



Charles Sullivan: A Multi-Decade Sexually Motivated Serial Killer

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Introduction

- Case study: investigation and prosecution of suspected serial sex offender Charles Sullivan
- Overview of investigation
- Discussion of legal issues
- Discussion of considerations relating to plea offer decisions and victim/witness concerns

Introduction



THE INVESTIGATION



The Investigation

-Familiarized self with other similar offenses in same general area/during same general time period—helps link cases and determine whether there are other offenders who may be responsible for the crimes.

The Investigation

- Determined whether advancing technology (esp. for DNA analyses) could provide new leads.
- Once DNA match made, find and interview witnesses (those not likely to inform suspect) to determine availability and memory.

The Investigation

- To avoid tipping off suspect, held off on interviewing his acquaintances.
- Examined evidence (not just photos of evidence).

The Investigation

- Simultaneously executed arrest and search warrants (looking for trophies, search history about cases, etc.).
- After arrest, interviewed acquaintances.

Julia Woodward

Crime

1979

Remote area near Reno

Sexually motivated

Band-Aids over eyes

Ankles bound

Shoe removed

Missing ID

Killed w/rock

Victim

20 years old

White

Brunette

5'8", 130 lbs.



Julia Woodward

**WARNING –
GRAPHIC PHOTOS AHEAD**

Julia Woodward – crime scene



Julia Woodward – crime scene and autopsy



Julia Woodward – murder weapon and fractured skull



Sullivan's 2007 victim – A.E.

Crime

2007

45-min. drive to Reno

Sexually motivated

Shoes removed

Missing ID

Zip ties

Victim

25 years old

White

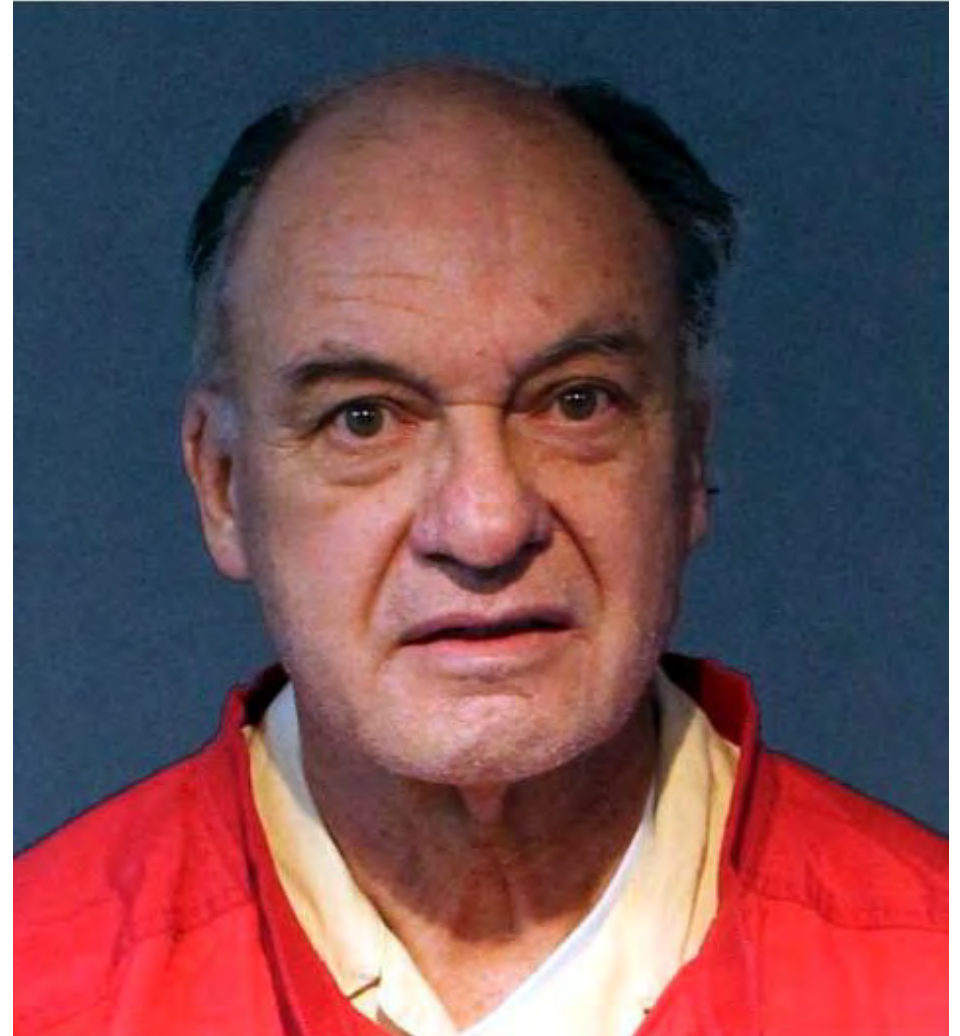
Brunette

5'8", 130 lbs.



Defendant Charles Gary Sullivan

- DOB: 12-28-45
- Former Navy Seal
- Former locksmith
- Transient lifestyle
- Avid outdoorsman
- Few close friends
- Divorced; no apparent contact with 4 biological children
- Aside from crimes discussed today, minimal criminal record



Sullivan's 2007 crimes

A.E.'s 2007 crime scene vicinity



Julia's 1979 crime scene vicinity



Sullivan's 2007 crimes

A.E.'s zip ties



Julia's zip ties



DNA analyses

Washoe County:

- -**Band-Aid** – Sullivan excluded
- -**Vaginal slide swab** – initially, Sullivan excluded; subsequently, analyst attributed profile to contamination
- -**Spermatozoa DNA on crotch of Julia's jeans** – estimated frequency that a random individual unrelated to Sullivan, was the source of the DNA was **1 in 13,440 individuals**



DNA analyses

CA DOJ:

- -**Band-Aids** – Sullivan excluded
- -**Rectal swab** – primary contributor – probability it belongs to random individual unrelated to Sullivan – 1 in 420,000 African Americans, 1 in 130,000 Caucasians, 1 in 58,000 Hispanics



