We did have on the 4th of July that  
4 lighting strike. It didn't even occur to me ...(can't hear)  
5 ..lighting hit my house, ...(can't hear)...it came in  
6 through the phone lines, it fried the modems in my computer  
7 and it fried ..(can't hear)... and we had to get that  
8 replaced and I don't know if that could have anything to  
9 do with any of this stuff or any of the circuitry ...(can't  
10 hear)... They were on...(can't hear)...protectors and this  
11 had a GFI breaker in there somewhere but whatever that is  
12 but that lighting still is powerful enough to knock my  
13 computers senseless and my phone ..(can't hear)...and that  
14 happened July 4th, I remember, that 4th of July storm. But  
15 this ceiling fan didn't start acting funny for probably,  
16 I hadn't had it on ..(can't hear)...but I didn't notice till  
17 that night, I can't tell you whether it was acting strange  
18 before that cause I hadn't had it on. I don't know whether  
19 when we put the new one up in the living room, we effected  
20 something with this one, I can't tell you. I can tell you  
21 that it acted odd to me and I didn't like it and I came to  
22 the switch here, which is on the top part of the wall and I  
23 shut it off. There were two switches on this wall, high and  
24 low. The high one was the fan, the low one was the light  
25 going on.

Q. But was the one in the dining room .....

1  
2  
3 A. The one in the dining room. That's where my  
4 table was that I folded clothes on. I use my dining room  
5 table to fold some clothes on so and that had a light, this  
6 one did not. It was, there was a pull light kit on this  
7 one but it didn't have a light, this one did...(can't hear).  
8 and that, it was hot, I think it was like 90 degrees that  
9 ..(can't hear)..

9 Q. It was a warm one.

10 A. So I clicked it on and I noticed the dust...(can't  
11 hear)...I've got to dust the ceiling fan and it just did not  
12 stay at a high speed and I thought well, these are kind of  
13 ten years old and maybe it's getting a little tired here but  
14 ...(can't hear)...so I probably would of planned to go get  
15 another one sometime, but, I didn't like it so I switched  
16 them off here cause that's the main power over here...(can't  
17 hear)...chain and before I went to bed, I put them back on.  
18 Everything else was off so why not cool the house down and  
19 click them on.

20 Q. Sure. Normally, would you, when it was, would you  
21 normally leave the windows opened or closed. You didn't  
22 have an air conditioner, did you?

23 A. No.

24 Q. So all you had was the fans?

25 A. We had fans. We had an ancient air conditioner

1  
2  
3 but we had pulled that out of the window a long time ago,  
4 we got rid of that in the clutter. Normally, if it's hot,  
5 really hot in this house, I shut these windows because it's  
6 kind of dark in there and if the windows were shut, except  
7 that the kitchen was almost always open. These windows  
8 here are almost always shut because with the dark paneling  
9 in the house, it's cooler with the windows shut here. Here  
10 it didn't matter what you did, it was always hot...(can't  
11 hear)...whatever's hot and the back porch because this is  
12 a heavy pine door and it seals in the house, these windows  
13 were open to let the breeze from the lake ...(can't hear)..  
14 We would get a nice breeze there. But, no, these would of  
15 been shut and, you know, alone in the house at night, I  
16 probably would of shut them. The kitchen window, I know  
17 was shut but normally I had like one open so I could hear  
18 the cats....(can't hear)... I didn't have a bed big enough  
19 to accommodate Kimie and I that night...(can't hear)...which  
20 I had done more than once during the summer, I slept out  
21 there with Kim, that was not unusual...(can't hear)...back  
22 porch...(can't hear)...on a hot night...(can't hear)..

22 Q. So this bedroom that you were repainting, to the  
23 best of your knowledge, there wouldn't of been anything in  
24 that room that was plugged in to anything?

25 A. No.

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Q. That there were outlets....

A. Right, there were outlets all over the place,

Mmmm.

Q. Nothing was plugged in?

A. Nothing plugged in, no. I don't think I had a light in there, I really don't. I think I was painting during the day, just had ..(can't hear)...nothing electrical that I knew of in this room that I remember being there and plugged in.

Q. Is there anything other that was in the closet or under the stairway that you remember that may have been electrical that was just in there for storage?

A. I didn't remember seeing anything under there. When I opened it up I saw pillows and I saw the presents that were still wrapped and some wrapping paper and blankets. I didn't step around to look.

Q. See, we found what appears to be, we found maybe an old typewriter.

A. Oh, yea, the Smith Corona.

Q. That was back in there.

A. Yea, okay.

Q. But that looked like that was just a storage.

A. Yea.

Q. To store.

1  
2  
3 A. We had a Smith Corona at one time, it might of  
4 been in there underneath the stuff, I didn't push up on to  
5 look. This room here next to this room had more the, had  
6 the shop vac, ..(can't hear)...in there, a couple drills,  
7 a hanging light in here but nothing in this room, it was  
8 clean.

9 Q. We had the remains of something in that closet  
10 that fit appeared to be, I looked at it maybe like an easy  
11 bake oven.

12 A. Oh, ....

13 Q. I remember just a piece of stuff that they's not  
14 just trying to look at it.

15 A. It may have been. I might have put a present in  
16 there for Kim. I had gifts in this closet for my children.  
17 Some were wrapped, cause I had spoiled Danny and I was  
18 going to save some for his birthday and I didn't give it  
19 to him on his birthday. She did have an easy bake oven at  
20 one time and I didn't like her using it, cause I knew it  
21 was dangerous. I knew very well ...(can't hear).....easy  
22 bake oven in there..(can't hear)....that she did have one.  
23 Where it was, I don't know. If you didn't find it in the  
24 closet in my room, which was the main storage for their  
25 toys, I may have put it, ...(can't hear)...in that closet.

Q. But this would of been stored in there?

old no  
School Clothes

1  
2  
3 A. Mmmm. There wasn't, as far as I know, there  
4 wasn't any place to plug in anything inside that closet, I  
5 really didn't go in there. There were wires in wall, for  
6 outlets here and the stair ones, but I didn't, ...(can't  
7 hear)... There were toys under there.

8 Q. Well we found pieces of like maybe a Monopoly  
9 game.

10 A. Four games...

11 Q. Four games. How about on the second floor, as we  
12 come up these stairs, this would of been the top of, in  
13 other words if you're looking right straight, you're looking  
14 at the stairs here.

15 A. Mmmm, okay.

16 Q. Can you tell me what's up here in this area?

17 A. This is all an open area. You come up the stairs,  
18 you have...(can't hear)...one, two, three, four bedrooms.  
19 It was an, they call it a small closet, actually it...(can't  
20 hear)...the length of the room. There was a doorway here  
21 and a doorway here, two doors coming in this closet and  
22 ...(can't hear)...door to this bedroom and door to the  
23 spare room this one, there was closet in Kimie's room here  
24 ..(can't hear)...is a closet area...(can't hear).. Over here  
25 was a couch, there was a television here...(can't hear)....  
here. There was a heater here, space heater here, big one,

1  
2  
3 right there in the corner...(can't hear)... chest of  
4 drawers over here, lamp and table over here and this is  
5 where...(can't hear).... this is the closet and then this  
6 is Kim's bedroom..(can't hear)..... light up here at the  
7 top of the stairs...(can't heat)....

8 Q. Would that have been the only lighting for this  
9 open area?

10 A. Yea, except for the lamp that was here, there was  
11 a lamp here.

12 Q. And would the smoke detector have been located, on  
13 this type of plug?

14 A. Right here. The wall directly between the two  
15 bedrooms, right at the top of the stairs up high and the  
16 skylights were all ...(can't hear)...

17 Q. Then how many of them were there total?

18 A. Two. They were and they vented so they were, I  
19 had them open ...(can't hear)...air out...(can't hear)..

20 Q. And do you which side of, which side of the roof  
21 was kind of.....

22 A. Right.

23 Q. There were only two skylights total?

24 A. Yea, over top of this part of the roof here, over  
25 top this room. This was actually smaller than this, this  
looks like, you know, the doorway right there and then this

1  
2  
3 was a little bit bigger and ..(can't hear)... This was  
4 where they played..(can't hear)...play station or whatever  
5 games ..(can't hear)...have there...(can't hear)...three  
6 in the house.

7 Q. Sure.

8 A. And the skylights were here.

9 Q. So there weren't two over here?

10 A. No, no, just two on the side.

11 Q. Over the family room?

12 A. Right and the big space heater in the corner.

13 Q. And what did you do with the space heater, like,  
14 I mean, obviously at this time of the year, probably you're  
15 not, you weren't even, cause you were going downstairs.....

16 A. Right, there's two big units, yea.

17 Q. How were they used?

18 A. They are forced hot air and they were used in the  
19 winter time. This is the only heat I have in the home.

20 Q. Would they come on automatically?

21 A. Yes, they were thermostat heat controls, Mmmm, and  
22 they had a fan. I left Bob in charge of turning the pilots  
23 or whatever else that you do to these things, I just don't  
24 have them on and I think they were unplugged, I'm not sure  
25 if they were unplugged for long. They were, I think, in  
this closet or the one out there. I put the oil fills here.

1  
2  
3 I think, I'm not sure if I left the one in Danny's room  
4 cause Danny had a, Danny had to have his door shut, he liked  
5 his door shut when we moved the bed and because he had to  
6 have his door shut, this heater wasn't going to accommodate  
7 his room because you had to leave doors open.

8 Q. Sure.

9 A. So, I heated his room with an oil fill heater. I  
10 don't know when I cleaned out whether I stuck it over here,  
11 stuck it over here, put it in the closet, I don't know.

12 Q. But would that, just been stored or?

13 A. Right, just stored. The only things that,  
14 honestly, the only things that he had on at this time of the  
15 year were the fans and the radios and the typical stuff that  
16 you have on in a household.

17 Q. Sure. Do you know where you got those, I think  
18 that there were a total of three, there was one of the oil  
19 fills in Danny's room and then there were two more up here  
20 ..(can't hear).. may have come out of that closet.

