

I N D E X

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Robinson - Direct

4

1 (S-37, S-38, and S-39 marked for Identification.)

2 (Jury enters courtroom at 9:17 a.m.)

3 THE COURT: Mr. Aronow, the State may call its next
4 witness.

5 MR. ARONOW: Thank you, your Honor. The State will
6 call Detective Pierre Robinson to the stand.

7 P I E R R E R O B I N S O N, STATE'S WITNESS, SWORN.

8 THE COURT: You may proceed.

9 MR. ARONOW: Thank you, your Honor.

10 DIRECT EXAMINATION BY MR. ARONOW:

11 Q Would you state your name again for the record?

12 A Detective Pierre Robinson.

13 Q And, Detective, for whom are you employed?

14 A Camden Police Department.

15 Q And you're presently a Detective. In 1995 what was
16 your assignment?

17 A I was patrol division.

18 Q How long had you been a police officer in Camden City
19 in 1995, January of 1995?

20 A About 10 years.

21 Q Excuse me?

22 A About 10 years.

23 Q In your capacity as a patrol officer did you have
24 occasion to be in the area of McGuire Project or McGuire Garden
25 Apartments in Camden on January 18th, 1995?

- 1 A Yes, I did.
- 2 Q And at approximately 20 minutes to 9, on that
3 particular occasion, did you respond to the McGuire Gardens
4 Apartments?
- 5 A Yes, I did.
- 6 Q And when you arrived -- let me ask you this: Were you
7 in uniform on that particular occasion?
- 8 A Yes, I was.
- 9 Q And were you working with any other officers?
- 10 A Yes, I was.
- 11 Q And who were you working with?
- 12 A Officer Perwall (phonetic).
- 13 Q What's his first name?
- 14 A Ron, I believe.
- 15 Q And were you sharing a patrol vehicle?
- 16 A Yes.
- 17 Q Was that a car?
- 18 A Yes.
- 19 Q And when you responded, did you know exactly where you
20 were going?
- 21 A The original response was for some kind of a problem in
22 Berwick Street which is right around the corner from
23 Westminster, all in the same area as the McGuire Project.
- 24 Q Ultimately you were reassigned by your own police
25 communication?

- 1 A Yes, that's correct.
- 2 Q Did you ever go out to Berwick Street?
- 3 A No, we didn't.
- 4 Q When you responded to Westminster Avenue, what area
5 did you respond to?
- 6 A 2000 block of Westminster. We got the call that shots,
7 numerous shots, that shots were being fired out there.
- 8 Q And when you arrived at that location in the area of
9 2126 Westminster and 2140 Westminster Avenue, did you observe
10 anything with respect to evidence that a crime had been
11 committed?
- 12 A Yes, sir.
- 13 Q What did you observe?
- 14 A Found a black male lying face down in front of the
15 residence.
- 16 Q And did you approach that individual?
- 17 A Yes, I did.
- 18 Q And did you make any observations with respect to
19 whether that person appeared to be alive in your opinion?
- 20 A He appeared to be deceased.
- 21 Q And did you ultimately look elsewhere?
- 22 A Yes, sir.
- 23 Q And where did you go?
- 24 A We went inside the residence, I'm not sure the exact
25 address, found another black male in the kitchen, appeared to

1 be alive, wasn't sure, was back up against the wall. There was
2 a gun about three feet from him, little blood on the gun. I
3 had a wagon unit secure the residence itself.

4 Q When you say a wagon unit, what are you referring to?

5 A Paddy wagon, arrest van.

6 Q Okay. And do you know what officers were assigned to
7 that unit at that time?

8 A Yes, it was Officer Olmo and Officer Earnew.

9 Q While they secured the scene outside, what did you do?

10 A I searched the residence to see if anybody else was in
11 inside.

12 Q Was anybody else inside?

13 A I didn't see anything else in there.

14 Q Did you subsequently come back -- where did you search
15 with respect to the residence?

16 A Searched downstairs, upstairs, two-story.

17 Q And when you completed your search, what did you do?

18 A As far as we called in for, you know, the Sergeant to come
19 in.

20 Q And did you observe whether there were EMS personnel
21 on location at that time?

22 A At the time we first arrived, EMS was not on the scene.
23 They came slightly afterwards. They were working on a
24 gentleman in the kitchen.

25 Q And, Detective Robinson, I'm going to show you what's

1 been marked S-22 for Identification. Do you recognize what
2 this diagram purports to represent?

3 A Yes, sir.

4 Q And what is that?

5 A It's part of East Camden showing in red the McGuire Gardens
6 Apartments.

7 Q Okay. And does that red area accurately represent the
8 boundaries of the McGuire Gardens Apartments?

9 A Yes, sir.

10 Q And can you indicate where on the map the area,
11 approximate area of this crime location was?

12 A Where it says Westminster, I think that's green,
13 Westminster Avenue to the right.

14 Q I'm going to show you what's been marked S-23 for
15 Identification. Do you recognize what that purports to
16 represent?

17 A Yes, sir.

18 Q And what is that?

19 A Appears to be apartment where the crime happened.

20 Q And is the location of that apartment with respect to
21 this diagram consistent with your recollection of the apartment
22 on January 18th, 1995?

23 A Yes, sir.

24 Q And is there anything depicted on that diagram with
25 respect to an area of the house in question where evidence was

1 recovered?

2 A Yes, sir.

3 Q And what is that?

4 A The area is in red. The one on the left where the dot is
5 appears to be where I found the first gentleman lying on the
6 ground.

7 Q Okay.

8 A The bigger.

9 Q You're referring to over here?

10 A Yes, sir, the bigger red, that looks like a kitchen area
11 and that's where I found the second gentleman.

12 Q And okay. And with respect to your involvement in
13 this investigation, did you remain on location until the
14 investigation was complete?

15 A Yes, sir.

16 Q I'm going to show you a group of photographs marked
17 S-23 through S-29 and ask you to look at these photographs.
18 Then I'm going to show you another three photographs that are
19 marked S-38, 39 and 37 and ask you to review those
20 photographs.

21 MR. ARONOW: Those were just marked for I.D., your
22 Honor.

23 Q Do all the photographs that you've just examined
24 reasonably and accurately portray the scene of the homicide
25 area on January 18th, 1995?

1 A Yes, it does.

2 Q And what is demonstrated in S-29 for Identification,
3 what does that photograph purport to show?

4 A A handgun with blood on it.

5 Q And does that photograph reasonably and accurately
6 depict, but for the fact that it's not on the floor, the
7 handgun you observed on the floor in the area of the person
8 lying on the floor inside of 2126 Westminster on January 18th
9 1995?

10 A Yes, sir, it does.

11 Q Did your Sergeant and members of Camden County
12 Prosecutor's Office arrive while you were on location?

13 A Yes, sir.

14 MR. ARONOW: I have no further questions of this
15 witness.

16 THE COURT: Mr. Leiner, you may cross-examine.

17 MR. LEINER: No questions, your Honor.

18 THE COURT: Detective Robinson, thank you. You may
19 step down.

20 The State may call its next witness.

21 MR. ARONOW: The State would call Investigator Michael
22 Aaron.

23 M I C H A E L A A R O N, STATE'S WITNESS, SWORN

24 MR. ARONOW: Thank you, your Honor.

25 DIRECT EXAMINATION BY MR. ARONOW:

1 Q Would you State your name for the record, please?

2 A Michael Aaron.

3 Q And for whom are you employed?

4 A Camden County Prosecutor's Office.

5 Q And in what capacity are you employed?

6 A I'm an investigator assigned to the crime scene unit.

7 Q How long have you been so employed?

8 A Ten years.

9 Q How long have you spent in the crime lab itself?

10 A The mobile crime lab nine years.

11 Q And can you explain to the jury what your duties as an
12 investigator in the crime lab for the Camden County
13 Prosecutor's Office entails?

14 A To respond to the crime scenes. document the scenes, if
15 necessary, by photograph, video, sketching, locate and collect
16 evidence, properly handle the evidence, prepare it and
17 transport it to the State Police Lab, prepare exhibits for
18 Court which would involve the documentation of the scene.

19 Q And were all those things done in your investigation
20 involving a homicide on January 18th, 1995?

21 A Yes.

22 Q Investigator Aaron, do you have any specialized
23 training or experience with respect to the taking of
24 fingerprints?

25 A Taking fingerprints or latent fingerprints?

1 Q Latent fingerprints.

2 A I've been to a number of seminars involving forensic
3 investigation, criminalistic courses at college, seminars put
4 on by the American Academy of Forensic Science, many scene of
5 investigation seminars, any number of seminars involved where
6 latent prints are addressed.

7 Q Can you explain to the jury what latent prints means
8 as opposed to fingerprints?

9 A Taking a fingerprint would be taking a person and inking
10 their fingers and rolling an impression of the ridge detail of
11 the finger tips. Latent fingerprints would be oils, salts,
12 amino acids that are left on an object when it is touched by a
13 person.

