From CRIME to PUNISHMENT

6th Edition

Joel E. Pink

David C. Perrier

THOMSON

CARSWELL

FROM CRIME TO PUNISHMENT

An Introduction to the Criminal Law System

SIXTH EDITION

Edited by

Joel E. Pink B.A., LL.B., Q.C.

and

David C. Perrier Ph.D.

THOMSON

CARSWELL

National Library of Canada Cataloguing in Publication

From crime to punishment : an introduction to the criminal law system edited by Joel E. Pink and David C. Perrier. — 6th ed.

Includes bibliographical references and index.
ISBN 978-0-7798-1321-6

1. Criminal justice, Administration of — Canada.
I. Pink, Joel E., 1945- . II. Perrier, David, 1944- .

KE8813.F76 2003 345.71'05 C2003-907084-0
KF9223.F76 2003

Composition: Computer Composition of Canada Inc.

THOMSON
CARSWELL

One Corporate Plaza, 2075 Kennedy Road, Toronto, Ontario M1T 3V4
Customer Relations:
Toronto 1-416-609-3800
Elsewhere in Canada/U.S. 1-800-387-5164
Fax 1-416-298-5094
Internet: www.carswell.com
E-mail: orders@carswell.com

Dedication

To my wife Rita, and my children, Jennifer, Leah, Aaron and Daniel
J.E.P.

To my wife Colline, and my children, Suzanne, Christine and David
D.C.P.

Preface

Since the first edition of *From Crime to Punishment*, we have endeavoured to keep our readers up to date on all the latest changes that have been made in each of the chapters of the present text. In order to understand better the basic principles and procedures of the criminal law, we have received many worthwhile and useful suggestions from our readers that we have incorporated into the present edition. We want to thank all of our contributors and critics who have taken the time and effort to send us their ideas, comments and suggestions which we feel have further contributed to helping our readership understand the complexity of many of these basic principles and procedures. One guiding principle that underlies this as well as earlier editions is our desire to make the material "user friendly" and to incorporate as many examples as possible to enhance the understanding of our readers.

This sixth edition continues to incorporate what we believe to be central to the layperson's understanding of criminal law and criminal procedures while exposing them to new areas of interest that have captured the public's imagination. The fifth edition, for example, not only updated earlier substantive areas, but exposed our readers to new material in the form of the effects of drugs and alcohol on the thought processes, dangerous offenders and the reliability of eyewitness testimony. The sixth edition follows this format and introduces our readers to how a judge decides whom to believe, which focuses attention on the area of credibility.

To our contributors, who have remained faithful to our goal of making criminal law more clearly understood by the layperson, we owe them our sincere appreciation for taking the extra time and effort from their professional and family lives to help us put together all six editions.

Finally, to Ruth Jardim, who has worked with us from the beginning, we owe a debt of gratitude for her loyalty, patience and hard work in completing the present work. Without her dedication, administrative knowledge and exceptional interpersonal skills all six editions would not have been possible.

Joel E. Pink, Q.C.
Dave C. Perrier, Ph.D.
March 2007

About the Authors

Joel E. Pink, Q.C. is a senior lawyer with the law firm of Garson-Pink in Halifax, Nova Scotia, practing exclusively in the field of criminal and quasi-criminal law. For 31 years he was a member of the faculty of the National Criminal Law Program. Mr. Pink has taught criminal trial practice and evidence at Dalhousie Law School and presently teaches the Halifax Regional Police Recruit Training Program. He is a fellow of the International Society of Barristers and a Fellow of the American College of Trial Lawyers. Mr. Pink is currently the 2nd Vice President of the Nova Scotia Bar Society.

Dr. David C. Perrier, Ph. D. is an Associate Professor in the Department of Sociology and Criminology at Saint Mary's University in Halifax, Nova Scotia with 35 years teaching experience. His current research and teaching interests include Criminology, the Canadian Criminal Justice System, Policing and Society, Police Accountability, Penology, Regulatory Enforcment in the Fiishing Industry and Gambling and its Social Impacts. As one of the founders of the only Criminology Undergraduate and Graduate programs in Nova Scotia, he continues to contribute numerous published articles, reports and conference papers in the area gambling studies and regulatory enforcement. He also continues to teach in the Halifax Regional Police Recruit Training Program and serves on numerous educational and community committees.

