Witness: Tod Opdyke

Date: 2004-07-06

Proceedings held July 6, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – David Harris; Cross – Mark Geragos; Redirect – David Harris

Day 1 of 1 for this witness

Court: San Mateo County Superior Court, Redwood City (People v. Scott Peterson)

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Direct Examination by David Harris

HARRIS: Can you tell us what your occupation is?

OPDYKE: Police officer, City of Richmond.

HARRIS: How long have you been employed by the City of Richmond?

OPDYKE: 26 years.

HARRIS: For that entire 26 years have you been a police officer for Richmond?

OPDYKE: Yes.

HARRIS: I want to direct your attention back to April 13th, 2003. Were you working in your capacity as a police officer?

OPDYKE: Yes.

HARRIS: At some point in time were you dispatched to go to someplace that the fire department was calling you out to?

OPDYKE: Yes.

HARRIS: Do you remember where it was that you went?

OPDYKE: It was a shoreline just outside of a gated community called The Breakers.

HARRIS: And is the address that, kind of around that area, Bayside Court?

OPDYKE: That's, yeah, that's generally in the vicinity, yes. Bayside Court.

HARRIS: Okay. When you were called out there, did you go out there and actually meet with somebody from the fire department?

OPDYKE: Yes.

HARRIS: The gentleman that just left, Captain Newman, did you happen to meet him there that day?

OPDYKE: Yes.

HARRIS: When you went out there and met Captain Newman, did he take you to the location where a body was at?

OPDYKE: Actually, he was standing out near the, the body and I spotted him. It was quite a distance, and I walked out to him.

HARRIS: You walked out that distance to him?

OPDYKE: Yes.

HARRIS: Does he point something out to you?

OPDYKE: Yes.

HARRIS: And was that a body?

OPDYKE: Yes.

HARRIS: Tell us what happens when it kind of transitions from the fire department personnel being out there to the Richmond police being out there.

OPDYKE: Well, the, the first thing we normally do is seal the scene, and for preservation purposes, evidence purposes. And contact and identify any witnesses. Check the area for any witnesses or any further evidence.

HARRIS: Now, this particular location where the body was at, is this kind of in a marshy field, a mud flats kind of area?

OPDYKE: Yes, it is.

HARRIS: I'm going to show you some photographs, and we'll also look at the, have them marked, some of the blow-ups behind you. Start with 96A, B, C and D. Give you a chance to look at those. While that's happening, Judge, can we have them marked People's next in order, the next three separate numbers of blow-ups of photographs on two boards separated by an A and B designation, and then a third board is one blow-up photograph?

JUDGE: Okay. Let's mark it 97, and that has, what, two photographs, A and B?

HARRIS: Yes.

GERAGOS: I don't quite understand. The board that's up there is what?

JUDGE: That will be number 97. The top photograph is A. The bottom photograph is B.

GERAGOS: Those are not replications of previously marked exhibits?

JUDGE: My understanding they are blow-ups.

GERAGOS: I don't think that they are. I know they're blow-ups, I don't disagree with that. I was trying to determine whether or not those are already marked as other exhibits.

JUDGE: I think we have those photographs already marked, don't we, Mr. Harris?

HARRIS: We do have some of them. 97 B for the record is a below and, blow-up of I believe what is 96A.

JUDGE: Okay.

HARRIS: But it now has also the designations of locations on there.

JUDGE: All right.

GERAGOS: And 97A?

HARRIS: Would be 97,

GERAGOS: Right. 97 B I understand is a blow-up of 96A. What about 97A?

HARRIS: That has not been marked yet.

GERAGOS: That's what I mean. I would appreciate if I get shown these before they're put up there so I can keep up.

JUDGE: 97A is a blow-up of the area.

HARRIS: These were, I believe all of these were in the small photographs that were shown to counsel, other than the markings on them.

JUDGE: Okay.

HARRIS: 98.

JUDGE: 98 is?

HARRIS: Is another blow-up starting with A.

JUDGE: 98A and B.

HARRIS: 98A is a blow-up with a marking of the exhibit that the witnesses have been describing as 96 B.

JUDGE: Okay. And 98 B is what?

HARRIS: And 98 B is one that we've not gotten to yet.

JUDGE: Okay.