21 A. In the closet....(can't hear, both talking)..

22 Q. Do you know where you got those or how long  
23 you've had them?

24 A. My mother gave me a couple from downstate and  
25 I think we bought one some at the time Grossman's, our  
own Grossman's was open....(tape cuts off at end of tape)..

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TAPE 3 - SIDE A - September 21, 1999

MRS. DAVIS: ... (can't hear)... cause one would normally go in the utility room and one would normally go on the back porch because that room is usually shut off and one would be in Dan's room.

MR. MCLOUD: So they were just been in the closet for storage and wouldn't of been plugged in or?

A. No.

Q. And you mentioned that Danny always wanted his door shut, is that right, when he went to bed he wanted the door shut?

A. Mmmm. He wanted his door closed, yea.

Q. Okay. And he was able to, you said that he mentioned that he had to have his fan on, I think your Mom mentioned that to me too. My daughter's that way, has to have a fan on all the time... (can't hear, both talking)...

A. . (can't hear, both talking)... I'm the same way, year round, I can't stand total quiet, can't stand it, but no, he, that was his requirement, his fan, his radio and his two pillows, that's was Dan's routine and afterwards the bathroom and .. (can't understand)... himself, that's what he needed to go to sleep and settle down and for many years I ran the fan in his room and the fan in his room was not a

1  
2  
3 new fan, I mean, it was something ancient looking, I mean,  
4 I never saw one like that before. It was a gift from my  
5 mother but he loved it, double side, one side to turn on  
6 the ... (can't understand word) ... of the fan, the other side  
7 to turn on the grill which would rotate.

8 Q. Oh, yea?

9 A. Yea.

10 Q. I don't know that I've seen one like that.

11 A. I.. (can't understand) ... might have made it or  
12 something, but the grill would go around, the fan had to be  
13 on high, the thing didn't oscillate but the grill turned  
14 and it blew, I don't know what that did, but Danny had to  
15 have it spinning, so that's the fan that I had in his room.

16 Q. When you put him to bed, the night before the  
17 fire, again, about what time was it?

18 A. 10:15. I let him stay up to watch the 10:00  
19 o'clock run of the cartoon network series, it was on cartoon  
20 network and by the time I told him to get his pillows and  
21 he brushed his teeth and that, it was probably 10:15.

22 Q. And then he went to bed and.....

23 A. He always went to bed okay as long as I took him  
24 and he got his kiss, he's fine.

25 Q. And you would of closed the door?

A. Mmmm.

1  
2  
3 Q. That's the way it had to be, that's the way he  
4 wanted it?

5 A. Mmmm. Yea.

6 Q. Was it normal for him to sleep in this direction  
7 on the bed with his head this way to the, what I would call,  
8 the foot of the bed, is that normally the way that he slept,  
9 cause the fan would of been, the fan would of been over  
10 here right in front of the window?

11 A. Right, no. His pillow was up here. No, it's not  
12 normal for Danny to sleep with his head down at the foot  
13 of the bed.

14 Q. Did it, ... (can't hear) ... because of the way the  
15 fan was, ....

16 A. .... (can't hear) ..... directly on him. But when  
17 I opened his window, I might of pushed it, I don't know if  
18 I hit a fan or not when I ... (can't hear) ...

19 Q. Sure.

20 A. But, no, Danny.. (can't hear) ... makes me think that  
21 he .. (can't hear) ..... cause that's not the way he slept.  
22 Normally, his head .. (can't hear) ... although I've never  
23 really been in to look at him sleeping so maybe he did move  
24 around.

25 Q. Sure.

A. But when I put him to bed, his pillows were up

*Mother of  
the young man  
Charles Andrew  
Chad in 1980*

1  
2  
3 here, at the head, and he's sleeping that way.

4 Q. Okay. And you bring up a good point that I never  
5 thought to ask before, once you put him to bed, would it  
6 have been common for you to check on him again during the  
7 night or that he got old enough and was sleeping good  
8 enough that you didn't?

9 A. He had gotten old enough and was sleeping, I mean,  
10 sometimes, before his medicine kicked in he would be  
11 rambunctious for quite a while.

12 Q. Sure.

13 A. And I'd go up there and say, Danny, I'd put him to  
14 bed at 9:30, it's 10:30, settle down and go to sleep son,  
15 you've got to go to sleep, but, no, normally I wouldn't  
16 have to check on him again cause he just, he just did not  
17 come downstairs, he didn't even go to the bathroom at night.  
18 He always came down in the morning and he came right into  
19 my room and kicked me out of my bed cause he'd stay on my  
20 bed ..(can't hear)...on the couch.

21 Q. What time did he normally, what time was it he  
22 kind of started to get up?

23 A. He was an early riser but, I'm telling you, on  
24 a school day, I'd have to get him up at 7:00, but on week-  
25 ends,.....

Q. Kids are like that.

1  
2  
3 ...on the weekend, he'd be up at 6:00 o'clock, 5:30, 6:00  
4 o'clock in the morning but I didn't have to get up, I  
5 mean, Danny was self-sufficient enough where he's get a  
6 cup of chocolate milk and he'd sit down and watch tv, I  
7 mean, I did not have to jump up cause Danny was up, but,  
8 that's not the normal way Danny slept and that I remember,  
9 that's not how he was put in the bed...(can't hear).....  
10 ..or attempted to get out.

11 Q. Any, did Danny or Kimie or any of the children  
12 ever, did you ever have a problem with any of them with  
13 playing with matches or.....

14 A. Oh, no.

15 Q. ...fire or?

16 A. No. In fact, they hated the smoking, you know,  
17 they hated the lighters, stuff like that, but no. I never,  
18 ever had a problem with the kids ...(can't hear)...fire or  
19 anything like that.

20 Q. So, Danny was never one to play with matches or...

21 A. No.

22 Q. ....that was not a problem that you had?

23 A. No, no.

24 Q. So this basically opened here....

25 A. Mmmmm.

Q. Both sides?

1  
2  
3 A. Mmmm, and ..(can't hear)...at the top of the  
4 stairway open. You know, it's not a covered stairway, it's  
5 just open.

6 Q. Open.

7 A. These are half walls on ..(can't hear)...

8 Q. And it looked relatively low ceilings up there?

9 A. Yea, oh, standard, maybe 7 ½ - 8 foot, I'm not  
10 sure what they were...(can't hear).....there and between  
11 the ceiling and the, we had blown in some cellulose  
insulation...(can't hear)...

12 Q. Do you know, was there any access up into the  
13 attic....

14 A. Not that I know of.

15 Q. ....from any place, sometimes they'll have a  
16 a little like in a closet or something or a space cut out,  
17 but, just looking at the roof design, there wouldn't of been  
18 a lot of room in there anyway?

19 A. No, not that I know of, I never went up into  
20 that...(can't hear)...

21 Q. Sure.

22 A. That one was just storage room and I had a lot  
23 of junk in there and a lot of old...(can't hear)...and  
24 clothing, blankets and that kind of stuff...(can't hear)...  
25 for his room...(can't hear)...she had a lot of stuff in her

1  
2  
3 room.

4 Q. Kids room.

5 A. She had electronic, she had a lot of electronic  
6 stuff in her room, tv, computer, all that kind of stuff...  
7 (can't hear)... Dan's room was basic, ..(can't hear)..had  
8 ..(can't hear)...things ..(can't hear)..stuffed animals.  
9 Two bunk beds, two twin beds in here cause my step-son came  
10 every other weekend and stayed with us and ..(can't hear)..  
11 slept.

12 Q. How about the flooring up here on the top, what  
13 was...

14 A. Throw rugs, we hadn't finished it, it was plywood,  
15 ...(can't hear)...plywood, 3/4 I think they put here, but  
16 we had not carpeted this area yet, just thrown down some  
17 throw carpeting. The stairs had carpeting but we hadn't  
18 gotten around to do that I guess. There was wall-to-wall  
19 in all these, not here, this one was just another simply  
20 thick rugs thrown down, this was not completed yet.

21 Q. Okay, and this area, this area there on the floor  
22 was, it was just plywood?

23 A. Plywood, standard plywood, yea, with some rugs  
24 thrown over the top of it.

25 Q. Any type of finish on it that you're aware of or  
it was just sanded so you didn't get slivers and things.

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A. Right.

Q. Okay. Cause of course, this area here, as you can see, if you were inside that there is a gaping hole in this second floor here that we're just, we're having a hard time trying to explain what may have caused that. Nothing that you're aware of in this area electrical?

A. No.

Q. You got a light over here at the top of the stairs?

A. Right.

Q. The tulip light?

A. Right.

Q. Over here?

A. Mmmm, and you got that, I mean, just the outlets and the light over here and nothing that I, that was upstairs that I remember being electrical.

Q. And there's no, there's no overhead lighting in this, there's no ceiling lights or anything.....

A. Just the light up here on that wall.

Q. Okay, top, up in the stairway?

A. Right.

Q. And we saw, we found that, but...

A. No other light, no, it was pretty much an open area and the room below housing breaker box and this was an

1  
2  
3 open dining room area.

4 Q. How about, do you know if there were lights in  
5 these closets, do you know?

6 A. No.

7 Q. No lights in the closets?

8 A. No lights in the closet, no.

9 Q. 'Alright, you're saying the kids closets, no lights  
10 in those closets?

11 A. No.

12 Q. Okay.

13 A. How come the only outside wall that was burnt bad  
14 is the breaker box area? I don't know anything about that  
15 stuff, but that, that wall or that whole area looks nasty,  
16 I mean, totally nasty. But the only wall, ... (can't hear)..  
17 wall, looks warped bad where my electrical service was. I  
18 just, I don't, I have to try to get over the incredible  
19 guilt that I put those fans on when something didn't look  
20 right to me, that one and I can't, I'm not investigating,  
21 I'm not a professional, I don't know what I'm doing, but  
22 common sense to me, Shell, you're having problems with the  
23 fan and you switch them back on and you have no stairs.