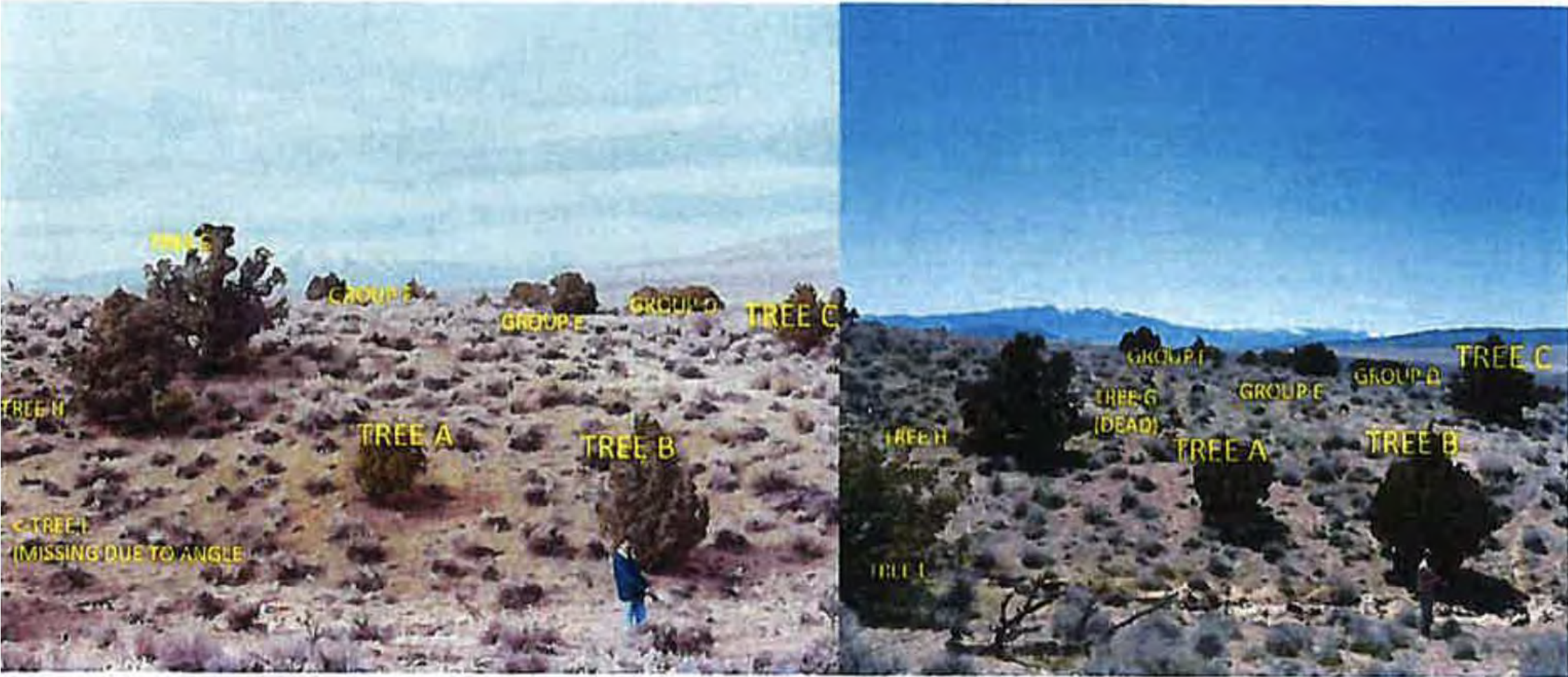
DNA analyses

CA DOJ:

- **-Spermatozoa DNA on crotch of Julia's jeans – primary contributor – probability it belongs to random individual unrelated to Sullivan – 1 in 720 quadrillion African Americans, 1 in 41 quadrillion Caucasians, 1 in 17 quadrillion Hispanics**