HARRIS: And then 99.

JUDGE: 99 is?

HARRIS: Is a slightly different blow-up of another aerial depicting two sites that we've not had a witness talk about yet.

JUDGE: Okay.

HARRIS: We'll mark that, and I'll stick that on the board. Officer, now, have you had a chance to look at those photographs in front of you?

OPDYKE: Yes, I have.

HARRIS: Do you recognize what's depicted in those?

OPDYKE: Yes.

HARRIS: I want to talk about specifically 96, 96A. If you, tell you what. I'll move this so we can see it at the same time.

JUDGE: You want to hand the witness the poker, the pointer, please.

HARRIS: I tell you what. I will give you that poker, the marker. And I will take back these others. I'm going to put up on the screen again the exhibit that you were looking at, 96A. Do you recognize that? Is that an overall view?

OPDYKE: That's a distant general view of the, the area where we found the body.

HARRIS: Okay. Just so we're pointing this out. Up here to the left center of the photograph, 96A, is this this marsh mud-flat land that we were just talking about?

OPDYKE: Yes, just to the right of the beach area there.

HARRIS: And that particular photograph is depicted up there as 99?

OPDYKE: Yes.

HARRIS: So the blow-up of 99 is marked,

GERAGOS: I thought the blow-up of 96A was 97 B.

HARRIS: Well, from looking at, comparing them now, that was mistaken. 96A is the blow-up of 99. Or 99 is a blow-up of 96A. Going to 96 B, you're looking behind you and pointing to 98A?

OPDYKE: Yes.

HARRIS: Right. So 90, again, for the record, 96 B is the small photograph that's now been blown up and put on the board that's marked as 98A that's directly behind you?

OPDYKE: Yes.

HARRIS: And on 98A, there's a label underneath that flat land area depicted in the photograph which says Connor recovery site?

OPDYKE: Yes.

HARRIS: If I can get you to turn around, we'll look at this one right here, 96 C. You were telling us the location, describing for us where you walked out to where Captain Newman was at and observed a body that was up there. Do you see, I'll use the pointer to point it out on the photograph, individuals that are standing there at this location?

OPDYKE: I do.

HARRIS: Is that the general location of where it was that you met with the captain and were looking at the body?

OPDYKE: Yes.

HARRIS: Showing 96 E, does this show a slightly different view of the generalized location that we're referring to where you met with the fire department?

OPDYKE: It appears to be the same area, just a closer view.

HARRIS: All right.

OPDYKE: Different angle.

HARRIS: I want to go back through this. Having in mind the general areas that you were talking about, the generalized overview and the more close up photographs of this particular location. You were telling us that you secured the scene and you kind of preserved it for evidence. When you secure a scene, do you make sure people don't come or go?

OPDYKE: Once we establish the crime scene area, we seal it off from any pedestrian or, in some cases, vehicular traffic, but any, any people,

HARRIS: Now, when you, on this particular date and time when you went out there, did you meet up with, or did somebody point out to you a civilian named Michael Looby?

OPDYKE: Yes.

HARRIS: Did you talk with Mr. Looby?

OPDYKE: Yes, I did.

HARRIS: Did you take a statement from Mr. Looby about what had happened and what he discovered?

OPDYKE: Yes.

HARRIS: After getting his particular statement, did you try to process the scene or look around the scene?

OPDYKE: Well, my job was not to process the scene. It was to help secure it, keep it from being contaminated. But I did look around for any further evidence.

HARRIS: Okay. Well, let's ask about that. When you say it wasn't your, your duty, it wasn't your job, are there divisions of labor within a police department?

OPDYKE: Yes.

HARRIS: And what kind of division, or what assignment did you have on that particular day?

OPDYKE: Well, that, that particular area is my beat area. It's, I'm responsible for enforcement and calls for service in that geographic area. Whenever we come across any crime scenes, we secure it and we call in evidence technicians to come in, and their job is the collection and preservation.

HARRIS: Now, on this particular date, as the beat officer, did you follow your procedure and call in an evidence technician?

OPDYKE: Yes.

HARRIS: Who was it that you called in?

OPDYKE: Well, the evidence technician on duty at that time was Officer Gard.

HARRIS: You say "Officer." Is, with Richmond are the evidence technicians other police officers?