14 Q So removing evidence of fingerprints is latent
15 fingerprinting?

16 A Yes.

17 Q And have you had occasion with your experience in the
18 crime lab to take latent prints?

19 A Yes.

20 Q And for what purpose are latent prints taken?

21 A To identify a suspect, to place an object in a suspect's
22 hands, those would be the two main items.

23 Q And how did you become involved in an investigation
24 regarding a double homicide at 2126 Westminster Avenue on
25 January 18th, 1995?

1 A I'm referring to my report here. I was paged by central
2 communications at 2118 hours or 9:18 p.m.

3 Q And is that customarily how you become notified of a
4 crime scene investigation?

5 A Yes, it is.

6 Q Did you respond to 2126 Westminster Avenue in the City
7 of Camden on that night?

8 A Yes, I did. I'm sorry I was paged at 2052. Yes, I did.

9 Q And that would be 8:52?

10 A 8:52 and I arrived at 9:16.

11 Q Did you bring anything with you for purposes of your
12 investigation portion of the case?

13 A Oh, I brought the mobile crime lab with me which has all
14 the equipment necessary for processing a scene.

15 Q And could you explain to the jury what you found when
16 you first arrived on location?

17 A When I arrived on the location, which is one section of a
18 housing development known as McGuire Gardens, my attention was
19 directed to a spot, a substantial spot of blood where there was
20 also a cartridge case and a couple of glassine bags out in
21 front of the building and to apartment number 2126 where right
22 inside the kitchen there was blood about a firearm, a cartridge
23 case and a glassine bag, a cut-away garment.

24 Q Were there any victims on location when you arrived?

25 A No, I was informed that both the victims had been removed

1 to the hospital by emergency medical personnel.

2 Q And is that a frequent occurrence with respect to your
3 crime scene investigations?

4 A Yes.

5 Q What did you next do?

6 A I communicated with the Camden officer who was assigned to
7 the scene and it was agreed that he would take the photographs,
8 I would take the video and make the sketch and we would work
9 together to identify what evidence was there and I would
10 collect it.

11 Q So, there was someone there from the Camden Police
12 Department who had a similar capacity to you?

13 A Yes, there was.

14 Q And under those circumstances who has control?

15 A I do.

16 Q And were you present when any photographs were taken
17 at the scene?

18 A Yes, I was.

19 Q And did you, in fact, take pictures of the scene
20 yourself?

21 A Yes, I took daylight photos of the outside of the building.

22 Q And when was that?

23 A That was on the 19th.

24 Q Which would be the following day?

25 A Yes.

1 Q With respect to your observations of the scene that
2 night, did you happen to observe whether there were any lights
3 illuminating the exterior of the area of the homicides?

4 A Yes, there were.

5 Q And where were they located?

6 A There was one on the end of the building and one -- I can't
7 quite see -- well, I'll get out my small sketch here.

8 Q Well, you can step down. I'm going to show you what's
9 been marked S-23 for Identification. Do you recognize that
10 diagram?

11 A Yes, this is, this is an enlargement of a smaller diagram I
12 prepared of the scene.

13 Q And who prepared S-23 for Identification?

14 A I did.

15 Q And did you prepare that based upon the scene sketch
16 that you had prepared from your investigation on January 18th,
17 1995?

18 A Yes, I did.

19 Q In order to prepare both your scene sketch and this
20 diagram, were you aided in any way by anything regarding the
21 McGuire Gardens Housing Development?

22 A Yes, I obtained a blueprint of the buildings and sidewalks
23 from the Camden Housing Authority.

24 Q And how is it that you make the diagram from the
25 blueprint?

1 A I just enlarged the blueprint in a copy machine or what we
2 have, a poster machine, and then go have it enlarged to its own
3 scale.

4 Q Is that actually a tracing of the blueprint then?

5 A After the blueprint was enlarged.

6 Q Yes?

7 A Yes.

8 Q And can you indicate what on the diagram, which has
9 been marked S-23 for Identification, what the significance is
10 of any evidence that you found?

11 A Okay. Well, right here the red is blood, these orange dots
12 are discharged 9 millimeter cartridge cases. The green
13 triangle is a firearm. The purple octagon was a cutaway down
14 coat. We have an X here which is a glassine bag. These items
15 right here with the rectangles with yellow rays coming out of
16 it indicate lighting.

17 Q So there was lighting. If you're looking at S-23 for
18 Identification, there is lighting on the end of the building
19 which is what's marked unit 2130?

20 A Correct.

21 Q That would be exterior light?

22 A Yes.

23 Q And there was a building -- there was a light between
24 2126 and 2128?

25 A Correct.

1 Q And were those lights working on January 18th, 1995 at
2 the time you arrived?

3 A Yes, they were.

4 Q Now, did you use a key or anything with respect to
5 identifying what the marks are that are on that diagram marked
6 S-23 for Identification so it can be observed other than what
7 you testified to?

8 A Yes, I did.

9 Q Did you indicate what each of the items are
10 independent of what you just testified to?

11 A In my original notes I indicate what they were so I could
12 prepare.

13 Q And is there an indication in the lower right-hand
14 corner?

15 A There is a legend.

16 Q What is the legend?

17 A Has a small orange dot for a cartridge case, red for blood,
18 a green triangle for a coat, a cross for what would be glassine
19 controlled dangerous substance bag and octagon indicating a
20 coat.

21 Q And if I could keep you standing, I'm going to show
22 you what's been marked S-22 for Identification. Do you
23 recognize that diagram?

24 A Yes, I do.

25 Q And what is that diagram?

1 A This is an enlargement of a section of the map of the City
2 of Camden.

3 Q And who prepared S-22 for Identification?

4 A I did.

5 Q How did you prepare that?

6 A I took the indicated area of the map that was required, I
7 enlarged it using a poster printer and then traced it onto the
8 board which you will see here.

9 Q Okay. And you traced on that each street that
10 appeared on the map as it appeared on the map?

11 A Yes.

12 Q And the scale that you used, how is that utilized?

13 A I took the scale from the map and enlarged it
14 proportionately.

15 Q Based upon how you enlarged the map itself for
16 purposes of the diagram?

17 A Yes, I took this scale on the map and determined that from
18 on the original map with the scale that was on from the
19 engineer that from here to here was exactly 1,000 feet and
20 enlarged it proportionately.

21 Q And could you indicate where approximately on S-22 for
22 Identification 2126 Westminister Avenue was?

23 A Would be about right in here.

24 Q And are there any buildings or structures across from
25 2126 Westminister Avenue?

- 1 A You mean on the other side of Westminster Avenue?
- 2 Q On the other side of 2126. Can you describe the
3 layout of the building and its surrounding buildings?
- 4 A 2126 is a center unit of a housing development or a housing
5 project. I believe there are three units to it. Well, you're
6 at the back door so it would be to its right and three or four
7 units to its left. There is an administrative office for the
8 Housing Authority with a recreation area up above and some
9 other buildings around the area.
- 10 Q What's been marked S-23 for Identification, does that
11 diagram show an entranceway to 2126 Westminster?
- 12 A Yes, it does. A sidewalk, there's a sidewalk coming from
13 Westminster and a walkway up to the front door.
- 14 Q Okay. And that door entered into what area of the
15 home?
- 16 A The kitchen.
- 17 Q Is there another door to the home, to the exterior?
- 18 A Yes, there's a front door over here on this side.
- 19 Q However, that's not indicated on S-23 for
20 Identification; is that correct?
- 21 A No.
- 22 Q With respect to -- you can take your seat again.
23 (Witness resumes stand.)
- 24 Q I'm going to show you photographs S-31 through S-34
25 for Identification.

1 A These are all photographs I took on the 19th.

2 Q Of January of 1995?

3 A Yes, yes, correct.

4 Q And does that reasonably and accurately depict how the
5 area of the crime scene appeared the day after in those
6 photographs?

7 A Yes, they do.

8 Q On S-31 for Identification, are the lights that you
9 spoke about visible?

10 A Yes, they are. There's one right here.

11 Q And where is that in proportion to the photograph?

12 A In proportion to the photograph it's --

13 Q Little bit to the left of center?

14 A Right, a little bit to the left of center and one on the
15 very end here which would be on the far right of the
16 photograph.

17 Q Again, and I'm going to show you S-33 for
18 Identification, is that another angle of the same building?

19 A Yes, this is shot from the corner of the building and both
20 lights are visible here also.

21 Q And would you as the photographer be looking back at
22 the outside crime scene area from that photograph?

23 A Yes, you would. The outside crime scene area would have
24 been up about here.

25 Q And I'm going to show you S-34 for Identification. In

1 that photograph there are buildings to the left. Do you
2 recognize that area?

3 A Yes, that would be the Housing Authority office and
4 recreation area.

5 Q And that is directly across the street from 2126?

6 A I'd say it's more cater-cornered.

7 Q Across the courtyard area?

8 A Yes, more diagonal from the front door.

9 Q I'm going to show you what had previously been
10 identified as S-23 through 29 and S-37 through 39 and ask you
11 to look at each of these photographs individually.

12 Do those photographs reasonably and accurately depict
13 the crime scene location on January 18th, 1995, the night you
14 were conducting your investigation?

15 A Yes, they do.

16 Q And who took those photographs?

17 A The Camden I.D. officer.

18 Q And with respect to those particular photographs, can
19 you, in utilizing those photographs, indicate what significance
20 those photographs have?