Foreword

Joel E. Pink, Q.C. a prominent criminal trial lawyer and Dr. David C. Perrier, Associate Professor of Criminology and Sociology at Saint Mary's University in Halifax, Nova Scotia have co-authored the sixth edition of their successful work *From Crime to Punishment* — a text which has sold in excess of 17,000 copies.

The sixth edition has incorporated various changes and judicial pronouncements. It follows that of its predecessor with the addition of a new Chapter "How Judges Decide" dealing with the issue of credibility.

In the extremely affective format of having each of the topics authored by an expert in the particular field, Mr. Pink and Dr. Perrier have put together an all-encompassing law book that to my knowledge is unequalled in its field.

This work however is not just a manual for those who practice the criminal law; rather it is a text which will have wide-ranging appeal to teachers, students, criminologists, law enforcement agencies and the like. To paraphrase Robert Whittinton, it is truly "a book for all seasons".

The Honourable Justice Angus L. Macdonald
Retired Justice of the Nova Scotia Court of Appeal

The Queen v. John Doe—A Case Study

John Doe, as he was known to his friends, had a number of troublesome years in the Province of Ontario where he accumulated a host of criminal convictions: assault causing bodily harm; common assault; wounding with intent and discharging a firearm for which he was sentenced to two years less one day; and theft under $200.

In the mid 1980s John Doe decided to return to his native home in Nova Scotia to embark on a new beginning. Upon returning to his home community his dream was to be a homeowner in an area where his parents and grandparents once lived.

In August, after having accumulated a few dollars, Mr. Doe was able to partially realize his dream by purchasing a piece of property at a tax sale. The parcel of land consisted of two acres that was once used as a garbage dump by some local residents; however, there was a clear patch of land, which he developed. On this parcel of land he placed a mobile home. Once John settled in, his troubles began.

John's neighbors were Mark Smith, Jim Lane, and Brian Lane. They all lived within one or two kilometers of John. Over the next 18 months, for reasons unknown to Mr. Doe, Mark Smith, Jim Lane and Brian Lane relentlessly violated the peace and tranquility that Mr. Doe desired by continually harassing him both as a group and individually. The three individuals collectively and individually:

1. dumped garbage on his property;
2. tore up his front lawn and garden with an All Terrain Vehicle;
3. threatened to cause him death;
4. chained and nailed his back door so he could not get into his residence;
5. committed a break and enter into his residence;
6. knocked on his back door during the early morning hours to awaken him;
7. dismantled his propane tank;
8. bulldozed his driveway;
9. tore down his front gate;
10. captured his dog, put it on a rope and dragged the dog down the dirt road behind an All Terrain Vehicle eventually killing it;
11. placed stolen property on his property and then called the RCMP on him;
12. killed his cat and left it on his back steps;

13. shot holes in his mailbox; and
14. fired gunshots in the vicinity of his trailer.

Mr. Doe lived in constant fear of Mark Smith, Jim Lane, and Brian Lane.

John pleaded with all three men to stay off his property. The three men ignored and laughed at him. They took advantage of Mr. Doe at every opportunity as he was a meek and mild man. These three men made life so miserable that it would have driven most people to move elsewhere. John, however, never gave in to their cruel acts.

John Doe felt he had every right to live peacefully wherever he wanted and he wanted to live in his hometown and he refused to be forced out by these three men. The harassment became so intolerable that Mr. Doe slept on his trailer floor with his prayer beads, hoping that bullets being fired in the vicinity of the trailer would not hit him.

John Doe turned to alcohol to calm his nerves. For the six weeks prior to June 1989, Mr. Doe never saw a sober day.

On June 23, 1989, Mr. Doe drank alcohol most of the day with his friend, Bill Jones. According to a forensic toxicologist, John's blood/alcohol concentration at 4:30 a.m. on June 24, 1989, would have read a low of 281 milligrams of alcohol per 100 millilitres of blood to a high of 330 milligrams of alcohol per 100 millilitres of blood.

Between 3:30 a.m. and 4:00 a.m. on June 24, 1989, Susan, the wife of Mark Smith, heard gunshots. Not realizing the significance of what she had heard she drifted back into a sound sleep without her husband beside her, until morning.

A neighbour, George Mont, on June 24, 1989, heard three shots at 4:17 a.m. and then heard another two shots at 4:58 a.m. and approximately 30 seconds later heard two more shots. On each occasion that he heard the shots, he testified, he looked at the clock in his bedroom. According to this neighbor, it was not unusual to hear gunshots in this town at any hour of the day or night.