OPDYKE: Yes. They're sworn officers.

HARRIS: So Officer Gard, was he assigned to that particular area?

OPDYKE: No, he's, he's assigned to, at that time he was assigned to my patrol team. And they're not assigned or assigned solely to one exclusive area, they travel the city wherever there are crime scenes for processing.

HARRIS: And when you called him, did he eventually come out?

OPDYKE: Yes.

HARRIS: Did you preserve the crime scene as you kind of, it was turned over to you from Captain Newman until Officer Gard got there?

OPDYKE: Yes. Officer Gard arrived just moments behind me.

HARRIS: Now, you say you were looking for other evidence. Can you tell us what it was, what it was that you did?

OPDYKE: Well, other than looking, looking in the immediate area, I walked, I walked the, the pathway area. At times that area is covered with water, and at low tide it's not, and oftentimes people will walk along that area. So I walked, looking for any other type of evidence. I stood up on the breaker, the rocks, large rocks, looked into the water. Just walked for several yards around the entire scene, looking for anything that I felt could be involved.

HARRIS: Did you find anything?

OPDYKE: No.

HARRIS: Okay. Now, you said that Officer Gard got there shortly after you did. Did he start to, I guess to use that term, process the scene?

OPDYKE: Yes.

HARRIS: And when we talk about processing, that means photographs, measurements, things of that nature?

OPDYKE: Yes. He did.

HARRIS: And did you stay there during the time that he was doing that?

OPDYKE: Yes.

HARRIS: About how long, if you recall, did it take for him to process the scene?

OPDYKE: Well, to give you an overview, on a situation like this, Officer Gard is the patrol evidence technician. Whenever we come across a homicide scene or a felony crime scene where the detective bureau is going to be called out, then the detective bureau also has a detective evidence technician assigned to their unit. And as normal protocol, they call out their evidence

technician as well. He has much more equipment. And so our patrol evidence technician usually does preliminary photographs and attempts to identify evidence, and then when the detective bureau evidence technician arrives, they brief each other, or the patrol evidence technician briefs the detective bureau evidence technician, and they usually work it together. But the, the detective evidence technician is usually in charge of the crime scene, along with the homicide detectives.

HARRIS: So Officer Gard comes out, and he's assigned to patrol?

OPDYKE: Yes.

HARRIS: Did the, the detectives ID tech eventually come out?

OPDYKE: Yes.

HARRIS: Who is that?

OPDYKE: Jeff Soler.

HARRIS: When Detective Soler came out, did he also process the crime scene?

OPDYKE: Yes.

HARRIS: How long were you there?

OPDYKE: Until the Coroner removed the body.

HARRIS: So let's go back in time. Did you, when you were dispatched there, did you make some type of notation or write a report to help you recall that time?

OPDYKE: Yes.

HARRIS: And if you were to look at your report, would that help you remember the specific time that you were dispatched out?

OPDYKE: It would. Thank you. I was dispatched on the 13th at 4:52 p.m. and I arrived at approximately 5:00 p.m.

HARRIS: Does it also indicate in your report about what time it was the Coroner got there to take over, or the time that you left?

OPDYKE: Yes. The Coroner arrived at approximately 8:15 p.m. and departed approximately 8:40.

HARRIS: And you were there until the Coroner left?

OPDYKE: Yes.

HARRIS: Now, the Coroner that came out, that would be a sheriff's deputy from Contra Costa County?

OPDYKE: That's correct.

HARRIS: And do you recall if that sheriff's deputy's name was Chris Martinez?

OPDYKE: I, I don't recall the, the name of the Coroner. I just referenced, I referenced their case number.

HARRIS: But you do recall that it was a sheriff's deputy from the Coroner's Office came out?

OPDYKE: Yes. Yes. The identification officer.

HARRIS: Now, when you were talking about looking around this area, you can see in the photographs up there some things, and one of the witnesses described stuff as being debris. Did you notice if there was debris down in this tidal flat?

OPDYKE: There, there appeared, what I felt was a water line, maybe a high tide water line, and there was debris within this water line. Leaves, just articles of substance that appeared to, to have been washed up with, during the high tide.

HARRIS: Did he also mention that this particular area under high tide is under water?

OPDYKE: Yes. Yes.