21 A Well, this would be the kitchen area.

22 Q Referring to S --

23 A S-23 and you can see the black down jacket on the floor,
24 feathers about the area from the jacket being cut. You can see
25 a firearm and a red glassine bag on the table.

1 Q Okay. And a bunch of other stuff?

2 A Yeah, there's a microwave oven, a playing card, a couple of
3 bottles of nonalcoholic beverage.

4 MR. ARONOW: Your Honor, could these be displayed to
5 the jury as he's testifying?

6 THE COURT: Well, they're not in evidence yet I
7 believe, so they have to be moved into evidence and then yes.

8 Is there anything -- which ones are you moving?

9 MR. ARONOW: S-23 through 29 and S-37 through 39.

10 THE COURT: Is there any objection to the
11 admissibility of any of these proffered exhibits?

12 MR. LEINER: If I may have a moment, your Honor, to
13 review the numbers again.

14 THE COURT: Certainly.

15 MR. LEINER: No objection, your Honor.

16 THE COURT: Okay. Then State's Exhibits 23 through 29
17 inclusive and 37 through 39 inclusive will be received in
18 evidence and we'll need to take a moment to have them marked.

19 (S-23, S-24, S-25, S-26, S-27, S-28, S-29, S-37, S-38
20 and S-39 marked in Evidence.)

21 BY MR. ARONOW:

22 Q Investigator Aaron starting again with S-23 in
23 Evidence.

24 A Okay. This is a photograph showing the kitchen area, you
25 see a black down coat.

1 Q Could you hold that in front of the jury as you're
2 describing?

3 A With feathers about from it being cut, a kitchen table,
4 microwave, two bottles of beverage, a firearm, a playing card
5 and glassine bag.

6 THE COURT: Can all of see these photographs? No?
7 Okay. Can you see them now.

8 A JUROR: I can.

9 THE COURT: Maybe what you should do is hold them one
10 way and kind of rotate another way because I don't think
11 everybody can see them.

12 Q Can you point out for the jurors what you identified?

13 A Would be the down jacket, table, microwave, two bottles of
14 beverage, a firearm, a playing card, a red glassine bag.

15 Q I'm going to show you S-24 in Evidence.

16 A This would be the outdoor area where a victim had been
17 found. We can see a large spot of blood on the ground. All
18 the other evidence would be too small to be seen in this
19 particular photograph.

20 Q Okay. That's an overview area?

21 A Yes.

22 Q And does that photograph comport with the area that's
23 depicted on your diagram, S-23 for Identification?

24 A Yes, in-between the bifurcation of the sidewalks there.

25 Q I'm going to show you S-25 in Evidence.

1 A Yes, this would be a close-up of that area. You can see
2 the red from the blood and a cartridge case, a discharged
3 cartridge case.

4 Q And that was taken into evidence by you?

5 A The cartridge case, yes.

6 Q S-26 in Evidence.

7 A This would be a shot showing the front door or the kitchen
8 door of 2126 coming in from the outside.

9 Q And is that a Camden police officer on the other side
10 of that?

11 A Yes, it is.

12 Q S-27 in Evidence.

13 A This would be a photograph of the kitchen floor area of
14 2126 at the base of the front right side of the refrigerator
15 and discharged cartridge case on the floor there.

16 Q And when you say front right side of the refrigerator,
17 that would be your rear, rear of the refrigerator?

18 A Correct.

19 Q Not if you were going to get something out of the
20 refrigerator?

21 A Correct.

22 Q S-28 in Evidence.

23 A This would be another shot of kitchen area showing the door
24 going out into the courtyard and the coat on the floor, the
25 table, the two beverage bottles, the firearm, the playing card,

1 and the glassine bag.

2 Q S-29 in Evidence.

3 A This shows -- this is a close-up of the kitchen table
4 showing the firearm, a playing card, the bottles of beverage
5 and blue glassine bag that's behind one of the beverage bottles
6 that can't be observed in the other photograph.

7 Q S-37 in evidence.

8 A This would be a photograph taken from approximately the
9 refrigerator looking toward the back corner of the kitchen.
10 You can see the table and just the very edge of the firearm,
11 the blue cutaway down coat, blood on the floor, feathers from
12 the coat on the floor.

13 Q And at the left-hand portion of that photograph in the
14 upper portion, there appears to be an end of a partition there?

15 A Right here?

16 Q No, left hand.

17 A Left hand. Oh, right here, yes.

18 Q What area does that correspond to in that diagram?

19 A That would be a hallway going back toward the living room
20 area.

21 Q S-38 in Evidence.

22 A This is a photograph showing more, just concentrating on
23 that corner showing the very edge of the black coat, the blood
24 and the feathers on the floor.

25 Q And S-39 in Evidence.

1 A This is a photograph taken from the hallway going toward
2 the living room out toward the kitchen doors showing the
3 refrigerator and the door going out.

4 Q And there are two doors?

5 A Yes, there's a storm door and a regular hardwood door. The
6 hardwood door is open and the storm door is closed.

7 Q And is that the manner in which it appeared when you
8 arrived?

9 A Yes, it was.

10 Q And the refrigerator that you have discussed in the
11 previous photograph with respect to the location of the shell
12 casing, is that located in S-39 in Evidence?

13 A Yes, in the right side you can see the front and the right
14 side of the refrigerator in this photograph.

15 Q And the right side, you're pointing actually to the
16 left side of the refrigerator as you're looking at it in the
17 photograph?

18 A If I would- if you were in the refrigerator looking out, it
19 would be its right side.

20 Q Was there any specific method or procedure that you
21 utilized in order to process the scene as to what goes first
22 and what you did first?

23 A It would be just the standard procedure. When you arrive
24 at a scene, you take an overview, determine as best you can
25 from speaking to officers at the scene and the investigators at

1 the scene what has transpired to get that information; take a
2 look around the scene, make a mental diagram of what you're
3 doing. Obviously photographs, video and sketch are obviously
4 done before any evidence is collected, at which point the
5 evidence will be collected. And depending on the
6 circumstances, more thorough search of the area, again
7 depending on what the circumstances were. If it's dark out we
8 may want, and it's an outdoor scene, we may choose to come back
9 during the next day during the daylight.

10 Q Approximately how long were you there on the evening
11 or the night of January 18th, 1995?

12 A We were there just short of an hour.

13 Q And with respect to your collection of evidence, were
14 there items that you retrieved from 2196 Westminster and the
15 outside area that you retained for purposes of evidential
16 value?

17 A Yes, there were.

18 Q And is there a list of those items?

19 A Yes, there is.

20 Q And where is that list contained?

21 A I have a copy of the original -- the Camden Police
22 Department has a copy of the original, and the list itself.

23 Q Yes?

24 A It would be, the face original would be maintained in the
25 Camden City Police Department evidence unit.

1 Q And what significance is the Camden evidence unit to
2 this investigation?

3 A They were the actual evidence custodians.

4 Q And why is that?

5 A It -- up until a little bit more than a year ago, it had
6 been the policy that the Camden Police Department would store
7 the evidence in homicide investigations that occurred in the
8 city.

9 Q And did you prepare any documentation in order to
10 memorialize what evidence was recovered from 2125 Westminster
11 Avenue and between 2122 and 2124 Westminster Avenue?

12 A Yes, I prepared a standard evidence voucher.

13 Q And do you have that with you today?

14 A Yes, I do.

15 Q Can I see that?

16 MR. ARONOW: May I have these marked?

17 (S-40A and S-40B marked for Identification.)

18 Q Investigator Aaron, I'm going to ask you to look at
19 what's been marked S-40A and S-40B for Identification.

20 A This would be Xerox copies of my evidence voucher.

21 Q Okay. And do what are marked S-40A and S-40B for
22 Identification contain the list of items that were maintained
23 in evidence or taken into evidence by you and maintained for
24 this case?

25 A Yes, they do.

1 Q With respect to the bottom portion of the evidence
2 voucher, does that contain information that's in addition to
3 what yours contained?

4 A Yes, this contains, plus the packs contain the chain of
5 custody as far as when evidence came in, went in and was
6 removed from the evidence unit.

7 Q Okay. Prior -- let me ask you this: Is the evidence
8 voucher that you have before you right now that's marked S-40A
9 and B for Identification, is that a standard form utilized by
10 the Camden City Police Department for purposes of maintaining
11 evidence?

12 A Yes, it is.

13 Q And is it important to fill out that form properly and
14 accurately with respect to the maintaining of evidence?

15 A Yes.

16 Q And who filled out that form itself?

17 A I typed the items of evidence, I typed the area describing
18 the case, the case number, location of a fence, typed in where
19 the items were found. The rest of the voucher was filled out
20 when I arrived at the evidence room.

21 Q Okay. Is that form a standard form utilized by the
22 Camden Police Department in the ordinary course of their police
23 business?

24 A Yes, it is.

25 Q With respect to that form which has been marked S-40A

1 and B for Identification, are there crossouts with respect to
2 numerical order?

3 A Yes, there are.

4 Q And what's the significance of that?

5 A Prior to my arriving at the evidence unit, items had been
6 turned in by one of the detectives that I was unaware of that
7 had been turned in as evidence, and they were items 1 and 2.
8 So rather than myself starting with page 1 item 2, I started
9 with page 2 item 3.