24 Just being a lay person as I am, I can't help feel that  
25 something with the switch in the wall in the back area where  
I had no stairs and that's just, that's, ... (can't hear)...

*Ask Bob. knows all  
about breaker box  
& give us for his own  
words?*

1  
2  
3 ...it did not make a difference, you know, this is where  
4 I was looking to you guys to help me with answers and it's  
5 hard, you know, ..(can't hear)...what is the...(can't hear).  
6 what if it's the ceiling fan, did something short out, was  
7 it something in the breaker box, was it the electrical  
8 strike from the storm, you know, was it not my electricity,  
9 do we not know what the hell happened on this night when I  
10 woke up with my daughter, you know, just.....

11 Q. Well, we can not, at this point, find any  
12 electrical failure anywhere that's responsible for starting  
13 the fire and that's both upstairs and down. We are unable  
14 to locate any such electrical failure, and to be perfectly  
15 honest with you, we're to a point where we can not, we can  
16 not find any accidental cause for the fire, we don't find  
17 any equipment, anything that malfunctioned, it's not in the  
18 winter time where we may have a stove or a fireplace or  
19 something, we have nothing that to tells us what may have  
20 happened to start that fire from an accidental, so that's  
21 another reason that I wanted to talk to you at this point,  
22 Michelle, was to see if there's anything that you remember  
23 that night or anything that you might be able to help us  
24 with that maybe we've over looked into how, how this fire  
25 started.

A. I don't know. Other than the fan, wacky.

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3 Q. We've eliminated the fans, the fans were damaged  
4 by the fire but there's no evidence of them being, you know,  
5 failing and starting, none.

6 A. I don't know. All I know is that I went to bed  
7 with my little girl back here and I woke up hours later  
8 with her coughing, that's all I know.

9 Q. Is there any, and I know that I asked you before  
10 about about either of the children having a problem playing  
11 with fire and you say no, is there any possibility that  
12 either Kimie or Danny were up after you guys had gone to  
13 bed and may have been doing something, playing with some-  
14 thing, I don't know what, that something may have happened?

15 A. Kimie and I were together back here, she didn't  
16 leave me as far as I knew, to get up.

17 Q. Would it be common for it if she did get up for  
18 you to know that she was getting up?

19 A. I would feel her move cause I slept here and she  
20 was here and I didn't feel her get up.

21 Q. And you said before that whenever Danny got up,  
22 he came right down to you when it was too early for him to  
23 get up.

24 A. Mmmm.

25 Q. I'm looking for you to be able to help me get ....

A. I wish I could.

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3 Q. ...to get to the bottom of this.

4 A. I wish I could, Mr. McLoud, I don't, I went to  
5 bed with my little girl and I woke up to this, had to go  
6 get my son, that's all I wanted to do.

7 Q. Do you think that anybody else could of gotten  
8 into your house to do anything?

9 A. No. I didn't hear, no. I don't think anybody,  
10 God, no.

11 Q. Who would of had keys to the house?

12 A. Bob had it, I gave Bob a key so he could come in  
13 for Dan and....

14 Q. Anybody, just you, how about Leroy, would Leroy  
15 have had a key?

16 A. No.

17 Q. Sue, would Sue have had a key?

18 A. No.

19 Q. Can you think of any reason that anybody would  
20 want to do anything in your home to start that fire?

21 A. No. With me and my children there, why.

22 Q. I don't know, that's what I'm asking you ...

23 A. ..(can't hear)..

24 Q. If there's somebody that has some, something  
25 against you or your children.

A. I don't think so. Bob loved my kids and me and,

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3 ... (can't hear)... I mean, I got off the phone, I talked with  
4 her on the phone briefly and there's no way, no. I don't,  
5 I'm not aware of having enemies like that that would do  
6 anything like that to us at all, I just, it would blow my  
7 mind to think that somebody would want to hurt all three of  
8 us in this house and .. (can't hear)... and find out why.

9 Q. Fortunately, you and Kimie were able to get out.

10 A. There's so little comfort in that though, you  
11 know.

12 Q. Cause just what I'm wondering, Shell, is if  
13 there's something else that that maybe happened accidentally  
14 that you don't, that you hadn't told me about before that  
15 you were afraid, cause you know what happens a lot of times,  
16 I talk to people who've been, think they had a fire and  
17 something happened accidentally and they tell me that maybe  
18 they, for example, we may find a fire that originates in  
19 a trash can.

20 A. Mmmm.

21 Q. And ask them, well, did you dump any cigarette  
22 butts or anything in the trash can and they'll tell us no,  
23 when, in fact, they did and the reason, the reason that they  
24 don't want to tell us that is because there's some thought  
25 that if they did that, that the insurance company is not  
going to pay them.

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3 A. No, I didn't, everything I did that night is  
4 exactly how I told how I did it. The folding of the  
5 clothes, getting Danny out of the lake and getting dressed  
6 and as far as I knew, everything was off, you know and I  
7 put the power back on to the fans and I then I just went  
8 to bed, I don't smoke, so I mean, no, and we just, you know,  
9 we were just, the home was being prepared, you know, I was  
10 making, improving my home.

11 Q. How long, how long have you, you've been there  
12 how many years?

13 A. 12 years.

14 Q. And in that 12 years you put additions on and  
15 made some major improvements to the home?

16 A. Mmmm, yes, and Danny loved his home.

17 Q. Sure.

18 A. He loved the water and he loved his house and his  
19 family and it just doesn't, this home is Dan and my girls  
20 ... (can't hear) ... and stuff like that. I wish the hell I  
21 could tell you, or think of something that I'm not going  
22 to tell you something that didn't happen, I mean, .....

23 Q. In all the time that you've lived there, the 12  
24 years, and the additions and things that you've been  
25 through, the remodeling, do you ever remember a time where  
there was ever any type of paint thinner or.....

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*dumpster?*

A. Over in the closet here.

Q. Anything used or stored?

A. Up in the closet upstairs there are cans of paint and paint, some polyurethane and stuff that was you should of found up here in the closet.

Q. Up on the second floor?

A. Right, cause we had thrown out a bunch of it but we had not thrown out all of the paint, there should of been some polyurethane or ... (can't hear) ... stuff up here and paint down here and, other than that, .....

Q. I think that you told me the other day that this first floor bedroom was just regular wood sub floor with carpet over the top of it.....

A. Mmmmm.

Q. ....and that that carpet had been there since you made the renovations.

A. Right, and the doors were stained with ... (can't hear) ... kind of stain, that's why that was very old ... (can't hear) ... We just cleaned the house, we just got the dumpster and got rid of a lot of crap ... (can't hear) ...

Q. Do you know how that carpet was put down, was that carpet put down with....

A. The carpet guys did it.

Q. What do they call the things, you know, the strips

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3 that go around and they bring it in and stretch it.

4 A. I have no idea. Tile and Carpet put the carpet  
5 in for us..(can't hear)....

6 Q. And I'd, I asked you the other day about any  
7 flammable liquids that may have been stored in the home  
8 and the only thing you mentioned to me was the stuff under  
9 the.....

10 A. Cleaning supplies under the sink. There might of  
11 been some in the utility room...(can't hear)....there may  
12 still be some in there.

13 Q. What kind of things would you think of when  
14 you're thinking of flammable liquids that would be stored  
15 under the sink or...(can't hear)...

16 A. House...(can't hear)...mopping the floor with  
17 stuff, I had nail polish and it says on there, you know,  
18 nail polish remover, that's flammable. Your cleaning  
19 supplies, I think anything that contained alcohol, I don't  
20 know, you read the label. Basic stuff like that, I would  
21 think would be flammable, I don't know, I'm no. Bob had  
22 left and he had taken his...(can't hear)..... that was  
23 gone....

24 Q. Did you have a grill?

25 A. Out on the front porch.

Q. That looked to me like that was propane, a

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propane grill?

A. Mmmm.

Q. Would you have had any gasoline or kerosene or anything like that stored inside the house?

A. No. I think that was....(can't hear)..

Q. I did see some gas cans there in the garage but nothing like that that you'd store.....

A. No, no.

Q. How about anything like Coleman fuel or charcoal lighter, anything like that?

A. No. We had a gas grill and I think the charcoal lighter we used last time, we were doing a bonfire to get that thing to light ..(can't hear).... I don't think there was any charcoal lighter in there because we have a gas grill. I don't think so. To my knowledge, I don't believe I had charcoal right in the house.

Q. Do you, you did say you may have had some when you had a bonfire,.....

A. Mmmm.

Q. ....any idea how long ago the bonfire was?

A. Right after the 4th of July, when the fireworks were going on we had a bonfire and then I had one when some friends came to visit end of July but Bob used gas from the garage to light that one for me cause it had

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3 rained and I wanted to have a bonfire...(can't hear)....  
4 I can't think of anything else that was odd that evening,  
5 or anything that, I mean, to get, we just cleaned out this  
6 house so, it appeared pretty clean to me.

7 Q. Sure.

8 A. With the...(can't hear)...the space heaters I  
9 know they weren't on and there were all the fans on but  
10 ...(can't hear)...I don't if Melissa, I don't know what  
11 she had on in her room, whether her computer was booted up  
12 or booted down, any of that stuff. Try to use a surge  
13 protectors or power strips throughout the house, but I  
14 don't ...(can't hear)..

15 Q. And other than the fan, that particular night  
16 what you perceived as a.....

17 A. An odd ..(can't hear)...

18 Q. Odd and it's speed, you hadn't had any problems  
19 with the electric service, circuits breakers or lights  
20 going on and off, anything that you remember?

21 A. Other than just your normal power outages that  
22 we had during the storm, but everybody gets those.

23 Q. Sure.

24 A. Other than the lighting strikes on the 4th of  
25 July that killed our computers and knocked our phones out  
and you know, .....

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Q. Cause Kimie mentioned to us, she mentioned to us something about a thing of charcoal lighter.