HARRIS: Completely under water?

OPDYKE: I'm not sure that I have been there at the peak of high tide, but I have seen it under water at the, at the areas of the breakers, where the large rocks are. But I didn't pay that close attention to it prior to this time.

HARRIS: Okay. Well, looking at this particular picture up there, 96 C, let me just go through this a little more so we're clear what you're referring to. You're talking about the break, big rock wall. That would be this area that's at the top of the photograph that's running left to the right?

OPDYKE: Just, yes, those are large boulders.

HARRIS: Now, if you turn around behind you and use the pointer, it's 98A, do you see at the bottom there kind of going from the center of the photograph towards the right?

JUDGE: Can the jury see that? Because it's in the corner.

JURY: Not really.

JUDGE: Maybe you ought to move it out, Mr. Harris.

HARRIS: Move it out from in front of 97.

JUDGE: Put it in the tray.

HARRIS: Hopefully everybody can see that one now.

HARRIS: Looking at that one, 98A, the one that's at the top of that particular board there, what we're talking about in 96 D, the rock wall, just use the laser pointer, is that the rock wall we're referring to right there?

OPDYKE: Yes, it is.

HARRIS: And the area that you're talking about that floods or goes under water, is that this brown area that's behind the wall?

OPDYKE: Correct.

HARRIS: Now, looking at that photograph there, 98A where it says Connor recovery site, above that do you actually see where there's water that goes under one of the, goes under one of the bike paths right through here?

OPDYKE: Yes. Yes.

HARRIS: Now, when you, you were out there, did you take any photographs yourself?

OPDYKE: No, I did not.

HARRIS: That would have been the responsibility of Officer Gard?

OPDYKE: And Soler, yes.

HARRIS: Detective Soler?

OPDYKE: Yes.

HARRIS: When you, you were telling us about the deputy Coroner coming out there. That would be almost three something hours after you had been there? That you got there about 5:00,

OPDYKE: Correct. Correct. Approximately just over three hours.

HARRIS: By the time that the Coroner was leaving, had it gotten dark?

OPDYKE: It had.

HARRIS: When you were there, was it daylight?

OPDYKE: Yes.

HARRIS: You could see everything without the use of either flashlights or flash equipment for cameras?

OPDYKE: Yes.

HARRIS: The body that you're referring to that you saw that particular day, that's the same body that the deputy Coroner picked up?

OPDYKE: It is.

HARRIS: And you kept it in a preserved condition as you kept people away from it until they got out there?

OPDYKE: It was not touched.

HARRIS: The People have no other questions.

Cross Examination by Mark Geragos

GERAGOS: Good afternoon.

OPDYKE: Good afternoon, sir.

GERAGOS: The, when you arrived there, you said you got there about 5:00 o'clock?

OPDYKE: Approximately, yes.

GERAGOS: And when you arrived, the, you hooked up with Captain Newman and two other, these Mr. Looby and a woman by the name of Bolanger?

OPDYKE: Yes.

GERAGOS: And is it fair to say that the Richmond paramedic unit came up basically right behind you?

OPDYKE: Yes.

GERAGOS: Then you, the first person you contacted was Captain Newman, who was just here?

OPDYKE: It was.

GERAGOS: Then after you talked to him, you talked to Looby and Bolanger?

OPDYKE: Yes.

GERAGOS: Did you interview them separately or together?

OPDYKE: Separately.

GERAGOS: Okay. When you talked to Looby at the time, did he tell you that his dog had come across something in the grass and had started to sniff?

OPDYKE: Yes.

GERAGOS: Did he tell you that, after that is when he and Bolanger had noticed it was a human infant?

OPDYKE: Correct.

GERAGOS: Okay. And after they noticed that it was a human infant, they walked to the nearby housing project?

OPDYKE: Yes.

GERAGOS: Housing development, I guess. It's up there on 98 A?

OPDYKE: Yes, it is.

GERAGOS: Is that correct?

OPDYKE: Yes.

GERAGOS: Now, the area, you met them, and then at some point they took you, there was kind of a bike path, correct?

OPDYKE: There is a bike path.

GERAGOS: And at this area we've got up here, there's, show you some other pictures that I think are a little bit better. These look familiar to you? This area?

OPDYKE: Yes.