10 Q So you renumbered the items based upon the fact two
11 items had already been in evidence at Camden?

12 A Correct.

13 Q Does what's been mark S-40A and B for Identification,
14 does that have any information which identifies with respect to
15 a particular investigation by case number and property number?

16 A Yes, it does. Has the case number of 95-01-18-241 and
17 property number of 26871.

18 Q And what is the significance of those two numbers?

19 A The case number is the case number that Camden City
20 Communications assigned to this case when it was received at
21 the Communication Center. The property number is the number
22 that was assigned by the evidence unit when the first piece of
23 evidence came in.

24 Q Okay. So the case number says what, what's the
25 number?

1 A 95-01-18-241.

2 Q And what are the significance of those numbers?

3 A This is the number that was assigned to the case when 911
4 received the call of a shooting.

5 Q And does 95 stand for anything?

6 A It's the year.

7 Q And 01?

8 A The month.

9 Q And 18?

10 A The date.

11 Q And 241?

12 A That's the sequential order of that call as it came in on
13 the 18th of January, 1995.

14 Q And what is the first item that appears on your
15 evidence voucher?

16 A A black hooded parka with a gunshot defect.

17 Q Did you indicate where that was recovered?

18 A The kitchen floor of 2126 Westminster.

19 Q I'm going to show you what's been marked S-20 in
20 evidence and ask you if you can recognize that?

21 A Yes, this is a bag that I prepared to hold the coat. It
22 has my handwriting on it, the case number.

23 Q And that indicates -- does that indicate what item
24 number that is and what package that is?

25 A It's page 1, item 3.

1 Q And does it originally have other numbers on it?

2 A It's page 1, item 1 originally. It's page 2, item 3,
3 that's originally page 1, item 1.

4 Q That was based upon the numbers given prior to those
5 additional pieces of evidence?

6 A Yes.

7 Q If you could remove gently the item that's contained
8 in there.

9 A Okay.

10 Q And does that item -- do you recognize that item?

11 A Yes, this is the coat that was recovered that evening.

12 Q From the kitchen floor?

13 A Yes. It will never go back in as they go out.

14 Q What's the next item that you logged into evidence?

15 A It would be a Baikal IJ-70 pistol serial number T, tank, B,
16 boy, 5062.

17 Q And do you have that item with you?

18 A Yes, I do.

19 Q And could you show it to me? Has the weapon been
20 cleared and is it safe?

21 A Yes.

22 MR. ARONOW: If we can have this marked.

23 (S-41 marked for Identification.)

24 Q Investigator Aaron, I'm going to show you what's been
25 marked S-41 for Identification. Do you recognize that item?

1 A Yes, this is the firearm that I recovered from the kitchen
2 table. It has both of the serial numbers on the evidence tag I
3 prepared.

4 Q That's the same firearm that appears in S-29 in
5 Evidence?

6 A Yes, it is.

7 Q Same as in S-28 in Evidence?

8 A Yes.

9 Q And the same as in S-23 in Evidence?

10 A Correct.

11 Q When you recovered that firearm, where did you find
12 it?

13 A On the kitchen table.

14 Q And was it loaded?

15 A Yes, it was.

16 Q How was it loaded?

17 A As I recall, there was a cartridge in the chamber and six
18 additional cartridges in the magazine.

19 Q And what's the significance of a cartridge in the
20 chamber?

21 A That means it's ready to be fired.

22 Q And when you say six additional cartridges in the
23 magazine, what's the magazine?

24 A This would be the magazine, that's the part of the gun that
25 contains the extra ammunition.

1 Q Is commonly referred to as a clip even though it's
2 mistakenly referred to as a clip?

3 A Yes.

4 Q Do you have the ammunition that was recovered from
5 that firearm on January 18th?

6 A Yes, I do. It would be item number 5 on the evidence
7 voucher, seven .380 ACP cartridges recovered from this weapon.

8 Q In the course of your investigation, have you had the
9 opportunity to observe firearms and ammunition?

10 A Yes.

11 Q And the firearm that's been marked S-41 for
12 identification, what caliber firearm was that?

13 A This is actually a 9 millimeter Makarov.

14 Q What does that mean?

15 A That's a Russian caliber 9 millimeter, refers to the
16 diameter of the projectile and Makarov is just a significance
17 given to the cartridge, the whole cartridge which would include
18 the cartridge case, the projectile, primary, the powder, et
19 cetera.

20 MR. ARONOW: Can I have these marked?

21 (S-42 marked for identification.)

22 Q I'm going to show you what's been marked S-42 for
23 identification. Do you recognize that envelope?

24 A Yes, this is the envelope I printed containing the seven
25 .380 ACP cartridges.

1 Q And does that envelope contain a reference to this
2 particular investigation?

3 A Yes, it has the case number and it has the page number and
4 the item number of the evidence, it has the property number.

5 Q And the item number and page number of the evidence
6 was how it was after it was corrected?

7 A Correct.

8 Q With respect to the items contained within that
9 envelope, were they live rounds of .380 ammunition?

10 A Yes, they are.

11 Q And do they reasonably and accurately resemble the
12 same ammunition that was removed from the firearm on January
13 18th, 1995 by you?

14 A Yes, they do.

15 Q Did you participate as an observer in the autopsies of
16 two individuals identified as Kirby Bunch, Jr. and Mark
17 Winston?

18 A Yes, I did.

19 Q And when did that autopsy take place?

20 A Occurred the next day on the 19th. They started at -- I
21 have Mr. Winston's beginning at 12:30 and Mr. Bunch's at 2:25
22 in the afternoon.

23 Q Where were you at the time that these autopsies took
24 place?

25 A I was at the Medical Examiner's Office in the autopsy room.

1 Q And are you actually present during the autopsy
2 itself?

3 A Yes, I am. I assist the doctor from time to time.

4 Q And what is the purpose of your being present at the
5 time of an autopsy?

6 A To take photographs, document injuries, collect evidence,
7 and assist the doctor in any way necessary.

8 Q And did you take any photographs on January 19th,
9 1995?

10 A Yes, I did.

11 Q What photographs did you take?

12 A I took photographs of the victims and their wounds and of
13 the projectiles that were removed from the victims.

14 Q I'm going to show you S-3 in Evidence, S-17 in
15 Evidence, and ask you to look at those photographs.

16 A Okay. This is a photograph of a projectile on a paper
17 towel above a letter C.

18 Q And what photograph are you referring to?

19 A This would be S-3.

20 Q And did you -- when during the course of the autopsy
21 -- how was that projectile recovered?

22 A Doctor -- let me see who this came from first. This
23 projectile came from wound C of Kirby Bunch, the wound that Dr.
24 Catherman had referred to as wound C. He removed it from the
25 body, rinsed it off and handed it to me. I placed it down on

1 the piece of paper towel.

2 Q And in turn photographed it?

3 A Yes.

4 Q Does that photograph reasonably and accurately depict
5 how it looked at the time you photographed it?

6 A Yes.

7 Q What did you do with that projectile?

8 A It was placed in an envelope that was labeled what it was,
9 where it came from and retained as evidence.

10 Q And is that envelope with you today?

11 A Right here.

12 Q And is that envelope marked with any identifying
13 information with respect to this case?

14 A It has the case number, the property number, the corrected
15 page and item number.

16 (S-43 marked for Identification.)

17 Q I've opened an envelope which contains S-43 for
18 Identification, if you could look at its contents.

19 A This is the projectile and it's been marked by the State
20 Police Lab with A-16.

21 Q And how do you know that?

22 A I can see the etching on the base of the bullet.

23 Q And what is the purpose of that etching?

24 A That's so that it is, if there should be any time in the
25 future while it's waiting to go to trial would be mislabeled or

1 get out of its proper envelope, the reports will always know
2 that the marking is on the bullet itself to identify exactly
3 which projectile or bullet it actually is.

4 Q Does the bullet or projectile compare with the
5 photograph of it that was taken on January 18th, 1995?

6 A Yes, it does.

7 Q The photographs that you have before you, does that
8 depict any other evidence that was obtained in this case?

9 A Yes, I believe S-4 shows the inside of a jacket, a down
10 jacket. I believe this was Kirby Bunch's jacket and you can
11 see the gunshot defect on the inner surface and you can see a
12 little bit of gunshot residue, the blackening around it and
13 blood.

14 Q Does that photo reasonably and accurately depict how
15 the jacket looked when you took the photograph on January 18th,
16 1995?

17 A Yes, it does. S-5 shows the rear of the jacket and a
18 contact gunshot wound with gunshot residue around it.

19 Q And does that reasonably and accurately depict the way
20 it looked when you took the photograph?

21 A Yes, it does. S-6 shows the same jacket up near the top
22 portion of where the collar meets the hood in the back and
23 shows a gunshot wound.

24 Q S-7 through S-13.

25 A Okay. Let me, so I can identify who belongs to who

1 properly, let me get out Dr. Catherman's diagrams.

2 THE COURT: May I see you both at sidebar for a
3 moment?

4 MR. ARONOW: Certainly.

5 THE COURT: Thank you.

6 (Sidebar discussion on the record.)