Determining jurisdiction

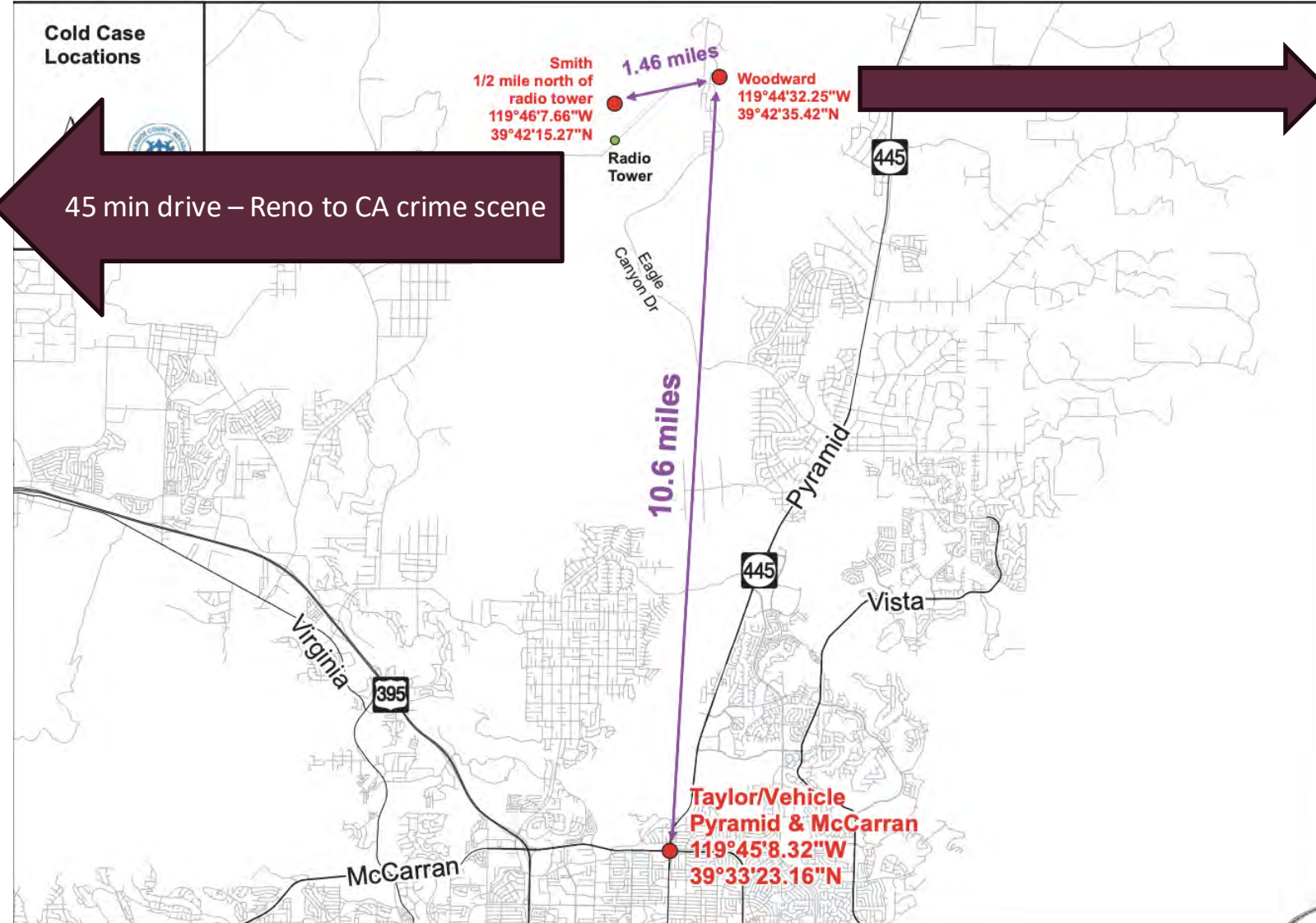


Crime scenes



Crime
2007
45-min. drive to Reno
Sexually motivated
Shoes removed
Missing ID

Victim
A.E.
25 years old
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5'8", 130 lbs.



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Victim
Julia Woodward
20 years old
Brunette
5'8", 130 lbs.

Jeannie Smith

Crime

1978

Remote area near Reno

Sexually motivated?