GERAGOS: Okay. Let me just, I'm going to put them up there one at a time and ask questions.

JUDGE: What are you,

GERAGOS: I'm referring to,

JUDGE: I just want to, Officer, with the rock wall, is the Bay at the top of the picture?

OPDYKE: Yes, sir, it is.

JUDGE: Okay.

GERAGOS: This is WW 2. So you walk down to this area; is that correct?

OPDYKE: Yes, I did.

GERAGOS: Okay. Now, when we talk about these breakers in the rocks, this is what we're talking about, where I'm pointing, correct?

OPDYKE: That's correct.

GERAGOS: Okay. And then the bike path is somewhere, you can't see it from here, but you walk off of the bike path and walk down to this area, correct?

OPDYKE: Well, the bicycle, bicycle path is several hundred yards away.

GERAGOS: Right. You had, you had to, when Looby took you, or when Captain Newman took you, you were on the bike path, you had met with them over by the housing area, correct?

OPDYKE: I think I met with Newman along the beach area, and then, because I spotted them upon my arrival and he spotted me.

GERAGOS: Somewhere in here?

OPDYKE: Actually, I walked along this beach and met the fire captain I believe somewhere in this area, on the beach. He was standing out here. He saw me apparently when I was on the paved path. He walked towards me, I walked towards him, and then we both walked out towards the scene.

GERAGOS: Okay. Can you point on 98 A what it is or exactly where we're looking at on WW 2?

OPDYKE: Generally this area right in here.

GERAGOS: Can we just mark that with a pen?

OPDYKE: How do you want me to mark it?

GERAGOS: Just with a little circle.

JUDGE: Want to mark it O 1 or something?

GERAGOS: Yeah.

JUDGE: Officer, just draw a circle around that general area.

OPDYKE: Okay.

JUDGE: And draw a line out to the white part of the diagram and mark that O 1.

OPDYKE: O 1?

JUDGE: Right. For your last name. Opdyke, right?

OPDYKE: Opdyke.

GERAGOS: These other pictures that I've looked, that appears to be a picture that's looking out towards another witness said the postal facility there?

OPDYKE: Boat mail center, yes.

GERAGOS: This got one just looking straight out. WW 1. I assume you saw when they put a little flag in there.

OPDYKE: Yes.

GERAGOS: That's to mark where the baby was?

OPDYKE: Yes, sir.

GERAGOS: Okay. This is a view that would be, at least from 98 A, something along the lines of this direction where I've got my pen?

OPDYKE: Generally, yes.

GERAGOS: Okay. Then the next view, just so that we can get a full picture of what this actually looks like, is a view that's now looking in this direction,

OPDYKE: Correct.

GERAGOS: generally? And that's, this is the area that you say sometimes there's water on here; is that correct?

OPDYKE: Yes.

GERAGOS: Okay. Now, you were there for a period of three hours that day, at least? Almost four?

OPDYKE: Yes, sir.

GERAGOS: Okay. What time is high tide?

OPDYKE: I don't have a clue.

GERAGOS: During the time you were there, was there ever any water that came up?

OPDYKE: No, sir.

GERAGOS: Okay. The 96 E would be another shot just slightly turning more towards the other direction, correct?

OPDYKE: About opposite what you showed,

GERAGOS: Opposite of the last one I just showed you?

OPDYKE: Yes.

GERAGOS: Looking in this direction, correct?

OPDYKE: Yes.

GERAGOS: So basically when you lay these down, you've got a panoramic of the photos of exactly what this area looks like and the view of the Bay, correct?

OPDYKE: Correct.

GERAGOS: Okay. Now, when you found the baby, and I've got what's marked as double V, is that roughly what the area looked like? Although I know that it appears, at least, that that was taken at night.

OPDYKE: That, that's roughly what the area looks like, yes.

GERAGOS: Okay. And then when you're talking about the leaves in the foreground here, that's what you're talking about?

OPDYKE: Yeah, it, those are leaves. It's, it's hard to get a perspective on this close shot for me, but it, but this is the debris that I was talking about that appears to be the debris that was referenced.

GERAGOS: Okay. And then I assume that that's the baby that's kind of in the,

OPDYKE: Yes.

GERAGOS: high grass that's over there?

OPDYKE: Yes.