A. On the, it was on the back porch.

Q. She mentions by the dining room on the shelf.

A. By the dining room on the shelf? I don't, dining room on the shelf, there was a, I don't remember charcoal lighter being there, I remember there being bug spray for the bees, ...(can't hear)...and wasp spray. You're talking about my little Kimie?

Q. Mmmm.

A. Kimie has a auditory ...(can't understand word)... deficit, that's what I explained you, sometimes she gets confused or is hard to comprehend and I don't remember charcoal fluid lighter, charcoal lighter fluid being in my house, I don't, I don't remember it being there. I remember there being a can of bug spray. How Kimie could recall a charcoal lighter fluid would not be....(can't hear)...

Q. I don't know.....

A. It wouldn't be typically little Kimie, cause she's a loose little girl, I don't think she would of noticed something like that, like somebody had told her something like that, you know. Bob would know, I think, I honestly think we used up the last of the charcoal lighter lighting the bonfire on the 4th of July and we used the gas to light

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3 the one after that. I don't remember there being charcoal  
4 lighter on my wall.

5 Q. Well, we talked about it and he thought, to the  
6 best of his recollection, that when he left on Sunday, when  
7 he moved out, that there was a, I'll say a jar, container  
8 whatever, you know the squeeze bottle for that, whatever  
9 terminology we might use for that, of charcoal lighter and  
10 that it was, that it was in the utility room.

11 A. I don't know.

12 Q. But that he did not know whether, you know, you  
13 had a bonfire or anything to use since the time that he  
14 left.

15 A. I don't remember it being, I don't remember there  
16 being charcoal lighter fluid on the shelves or anything, I  
17 don't, I can't say, it wasn't in the house, I don't  
18 remember it being there and I seriously doubt it was on  
19 my dining room shelf because we had, it was pretty clean  
20 in the dining room area.

21 Q. Would this bug spray that you speak of, would that  
22 have been in the dining on the shelf?

23 A. Yea, the bee spray, you know hornet and wasp  
24 spray. Kimie and Christopher were always coming down to  
25 get it for the wasps up in the skylight. That would, that  
would of no doubt been someone near the dining room area

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3 where it was grasped because we had problems with bees but  
4 not lighter fluid, even if I had, I wouldn't leave it out  
5 where my kids could get a hold of it..(can't hear)... I  
6 would have no use to use it other than to light a bonfire  
7 and I'm telling you, Kimie would not know what charcoal  
8 lighter fluid is, she has a leaning disability and it's  
9 hard for her, sometimes comprehend what you're saying or  
10 she may easily agree because she doesn't understand. If  
11 you talk to Kimie, you really have to talk slowly and ask  
12 her specifically, I question about me getting her help for  
13 that but. I don't remember charcoal fluid lighter being  
14 anywhere near my dining room, I don't.

14 Q. Do you remember it being anywhere in the house?

15 A. No. If we had charcoal fluid lighter in the  
16 house, Bob would of been correct in his assumption that it  
17 would be in the utility room somewhere to grab for a bonfire  
18 but, cause at one time we had bought one of those cheap  
19 little table top charcoal kettle things, years ago cause  
20 we were going to use that and that was the only time I  
21 bought charcoal lighter fluid and that didn't work out well,  
22 so we bought a new gas grill and the lighter fluid was used  
23 to light the bonfires that we had going this spring and  
24 summer time and I don't remember there being any more, I  
25 really don't, and I certainly don't, would not of put it on

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3 a shelf where my children could get to it and maybe Sue can,  
4 Sue having cleaned the house with me could elaborate as to  
5 whether there some there or there was not, but I don't  
6 remember it being there. I have no calls to have charcoal  
7 lighter fluid.

8 Q. Again, where we are at this stage is that we can  
9 not find any accidental cause for this fire and I'm in  
10 hopes that you can help me explain what happened.

11 A. I have nothing else to tell you from what I've  
12 told you. I really don't have anything else to contribute  
13 to you other than what I've told you the events of that  
14 night, which will haunt me forever, that I went to bed with  
15 my little girl and I woke up with her coughing and ... (tape  
16 cuts off at end of tape)

17 TAPE 3 - SIDE B - September 21, 1999

18 MRS. DAVIS: Everything I possess..(can't hear)...was in  
19 this home, my children were in this home, I was in this  
20 home. It's certainly like we were out of the home, we were  
21 here, ...(can't understand)...in this home when this  
22 happened and I really don't have anything ..(can't hear)...

23 Q. Cause what was.....

24 A. I'm not going to tell you that things were here  
25 and things were here when they're not there.

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Q. Michelle, all I am looking for here is the truth and to be able to explain to you and members of your family and everybody else, but mainly you and the members of your family. To be able to ..(can't understand word)...and have some explanation for what happened and why it happened.

A. I was hoping you would tell me this. I really was hoping that you had an answer for me to help me close this.

Q. I do have an answer for you, Michelle, somebody set this fire.

A. No, they did not.

Q. Yes, they did. And now, now the next question becomes as to who may have set the fire and probably more importantly or as importantly, is why.

A. I can't deal with that.

Q. I need for you to be able.....

A. I can't deal with that. ...(Michelle crying)..

Q. ....to deal with it so that I can help you to be able to deal with it. You, a parent, that was put in a position by someone, some means greater than you or I or anyone else has control over. That you were in a position that no parent should ever be in and I want, Michelle, I want to be able to help you and I can't help you if you can't tell me what happened, and you know what happened.

A. ...(Michelle crying, very upset)....I don't know

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3 what happened. ... (Michelle quite agitated and yelling)..  
4 I don't know what happened, I woke up to this. I don't know  
5 what happened, I woke up to this. I went to bed with my  
6 little girl and I woke up to this.

7 Q. There are things in your account of what happened  
8 that are not consistent with the scene. The thing with fire  
9 investigation is that this building, the remains of this  
10 building, is like a puzzle so we have to put pieces of the  
11 puzzle together and that's what we do, that's our  
12 responsibility and then there are things that happened from  
13 the people, the owners and the people who are familiar with  
14 the property and who may have been there at the time of the  
15 fire's occurrence or whatever and we try to put all those  
16 pieces of that puzzle back together and we have a pretty  
17 good puzzle fit back together at this point, but some of  
18 the things that you're telling me, Michelle, about your  
19 pieces of the puzzle, they don't fit.

19 A. What, please tell me, what, what.

20 Q. You never went back into the stairway.

21 A. I did. I certainly did go back to that stairway  
22 and I most certainly did go on that roof.

23 Q. I, I know that you were on the roof, I know that  
24 and, at some point you may have been at that stairway.

25 A. I was, I need to get my son, I certainly sent my

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daughter out and went back through that house, that stairway. I didn't stay there very long, I came back out and went to the roof but that was the extent of it, to get my little boy out.

Q. And you needed as well to protect your girls.

A. To protect my girls from what? To get them out of this, yea. Why wouldn't I sent Kimie out?

Q. Oh, absolutely, absolutely. I want to help you Michelle, you are not a bad person... (Michelle sobbing)... Sometimes things happen to us in our positions as parents that we get into a position where we feel that we have to do something to be able to care for and protect all of our children.

A. I would never hurt my children, ever, Daniel including, your Sheriffs came to my house, they know that, ever.

Q. I don't think.....

A. Ever.. (Michelle sobbing)...

Q. I don't think that you ever intended for Danny to get hurt, I don't think that that was ever the case.

A. I didn't.....

Q. But, but what I need, but what I need for you to tell me, Michelle, is how, what happened in the time that this fire started, why it started?

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3 A. I don't know, I don't even know what time this  
4 fire started, I'm back here with Kimberly sleeping, I have  
5 no idea, she woke up coughing, I have no idea, I have no  
6 idea. I have no idea, I have no idea. I had one thing, to  
7 get my son and I did go here and then come back here and  
8 then go to the stairs and I ..(can't understand)..and I  
9 could go on that roof and stay on that roof to get him.

10 Q. I know that you did that. Did you possibly see  
11 something or do something at those stairs that started that  
12 fire?

13 A. No.

14 Q. Is it possible.....

15 A. No, no, never, other than flicking a switch on for  
16 the ceiling fan, never, I. This house, we had, I was  
17 improving my home, I made lots of improvements in my home,  
18 there is no way, no way. I didn't have any problems paying  
19 the mortgage, I paid my bills, I wasn't delinquent, I've  
20 improved my home, I've been taking care of my children for  
21 many years, I was seeking help for Danny outside of this  
22 situation, no way, no way and I ..(can't hear)...Danny....  
(can't hear)...my son back right now.

23 Q. And there's absolutely nothing that you or I can  
24 do to bring Danny back, we can't do that and the only thing  
25 that we can do is try to get to the truth so that most

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3 importantly that you are able to understand.

4 A. I have, sir, I have nothing more to tell you than  
5 what I've told you. I don't know anything more than what I  
6 know and what I know is that I went to bed about quarter to  
7 twelve with Kimberly and woke up, whatever time later, I  
8 didn't even know what time...(can't hear)..you guys were  
9 called, I won't know. I've been through hell and high water  
10 with my son, I would never do anything to hurt these  
11 children, I love my kids.

12 Q. I think, Michelle, that certainly with the  
13 position that you're in that whatever may have happened that  
14 morning, happened out of mere love and responsibility that  
15 you felt you had and certainly that you did have for your  
16 children, I...(can't hear)...

17 A. I went to bed, again, I'm really having a hard  
18 time right now to think that I did anything to hurt my son  
19 or my house.

20 Q. I don't think, Michelle, that you did anything so  
21 much to hurt your son .....

22 A. I didn't.....

23 Q. ....as you did to protect him.....

24 A. No, no, no....(crying)...

25 Q. ...as your girls.

A. No, Danny would get protection by being placed in

*the attorney  
asked the judge  
to have a better place*

*why you  
had old man  
when he died*

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a program I was looking into putting him in, not by this.