Medical tape blindfold

Shoe removed

Missing ID

Killed w/blunt force

Victim

17 years old

Dated Sullivan's close friend

White

Brunette

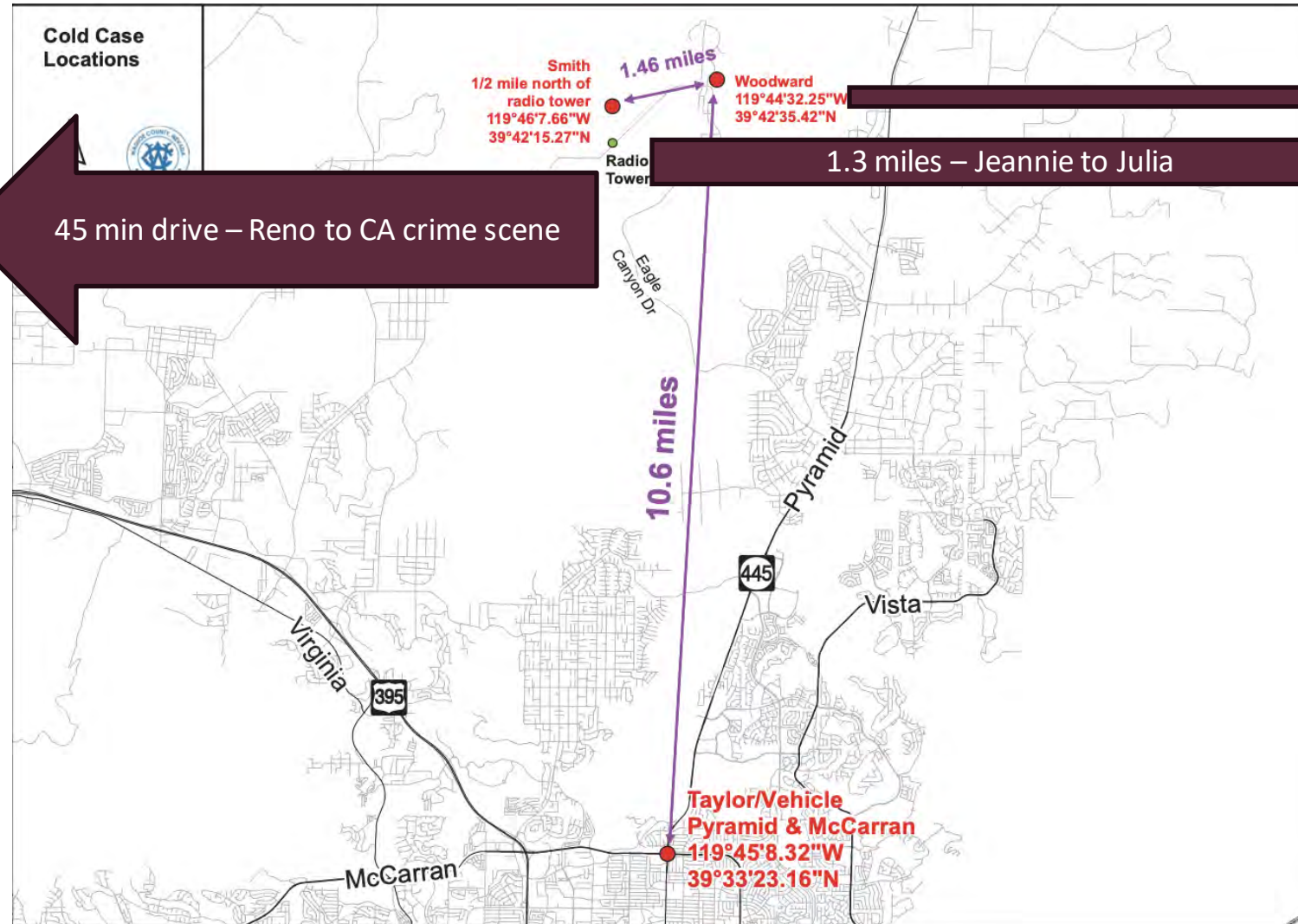


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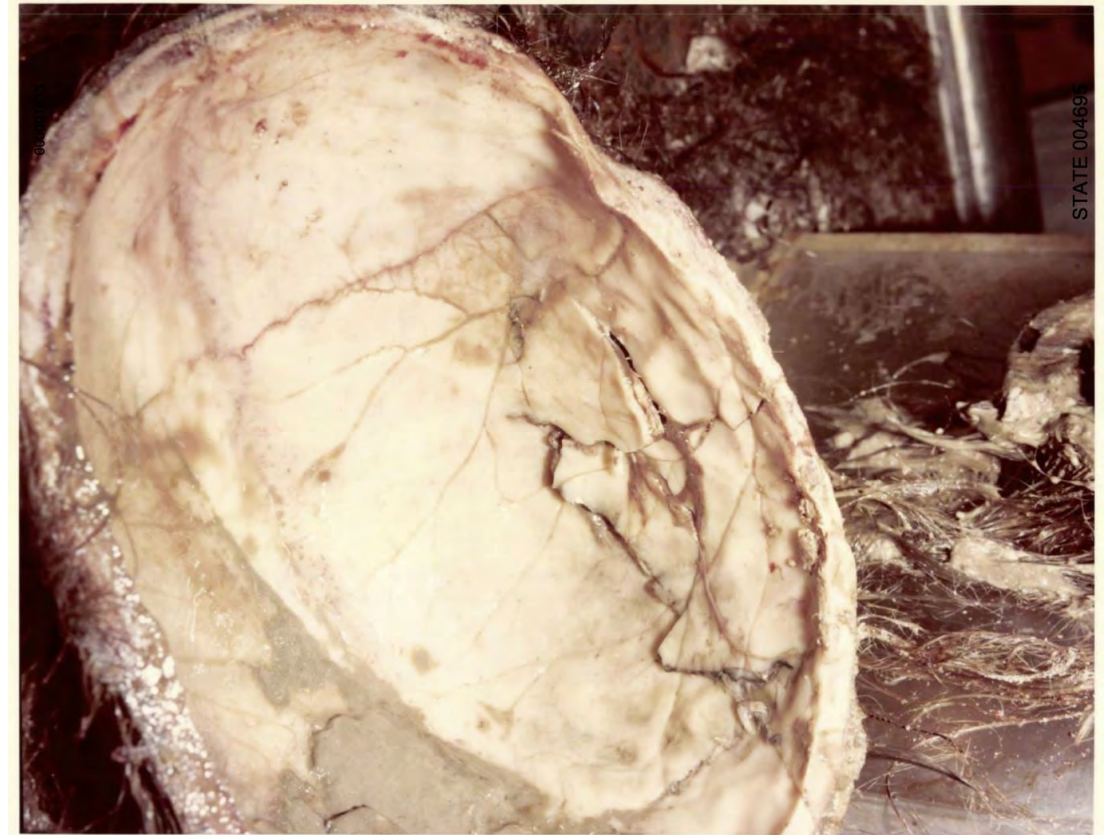
Victim
 Julia Woodward
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Jeannie Smith

Jeannie's fractured skull



Julia's fractured skull



Jeannie Smith

EVIDENCE (CONTINUED):

Evidence Control Number 28191:

Cloth - Location (I).

Evidence Control Number 28196:

Tape - Location (J).



Jeannie Smith

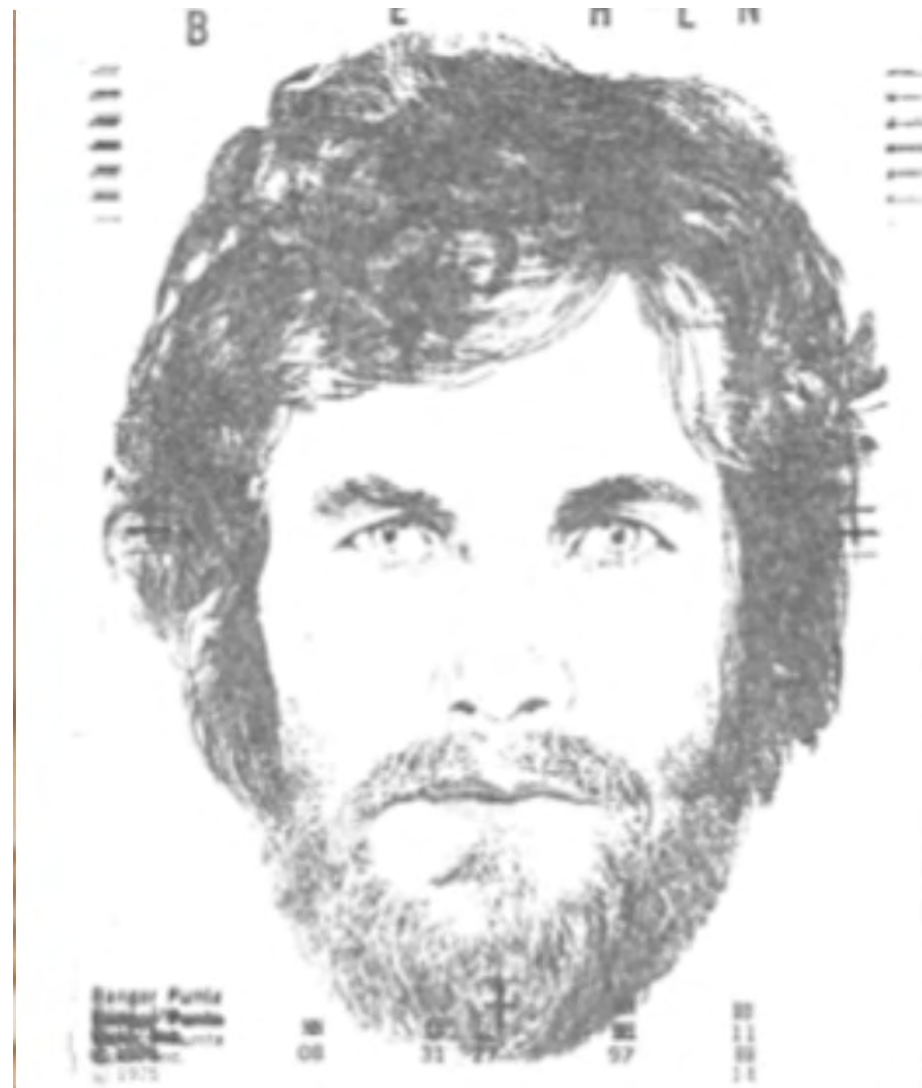
Jeannie's "tape"



Julia's Band-Aids



Jeannie Smith



Linda Taylor

Crime

1979

Body never found

Car located in Reno parking lot

Victim

24 years old

Sullivan last person seen with her –

2 days prior to disappearance

White

Brunette

5'8", 150 lbs.