Bill Jones was staying with John on June 24, 1989, at his trailer. He woke up between 4:30-4:45 a.m., according to his watch, and he saw Mr. Doe sitting at the kitchen table with a beer in his hand.

In the early morning hours of June 24, 1989, Susan Smith discovered the body of her husband on their front lawn and called the RCMP. Upon notification the RCMP responded to the scene immediately. They discovered Mark Smith, deceased, on his front lawn. Upon further investigation in the area, the body of Jim Lane was discovered, deceased, in his bed from gunshot wounds, and at the house diagonally across the

road the police found Brian Lane, in his truck, fatally injured from a gunshot wound. He died from his injury a short time later.

The RCMP sent in a veteran and experienced investigator to assist Cst. Darrell in the investigation. This investigator arrived at the scene at 10:45 a.m. and was directed to the residences of Mark Smith, Jim Lane, and Brian Lane.

It was determined that John Doe was likely their prime suspect because of the many reports of harassment.

The police spent the entire day gathering evidence at the scene. During the day John Doe's well was drained and the RCMP located a pair of shoes and a 22-calibre gun, which later proved through forensic testing to be the murder weapon used in the shooting of the three men.

At approximately 7:30 p.m., the RCMP obtained a search warrant and went into the residence of Mr. Doe. They found a 22-calibre rifle but quickly determined that the gun had not been fired.

As a result of information received, an RCMP Corporal and Sergeant proceeded to a residence in the small community. There they located John Doe at 8:41 p.m. The RCMP described Mr. Doe, when they first saw him, as a person "who had been drinking heavily." They immediately placed him under arrest for the murders of Mark Smith and Jim Lane and the wounding of Brian Lane. John Doe was given the police caution and read his rights under the *Charter* and then he was escorted back to the detachment. A statement was not taken from him at this time due to his level of impairment. Mr. Doe was remanded to the County Correctional Centre.

On June 25, 1989, at 9:46 a.m., the RCMP summoned John Doe from his cell and he was taken to an interrogation room in the Superintendent's office at the Correctional Centre. The RCMP Sergeant repeated the standard police warning:

> You need not say anything. You have nothing to hope from any promise or favour, nothing to fear from any threat whether or not you say anything, but anything that you do say may be used as evidence.

Mr. Doe was again advised of his right to retain and instruct counsel and that if he could not afford a lawyer he could contact Legal Aid and counsel would be provided for him.

The interview began at 9:46 a.m. and was completed at 10:37 a.m. At 10:05 a.m. John Doe requested to phone his sister to see if she could contact a lawyer for him. The phone call was made and the Sergeant was informed that a Legal Aid lawyer would be arriving shortly. The Legal Aid lawyer arrived at approximately 10:37 a.m. Between the hour

of 10:05 a.m. and 10:37 a.m. the Sergeant did not remove himself from the interrogation room. The police knew that John Doe was a talkative person and would converse freely if the opportunity was presented and he did.

In Nova Scotia if one is charged with murder he/she has the right to request counsel of his/her choice. Mr. Doe did not wish to accept the services of Nova Scotia Legal Aid. It was after June 25 that I received a call from Legal Aid requesting my services.

The RCMP charged John Doe with three counts of first-degree murder.

Shortly after I was contacted I was informed that John Doe had made a statement to the police between the hours of 9:46 a.m. and 10:37 a.m. and he had made a statement to his friend Bill Jones.

How was the defence ever going to maneuver around the admissions that John made in his statement to the police and to Bill Jones, and the police finding the murder weapon and the shoes in John's well, and still try to establish the legal defences of provocation and drunkenness?

The words of Viscount Sanky in the English murder case of *Woolmington v. The Director of Public Prosecution* rang loud and clear, where he states:

> Throughout the Web of English Criminal Law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilty subject . . . to the defence of insanity, and subject also to any statutory exception. If, at the end of and on the whole of the case, there is no reasonable doubt created by the evidence given by either the prosecution or the prisoner, . . . the prosecution has not made out the case, the prisoner is entitled to an acquittal.

The Queen v. John Doe was the case to put to the test the three basic legal principles of law: the presumption of innocence, burden of proof, and proof beyond a reasonable doubt. These fundamental rights guaranteed under our *Charter* would be confidently put to a jury, who would make every effort under the terms of their oath, to reach a verdict that was fair, just, and in accordance with the evidence and the law.

The presiding judge was a senior judge of the Trial Division of the Supreme Court of Nova Scotia and an experienced trial judge.