Q. If they would take him.

A. They would of taken him, I wouldn't had a problem, I didn't want him to go. I didn't want him to go.

Q. And you didn't want him to be in a position to harm the girls, to harm you or to harm himself.

A. I had him under control with his medication, I had the help of his doctors and the support of his school and I had Danny for 13 years, I mean, it's not like he was 4 or 5.

Q. Michelle, I think you summed it up once before earlier when you said that that night, when he acted out, the light bulb went off in your head and those were your words.

A. Right, that I need to watch him to getting help from outside agencies and stuff like that, exactly. This is not new to me, Danny and I had go-rounds for years, it is not new ..(can't hear)..Danny when that light bulb off because I hadn't seen the behavior for five weeks prior, enough to let me know to keep my guard up to get the doctor and the agencies involved that needed to help me, get my Respite care and get him into Benjamin Rush for the medication and stuff like that, that's where the light bulb was.

Q. Was it for you getting, was Danny able to get

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3 Social Security benefit?

*see  
set up*  
4 A. Yes. Well, I had applied for him, when Bob was  
5 leaving the house, I had applied to get Social Security for  
6 Dan and Medicaid to help pay some of his bills....(can't  
7 hear).....

8 Q. They were all in the process?

9 A. Yea, because Medicaid and Social, Leroy wanted his  
10 medication, because we had a medical bill out and Social  
11 Security did help us provide for the family, if he was  
12 eligible, that's all, we were in the process of doing that.  
13 I applied for that early August, I believe, to get him some  
14 benefits. ..(can't hear)...

15 Q. There are some big, two vacant voids between, with  
16 the puzzle that we have. Let me ask you this question.....

17 A. I was, I was sleeping with my daughter in a ....  
18 (can't hear)...and a pair of shorts on the back porch with  
19 her as I had done what I had to do with the dishes and the  
20 clothes, I was not used to taking, I took care of my  
21 children all the time, being alone with them was nothing  
22 new for me, at all, nothing new. I took care of Danny all  
23 his life with little support from Leroy.

24 Q. Oh, I think that we both probably know somebody  
25 ..(can't hear word)...Leroy.

A. I ..(can't understand word)... had a tough time

*Handwritten notes:*  
M. J. ...  
P. ...

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3 trying and getting help for him from community agencies and  
4 teachers to help me and I had support ..(can't hear)....  
5 even the Sheriffs here support me if I needed to call them  
6 for assistance. I was not afraid to call and say, help me,  
7 Danny's acting up now, that's all, that's all. I knew I  
8 call the Sheriffs to come help me but I would never do it,  
9 other people would do it for me, but if I needed help, I  
10 knew that I could call, now I would have to, that's all.

11 Q. Was there, was there ever a time when Danny was  
12 acting out and his behavior that you were afraid to go to  
13 sleep or you were afraid for you and the girls to go to  
14 sleep with Danny in the house?

15 A. No. When I put Danny to bed, I would never.....  
16 (can't hear)... he just never got up to do that and under-  
17 stand that when Danny had incidents, after they were done,  
18 they were done, it didn't repeat itself, normally, I mean,  
19 he usually was remorseful and we're talking and ...(can't  
20 hear)...it was over. You know, sometimes it might of been  
21 okay to be over because it hurt like hell, but it was over  
22 and I had just gotten the resources from the community and  
23 Commissioner...(can't understand name)...was aware for me  
24 to seek help and I would definitely use these resources if  
25 I needed to use these resources. I did nothing out of the  
ordinary that night and would never do anything to endanger

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3 my children and myself like this, ever. I probably  
4 endangered my daughters by leaving them in a situation where  
5 Danny was violent with me and the Child Protective should  
6 of came down and said, the girls shouldn't stay here, okay,  
7 but that ended, Dan never hurt his sisters and I never  
8 thought he would.

9 Q. But you could never take that chance.

10 A. I was always there, I would never have allowed  
11 it, I would of gotten, called your guys and if he had ever  
12 hurt his sister, there wouldn't of been an option there, he  
13 would of had been placed where he could get help not....

14 Q. Michelle, I'm a parent, I would not want to be in  
15 that position where.....

16 A. Tell me.

17 Q. ...I have one child who I know has the ability to  
18 act out and has already harmed you and now you have to live,  
19 you have to realize that the possibility exists .....

20 A. It's always there, was always there, not for just  
21 a couple months, for, you know a couple...(can't hear)..

22 Q. ...(can't hear)..now that Bob's gone?

23 A. ...(can't hear)...yea, well Bob has been gone,  
24 understand that he hadn't been around a lot for six months.  
25 He's been working second shift, I had my children all night.  
On the weekends he has been gone quite a bit, I had my

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children and Christopher, my step-son, I took care of these kids. It was nothing new to me, ask people in the community, ask them, ask all my neighbors how I was with Danny, go ahead, ask them. Ask any of his school teachers, his instructors, ask them. You're not going to find anybody that's going to tell you otherwise. That little boy was first with me and probably I put my girls in a secondary position and would remain that way until I got help if they needed to get help..(can't hear)....., he wasn't, he.... (can't hear)..bad little boy, if it's his disability and I, of all people, along with my support in this community and parents that are also involved in children like Dan, no, but never, never, no.

Q. Who else could be responsible?

A. I don't know of anybody else responsible, could be responsible. Bob loved my children and I believe he loved me still. Sue's my best friend and she at her Mom's house. I don't have any family up here, my mother's downstate ... (can't hear)...I don't know. This wasn't in my realm of thinking. I wanted somebody to help me, I'm at ..(can't hear)...to get my son, that's all I wanted. I certainly, I don't know how long Kimie and I lay in that fire, in that smoke or whatever, I don't when it started, I don't know what time, how we were in this, I just.....

*all her helpers*

1  
2  
3 Q. Neither does anybody else.

4 A. ...I just don't know. I know what time we went  
5 to bed and I know what woke me. I can't help you with  
6 anything else, I have nothing to offer you. I have nothing  
7 else to offer you.

8 Q. You don't have any idea how this fire started?

9 A. No and please talk to anybody you want to about  
10 my relationship with Dan and how I dealt with him and how I  
11 loved him and the rest of my family. Feel free.

12 Q. There is no doubt, there is no doubt in my mind,  
13 not the least little bit, that you loved your children and,  
14 as I said before, you are in a position as a parent that no  
15 parent should have to be in.

16 A. I never..(can't hear)....this is how it is, .....  
17 (can't hear)...this child, you know, you either love him or  
18 you don't and if you don't love him, you've got to let him  
19 go where they can be loved. I loved my son even though I  
20 couldn't deal with him, I took care of him..(can't hear)...

21 Q. And I really think, Michelle, that is the bottom  
22 line, you're exactly, that is exactly what you were looking  
23 to do just to be able to take care of Danny, trying to help  
24 him in the best way, with all of the things that have  
25 happened that you could possibly do.

A. I don't have anything I can tell you, I don't have

*She didn't love me*

1  
2  
3 anything I can tell you. I told you all I know,  
4 improvements that I made, I told you all those things that  
5 I'd done, that I'd been doing to improve the house to make  
6 it more livable ... (can't hear) ..... my children.... (can't  
7 hear).. It doesn't make any sense to me.

8 Q. And that's what I'm trying to be able to do is  
9 make sense of what happened and find out what happened and  
10 you were there.

11 A. And right there, yea. I was right there.

12 Q. I need to get a new page with this one.

13 (Next couple of sentences, I'm not sure who is talking,  
14 sounds like possibly this tape was used before maybe  
15 because it doesn't seem like it's the investigator  
16 talking but it's a man's voice:

17 What's going on, nobody will leave me alone.)

18 (Investigator continues again)

19 Q. Do you, I guess I hadn't asked you this before,  
20 never really thought .....

21 A. Talk to my oldest daughter Melissa.

22 Q. You mentioned to me before that occasionally that  
23 on a Friday night or something, you would go out with the  
24 girls....

25 A. Mmmm.

Q. Have a beer?

A. Mmmm.

1  
2  
3 Q. Were you want to have a beer at home?

4 A. I'll have a beer at home, sure. I'm not a  
5 drinker, no, no. My neighbors will invite me for a beer,  
6 no. A six pack will last me, you know, a couple weeks I  
7 have one, no, I'm not a drinker.

8 Q. What can you tell me about previous fires, the  
9 garage was it, what year did you say it was?

10 A. 1990, I don't remember, 89, 90.

11 Q. And that was the garage?

12 A. Mmmm. There was a fire in the kitchen, my fault,  
13 cooking with grease. ...(can't hear)...but it very little  
14 damage there, it wasn't even nothing to do with anything,  
15 not much. I remember cooking with grease with my neighbor  
16 and we had the construction open and I thought we had put  
17 it out and papers had fallen behind the counter top where  
18 the lids were open still and several hours later ..(can't  
19 hear)..fire extinguisher and that one wasn't anything big  
20 and back in 1990, I think, that little room there at the  
21 bottom of her father's bedroom, now, when Leroy and I were  
22 together, an electric space heater had caught fire but that  
23 was put out with an extinguisher too and....

24 Q. What was the room used for at that point?

25 A. My little baby's room. She had her crib in there,  
Kimie's room. There was no heat in there so there was a

1  
2  
3 little ceramic heater but that, the garage fire is the  
4 only significant one that we had and my kids were in the  
5 bathtub. I had Danny and Melissa in the bath..(can't hear).  
6 ..Kimberly in the bathtub and Danny came out to tell me  
7 that that was on fire.

8 Q. That's the garage?

9 A. Mmmm. And it's been, what, 11 years now, 10 years  
10 now..(can't hear)...any claims or anything, not even with  
11 the blackout we had Labor Day, I didn't both to claim any-  
12 thing on that stuff.

13 Q. How about the 4th of July storm?

14 A. No, I didn't claim anything. ..(can't hear)...  
15 with the deductible to fix a lot of this, no point in doing  
16 anything like that.

17 Q. Do you remember how much money you got from the  
18 garage fire, do you remember was it?

19 A. About 11....(can't hear)..., they paid to rebuild  
20 the structure, \$11,000 and rebuilt the structure..(can't  
21 hear)...they built it.