GERAGOS: Okay. Now, the, when you examined, when you got there you examined the baby; is that correct?

OPDYKE: I don't believe I examined the baby.

GERAGOS: Examined in that you made observations and wrote in your report?

OPDYKE: Yeah. I kept a bit of a distance, but I...

GERAGOS: You determined that the baby was lying on its back, correct?

OPDYKE: Yes.

GERAGOS: The head partially tilted upward?

OPDYKE: Yes.

GERAGOS: Top of the head pointed in generally a southwesterly direction?

OPDYKE: Correct.

GERAGOS: Okay. The left arm was attached but the right arm appeared to you to have a gash in it?

OPDYKE: Yeah. At that particular time, from my view, and I kept a distance, it, it appeared like it was either severed or, or dislodged in some way.

GERAGOS: Okay. Now, the, you looked at the head of the infant, correct?

OPDYKE: Yes, I did.

GERAGOS: And you made a notation that the head of the infant was intact, and from what you could see it was in relatively good shape; is that correct?

OPDYKE: Relative, yes.

GERAGOS: And this, and you estimated the distance that the, where the baby was found I assume from here over to here is about 25 feet; is that correct?

OPDYKE: That's what my notation shows, yes, sir.

GERAGOS: Okay. Is that, to the best as you know,

OPDYKE: Yes.

GERAGOS: fairly accurate?

OPDYKE: Yes.

GERAGOS: Okay. Now, the, the area that you searched, looking for any kind of evidence, how far in each direction did you go?

OPDYKE: Well, I walked, if we're looking at this photograph that's on the screen now, that's looking generally east, or southeasterly.

GERAGOS: And that's 96 E?

OPDYKE: I walked all the way to the end, along the breakers, along the rocks, the boulders. I came back the opposite direction and went just about to the end on the west.

GERAGOS: Okay. Could we, maybe on 98. Would it be easier to show on 98,

OPDYKE: Sure.

GERAGOS: the area where you actually walked? Could you show that to the jury?

OPDYKE: I walked from the area of the immediate scene here, to the end over here, back this way along the, along the rocks, all the way over to the, the western edge, I would say, and along the, along the breakers this way. And I actually stood up on the breakers here, looked on the, on the rocks themselves, and then looked into the water.

GERAGOS: When say you stood up on the breakers, in the picture that we've got up here on 96 E, I assume you're talking about up on these rocks right here?

OPDYKE: Yes.

GERAGOS: So you stood up there and looked down to see if you could find anything that appeared in any way to be connected to the baby or the discovery of the baby?

OPDYKE: Yes. I walked along the rocks a little bit and looked into the water.

GERAGOS: Did you notice when you saw the baby what appeared to be some either tape or twine around the baby's neck?

OPDYKE: I noticed there was debris, a substance, a tape like substance or a,

GERAGOS: Twine?

OPDYKE: Well, it could have been.

GERAGOS: Did you, is it fair to say that your main concern was to keep the area clear at that point of other people?

OPDYKE: Yes.

GERAGOS: Okay. Fair to say that you were not concerned with, I think Mr. Harris said, processing the scene?

OPDYKE: That's correct.

GERAGOS: Okay. The people who process the scenes are the ones who were going to make, or take the photographs and make the observations and then,

OPDYKE: Measurements.

GERAGOS: In terms of collecting the evidence?

OPDYKE: Yes, sir.

GERAGOS: Okay. Now, when you were there, did you see, or how, how was it that the baby's body and the items that were surrounding it were transported? I mean did they lay out a towel of

some kind? Put the surrounding items on it?

OPDYKE: The, the best of my recollection at this point in time is the Coroner provided the material to collect the, the body.

GERAGOS: Okay. When you say the Coroner provided the material, is that a, as far as you know, a standard kind of a kit that includes a Coroner's blanket and towel and evidence collection?

OPDYKE: I don't actually know if it's a kit that they have, but it's material that they carry and collect bodies with.

GERAGOS: And that includes, when you say material, that includes a towel or blanket, for lack of a better term?

OPDYKE: For lack of a better term.

GERAGOS: Okay. And that's what the, and you, and you, the body or the remains get put into that and then transported so that as best as you can you're taking all the items that are there with the baby on the, and surrounding the baby and then transported it to the Coroner so that the detectives and the Coroner can then examine that evidence and do whatever tests they have to do; is that correct? Is that your understanding of what goes on?