During the *voir dire* to determine the admissibility of the statements, the police painted a picture of John Doe as a sober individual who was fully aware of his surroundings and a person willing and eager to talk. Even after he requested a lawyer John Doe kept on talking without any promises, inducements, or threats from the police. As far as the Crown

was concerned, any statements made by Mr. Doe were freely and voluntarily given.

The defence, however, had to portray a different picture: a person who was an alcoholic; who had not been sober for six weeks, and who was extremely hungover. My task was to try and develop a theory that any information elicited from John Doe was not from a person with "an operating mind." It was at this juncture that I decided to throw in a possible *Charter* violation—the right to remain silent (after the police were informed that counsel was on their way).

After hearing defence evidence tendered at the *voir dire* from the forensic toxicologist, a psychiatrist, and from Mr. Doe, the trial judge made the following ruling:

> The two experts were given hypothetical questions consistent with the accused's evidence of his condition, and they were of the opinion that these conditions were consistent with symptoms of alcoholic withdrawal. Neither expert, of course, was present with the accused on June 25th. They both admit that between individuals there is a great difference between the affects of alcohol withdrawal; that is, they do not have the same withdrawal affects.
>
> As stated by one Doctor when asked what happens to a person who is going through the initial stages of withdrawal from alcohol, he replied:
>
> > It's one of the most uncomfortable states I'm sure known to man. There are a progression of symptoms not necessarily the same in each individual over a period of time.
>
> At another point in his evidence when asked if alcohol withdrawal varies greatly from individual to individual, he replied in the affirmative once again.
>
> In light of such a scenario, I am unable to accept the opinions of these experts as to the lack of ability of the accused on June 25th to appreciate the consequences of making incriminating statements to the police and giving up the right to counsel.
>
> Having also had the opportunity to assess the evidence given by the accused, it has buttressed my decision to reject the above noted opinions. Despite being an alcoholic, he is clearly not a man of low intelligence. During his testimony, he exhibited a very selective memory capacity when it suited his purposes. As a consequence, I find his evidence suspect in many respects . . .

The presiding judge continued:

> I accept the evidence of two experienced RCMP police officers, that on June 25th the accused was sober and alert and aware of what was going on. Their handling of the accused was adjudicatively fair as well as meeting the test set forth by Justice MacIntyre in *Clarkson v. The Queen*; that is, with respect to those statements made by the accused to the police on June 25, 1989 between

> 9:46 a.m. and 10:05 a.m. at which latter time the accused exercised his right to retain legal counsel.
>
> Although no questions were asked of the accused subsequent to 10:05 a.m. (that is when the accused asked to retain counsel) the continued presence in the same room with the accused of the police could be taken in this instance as urging the accused to continue talking. In my opinion it could be considered adjudicatively unfair and such statements are therefore inadmissible.
>
> So to recap, the statements made between 9:46 a.m. and 10:05 a.m. are admissible, those subsequent to that time are not. . . .

The Crown had thrown the first pitch and it was a swing and a miss for the defence. However, you must remember that there has to be three strikes before you are out.

I, as defence counsel, never gave up hope. You just never know as a case unfolds when there might be a new development that may be beneficial to your client. Most importantly, Mr. Doe had the benefit of having his case heard by a jury who I felt would be sympathetic towards him.

What was the jury going to hear as a result of the judge's ruling on the *voir dire*?

The learned trial judge's ruling allowed the jury to hear the content of the statement of John Doe, which he made to the police between 9:46 a.m. and 10:05 a.m. It was transcribed as follows:

> I think their dead. They never leave me alone, the xxxx. I told them to stay away from my property but that xxxx, Mark Smith landed up the other night . . . told them to stay away from my property. I told them to stay away from my property but the xxxx Mark Smith landed up the other night when Bill Jones trying to let on, he dropped a rock on his foot. He came looking for beer. Then he left and around 3 a.m. that xxxx Brian Lane came to the door. I told him to f— off, that I was asleep. Then I guess it started bugging me and I snapped and I went down and shot them. First down to Mark Smith's place and I couldn't see him. Then he came out and started shouting: *What are you doing around here*? I said: *I came to kill you, you xxxx,* and I shot him.

The RCMP Constable then asked: *How many times?* and John Doe replied:

> I don't know perhaps five. I figured I shot one I might as well do them all. Then I went up to Brian Lane's and wrapped on the door. I heard a moan. He was in the truck, drunk so I put two in the xxxx. Then I went up to Jim's. He wouldn't open the door so I put three in him through the door. Then I went in and finished him off. I was going to shoot myself but I wanted to get another drink so I ran home.