7 THE COURT: It seems that is double-authenticating the
8 photos, in other words, the same photos which were used by
9 Catherman and you laid a foundation then. You're now laying
10 the same foundation with this witness. I think the same thing
11 with Robinson and this witness.

12 So then, if they're going to be shown to the jury
13 later, that's the third time that the evidence is going to be
14 described. I think maybe you could eliminate this middle step
15 because I think they've been authenticated subject to any
16 objection.

17 MR. LEINER: Your Honor, they've been admitted into
18 evidence.

19 THE COURT: I didn't have it marked. We had the
20 discussion about --

21 MR. LEINER: Exactly. There was two. They were
22 excluded.

23 THE COURT: So if that's the case, it makes my point
24 even more so. Why don't you jump over this step since they've
25 already been admitted into evidence and have been shown to the

1 jury. I think it's getting more time consuming than it needs
2 to be.

3 MR. ARONOW: Sure.

4 THE COURT: Also, while you're up here, as far as the
5 issue of the 911 tape, although it may be admissible as a
6 hearsay exception, I do want to hear it before because there
7 may be some 403 problem. So, I'd like to hear it before it
8 gets authenticated and referred to. Maybe we can listen to it
9 during the break.

10 MR. LEINER: Absolutely. There is a transcript that
11 does indicate she doesn't say gun, had a gun. This is the same
12 witness yesterday. So it's hearsay within hearsay, so it
13 presents a problem.

14 THE COURT: First I want to resolve the 403 problem
15 with it. Okay. Thanks.

16 (Sidebar discussion concluded.)

17 BY MR. ARONOW:

18 Q We're going to skip this stage. Did you participate
19 in the autopsy of Mark Winston?

20 A Yes, I did.

21 Q Was a projectile recovered from his body?

22 A Yes, it was.

23 MR. ARONOW: Can I have the envelope marked?

24 (S-44 marked for Identification.)

25 Q I'm going to show you the contents of the envelope

1 marked S-44 for Identification and ask you if you recognize
2 that item?

3 A Yes, this is the projectile that was recovered from the
4 body of Mark Winston. It's in the envelope with my own
5 handwriting on it, bearing the case number, the property number
6 and the corrected page and item number of evidence and it has
7 the etching from the State Police Lab on the base of the
8 projectile.

9 Q And what does the etching read?

10 A The etching reads A-11.

11 Q Does that reasonably and accurately resemble the
12 cartridge case that you accepted from Dr. Catherman and put
13 into evidence in this case?

14 A The projectile?

15 Q Yes.

16 A Yes.

17 Q You indicated that you recovered shell casings from
18 the scene?

19 A Yes.

20 Q Could you indicate which shell casing you found first?

21 A Well, I was directed to both of them as soon as I arrived.
22 There was one on the kitchen floor by the refrigerator and one
23 outside near the blood. The one outside would have been
24 collected first because it was in the open.

25 Q Okay. Do you have that with you?

1 A Yes, I do, right here. It's a Federal Cartridge Company 9
2 millimeter Luger cartridge case.

3 (S-45 marked for Identification.)

4 Q I'm going to show you the item contained in what's
5 been marked S-45 for Identification, the envelope. Do you
6 recognize that item?

7 A Yes, this is the cartridge case that was recovered from
8 outside of the apartments. It is a Federal Cartridge Company 9
9 millimeter Luger cartridge case and it's etched by the State
10 Police lab as A-8.

11 Q Does that reasonably and accurately resemble the item
12 that was covered by you outside of 2124 Westminster Avenue,
13 January 18th, 1995?

14 A With the exception of the etching, yes.

15 Q Do you have the other envelope with the other shell
16 casing that you recovered?

17 A Yes, this is an envelope with the case number, the
18 corrected page and item evidence number, the property number
19 and its labeled in my handwriting Winchester Western 9
20 millimeter Luger cartridge case.

21 (S-46 marked for Identification.)

22 Q Does the item that's contained within the package S-46
23 reasonably and accurately depict the item that was recovered by
24 you next to the kitchen refrigerator on January 18th, 1995?

25 A Yes, it is a Winchester 9 millimeter Luger discharged

1 cartridge case and it is etched with A-5.

2 Q By the State Police?

3 A Yes.

4 Q Was another shell casing turned over to you?

5 A Yes, it was.

6 Q By whom?

7 A By Sergeant Forte.

8 Q And where is Sergeant Forte employed?

9 A Camden County Prosecutor's Office.

10 Q And what was Sergeant Forte's participation in this
11 investigation?

12 A He was the case detective assigned to this case.

13 Q Was he on location with you at the time of your
14 investigation?

15 A For at least part of the time.

16 MR. ARONOW: And if I could have that envelope marked.

17 (S-47 marked for Identification.)

18 Q I'm going to show you what is contained in S-47 for
19 Identification. Do you recognize that item?

20 A Yes, it's a Winchester 9 millimeter Luger cartridge case
21 and it is etched with A-18 and the envelope is in my
22 handwriting, bears the case number, property number with the
23 corrected page and item number of evidence and it indicates
24 that I received this from Sergeant Forte on 1/25/95.

25 Q Does that reasonably and accurately represent the item

1 that was recovered from Sergeant Forte on that date?

2 A With the exception of the etching, yes.

3 Q If I neglected to ask, that was the same to S-46.

4 Does that reasonably and accurately resemble the item that was
5 recovered by you?

6 A With the exception of the etching, yes.

7 Q With respect to the two projectiles recovered from
8 each individual and with respect to the shell casing that were
9 recovered, was anything done with them in terms of this
10 investigation?

11 A They were transported to the State Police Ballistics Lab in
12 Trenton for examination.

13 (S-48, S-49 and S-50 marked for Identification.)

14 Q Starting with S-48 for Identification, do you
15 recognize that document?

16 A Yes, this is a request for examination of evidence for the
17 State Police Laboratory.

18 Q And is that a standard form utilized by law
19 enforcement in the State of New Jersey?

20 A Yes, it is.

21 Q And for what purpose is that form utilized?

22 A For submitting evidence to the State Police Lab for
23 examination.

24 Q And is that a form that is produced by the State
25 Police for such purpose?

1 A Yes.

2 Q And who filled out the information?

3 A I typed out this form.

4 Q And are there identifiers with respect to this
5 particular case in that particular document?

6 A Yes, the submitting agency, case number 95-01-18-241, the
7 victims' names would identify it as belonging to this case.

8 Q And what specifically was requested of the State
9 Police by you as contained in the document marked S-48 for
10 Identification?

11 A What was requested in this document was that the three
12 cartridge cases and the two discharged lead projectiles be
13 compared to one another to determine that both projectiles and
14 all three cartridge cases were discharged through the same
15 firearm so that it could be positively determined that the same
16 firearm was used in the assaults on both individuals.

17 Q And when was this -- when was the evidence taken to
18 the New Jersey State Police for that purpose?

19 A It was taken on January 26th, 1995 and returned to us on
20 January 30th, 1995.

21 Q And is that indicated anywhere on that document?

22 A Yes, on the upper right-hand corner there is a stamped
23 received at laboratory dated January 26th, '95 and beside it is
24 a received by, received from laboratory January 30th, '95.

25 Q Okay. And I'm going to show you what's been marked

1 S-50 for Identification. Do you recognize that document?

2 A Yes, I do. This is a Xerox of the same document, except
3 that the -- there is resubmit marked on the top of the document
4 and the received at and the received by, received from stamps
5 are different dates.

6 Q I'm going to show you what's been marked D-40 for
7 Identification -- correction, S-49 for Identification. Do you
8 recognize that document?

9 A Yes. This is another copy of the copy of the original,
10 except it's marked additional evidence and received at and
11 received from stamps are different.

12 Q And what is document S-49 specifically requesting?

13 A An operability examination on the firearm.

14 Q The Baikal 9 millimeter?

15 A Right.

16 Q Does that contain any identifying information with
17 respect to that particular item?

18 A Yes, it has the serial number on it of the weapon.

19 Q And with respect to item, the item contained in S-49
20 for Identification, who transported that item to the New Jersey
21 State Police Lab?

22 A I did.

23 Q And with respect to that item being returned from the
24 New Jersey State Police Lab, who received it from the New
25 Jersey State Police Lab?

1 A Investigator Corbin.

2 Q Who's Investigator Corbin?

3 A He's one of the partners in the crime lab.

4 Q Does he essentially have the same job that you do?

5 A Yes, he did.

6 Q From where are these items retrieved in order to be
7 taken to the New Jersey State Police Lab?

8 A It depends on when they go to the lab. The first
9 submission on January 26th, these were submitted and returned
10 to our office prior to us being able to get them logged in as
11 evidence in Camden City.

12 Q And why is that?

13 A Because of the problem that we had with Camden City. They
14 only had one evidence custodian who had charge of every bit of
15 evidence for the city and at the time we had to call three,
16 four days in advance to try and make an appointment to turn in
17 evidence. And if three, four days came by and we happen to be
18 tied up on something of an emergent nature that we couldn't get
19 there, all the evidence was secured in a storage facility in
20 our office that only the people in our unit have access to.