22 Q. Was there contents coverage on it?

23 A. I don't remember, I don't think so, I don't think  
24 so.

25 Q. How about the kitchen fire, was there a claim to  
the insurance company for the kitchen fire?

*all about insurance?*

1  
2  
3 A. I don't know, I don't remember, I know it was  
4 nothing significant, \$500, maybe less, cause we had put it  
5 out.

6 Q. Did the fire department come to that one?

7 A. Did they come to that one, I don't remember.  
8 You're talking 12 years, I don't remember that one, I don't  
9 remember, I don't remember that one. We had the, when  
10 Leroy had the ..(can't hear)... and the freak storm came  
11 through, the water damage had come in from the freak storm  
12 cause the roof was off, that was the other claim on the  
13 house..(can't hear)...

14 Q. But that was for the water damage?

15 A. Mmmm. We had put, we were putting the upstairs  
16 on and we had the roof off and the rain, a freak storm came  
17 in and we had to repair ...(can't hear)...

18 Q. Did the insurance company settle with you for the  
19 damage from the storm?

20 A. Yes.

21 Q. For the water?

22 A. Mmmm.

23 Q. When was that in relationship to the kitchen fire?

24 A. I can't, we were putting the addition up in 1989  
25 or 1990, I don't remember, 1988, I don't remember. We'd  
been there, I think we came there in 1987 when Dan was one

1  
2  
3 and right after that. It had to be fairly close to it  
4 because the kitchen was, the wall was studs, there's wasn't  
5 any, the cabinets, we just had base cabinets and they were  
6 pulled away, the stove was there, but I was cooking with  
7 the grease and, what happened was, I had a towel too close  
8 and it caught and we stamped out, my neighbor and I put the  
9 towel out and didn't recall that we had papers that had  
10 fallen behind the countertop, that's what that one was, so  
11 it had to be around the same time, but it had been so long  
12 since any claims and never on, not with this insurance,  
13 never. Never any car claims, nothing.....(tape cuts off  
at end of tape)

*Thomas  
Inman*

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3 TAPE 4 - SIDE A September 21, 1999

4 MR. MCLOUD: Help me again, Michelle, walk me through  
5 this exactly.

6 MRS. DAVIS: Kimie and I were sleeping here, she woke  
7 up coughing, I asked her, what's the matter, Kimie, why  
8 are you coughing, you need a drink of water and she said,  
9 Mommy, it's foggy, that's the words I remember and I looked  
10 up and it was foggy, smokey and I came back to the door,  
11 opened up the door and I saw smoke in here and went back  
12 out here and I told Kimberly, please run to the neighbor's  
13 house, there's a fire or something, Mommy needs help. At  
14 that my concern was go to the stairs, go up to the stairs  
15 to get Danny and as I told you this did not feel hot, the  
16 smoke looked lighter to me here, whiter because it wasn't  
17 pitch black going through here so I rounded this corner  
18 and it was dark, here is where I saw darkness, here's where  
19 my foot hit a stair and then subsequently, did not. I  
20 could not breathe, I came back out and went on the roof to  
21 get him that way.

22 Q. Why do you think that you couldn't get that  
23 second stair?

24 A. I don't know. I didn't feel one there...(can't  
25 hear)..to there. This was black, I couldn't hardly see

1  
2  
3 anything anyway coming up this way. It was hot and I  
4 decided to go out and get him from the window... (can't hear)  
5 even closer to his window than there. I did not feel that  
6 I could get up these stairs.. (can't hear)... At the same  
7 time I knew his window is right here, it's off the porch  
8 and go back out and climb on the porch and try to get him  
9 that way.

9 Q. Why don't you think you could of gone up that  
10 stairway?

11 A. I couldn't see it, it was dark. I couldn't feel  
12 it with my feet after the initial up. It was hot, it was  
13 hot here, it was hot. I was afraid to go cause it was hot,  
14 I don't know. All I know something told me to come back  
15 on the roof, it was a closer way to get him, his window  
16 being right there. This was hot to me, it felt hot, it  
17 didn't feel like coming through here, it felt hot, it was  
18 dark. Here is where I could get to him faster, coming out  
19 here, trying to get him through his window. .. (can't hear)..  
20 I don't remember looking, I remember trying to get a .....  
21 (can't hear)...

22 Q. But you never really felt heat till you got to  
23 the stairway?

24 A. I felt hot over here, I didn't feel it coming  
25 through here, no; I didn't. I'm not going to sit and tell

1  
2  
3 you I did, I did not, but it was getting hard to breathe,  
4 I was having a hard time and I knew that Danny's room is  
5 the window right up on the porch... (can't hear)....go on  
6 his window cause I was afraid.

7 Q. There has, Michelle, there has to be an  
8 explanation for what happened here, there has to be. You  
9 have, you have to help me explain.

10 A. I can't help you explain that, I don't know. I  
11 only know my, what I did that night and I know I went to  
12 bed, and I know that I was on the couch with my daughter,  
13 and I know that I was wearing a pair of green shorts and a  
14 ..(can't hear)...top with a tie, what I know, and I know  
15 that I awoke to a horrific thing.

16 Q. ...(can't hear)...you don't, ..(can't hear)...I  
17 didn't see you that closely. Do you remember, did you have  
18 anything on your feet?

19 A. No.

20 Q. You don't wear, what did you normally wear,  
21 sandals, sneakers, shoes?

22 A. To bed?

23 Q. No, .....

24 A. Sneakers and sandals, had a pair of sandles, I had  
25 a pair of pull-ons, I have sneakers. I had nothing, when I  
went to bed, I didn't wear, you know, anything on my feet

1  
2  
3 and it was hot so I normally would of dressed that way with  
4 shorts and a...(can't hear)...top or a night gown, something  
5 and when I thought, when I went over...(can't hear)....

6 Q. Do you know where your shoes would of, where would  
7 you have taken your shoes off or .....

8 A. ..(can't hear)...they're going to be in my closet,  
9 my bedroom or in my bedroom. Down here was a steel  
10 container that had kids shoes, some of the kids shoes,  
11 sneakers in there and a shelf and all the...(can't hear)...  
12 with a chain thing.

13 Q. Where is that located?

14 A. Right by the stairs it hung. It looked like a  
15 globe, you know, have you ever seen it hung and I don't know  
16 if that was plugged in or not.

17 Q. Well, I'm trying to be able to figure out exactly  
18 what, you know, what happened.

19 A. I don't have anything else to tell you, I really  
20 don't. I just, I don't. There's nothing else for me to  
21 tell you. You want to know my character or my children ask  
22 anybody, ask everybody, ask my neighbors about Danny and me  
23 and the girls and what we, I've talk to them, they've been  
24 with me through thick and thin, they've been there to  
25 support.

26 Q. Michelle, I don't for one minute think that you

1  
2 did anything to intentionally hurt any of your children.

3  
4 A. This is my house, I've lived here for 12 years,  
5 everything that's in my house, I'm improving my house, it  
6 makes no sense.....

7 Q. But a home, a home was material. You had your  
8 family, you had your two girls, you had you ... (can't under-  
9 stand word)...

10 A. This is Danny's home, our home, he loved the lake.  
11 I had no problems paying the mortgage and all that stuff,  
12 it makes no sense. I certainly wouldn't be improving my  
13 home, doing all these things and the fact that people split  
14 up all the time, sir, and the fact that Bob and I did not  
15 remain married, doesn't mean a damn thing. I still had him  
16 for support if I needed him. I had support in line, my son  
17 was not uncontrollable or unhandable or would I consider  
18 it unsafe at this time and if he was unsafe, in the future,  
19 bet your butt I would of called on you guys to help me and I  
20 would of been calling on these agencies and this Respite  
21 care and all these wonderful things I found are available  
22 to me to help me with Dan. Lots of stuff out there, you  
23 don't know about it till you ask. But that's exactly as it  
24 happened the way I recall it happening. I did go back in  
25 my house, I did go the staircase, no, it was hot, I  
chickened out or whatever, I went out on the roof to try

*Damn it I did you I was for my house I would never have done*

1  
2  
3 to get him that way.

4 Q. There are people who will say that you showed no  
5 signs, no symptoms of having been in a smoke filled house,  
6 none what so ever. Michelle, from my experience with fire  
7 I'll tell you, I've been in burning buildings, I've been  
8 in them, I've seen them start, I see what they do, you  
9 could not have been in that stairway when those stairs were  
10 gone by fire, you could not have been there, no way in hell,  
11 you could not be in that house at that point.

12 A. I wasn't in very long, I...(can't hear)..back.....

13 Q. You could not, by the time the fire got to the  
14 level in that stairway, that you couldn't, that you couldn't  
15 get up those stairs, you could not have been in this  
16 building.

17 A. There wasn't any down here.

18 Q. No, the fire started in the stairway.

19 A. I didn't see any smoke, I saw smoke.....

20 Q. And that's why you tell me, you couldn't find  
21 cause you knew the fire started in the stairway.

22 A. No, I did not. No, I did not. I went back in  
23 here and I went to the bottom of the stairs and I came  
24 back in an attempt to get my son. I can't tell you whether  
25 they were gone or they weren't gone. I can tell you they  
were hot, it was hot there. All I can tell you,...(can't

1  
2  
3 hear)....I don't know, I wish to God I did.

4 Q. Is it possible that and, certainly Michelle, I  
5 don't know you previously, don't know anything about you  
6 or your history, your physical condition, but has there  
7 ever been a time in your life where you have thought, after  
8 the fact, of course, that you were, that you were sleep  
9 walking or that you had done something that you weren't  
10 aware of until after the fact?

11 A. I don't know, I don't know. I went back in here.  
12 I went back through this smoke.

13 Q. Cause all I'm wondering here is that the  
14 possibility exists if you, if you have had some history of  
15 sleep walking.....