Cst.:	What did you do with the bullets?
Answer:	Threw them in the woods.
Another Comment:	I put the gun in the well and dress shoes in the well.

Some of the facts as related by Mr. Doe in his statement could be proven to be inaccurate, *e.g.*, how many shots were fired.

How was the defence going to overcome the comments made to Bill Jones at approximately 4:40 a.m. on the day in question? The following is an excerpt of Bill Jones's testimony at trial when he was asked by the Crown Attorney about his conversation with John Doe:

Q. And what can you say—any conversation with him?
A. Not too much right then because I didn't stir too much. I just woke up. I got up on my elbow and I could see John sitting at the end of the table.
Q. And any . . . when . . . did you have any conversation with any, with John Doe?
A. Well, I got up—no. I don't know when he . . . it'll be quarter to five or something like that and he came in and he told me that he got the *three son's of whores last night*.
Q. Okay, what did you say to that or was there any further conversation?
A. No there wasn't too much more conversation. I told him I didn't want to hear about it at all. But I just figured it was just a dream or something he was reacting. He's a pretty good storyteller and he acts the stories out.
Q. How many times did he tell you this?
A. Oh maybe twice before I faced him. I went eye to eye with him and I said: *John, tell me this is not the truth or say something to that effect* and he said: *no, brother, it's not true*.

. . .

On cross-examination I somehow had to minimize Bill Jones's evidence. I asked Mr. Jones the following questions on cross-examination:

Q. My learned friend asked you about conversation that you had with John Doe in the morning. As I understand it, after he made some initial comments, immediately thereafter, he, in fact, he told you he didn't know whether or not it was a dream. Is that not true?
A. He did, yeah.
Q. And then when you pushed him a little further, he said, *no brother, it is not true.*
A. That's correct.
Q. In fact, John Doe when he's been drinking has been known to talk a lot of nonsense. Would you agree with that sir?
A. Story after story.
Q. In fact, you've told the jury about other problems that he may have been having, that he said on some other occasions he was going to shoot them,

and then he was going to take his own life, he was drinking at that time, wasn't he?

A. Oh, every, every time he told me that.
Q. But you didn't take him seriously?
A. I told him one time—an occasion, *John that would be a very poor trade.*
Q. And in fact, you did not take him seriously?
A. I did not, no, no.
Q. Let's face facts, Mr. Jones, when you are drinking and drinking to state you were drinking on this particular day, your memory of the events are clouded and you cannot honestly say for sure what John Doe told you during the early morning hours of June 24, 1989?
A. No, not really. I could recollect some stuff but it's possible that a lot of the stuff he said but it's possible that a lot of the stuff he said I can't remember. I didn't.

. . .

Q. John Doe was, or is a private person who likes to be alone and to basically be with nature. Would you agree with me there?
A. Yes very much so.
Q. And in fact, during the afternoon of the 23rd you in fact together with John took some peanuts and went down to feed the squirrels?
A. Yeah he has a squirrel station down in the woods just a little ways down and he feeds them.
Q. He not only had a squirrel station but he also had a calf, a little baby calf?
A. Right.

I figured that now some of the bluster had been taken out of the direct examination and I would have to deal with my client's statement to Bill Jones during my final address to the jury.

Another hurdle that the defence had to overcome was the evidence of Susan Smith. She portrayed her husband as a well-liked man who was a good neighbour who would never cause harm to anyone. She portrayed her husband as a good friend of Mr. Doe.

I had to discredit her without allowing the jury to feel sorry for the grieving widow. Throughout her evidence she was tearful. Susan Smith would not succumb to my suggestion that Jim and Brian Lane and her husband were best friends. All that she would state is that they were casual acquaintances but on the other hand Jim and Brian Lane were good friends of John Doe.

I started my cross-examination by stating:

Q. Would you agree that friends would not harass one another and then use the trailer—their tractors, to dig up another's driveway?
A. That's right.
Q. Would you also agree with me that friends would not tear down one's gate that was erected to keep persons off of one's property?

A. That's right.

. . .

Q. And would you agree that one would not take another's animals such as a cat and kill it?
A. Yes.
Q. And would you also agree with me that another friend would not take a friend's dog, drag it behind an All Terrain Vehicle and kill it because the All Terrain Vehicle outran the dog and then dump it on one's lawn – would you not agree that that would not be a friend?
A. Right.