21 Q And with respect to the item that's marked S-48 for
22 identification, is that what happened with those items before
23 they were taken to the State Police Lab?

24 A These went to the State Police Lab prior to being submitted
25 as evidence in the City of Camden.

1 Q And what significance is the numbers of those items
2 with respect to the evidence voucher which was prepared by you?

3 A Okay. Items were marked with A. I have A-8, A-18, A-11
4 and A-16 and the significance is that these were the original
5 numbers prior to being corrected for what had been turned in as
6 evidence without my knowledge.

7 Q Okay. So the numbers that are contained in the
8 request for examination of evidence are the original numbers,
9 not the corrected numbers?

10 A Correct.

11 Q Are the items that were transported, however, were
12 identified?

13 A Yes, they were. They're completely described as far as
14 what they are, where they came from.

15 Q And for purposes of S-50 for Identification, was that
16 resubmitted after the new numbers had been given?

17 A Yes, this was after the new numbers had been given.
18 However, they are still marked with the original numbers that
19 they were marked with.

20 Q And why is that?

21 A Because when they went up, they were etched with those
22 numbers and there isn't room to cross them out and change them.

23 Q So their original numbers were maintained for purposes
24 of State Police work?

25 A Because all these records would show this is A such and

1 such.

2 Q And with respect to this particular item, do you know
3 who transported the items back to the State Police Lab for
4 re-analysis?

5 A On January 23rd of '97 I transported them back and I
6 received -- or on January 10th I took them and received them
7 back on January 23rd.

8 Q And you logged them back into evidence when you
9 returned them?

10 A Yes.

11 Q And you logged them out of evidence when you took them
12 out?

13 A Yes. Well, they had -- previously, prior with the
14 anticipation of this case coming to trial, they had been
15 transferred to Camden Police to our office evidence unit.

16 Q So they were already in your possession?

17 A They were not in my possession. They were in our evidence
18 custodian's possession.

19 Q Okay. Now, the glassine bags that you indicated that
20 you found --

21 A Yes.

22 Q -- do you have them with you today?

23 A Yes, I do.

24 (S-51, S-52 and S-53 marked for Identification.)

25 THE COURT: Mr. Aronow, do you have a lot more on

1 direct because the refreshments are ready for the jury. If
2 it's just a couple moments, we'll keep going or --

3 MR. ARONOW: Some more in terms with respect to
4 evidence, but I do have more with respect to Investigator
5 Aaron.

6 THE COURT: Why don't we go through the evidence.
7 That would be the logical thing.

8 Q Investigator Aaron, I'm going to show you what's been
9 marked S-51 for Identification. Could you recognize that
10 envelope?

11 A Yes, this is an envelope I filled out indicating that red
12 bag from the kitchen table. It has the case number and the
13 corrected page and item number for evidence.

14 Q And would you look at the contents?

15 A Yes, it has a two-piece empty red glassine bag.

16 Q And does that reasonably and accurately depict the
17 item that was recovered by you on January 18th, 1995?

18 A Yes, it does.

19 Q I'm going to show you S-52 for Identification and ask
20 you to look at the item?

21 A Yes, this was an envelope written by me indicating a red
22 glassine bag that was recovered from in-between 2124 and 2122
23 Westminster. It has my writing and case number and the
24 corrected page and item number for evidence and this has the
25 empty red glassine bag.

1 Q And S-53 for Identification?

2 A This is labeled with my handwriting, blue glassine bag from
3 the kitchen table and this has the blue bag, zip-lock style
4 bag, little bit bigger than the other two.

5 Q Does both S-52 and S-53 for Identification reasonably
6 and accurately depict the bags that were recovered by you on
7 January 18th, 1995?

8 A Yes, they do.

9 MR. ARONOW: I believe, your Honor, that's all I
10 intend to do with respect to evidence collection.

11 THE COURT: All right, we'll continue with
12 Investigator Aaron's testimony then after the break. Very
13 good. We'll resume in 15 minutes.

14 (Jury leaves courtroom at 10:39 a.m.)

15 THE COURT: Mr. Aronow, can I have the tape and then
16 you can talk to Investigator Minardi.

17 MR. ARONOW: Certainly.

18 THE COURT: Counsel, I'm going to listen to the 911
19 tape in chambers.

20 MR. LEINER: Certainly, your Honor.

21 THE COURT: I don't think it's necessary to listen to
22 it here.

23 You will mark it for Identification though, and it
24 would be S-54.

25 (S-54 marked for Identification.)

1 THE COURT: We'll resume in about 15 minutes.
2 MR. LEINER: Thank you, your Honor.
3 THE COURT: Thank you.
4 (Recess.)
5 (Jury returns to the courtroom at 11:20 a.m.)
6 THE COURT: You may call your next witness.
7 MR. ARONOW: I'm continuing with Investigator Aaron.
8 THE COURT: That's right. You may continue.
9 BY MR. ARONOW:
10 Q Investigator Aaron, why is it that you collected the
11 three empty glassine CDS bags?
12 A They were evidence of there possibly being at one time
13 contraband within very close proximity to the crime scene. For
14 six months down the road in the investigation, I don't know
15 whether they would have significance to the investigation or
16 not.
17 Q So it simply is a matter of the totality of
18 circumstances, evidence collection?
19 A Correct.
20 Q With respect to the Makarov Baikal IJ-70 handgun, S-41
21 for identification, did you perform any analysis on that gun
22 for purposes of latent fingerprints?
23 A Yes, I chemically treated the gun for latent fingerprints
24 and dusted with powder.
25 Q Would you explain to the jury and the Court what you

1 do when you perform that type of analysis?

2 A For this particular weapon, I removed the magazine and I
3 placed a piece of tape over the end of the muzzle of the gun or
4 end of the barrel of the gun so none of the chemical would get
5 in to mar the rifling characteristics for further ballistic
6 testing. I put that in a tank similar to an aquarium and
7 cyanoacrylate is a process, more commonly referred to as Super
8 Glue, where you put cyanoacrylate on a piece of tinfoil and put
9 it on a coffee warmer pad in a glass of warm water for
10 humidity, seal it for 15 to 20 minutes and the cyanoacrylate
11 will produce fumes which will adhere to the oils left on the
12 surface of the weapon and the magazine by somebody's hands and
13 what would adhere would be a whitish substance and after that
14 then we would dust it with normal fingerprint powder.

15 Q And is that procedure that you utilized?

16 A Yes.

17 Q And were you able to recover anything of evidential
18 value?

19 A The only thing we were able to get was one unidentified
20 partial latent print on the back of the magazine.

21 Q And would you explain to the Court and jury the
22 significance of that finding?

23 MR. LEINER: Objection, your Honor.

24 THE COURT: What is the objection, that he has not
25 been qualified?

1 MR. LEINER: Well, the significance of that finding is
2 an issue for the jury to determine.

3 THE COURT: I think the question should be rephrased.
4 I'm going to sustain the objection to the form of question.

5 MR. ARONOW: Okay.

6 Q Investigator Aaron, let me ask you this: Is it common
7 or uncommon to end up with the results that you did with
8 respect to the firearm and checking it for latent fingerprints?

9 MR. LEINER: Objection, your Honor, that calls for a
10 very general statement and I think whether it was common or
11 uncommon may not have any bearing on this particular case.

12 THE COURT: Mr. Aronow.

13 MR. ARONOW: He certainly could testify to his
14 experience with respect to the taking of latent fingerprints
15 and firearms.

16 THE COURT: I think it does have probative evidence.
17 The objection is overruled.

18 Do you need the question repeated?

19 THE WITNESS: No. Because of the nature of the
20 object, the grip of the gun right here where somebody's fingers
21 would be, the fingertips of somebody have a pattern on them, an
22 actual ridged pattern that you couldn't get a latent print off
23 of. Where somebody would grip the gun to chamber the round is
24 serrated so you couldn't get a fingerprint there.

25 Quite often when these -- when guns such as this are

1 carried on the street illegally, they're in a pocket or in a
2 waistband and the friction of the gun, of the clothing or
3 coming out, in and out of the waistband would wipe away any
4 fingerprints that might be on the slide. The other areas of
5 this gun, you know, are very small and you would really have to
6 intentionally try to put a fingerprint on that to get one.

7 Now, we get partial prints from time to time and some
8 ridge detail, but I would say only probably 15 percent of the
9 time that we actually process a gun do we get a good identifier
10 fingerprint someplace on the weapon.

11 Q Because of the characteristics of the weapon itself?

12 A Yes, just because of the nature of the grips of the weapon,
13 the surfaces, how it might be carried and the prints that could
14 be wiped away.

15 Q Is that why you checked the magazine?

16 A Yes.

17 Q And with respect to the shell casings that were
18 recovered from the exterior between 2122 and 2124 Westminster
19 and next to the, next to the refrigerator inside of 2126
20 Westminster, were those shell casings checked for fingerprints?

21 A No, they weren't.

22 Q Why not?

23 A When a cartridge is discharged in a semi-automatic weapon,
24 when the cartridge fires, the firing pin strikes a primer and
25 causes a small explosion which ignites the powder, the gun

1 powder inside the cartridge, and the gases burn and there is
2 pressure buildup which expands the cartridge case inside the
3 walls of the chamber of the weapon. And when the extractor
4 pulls the cartridge case out, the friction of the chamber
5 rubbing against the cartridge case destroys almost anything
6 that's there.