16 A. No...(can't hear)...., I don't have a history of..

17 Q. That because of the stress and the things that  
18 were going on that one part of you may have acted out and  
19 done something that you felt needed to be done for the  
20 protection, for your family and, you know, I mean, this may  
21 be a stretch, but again, I don't know you. Certainly I  
22 had people who have the two sides, if you will, and only  
23 you can tell me that, I don't know if that's the case.

24 A. No, I'm not prone to doing things like that, no.

25 Q. But is that possible?

A. No.

1  
2  
3 Q. I'm trying, Michelle, I'm doing my best trying to  
4 help .....

5 A. I only know what I told you that I came back  
6 through the house.

7 Q. I think that.....

8 A. . In my state of.....

9 Q. I think that.....

10 A. In my state of panic, maybe I never got as far  
11 as the, I don't know, but I came back through and it was  
12 hard to breathe and it felt hot, I came back out to try to  
13 get Danny.

14 Q. I think, I think that there was time that you were  
15 in the stairway, I absolutely think that but at that point,  
16 that the fire occurs and I need for you, Michelle, to tell  
17 me what happened, how it happened.

18 A. I don't know, I don't know, I don't know.

19 Q. I think that there has to be some, there has to  
20 be some, some reasons, some accident, something that  
21 happened in that stairway, but whether you had something  
22 fell down, I don't know, Michelle, but you were in that  
23 stairway, you've already told me that, I know you were  
24 there.

25 A. I put the ceiling fan on.

Q. The ceiling fan didn't do it. The ceiling fan

1  
2  
3 did not start that fire. The wiring did not start the  
4 fire. Something started the fire in that stairway. Help  
5 me so I can help you, because there are people who would  
6 think, with the facts that we have and those things, there  
7 are people who would want to make you out to be a monster,  
8 you are not a monster.

9 A. I didn't do anything to burn my home down. It  
10 makes no sense at all.

11 Q. There's a lot of things that happen in this world,  
12 Michelle, that make no sense, individuals on the outside,  
13 and what I want you to do is help me makes sense of it, let  
14 me help you.

15 A. I can't.....

16 Q. Cause with your story, as it is, I assure you that  
17 there will be people who will look to make you out to be  
18 a monster and I spent a couple hours with you last week and  
19 I've spent a couple hours with you today and I know that  
20 that is not the case. You are a mother who had three  
21 children to protect and to love and care for and you took  
22 that responsibility and dealt with that responsibility for  
23 13 years, 15 years. And I'll, Michelle, I want to help  
24 you.

25 A. I didn't do it, I flicked the switch off for the  
ceiling fan, that's all I did...(Michelle yelling)...

1  
2  
3 Q. Ceiling fan.....

4 A. You had your dogs come in, did you find any, what  
5 is that stuff you call, accelerant stuff?

6 Q. What if we did?

7 A. Then you tell me.

8 Q. You tell me it's not there.

9 A. It's not, as far as I know.

10 Q. Yes, it was.

11 A. Not that I know of, no way, no way, nope.

12 Q. At the top of the stairs, down the stairs.

13 A. Nope.

14 Q. Over to by the electric box.

15 A. Nope.

16 Q. You tell me?

17 A. Nope, I'm not going to tell you. I cleaned the  
18 closets, I cleaned the room.

19 Q. It's not cleaning the carpets and paint the room?

20 A. I have no idea. I cleaned the carpets, I painted  
21 the room, that's it. I cleaned the carpets, I painted the  
22 room. ..(Michelle starting to cry)...I cleaned the carpets,  
23 I painted the room, that's all, nothing else in there. Move  
24 into that room, so my kids could have my room with the tv's  
25 and the VCR's in there, that's all.

Q. We're dealing with a whole different issue, if

1  
2  
3 the possibility exists that maybe accidentally, not so much  
4 intentionally, that you were responsible for starting the  
5 fire to do some minor damage to get some money out of the  
6 insurance company and then it got out of hand, if that's  
7 what happened, Michelle.

8 A. No, I was fixing my home up, I wasn't going to do  
9 anything to it. I feel so sick right now... (can't hear)...  
10 I don't have a child.

11 Q. I know and I'm sorry for that.

12 A. My little girl and I was there... (Michelle crying)

13 Q. I know that too.

14 A. .. (Michelle sobbing) ... I don't have anything else  
15 to tell you. I have been through such stressful times with  
16 Danny, there is no way, sir, my opportunity to do something  
17 or harm my home, my kids, years ago, gees, no. This is  
18 nothing new for me, be alone, and call my home and live  
19 there, no. I can't go on, I just can't because I'm so sick  
20 right now, I'm sick.

21 Q. Do you want to use the bathroom?

22 A. No... (can't hear)...

23 Q. Would you like a drink of water, what can I get  
24 for you? Michelle, I want to help you, I want to help you  
25 through this.

A. I didn't do this, I did not do this.

1  
2  
3 Q. And let me assure you of this, Michelle, if that  
4 is the case, if you are not responsible for what happened  
5 there, I will stand by you and with you and get you through  
6 this, but if you know something, whatever it was, if it  
7 was an accident, whatever it was, tell me that so that I  
8 can help you and I will stand with you and get you through  
9 this.

10 A. ... (Michelle sobbing and yelling)... Sir, I don't.  
11 Why wouldn't you think I would want to know. And I did go  
12 back to the stairs and it wasn't very long. I ran back, I  
13 ran out. I think I chickened out, I think I was scared or  
14 not, I don't know.

15 Q. And I understand those things.

16 A. I don't know and I don't know why... (can't hear,  
17 crying)....

18 Q. What I need for you to tell me, Michelle, is how  
19 the fire started.

20 A. ... (Michelle yelling)... I don't know. But I've  
21 had other fires, I know when they start, I was responsible  
22 for the grease fire in the kitchen. I did nothing wrong  
23 there, I didn't.

24 Q. And if that's what happened here.....

25 A. I didn't do anything here. I just made a ton of  
improvements to my home, we just bought a new microwave

1  
2  
3 and put the light up and painted and did the back porch,  
4 I was painting in the room, no, no. I was looking to, help  
5 to get a better heating system for my home, these are  
6 things I was doing. I called the HEAP and that for  
7 assistance to have HEAP, see who can help me with grants  
8 for heat, I wanted to do one for the winter with the heating  
9 inadequate, these are things I was doing to improve this  
10 home.

11 Q. There is no doubt in my mind that you were making  
12 improvements to the home.

13 A. I'm not behind on my mortgage or anything.

14 Q. I know you're, I know you told me that and I  
15 believe you at this point, have no reason to .....

16 A. There's no financial here.

17 Q. Michelle, I don't think for one minute that money  
18 has anything to do with this.

19 A. I did not do anything to cause or start this fire  
20 and I will stick by that till I die, I did not do it. I  
21 went to bed with my daughter and I woke up to this, that's  
22 all I know.

23 Q. There's something else that, and I'm going to ask  
24 you...(can't hear)..., you know that I have been a police  
25 officer for 18 years, I've been involved in fire service  
for a little bit more than that.

1  
2  
3 A. Mmmm.

4 Q. I have investigated hundreds of fires.

5 A. I'm sure your credentials are impeccable.

6 Q. That's what I do and do you know that you have  
7 never once asked me or anybody else in my staff how this  
8 fire started.

9 A. Yea. I can't bring myself to do that. Bob and  
10 Sue have done that for me. This is hard, I just buried  
11 my son.

12 Q. I know that.

13 A. And I thought you would....

14 Q. I have investigated many fires before.....

15 A. ...you were the experts, not me.

16 Q. ...where someone has perished and I get phone  
17 calls on a daily basis, sometimes on an hourly basis, from  
18 the parent or the loved one.....

19 A. I asked Bob and...(can't hear)..Bob to handle  
20 this, those things for me because I just can't.

21 Q. Bob never called and asked how the fire started.

22 A. He talked to Mr. ....

23 Q. Cornelius?

24 A. Yea.

25 Q. Shell, I'm telling you, as we sit here, if you  
do not allow me to help you, there are people who will make

1  
2  
3 you out to be a monster or not a monster.

4 A. I didn't do it. I didn't do anything. There is  
5 no, no grounds for any of, Jesus. There's no reason for  
6 me to do something like this, none.

7 Q. Well, I think there's many reasons that someone  
8 could argue.

9 A. Such, no, no. I was not financial burden, my  
10 son was not a burden to me, I have nothing to gain by this.  
11 There's no gain for me here, I mean, Jesus.

12 Q. There are, the gain that some people on the  
13 outside may be able to show or attempt to show. As far  
14 as financial gain goes, it's my understanding that there's  
15 somewhere between \$175,000-\$200,000 insurance involved.

16 A. No, there's not.

17 Q. Sure there is.

18 A. I don't know.

19 Q. So there is.....

20 A. That old mortgage on his house....

21 Q. I know that.

22 A. I've been paying a mortgage on this house and....  
(can't hear)...

23 Q. Secondly, that Danny is now in a safe place and  
24 thirdly, that you can now provide for your two daughters.

25 A. ... (Michelle sobbing) ... I have to go to school

1  
2  
3 to provide for my family, taking home transcriptions  
4 courses so I can work at home, these are things I was doing.  
5 Both these people helping me so I could have, do things  
6 around Danny, not, I had those things covered, this is what  
7 I was studying at school, home transcription.