. . .

Q. If in fact, Mrs. Smith, either your late husband, Mark Smith, Brian Lane or Jim Lane, did any of these things would you not agree that they would not be the acts of a friend?
A. No, I say that they'd be acts of an enemy.

The one thing that John Doe had in his favour was the jury: 12 men and women who would apply common sense to the issues. I kept reminding myself of the three basic principles of law: presumption of innocence, burden of proof, and proof beyond a reasonable doubt.

I tested John Doe during the *voir dire* and he did not make a good impression on the trial judge. That was most unfortunate; however, the real test would be whether the jury would believe him or be left in reasonable doubt after hearing his evidence.

John did testify before the jury and he presented his evidence in a credible manner. He testified before a full courtroom. In fact, the Sheriff's Department brought in the Fire Marshall to enforce the fire regulations and the overflow of spectators were escorted from the courtroom. The following is a portion of John's testimony:

Q. Now Mr. Doe what was your condition as you eventually went to sleep on the floor that night?
A. Well I passed out, Sir, from that moment I hit the floor to—I—the next—I was awakened at five after three with a lot of kicking and banging at my door. I looked at my clock, I have a little battery electric clock on a mantelpiece, to see what time somebody would be coming bugging me. I could tell by the time who was there actually, because none of my people ever came at that hour of the morning. It was five after three a.m. that morning—the morning of the 24th.
Q. Who was it?
A. It was Jim Lane and I told him to go away we're sleeping, leave us alone. And he slammed the door. There was talking and cursing going on and then he—I laid back on the floor, I didn't get up and I didn't look out the window but I did hear people's voices, I did hear bottles rattling and I did hear motors revving up and I did hear tires spinning and gravel flying in

my driveway and I don't know how long this took place, maybe 10 minutes, but they eventually left.

. . .

Q. Now what affect did this, of course, have upon you?
A. Well I—like I said I never got up off the floor. I tried to get back to sleep because Bill Jones and I had plans at 7 o'clock in the morning. We were going to go down to St. Augustine's in Monastery to the Shrine, and we were going to meditate and pray and I was—I had no intentions of staying drunk that day. I was going to sober up because I had to be to work Monday morning, Sir. So while I was trying to get back to sleep on the floor I—I was thinking about all the problems that I was having, all the persecution with these people, and I could not get back to sleep. So I did get up, and I said I'll go to sleep now and I grabbed a mickey of rum I had, Captain Morgan Light, and I drunk four good big mouthfuls in me and then I opened up a bottle of MacEwin's Ale and I used that for a chaser and then I went and laid back on the floor thinking I'd be—I'd go to sleep now. I continued to stay awake and these things of harassment and torture kept running through my mind, so I said there's one alternative to this, I've got stronger alcohol than rum. I went into the washroom, I dumped out a good shot of Aqua Velva, which I know is 70 proof alcohol and I put some juice in it—out—out to the kitchen with it and I put juice in it, and I drunk it down very fast so I couldn't smell it and taste it and I opened up a beer for a chaser and I laid down on the floor again at that time, Sir.

. . .

Q. What happened after you took the swig of Aqua Velva?
A. Well after I took this Aqua Velva, I opened up a beer and I laid down on the floor and the next thing I can honestly remember is waking up on the floor. I don't know how much time was involved. I had a cap on my head. I had a coat—a small jacket on me. I had shoes on my feet and I had the idea that I have seen bodies on my street that night.
Q. And what bodies had you seen on your street that night?
A. Well to the best of my knowledge I—I thought it was a dream, and I thought I seen Mark Smith, Jim Lane and Brian Lane. I thought—this is what I thought I seen, Sir.
Q. What's the next thing you seen, Mr.—the next thing you saw, Mr. Doe?
A. The next thing I—well this was disturbing to my mind. So I got up off of the floor and the first thing I seen was a 22 pistol was laying on my counter and I had—if it had've been given back to me or not, I wasn't sure. The last time I seen it, it was taken from me and Mrs. Smith—before I entered Susan Smith's car. So I—I went to the fridge and I—I sat down and I was thinking, the gun is there and I think—I think I've seen bodies. If I walked by bodies and if the gun is here, it looks very much, whether I'm guilty or innocent, I'm going to be blamed anyway, because I'm number one suspect, kind of the feuds that we've been having. So I seen Bill Jones kind of make a turn on the chesterfield. I went over and I talked to him. I told him what I—what I dreamt. He said, "You're absolutely crazy," he