7 Q With respect to the live rounds that were removed from
8 S-41 for Identification, those being S-42 for Identification,
9 were they checked for fingerprints?

10 A No, they weren't.

11 Q Why not?

12 A It's very unlikely to get anything when you're loading
13 cartridges into a magazine. The motion is push down and back
14 so you get a sliding motion or a smearing motion and in reality
15 there is very little finger surface that is actually there to
16 leave a latent fingerprint. We've in the past, we have, myself
17 included, processed quite a few cartridges like this and the
18 most we ever get is one or two ridges which are not enough to
19 make any kind of an identification.

20 MR. ARONOW: I have no further questions of this
21 witness.

22 THE COURT: You may cross-examine.

23 MR. LEINER: Thank you, your Honor.

24 CROSS-EXAMINATION BY MR. LEINER:

25 Q Investigator Aaron, were you also aware of the fact

1 that that gun had be moved by the time that you arrived at the
2 crime scene?

3 A I was made aware of that.

4 Q And that the gun was originally found somewhere on the
5 floor and then moved by some person or entity onto the table?

6 A Yes, I became aware of that.

7 Q Would that also have an effect on your ability to
8 obtain any usable prints from a particular weapon?

9 A Yes, the person who moved the gun could have smeared or
10 wiped off any prints that were there or left their own
11 fingerprints.

12 Q In regard to the weapons, you indicated that it was
13 fully loaded; is that correct?

14 A I'm not sure of the magazine capacity. There were six in
15 the magazine and one in the chamber. I don't know whether this
16 magazine holds six, seven or eight.

17 Q Do you know --

18 A. It was loaded.

19 Q Do you know whether or not that gun had been fired
20 that particular evening?

21 A I do not know that.

22 Q And by your testimony in regard to the fingerprints
23 and the lack thereof, you were not able to link that particular
24 weapon, be it with a suspect or a victim in this case; is that
25 true?

1 A No, I was not.

2 Q Now, those glassine bags that you found both outside
3 and inside, and I believe that you indicated they were, at
4 least two of the bags were here on the table -- is that a
5 triangle?

6 A That would be the cross.

7 Q That would be the cross. I'm sorry, the triangle
8 would be the gun. You mentioned on your direct examination
9 that these items usually contain contraband; is that correct?

10 A Many times we find them with contraband, many times
11 without, sometimes with just barely enough residue.

12 Q And when you talk about residue, when you talk about
13 contraband, we're really talking about CDS or drugs, aren't we?

14 A Correct.

15 Q Are the types of bags that are found are frequently
16 submitted to you in a narcotics investigation; is that correct?

17 A They are the types of bags that are seized in narcotics
18 investigations.

19 Q And if you could, have you ever seen a bag torn open
20 like the red bag, I believe that would have been S-51 in
21 Evidence?

22 A I've seen bags torn open like that in many crack houses.

23 Q And are those bags usually torn that way to open it up
24 for the particular individual to receive what's ever contained
25 in that bag?

1 A I would imagine so, yes.

2 Q Have you ever received or have been able to obtain
3 usable prints off of a live round of ammunition found inside a
4 magazine?

5 A I never have.

6 Q And you indicated I believe also that in regard to the
7 weapon itself, you only obtain those about 15 percent of the
8 time?

9 A I would say approximately 15 percent of the time we will
10 get a print that is actually an identifier. Many times we'll
11 get partial prints that don't have enough detail for
12 identification, a few ridges here and there.

13 Q Would that percentage increase with the magazine?

14 A Yes, I personally have much more success getting latent
15 prints from magazines.

16 Q Would you quantify that?

17 A I would say probably 40 percent of the time I will get --
18 I'll say 50 percent of the time I will get something off a
19 magazine. Maybe 20 percent of that 50 percent it will be
20 actually an identifier. If you look at the magazine, there
21 isn't a whole lot of space here to leave a print. And
22 depending on how one handles the magazine --

23 Q And you also indicated you're not sure how many rounds
24 of ammunition that particular magazine holds; is that correct?

25 A I'm not sure what it would hold fully loaded, no.

1 MR. LEINER: No further questions.

2 THE COURT: Any redirect?

3 REDIRECT EXAMINATION BY MR. ARONOW:

4 Q Investigator Aaron, do you have any way of knowing
5 whose empty CDS bags those were?

6 A No, I don't.

7 Q And do you have any idea or do you have any way of
8 knowing how long they were there?

9 A No, I don't.

10 Q And with respect to the unidentifier, that print that
11 you testified to previously that was in fact on the magazine,
12 that you also checked; is that correct?

13 A Yes, it was on the back of the magazine.

14 Q The magazine and the firearm itself were both checked
15 by you?

16 A Yes.

17 THE COURT: Any further questions?

18 RECESS-EXAMINATION BY MR. LEINER:

19 Q Did you check the bags for fingerprints?

20 A No, we did not. As I said, they were recovered, they were
21 recovered because we did not know what significance they might
22 have down the road. They were only recovered because they were
23 there. We didn't know whether they had any significance to the
24 investigation or they might have down the road. They were held
25 in a state where if they could have become significant, they

1 could have been processed.

2 Q And how long do the oils and residues you talked about
3 continue to remain on a particular item?

4 A If it's properly stored, they would remain there forever.

5 MR. LEINER: No further questions.

6 THE COURT: Anything further?

7 MR. ARONOW: Nothing further.

8 THE COURT: Investigator Aaron, you may step down.

9 You are excused.

10 The State may call its next witness.

11 MR. ARONOW: Let me just help clean off this area,

12 Judge.

13 The State would call Terrell Watkins to the stand.

14 THE COURT: Mr. Watkins, good morning. If you would
15 please come forward to your left and be sworn.

16 T E R R E L L D. W A T K I N S, STATE'S WITNESS, SWORN.

17 THE COURT: You may proceed.

18 MR. ARONOW: Thank you.

19 DIRECT EXAMINATION BY MR. ARONOW:

20 Q Would you state your name for the record please?

21 A Terrell D. Watkins.

22 Q Where do you work?

23 A University of Medicine and Dentistry of New Jersey.

24 Q And in what capacity?

25 A I'm an emergency medical technician.

- 1 Q And does that mean that you work on an ambulance?
- 2 A Yes, I work for Emergency Medical Services in Camden.
- 3 Q In Camden?
- 4 A Yes.
- 5 Q And were you employed in that capacity on January
- 6 18th, 1995?
- 7 A Yes, I was.
- 8 Q And were you on duty at approximately 20 minutes to 9?
- 9 A Yes, I was.
- 10 Q And did you respond to the area of the McGuire Gardens
- 11 Apartments?
- 12 A Yes, I did.
- 13 Q And were you with anyone at the time that you
- 14 responded?
- 15 A Yes, I was with my partner Chris Williams.
- 16 Q And did you and Mr. Williams respond to the area of
- 17 2126 Westminster Avenue?
- 18 A Yes, we did.
- 19 Q And did you enter 2126 Westminster Avenue?
- 20 A Yes, we did.
- 21 Q Did you locate anyone with respect to your capacity as
- 22 an EMT in that home?
- 23 A Not at the time, no.
- 24 Q And did you -- was there anyone that you worked on in
- 25 2126 Westminster Avenue on January 18th, 1995?

1 A Yes, there was.

2 Q And where was that person located?

3 A The person was located right in the front room to the
4 right-hand corner.

5 Q Okay. And when you entered that room, was that the
6 kitchen?

7 A Yes, it was.

8 Q And did you and your -- did you observe anything with
9 respect to a firearm in the kitchen area?

10 A Yes, we did. It was a semi-automatic firearm on the floor.

11 Q Where was it in proximity to the person that was
12 worked on?

13 A About two feet.

14 Q And at the time that you entered, it was on the floor?

15 A Yes.

16 Q Did it get moved at any time while you were there
17 working on the individual?

18 A Yes, it was moved. Told one of the police officers that
19 the gun was on the floor and he moved it onto the table that
20 was adjacent to the patient.