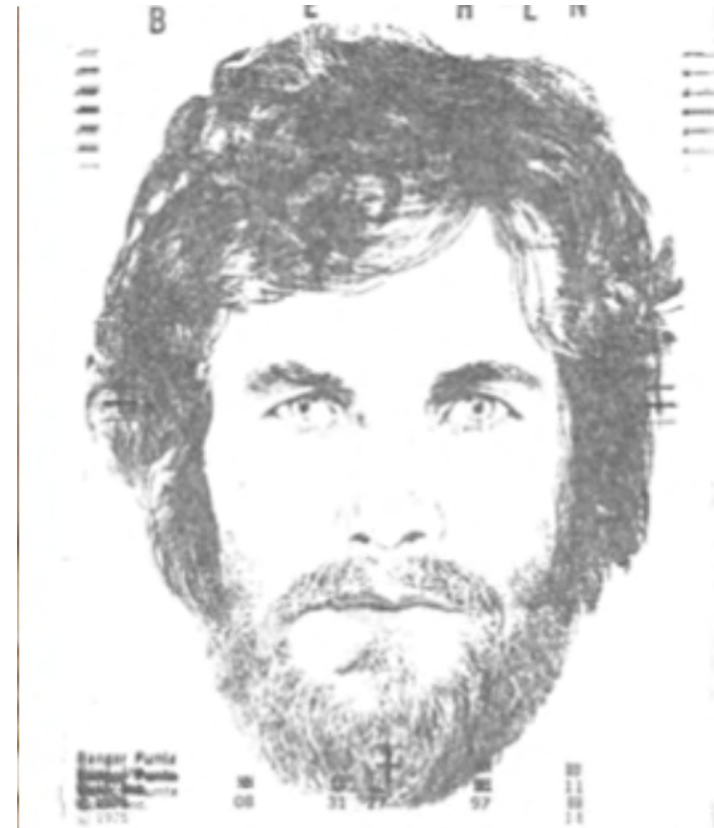


Linda Taylor

Sullivan – '79 Taylor investigation



Jeannie Smith suspect

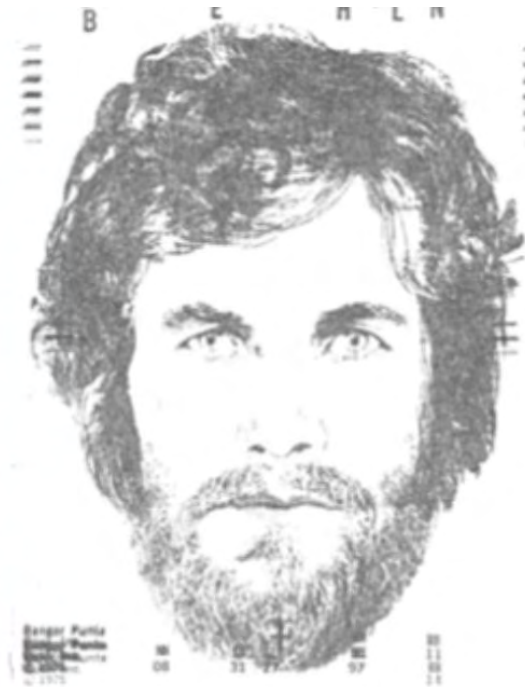


Post-arrest investigation

'80 – from ex



'78 J.S. suspect



'79 L.T. investigation

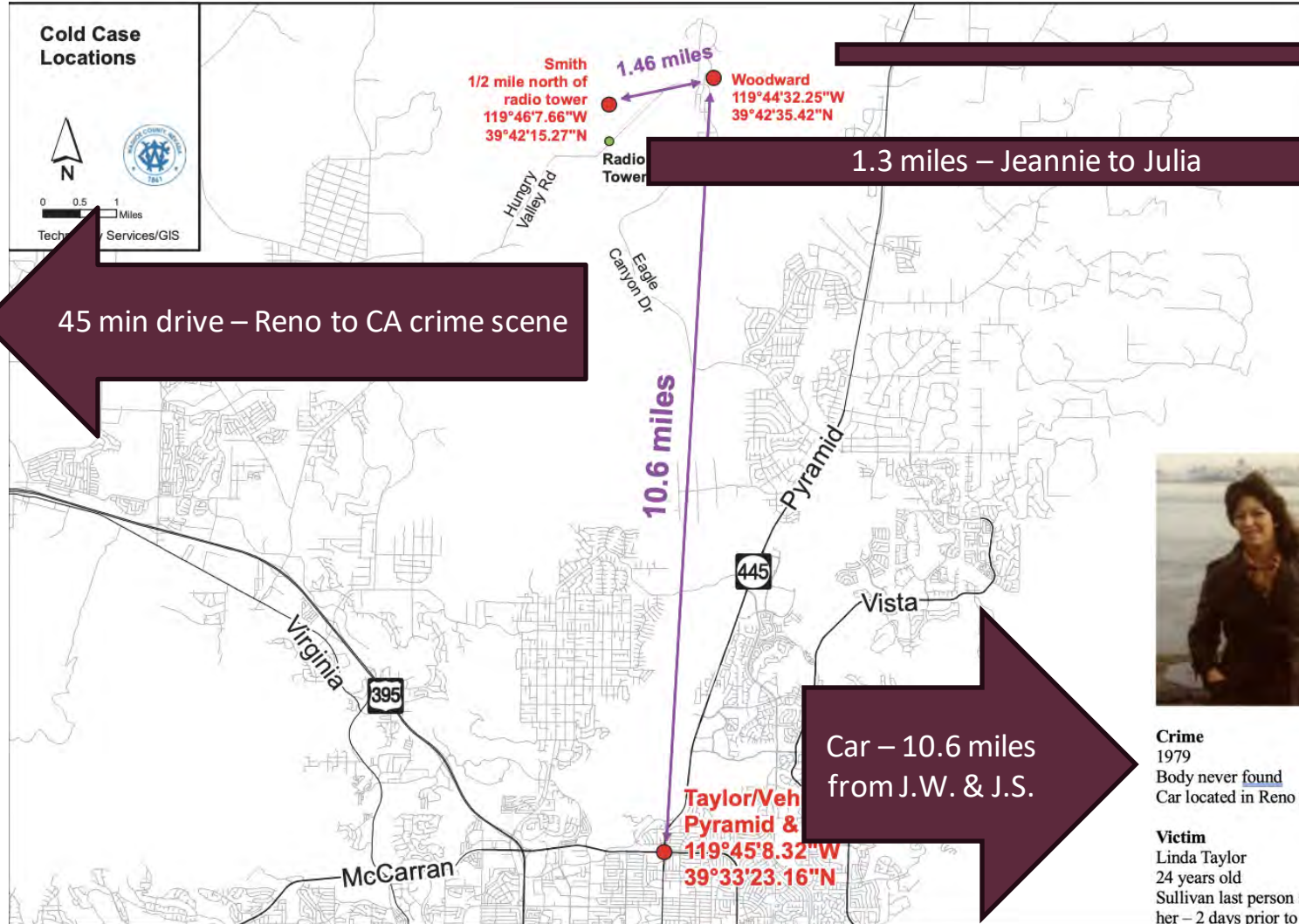


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Post-arrest investigation – blindfolds

Julia



Jeannie



A.E.



laptop



PROSECUTION ISSUES

Ex Post Facto laws

Stogner v. California, 539 U.S.
607 (2003)

– Four categories of *ex post facto* laws (3 implicated here)



Ex Post Facto laws

“Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action”

-murder definition/elements

-statute of limitations – *Stogner v. California*, 539 U.S. 607 (2003)

-not an issue for murder

-subsequent changes for sexual assault no help

Ex Post Facto laws

“Every law that aggravates a crime, or makes it greater than it was when committed”

-definition of “deadly weapon”

Ex Post Facto laws

“Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed”

-sentencing

Ex Post Facto laws

“Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offence, in order to convict the offender.”