8 Q. I know, I know that you mentioned to me something  
9 about this letter that you got from the insurance company,  
10 Sometimes, a lot of times, depending on the laws and how  
11 much money is involved, the insurance companies, I mean,  
12 obviously, Michelle, the insurance companies are in this  
13 for the money, that's why they do what they do and one of,  
14 I think that you or Bob told me that, that whether they  
15 don't give you an advance, they won't do anything, that  
16 they're going to make you jump through the hoops and, as I  
17 said, that's not uncommon because they have their investiga-  
18 tion, that's on-going and we have our investigation and  
19 what I have to do from my standpoint and I do it all the  
20 time, is any time that there is a fire at a property, it  
21 is common practice, but if the fire is determined to be of  
22 suspicious origin, that we first need to look at the owners  
23 of the property and the people close to them to find out if,  
24 in fact, someone may have started a fire, whether  
25 intentionally or by accident, who had the motive, who had  
the financial things, because many times fires are set

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3 for financial gain, not always, but many times. But one  
4 of the things that the insurance company, one of the  
5 positions that they can take is if they deem the fire to  
6 be of that, that they think that maybe somebody's  
7 responsible for it, they can take a position that they're  
8 not doing anything, that they're going to make the home  
9 owner jump through the hoops, do those things until someone  
10 has a means to be able to clear that person as being  
11 involved in it. I don't think that it would be difficult  
12 for you to understand, at this point, that it is you  
13 primarily that the insurance company may think...(tape cut  
14 off at just about end of tape)....

15 TAPE 4 - SIDE B - September 21, 1999

16  
17 MR. MCLLOUD: Kimie was in bed with you but that you  
18 don't have any reason to believe that she may have gotten  
19 up and played with something, you don't have any reason to  
20 believe that Danny may have gotten up and done anything,  
21 you don't think that anybody else got in to the house, so  
22 that doesn't leave us a lot of options. But one of the  
23 things that I can offer you, and it's totally, it's totally  
24 up to know you, I know that we've been here for a couple  
25 hours now and you're probably tired and hungry as I am....

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3 MRS. DAVIS: Sir, I am more than than, I am just  
4 totally, totally devastated at this point.

5 Q. But if, if.....

6 A. Devastated.

7 Q. If it is your position that the things that you  
8 have told me here are true, that you did not do anything  
9 accidentally or otherwise to start this fire, I'd like to  
10 be able to believe you, Michelle, but because of the other  
11 pieces of this puzzle, I'd just, I'm having, I'd like to  
12 be able to believe you but just something is not, so one  
13 of the things that I'd to do for you tonight, if you're  
14 willing, is to make a phone call, see if I could arrange  
15 for you to be able to take a polygraph and I assure you that  
16 if you're willing to do that and the polygraph is able to  
17 tell us that you're telling the truth, I'm on your side  
18 100% and I'll tell the insurance company that I don't have  
19 any reason to believe that you're involved in this. That  
20 is your, I'll jump through the hoops to make it available  
21 to you but only if you want me to and, the thing that I'm  
22 saying is that if you're.....

23 A. Right now, I can't handle anything. I'll be  
24 certainly glad to take one for you at a later time but not  
25 now. My little girls have been waiting for me for hours.

Q. But they're okay, right, I mean, they're.....

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2  
3 A. They're okay but do I look okay? I think my blood  
4 pressure is sky high right now.

5 Q. Cause I'd have to, you know, if you want me to  
6 look to see if I can even set it up, I'd be willing to make  
7 the phone call and see if, and the only thing is, Michelle,  
8 that I know that we've been here for a couple hours and I'm  
9 trying to be able to help you and that's what I want to be  
10 able to do, but I need for you to help yourself.

11 A. I did nothing wrong and I think I need me an  
12 attorney here now cause you've placed me in a position like  
13 this.

14 Q. Okay. Do you have an attorney in mind?

15 A. No, I don't right now. I didn't think I would  
16 ever. Are you telling me I can't go home to my girls now?

17 Q. Well, you're free to, you can go anywhere you  
18 like. Would you like to call somebody. Are you going to  
19 be okay to drive home?

20 A. ..(Michelle sobbing)...I don't know, I just ....  
(can't hear)...go.

21 Q. Do you, do you have an attorney in mind that you  
22 want to call at this point? Do you want to call....

23 A. No.

24 Q. Do you want to call.....

25 A. No, I ..(can't hear, crying)... I can't under-

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stand right now, I just don't want ..(can't hear, crying)...

Q. Do you, do you want to call Bob, want me to call Bob?

A. No. ..(sobbing)... I have his car.

Q. You have his car?

A. ..(can't hear, sobbing)....I just want to be with my girls.

Q. Where are the girls?

A. At his apartment right now.

Q. At Genesee Gardens?

A. Mmmm. ..(can't hear).....I'm trying to get settled for us in the apartment.

Q. So he doesn't have a car?

A. I'll take it home. I just don't want, ...(can't hear)....now.

Q. ..(can't hear)...little bit.....

A. ...(can't hear)...can stay here right now.

Q. Well I, and I'm not holding you here, what I want to do is, because you're upset, I want to get you home safety, so I'd be happy to drive you to Bob's. I'm concerned about you being able to drive. Would you like to go out and get a drink of water, use the bathroom? ... (Michelle can't seem to stop crying).. You tell me what it is that I can do?

1  
2  
3 A. Oh, stop this.

4 Q. I'm not asking you any more questions.

5 ... (Michelle crying and moaning) ....

6 A. Can you tell me what I need to do?

7 Q. Well, it's up to you if your in a, if you feel  
8 that you're up to it tomorrow and you want to call, if you  
9 want to, if you're willing to take a, have you ever had a  
10 polygraph before? They're really a lot more hyped than, I  
11 mean, I know that the first time that I ever had to take  
12 one that I was kind of nervous too but there's no surprises,  
13 you know the questions, there's usually anywhere from 7 to  
14 9 questions that they're going to ask you. You know what  
15 the questions are before, so it's not like, you know, what  
16 are they going to ask me and that is something that we can  
17 possibly do tomorrow if you want to, but again, that's up  
18 to you and the only thing is is that if you're willing to  
19 do that and, certainly, you know, obviously this whole  
20 matter is stressful, I know that and I understand that and  
21 I'm trying, Michelle, to be able to help and if you're, if  
22 you're willing to take the polygraph and you can demonstrate  
23 to the operator that you're being truthful with these  
24 questions, then I can, cause I already told you before, I  
25 can clear you with the insurance company and I know that I  
have to start looking else where but, because right now

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3 you're kind of closest, you're the closest one to the whole  
4 thing, that I have to be able to clear you before I can go  
5 elsewhere.

6 A. I can't do it tonight.

7 Q. That's fine. You know, and the only reason that  
8 I offered for tonight was that to get it over with.....

9 A. I know but you hit with so much, I just, I'm  
10 physically sickened at this point.

11 Q. Okay, I can see, sure, that's you're upset,  
12 understandably so, cause what I'd like to be able to do if,  
13 and again, you can, I'm not holding you, you can leave  
14 any time that you want and, again, my only concern is that  
15 I want to get you home safely, I don't want you to leave  
16 here in a condition where you may get in an accident so I  
17 would be happy to give you a ride to Bob's apartment and I  
18 can get somebody else to bring Bob's car. We could go, of  
19 course, he's got the two girls.....

20 A. ..(can't hear)...I'll be alright. Once I get  
21 there I'd like to, I don't know whether I need to seek  
22 counsel or what here, I really don't, I don't know.

23 Q. Well, that's a decision that you have to make.

24 A. If I take a polygraph and it doesn't work good  
25 for me, then what, I've never taken one before.

Q. Well, I can assure you that if you are being

1  
2  
3 truthful, you'll pass the polygraph with flying colors and,  
4 on the other hand, let me tell you, if you're not being  
5 truthful with me, don't take the polygraph, I'll tell you  
6 that up front.

7 A. Okay.

8 Q. Okay. How about Sue, would you want to call Sue..

9 A. Sue's bowling tonight.

10 Q. Where does she bowl?

11 A. At the lanes, I have to go to my girls okay. I  
12 will call you probably tomorrow to arrange sometime, maybe  
13 Thursday might be better.

14 Q. Okay, you have, because, and I know that this  
15 isn't your concern but in order for me to set that up, I  
16 really, we don't have one here so I have to reach out to  
17 some place else and get it set up and then I'd be more than  
18 happy to either take you there, we'd probably go to the  
19 State Police barracks in Canandaigua. If you don't have  
20 transportation, I'd be more than happy to get you a ride  
21 there or could meet you there. The operator is a nice  
22 gentleman and he does these all the time and has helped me  
23 in many cases like this, because it is a tool that may be  
24 able to resolve, you know, the differences between your  
25 story and the puzzle that I have from this fire scene and  
one way or the other, it will help us resolve this.

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2  
3 A. I need to go right now.

4 Q. Okay. How about, do you know where Sue's bowling,  
5 do you know what time she bowls?

6 A. I'll meet her after, but I need to spend time with  
7 my girls. I haven't been with them all night.

8 Q. I'd be, I would be much more comfortable if you  
9 would either allow me to give you a ride. If you don't want  
10 to ride with me, I can get one of my other people to give  
11 you a ride and then we'll follow in Bob's car if it's  
12 alright with you and if you want, we'll check with Bob to  
13 get permission to drive his car so his car is there so  
14 you're not there and the car is here. I really don't want  
15 to.....

16 A. I...(can't hear)... I want to do it.

17 Q. I'm sorry, what?

18 A. I want to drive home....(Michelle crying and  
19 upset)... I just want to go home.

20 Q. Like I said, I don't want, I don't want you to be  
21 in a position where because you're upset. Do you know, let  
22 me ask you this, do you know what lanes Sue bowls at?

23 A. ..(can't hear).....I want to go see my girls.  
24 I don't know what to tell them.

25 Q. Certainly I think that you can tell them that  
we're just trying to find out what happened. Would you like

21

22

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2  
3 to, want to call, call Bob?.....(tape cuts off in the  
4 middle of the tape - Side A....  
5  
6  
7

8 CERTIFICATION  
9

10 I, Rose Nardiello, certify that the foregoing  
11 transcript of tapes relative to the matter of the People  
12 of the State of New York against Michelle Davis, Index  
13 No. 99-986, Indictment No. 99-131, of an interview  
14 between Sheriff's Investigator and Michelle Davis on  
15 September 21, 1999 was prepared by me and is a true and  
16 accurate record of that interview to the best of my ability.  
17

18   
19 \_\_\_\_\_  
20 Rose Nardiello

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24  
25