OPDYKE: Yes.

GERAGOS: Now, in addition to that, the, you said, is it my understanding that this location where the baby was found is a couple of hundred yards away from the path, a path that's there?

OPDYKE: Yes. There's a asphalt-type or paved path.

GERAGOS: Can you point that to the jury where the path is on 98 A?

OPDYKE: Yes.

GERAGOS: Okay. Now, that path, is that frequented by bicyclists, joggers, walkers?

OPDYKE: It is. It's heavily, heavily traveled.

GERAGOS: Okay. And that's used by the general public, is that correct?

OPDYKE: It is. It's a public shoreline.

GERAGOS: Okay. Now, also you made a notation of the weather conditions there on that day, is that correct?

OPDYKE: I did.

GERAGOS: And you noted that the skies were partly cloudy with a periodic rain, is that correct?

OPDYKE: Correct.

GERAGOS: Does that area have a situation where sometimes it may rain on one side of the Bay but not on the other?

OPDYKE: At times, that's correct.

GERAGOS: Okay. And that's something that's quite common there?

OPDYKE: Yes.

GERAGOS: Okay. Is the weather, does the weather vary all over that Bay, the specific Bay area there in terms of colder in one spot or raining in one spot and not in another?

HARRIS: Objection. Foundation as to his weather expertise.

JUDGE: Sustained.

GERAGOS: The, the, was it raining, did it rain on that evening?

OPDYKE: Very lightly during the time that I was out there.

GERAGOS: And what time did you actually leave?

OPDYKE: Referring to my report, Judge.

GERAGOS: Sure.

JUDGE: Yeah. Go ahead.

OPDYKE: Just right after the Coroner, at 8:40 p.m.

GERAGOS: Okay. Just to be sure, there was no water surrounding this area right here that we're looking at in 96 E at that point?

OPDYKE: Well, there's water surrounding it.

GERAGOS: I mean in the, the whole area that we've got right here. That's in this picture. Was this, was this becoming under water at that point? When you left at 8:40?

OPDYKE: No, no more so than it is at that particular time.

GERAGOS: Does that picture adequately represent what the area looked like on that day when you arrived?

OPDYKE: Yes.

GERAGOS: And does that picture adequately represent what it looked like when you left?

OPDYKE: Yes.

GERAGOS: Except it was, I suppose it was not quite as light out?

OPDYKE: Correct.

GERAGOS: Now, when you were there did a, Villalobos, a gentleman by the name of Villalobos show up?

OPDYKE: Detective Villalobos.

GERAGOS: Yes. Who is he?

OPDYKE: A homicide detective.

GERAGOS: Who does he work for?

OPDYKE: City of Richmond Police Department.

GERAGOS: Same agency as yours?

OPDYKE: Yes.

GERAGOS: Okay. When he was there, did you meet with him?

OPDYKE: Yes.

GERAGOS: And you explained to him what you had found?

OPDYKE: Yes.

GERAGOS: Okay. And he was called out, I assume, because it looked, obviously there was suspicious circumstances, your finding a baby lying dead on arrival here like, on the inside of the shoreline, correct?

OPDYKE: Yes.

GERAGOS: Okay. And Detective Villalobos was briefed by you as to what you had seen prior to him getting there?

OPDYKE: I, I briefed him as to what I observed.

GERAGOS: Basically, basically you told him what you've testified to this jury about today?

OPDYKE: Yes.

GERAGOS: Okay. And did he take, when he came, was he the person who pretty much took over the scene at that point? Was he in charge so to speak?

OPDYKE: Well, he's in charge, he would be the detective in charge of the homicide case.

GERAGOS: And the two other gentlemen that the prosecutor mentioned, Gard, I believe, and Soler?

OPDYKE: Yes.

GERAGOS: Gard's role was to come and take the pictures; kind of the evidence technician, right?

OPDYKE: He was the patrol evidence technician. He conducted the preliminary evidence work.

GERAGOS: And Soler?

OPDYKE: He is the detective bureau evidence technician, and he arrives, is briefed by the patrol evidence technician, and continues and completes the, the evidence work. The scene evidence work.