-admissibility of uncharged bad act evidence

-FRE 413-similar crimes in sexual assault cases

-*Carmell v. Texas*, 529 U.S. 513, 550 (2000)-does **NOT** implicate *Ex Post Facto* Clause

-Laws that “alter the degree, or lessen the amount or measure, of proof” required for a conviction implicate the *Ex Post Facto* Clause, while laws “that merely respect what kind of evidence maybe introduced at trial” do not.

Proving cause and manner of death

- If medical examiner who conducted autopsy unavailable:
 - Another examiner can form independent opinion based on inadmissible evidence, including autopsy report prepared by medical examiner who conducted the autopsy.

Proving cause and manner of death

- Issue arises if there is insufficient evidence upon which an independent opinion can be formed.
- Expect less photographic evidence from older autopsies—no digital photography, and film was expensive.

Proving cause and manner of death

- No post-*Crawford* U.S. Supreme Court opinion has established that autopsy reports are testimonial and, thus, implicate the Confrontation Clause.
 - Justice Breyers concurring opinion in *Williams v. Illinois*, 567 U.S. 50 (2012), made clear his position that the autopsy reports are not testimonial.

Scope of SW for suspected serial offenders

- Crime characteristic of serial offender-probably want to search home and electronic devices for evidence reflecting that he is a serial offender (*e.g.*, trophies, web browser search history, photos, videos)
- Need to establish: (1) PC suspect is a serial offender; and (2) PC such a serial offender will have the evidence sought in the location to be searched
- Can use empirical evidence

Scope of SW for suspected serial offenders

- Establish likelihood the suspect is a serial offender – Rachel Lovell, et al., *Offending patterns for serial sex offenders identified via the DNA testing of previously unsubmitted sexual assault kits*, Journal of Criminal Justice, 52, 68-78 (2017)
- “Given the number of serial sex offenders identified and the variety of their offenses, [these] findings suggest that law enforcement should investigate each sexual assault as if it were potentially perpetrated by a serial sex offender, as it is likely that a sexual offender has either previously sexually assaulted or will offend again in the future.”

Scope of SW for suspected serial offenders

Rachel Lovell, et al., *Offending patterns for serial sex offenders identified via the DNA testing of previously unsubmitted sexual assault kits*, *Journal of Criminal Justice*, 52, 68-78 (2017)

-More likely:

1. Suspect and victim are strangers to each other
2. Outdoors assault
3. Use of weapon

Scope of SW for suspected serial offenders

- Establish likelihood the suspect would possess electronic storage devices (as well as handwritten journals, etc.) with evidence of a history of sexual assaults – Warren, J., et al., *The collectors: Serial sexual offenders who preserve evidence of their crimes*, 18, 666-72
- Likely to find journal, sketch, photo, video, audio, calendar notations, story-length descriptions

4th Amend. – Taking/use of defendant's DNA sample

-Initial taking – search – A taking pursuant to a law requiring “all arrestees charged with serious crimes” to furnish a sample does not require a warrant. *Maryland v. King*, 569 U.S. 435, 447-48 (2013).

-Subsequent use for investigation of another matter – various jurisdictions – Defendant has no objective expectation of privacy in that DNA sample once it is lawfully possessed by law enforcement.

DNA – Confrontation Clause issues

Williams v. Illinois, 567 U.S. 50, 57 (2000) –
PLURALITY OPINION – “[T]he prosecution called an expert who testified that a DNA profile produced by an outside laboratory . . . matched a profile produced by the state police lab using a sample of [the defendant’s] blood.”

DNA – Confrontation Clause issues

“Courts have been almost evenly divided in their opinions as to whether DNA reports—showing the DNA profiles of samples taken from the crime scene and/or whether those profiles match that of the criminal defendant—constitute ‘testimonial evidence’ so as to trigger the protections of the Confrontation Clause.”

DNA contamination

- Locard's exchange principle – every contact leaves a trace
- 1985 – DNA profiling 1st used (in UK)
- 1988 – FBI adopts it as tool
- No reason for investigators to have guarded against DNA contamination prior to that time period.
- Same gloves used in multiple cases.

Prior statements/chain-of-custody issues

- refresh recollection

- past recollection recorded

- What about where law enforcement drafted a witness statement but did not provide the witness with the opportunity to review and adopt it?

Example – statement from Linda Taylor’s roommate when she reported missing person

Prior statements/chain-of-custody issues

- NV – inconsistent statements (including “I don’t recall”) admissible for impeachment AND as substantive evidence (use inconsistent statement + officer’s recorded recollection)
- Compare PA – inconsistent statement – admissible for impeachment only UNLESS prior statement: (a) given under oath at formal legal proceeding; (b) in writing signed and adopted by declarant; or (c) statement electronically recorded verbatim contemporaneously with the making of the statement.

Prior statements/chain-of-custody issues

- Chain-of –custody – the older the case, the more likely there will be gaps in the chain
- *Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 311 n.1 (2009) – “[T]he obligation of the prosecution to establish the chain of custody, . . . does not mean that everyone who laid hands on the evidence must be called.”
- “[G]aps in the chain normally go to the weight of the evidence rather than its admissibility.”

Prior statements/chain-of-custody issues

- The Advisory Committee Notes accompanying Federal Rule of Evidence 702, citing *Bourjaily v. United States*, explain that “the proponent has the burden of establishing that the pertinent admissibility requirements are met by a preponderance of the evidence.” 483 U.S. 171 (1987).
- FRE 104(a) – For preliminary questions of admissibility, court not bound by FRE (except rules relating to privileges).
- Hearsay from finders/collectors should be sufficient.

Evidence of uncharged bad acts

-THE CHARGE:

-MURDER WITH USE OF A DEADLY WEAPON, in violation of NRS 200.010; 200.030; and 193.165, a felony, in the following manner:

That said defendant, CHARLES GARY SULLIVAN, in or about 1979, within the County of Washoe, State of Nevada, did willfully, feloniously, without authority of law, and with premeditation, deliberation, and malice aforethought, and/or in the perpetration or attempted perpetration of a sexual assault, kill Julia Woodward by striking her with a rock.

Evidence of uncharged bad acts

Charged this as a sexually-motivated murder because:

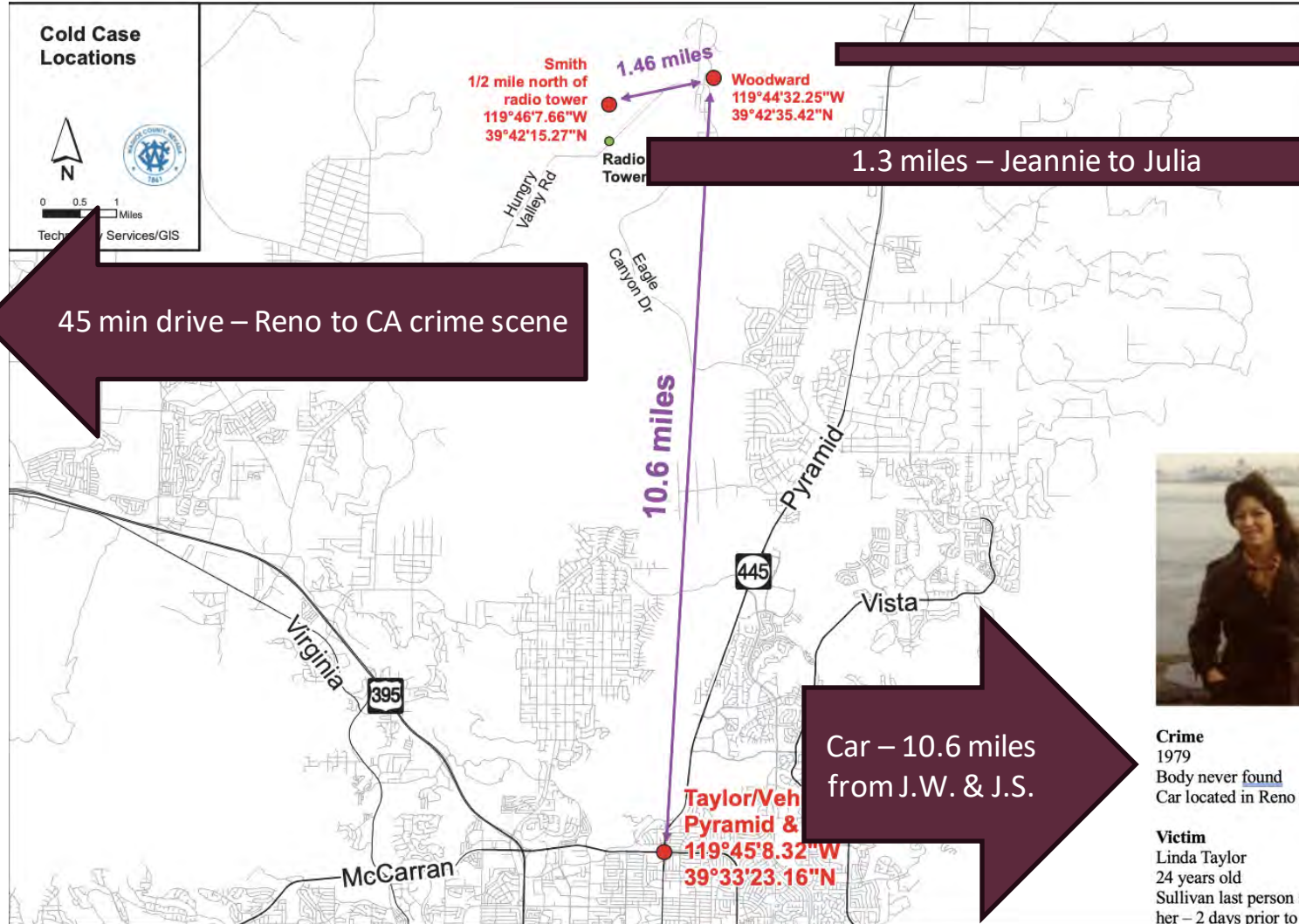
- (1) it lowered our burden for having uncharged bad act evidence admitted; and
- (2) we could use it to prove Sullivan's propensity to commit sex offenses.

Crime scenes



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Victim
 Julia Woodward
 20 years old
 Brunette
 5'8", 130 lbs.

Car - 10.6 miles from J.W. & J.S.

45 min drive - Reno to CA crime scene

1.3 miles - Jeannie to Julia

10.6 miles

1.46 miles

Smith
 1/2 mile north of radio tower
 119°46'7.66"W
 39°42'15.27"N

Woodward
 119°44'32.25"W
 39°42'35.42"N

Taylor/Veh
 Pyramid &
 119°45'8.32"W
 39°33'23.16"N

Evidence of uncharged bad acts

-Sought admission of evidence relating to A.E.'s abduction, as well as the murders of Jeannie Smith and Linda Taylor, for four purposes:

(1) To identify Julia Woodward's killer (distinctive M.O.);

(2) To prove Sullivan's knowledge of how to bind women as Julia had been bound;

Cont'd – next slide

Evidence of uncharged bad acts

-Sought admission of evidence relating to A.E.'s abduction, as well as the murders of Jeannie Smith and Linda Taylor, for four purposes:

(3) To show that the sexual contact between Sullivan and Julia had not been consensual; and

(4) To show Sullivan's general propensity to commit these crimes (for A.E. and Jeannie – not enough evidence for Linda).

Evidence of uncharged bad acts

Doctrine of Objective Chances – prominent proponent – Professor Edward Imwinkelried:

-“Innocent persons sometimes accidentally become enmeshed in suspicious circumstances, but it is objectively unlikely that will happen over and over again by random chance.”

Evidence of uncharged bad acts

Doctrine of Objective Chances

Estelle v. McGuire, 502 U.S. 62 (1991) – While the U.S. Supreme Court did not use the phrase “doctrine of chances,” it appears to have approved of the doctrine for the purpose of proving that the victim suffered from “battered child syndrome,” as opposed to injuries caused by accident.