GERAGOS: So if I've got it right, Gard, Gard and Soler are basically processing the scene, you were there to make sure that everything, that they're not interfered with, and Villalobos gets there and Villalobos is basically in charge of the homicide investigation?

OPDYKE: Yes. Add, in the, evidence technicians work along with the detectives as well.

GERAGOS: The detective gives them direction in terms of what he wants to see and what he wants documented, in addition to what they may normally do?

OPDYKE: Absolutely, yes.

GERAGOS: Okay. And that's because he's the one who's in charge of the investigation?

OPDYKE: Yes, sir.

GERAGOS: Thank you. I have no further questions.

Redirect Examination by David Harris

HARRIS: All right, sir. If I could have another photograph marked. Counsel's already seen it.

JUDGE: Next in order. Would be 100.

HARRIS: Officer, I'm going to present you what's just been marked as People's number 100, ask you to look at this. In that particular photograph, do you see the blue roof or the blue building of the postal facility there?

OPDYKE: Yes.

HARRIS: And is that a photograph that's taken from the approximate location that's depicted in 96 E that's up on the board, kind of looking towards that postal facility?

OPDYKE: A little different angle, but, but it does depict approximately that same area.

HARRIS: Now, is there a difference between the photograph that you have there, People's 100, and what's up there, 96 E?

OPDYKE: There is, yes, there is a difference.

HARRIS: What's the difference?

OPDYKE: There is quite a bit of water covering the, the area that we're looking at in 96 E.

HARRIS: Let me take this from you and put it up on the screen. Does this appear to show that area that we've been talking about when it's at high tide?

GERAGOS: There would be an objection. He already testified there's no foundation for that.

JUDGE: Well, he can leave out the "high tide."

HARRIS: Does this appear to depict the location we've been talking about when it's pretty much under water?

OPDYKE: Yes.

HARRIS: Now, you were asked about your report, and I want to cover a couple of additional things in your report. You were asked about the description of the infant. And did you describe the body as being damaged and decomposed?

OPDYKE: Yes.

HARRIS: You were also, you were being asked about, to point out in these photographs the, kind of the high tide or high-water mark. Do you see that in the report?

OPDYKE: I described it, a water line.

HARRIS: And where did you describe the baby as being located?

OPDYKE: Within the water line.

HARRIS: Now, just so that we're, we're clear about this general location that you're looking at, if you could turn around and look at 98 A, you were telling us that there's a path up there, and I'll use the laser pointer and kind of help out, if I can try and be steady here. Now, this path that you're talking about, this goes across the front of the houses like this and goes across a bicycle bridge and goes on off the right of the picture?

OPDYKE: Well, that path actually Y's on the where the bridge is on the top right. The path does continue this direction, but it also wraps around and continues along the homes toward Bayside Drive.

HARRIS: Now, this path that we're talking about, this is primarily for bicyclists, joggers, people to use?

OPDYKE: The general public, yes.

HARRIS: It's a posted non-motorized, non-vehicle kind of path?

OPDYKE: Yes.

HARRIS: In fact, in any of the places where that comes out into the street, are there either concrete or metal barriers to,

GERAGOS: Objection. Leading.

JUDGE: Overruled.

OPDYKE: Yes.

HARRIS: So if you're a city employee, you can pull one of those up and drive out to the path, if you have the key?

OPDYKE: If you have a key to unlock it.

HARRIS: Now, on this particular day did you ever see anybody drive any vehicles down to the area where this body was recovered?

OPDYKE: There were, there were no vehicles driven down there.

HARRIS: You were asked about Detective Villalobos, when he came out. Is it standard practice with your department that individuals in patrol, such as yourself, when a detective comes out to

the location, to brief them and tell them the information that you have?

OPDYKE: Absolutely.

HARRIS: And for the detectives to do whatever they want with the information that you give them?

OPDYKE: Yes.

HARRIS: Are they usually more, I don't want to say more experienced, but they have a different function than patrol?

OPDYKE: That would be accurate, a different function.

HARRIS: The People have no other questions.

JUDGE: Mr. Geragos, any other questions?

GERAGOS: No questions.

JUDGE: May officer Opdyke be excused?

HARRIS: No objection.

GERAGOS: No objection.