Evidence of uncharged bad acts

-**A.E. evidence** – **admissible**

-**Jeannie Smith evidence** – **inadmissible** –

“[A]lthough there are a number of similarities between Julia Woodward and Jeannie Smith and possible connections between Mr. Sullivan and Jeannie Smith, there is no direct evidence that they even met. There is no DNA evidence connecting Mr. Sullivan and Jeannie Smith”

Evidence of uncharged bad acts

-Linda Taylor evidence – inadmissible – “There is no evidence Linda was murdered The Court finds that the prior bad acts as related to Linda Taylor were not proven by clear and convincing evidence, but rather by coincidence, conjecture, and speculation.”

PLEA OFFER CONSIDERATIONS
& VICTIM/WITNESS
CONCERNS

Plea offer considerations & victim/witness concerns

GENERAL CONSIDERATIONS

- Case turned down by local DA who felt a prosecution would fail.
- We accepted the case with the view that any murder conviction in a case over 40 years old should be viewed as a win.
- Defendant is 77 years old and has cancer.

Plea offer considerations & victim/witness concerns

PROOF ISSUES

- Proving jurisdiction – Was Julia killed in Nevada or was she killed in California and dumped in Nevada?
- Chain-of-custody for crucial evidence (including the murder weapon) – Many who assisted with the search passed away; documentation of the evidence had some gaps.
- DNA contamination – What would the jury believe?

Plea offer considerations & victim/witness concerns

LEGAL ISSUES

-Made novel arguments regarding the admissibility of evidence relating to A.E. (even the drafters of NV's uncharged sex offense evidence law—incorrectly—believed we could not use it because we could not independently prove Julia's murder was sexually motivated).

Plea offer considerations & victim/witness concerns

LEGAL ISSUES

- Transcripts from hearings were inaccurate (in legally significant ways).
- A successful appeal in such an old case may end the case altogether; the older the case gets, the less witnesses will likely be available.

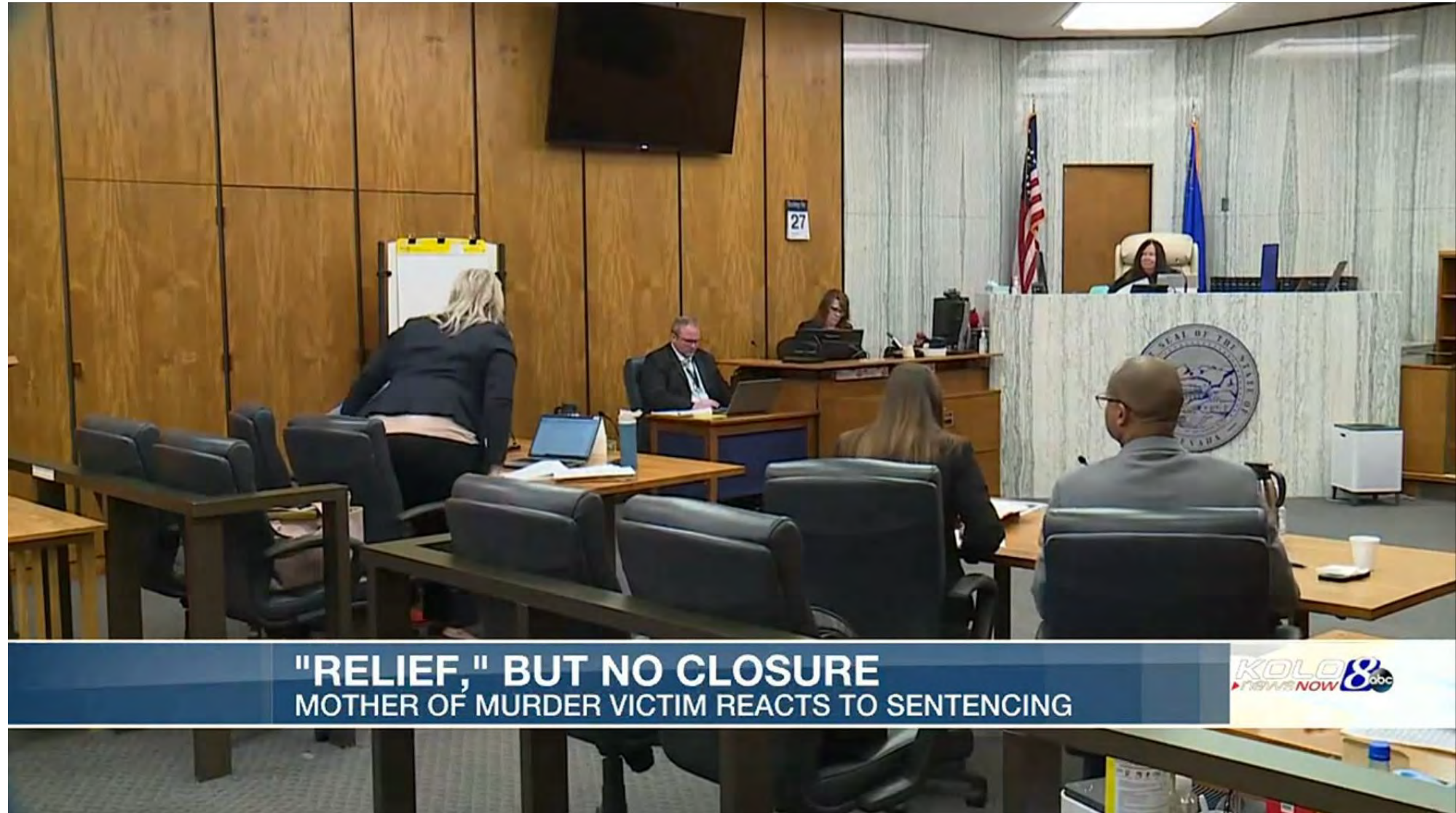
Plea offer considerations & victim/witness concerns

VICTIM/WITNESS ISSUES

-Julia's mother was around 90 years old.

-A.E. was traumatized by her experience. The more we involved her, the tougher it was for her to move on with her life.

Plea offer considerations & victim/witness concerns



Summary of particularly important issues

- Importance of physically examining the evidence collected long ago (due to the expense of film, likely to find less complete photographic evidence)
- Importance of victim-witness advocates
- When to charge –need to move quickly (due to the age of witnesses/evidence) vs. charging quickly, only to have multiple additional discovery productions that provide the defense with good cause to continue the trial

Contact Information



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