21 Q Excuse me?

22 A That was adjacent to the patient.

23 Q Okay. And did you perform emergency medical services
24 on that patient?

25 A At that time, yes, we did.

1 Q Did you have to cut any of his clothing?

2 A Yes, we did.

3 Q Was that for purposes of your medical treatment?

4 A Yes, we have to expose all wounds and he had a big down
5 jacket on, so we cut it off to expose the wound.

6 Q Was he subsequently transported from the scene by you
7 and your partner?

8 A Yes, he was.

9 Q And was there another person outside of 2126, in the
10 area of 2122 and 2124 Westminister Avenue?

11 A Yes, he was.

12 Q And was he also transported to the hospital by members
13 of your service?

14 A Yes.

15 MR. ARONOW: I have no further questions.

16 THE COURT: You may cross-examine.

17 MR. LEINER: No questions.

18 THE COURT: Mr. Watkins, thank you. You may step
19 down. You are excused.

20 The State may call its next witness.

21 MR. ARONOW: Patricia Copling.

22 THE COURT: Ms. Copling, if you will please come
23 forward to your left and be sworn.

24 P A T R I C I A C O P L I N G, STATE'S WITNESS, AFFIRMED.

25 THE COURT: You may proceed.

1 MR. ARONOW: Thank you.

2 DIRECT EXAMINATION BY MR. ARONOW:

3 Q Would you state your name for the record, please?

4 A Patricia A. Copling.

5 Q And, Patricia, are you the mother of the Dennis
6 Copling?

7 A Correct.

8 Q Are you also the mother of Gary Copling?

9 A Yes.

10 Q And in January of 1995, how old was Dennis
11 approximately?

12 A Nineteen, 20.

13 Q And in January of 1995, approximately how old was
14 Gary?

15 A Seventeen, 16 or 17, almost 17.

16 Q Okay. And with respect to Dennis and Gary, would you
17 characterize their relationship as close?

18 A Yeah.

19 Q Yes?

20 A Yes.

21 Q And in January of 1995 or before January of 1995, did
22 you know Barbara and Lakesha Buckhannon?

23 A Oh, yes.

24 Q And did you know Kirby Bunch, Jr.?

25 A No, I didn't know him.

1 Q Okay. When you say, oh, yes with respect to Barbara
2 Buckhannon and Lakesha Buckhannon, is it fair to say you had
3 known Barbara Buckhannon for a number of years?

4 A Yes.

5 Q Is it fair to say more than 10 years prior to that?

6 A Yes.

7 Q Is it also fair to say that her child, Lakesha, grew
8 up with your children?

9 A Yes.

10 Q And is it fair to say that Dennis was very protective
11 of his younger brother Gary?

12 A Pretty much.

13 Q And with respect to January 18th, 1995, Dennis called
14 you; is that correct?

15 A Yes.

16 Q And Dennis advised you that he became aware that Gary
17 had been assaulted by Kirby Bunch; is that correct?

18 A Well, he had called me to ask me if I heard anything about
19 it and at that time I said no, I haven't heard anything about
20 it.

21 Q And you next called Gary to find out about it?

22 MR. LEINER: Objection to the leading questions.

23 MR. ARONOW: Your Honor, she's clearly an adverse
24 witness.

25 THE COURT: Not at this point. I'm going to sustain

1 the objection to the form of the question.

2 Q Did you call Gary at some point after receiving a call
3 from Dennis?

4 A Yeah.

5 Q Yes?

6 A Yes.

7 Q And did Gary indicate his condition to you?

8 A The condition?

9 Q Yeah. In other words, whether he had been hurt or not
10 in any fight?

11 MR. LEINER: Objection, your Honor, hearsay.

12 THE COURT: It's covered by a hearsay exception. The
13 objection is overruled.

14 Q Did he indicate anything to you by virtue of his
15 condition, not with respect to what he said, but in terms of
16 the substance of your conversation on the phone?

17 A Well, I asked him had he been in a fight with anyone.
18 First he said no.

19 Q Without respect to what he said, okay?

20 A Excuse me?

21 Q Counsel objected. You can't say what Gary said,
22 okay?

23 A Okay.

24 Q But I'm asking you the conversation was about an
25 incident --

- 1 A Correct.
- 2 Q -- where he was assaulted?
- 3 A Yes.
- 4 Q And did you relate his health to Dennis?
- 5 A Yes, I did.
- 6 Q Did you have contact with Dennis on January 18th,
7 1995?
- 8 A Yeah, he called back and, you know, I responded to him
9 telling his brother was okay. And he said, Mom, my going to
10 Camden is a mess, so I'm going home. That's the last I heard.
- 11 Q He indicated he was leaving Camden?
- 12 A Correct.
- 13 Q Did he indicate where he was going?
- 14 A Home.
- 15 Q Where was that?
- 16 A I think it was Blackwood at the time.
- 17 Q So he didn't live in Camden?
- 18 A No. Well, he had my home always, but he was with his
19 girlfriend sometimes and sometime with me.
- 20 Q And did you become aware of the substance of the
21 investigation which forms the basis of this trial at some point
22 after January 18th, 1995?
- 23 A Could you repeat that question?
- 24 Q Yes. Did you become aware of an allegation that
25 Dennis had been involved in a murder on January 18th, 1995?

1 MR. LEINER: Objection, your Honor.

2 MR. ARONOW: Allegedly.

3 MR. LEINER: May we approach?

4 THE COURT: You may.

5 (Sidebar discussion on the record)

6 THE COURT: Yes.

7 MR. LEINER: I object to the question on several
8 grounds. Number one, whether or not it's murder, whether it's
9 really homicide is an issue for the jury to determine. And
10 asking that question of this witness would indicate she had
11 some special knowledge of whether or not he was involved in
12 anything. Basically, the question, did you receive information
13 that he was involved in a murder, I object on both those
14 grounds.

15 THE COURT: I assume that if it was rephrased
16 to be as follows, Did you learn on or about January 18th that
17 your son has been accused of committing a murder, do you then
18 have an objection?

19 MR. LEINER: Objection to the term murder. That's
20 clearly an issue for the jury to decide here.

21 THE COURT: Well, accused. Anything else?

22 MR. LEINER: No.

23 THE COURT: Objection is overruled.

24 MR. ARONOW: Thank you.

25 (Sidebar discussion concluded.)

1 THE COURT: If you would rephrase the question.

2 MR. ARONOW: Thank you.

3 BY MR. ARONOW:

4 Q Subsequent to January 18th, meaning after January
5 18th, 1995, did you become aware of an accusation, meaning an
6 accusal that your son had been involved in a murder on January
7 18th, 1995?

8 A Yes, I became aware of it.

9 Q And did persons from the Camden County Prosecutor's
10 Office approach you with reference to the whereabouts of
11 Dennis?

12 A Yes.

13 Q And did they do that on two occasions, January 20th
14 and then January 25th?

15 A I don't recall exactly if it was the 25th or not, but, yes,
16 they came to me and asked me that.

17 Q And did they advise you of anything with respect to
18 what to do with Dennis?

19 A What to do with him?

20 Q Yes. Did they ask you to turn him in or have him turn
21 himself in?

22 MR. LEINER: Objection, relevance.

23 THE COURT: Mr. Aronow.

24 MR. ARONOW: Your Honor, it's certainly relevant to
25 the issue of flight.

1 THE COURT: All right. You've gotten a bit ahead of
2 yourself. I'll allow the testimony subject to it being linked
3 up later.

4 Can you answer the question or do you need it read
5 back?

6 THE WITNESS: Please, would you?

7 BY MR. ARONOW:

8 Q Certainly. Did Sergeant Forte or any other detective,
9 Joseph Hoffman, who were investigators involved in this
10 criminal action, ask you to have Dennis turn himself in to
11 answer the allegations?

12 A Well, they spoke to me saying they wanted to, you know --

13 MR. LEINER: Objection to what the officers said.

14 THE COURT: If you can just answer that question yes
15 or no. In other words, if Investigator Forte or anybody else
16 from the Prosecutor's Office gave you information as to that.

17 THE WITNESS: Well, he had told me he wanted to talk
18 to Dennis, he did say that.

19 THE COURT: If you can answer it yes or no, they gave
20 you information, yes, without telling us what they said.

21 THE WITNESS: Okay. Yes.

22 MR. ARONOW: Okay.

23 BY MR. ARONOW:

24 Q Were you, after they talked to you, in communication
25 with your son Dennis?

1 A No, I haven't got a chance. I haven't spoke to Dennis
2 until after he was here incarcerated because I couldn't talk to
3 Dennis.

4 MR. ARONOW: I have no further questions of this
5 witness.

6 THE COURT: You may cross-examine.

7 CROSS-EXAMINATION BY MR. LEINER:

8 Q Mrs. Copling, in other words, you indicated that
9 between the time the investigator spoke to you and after, which
10 was sometime in late January?

11 A Yes.

12 Q And do you remember when Dennis was arrested?

13 A I think it was the 27th, I think. I don't remember really
14 actually the date, but I think it was like January 20
15 something, it was late January.

16 Q Do you have any -- did you have any conversations with
17 Dennis between the time that you spoke to the investigators and
18 the time that Dennis was arrested?

19 A Not that I can recall.

20 Q Would you please clarify what you meant by the fact in
21 response to the Prosecutor's question was protective of his
22 younger brother?

23 A I mean no more than older and younger brothers are
24 protective over him to some degree. I think that's the
25 responsibility that most older brothers carry. That's how I

1 see it.

2 Q Was it any more or any less than you have observed
3 between other brothers?

4 A No, pretty much the same.

5 MR. LEINER: No further questions, your Honor.

6 THE COURT: Any further direct?

7 MR. ARONOW: Nothing further.

8 THE COURT: Ms. Copling, thank you. You may step
9 down.

10 THE WITNESS: Okay.

11 MR. LEINER: Your Honor, may we approach?

12 THE COURT: Yes.

13 (Sidebar discussion on the record.)

14 THE COURT: Yes.

15 MR. LEINER: I would request that the jury be
16 admonished in regard to the Prosecutor's comment that this
17 question was relevant to flight. There is no linkage in
18 regard to this with flight or anything else. It was left
19 hanging out without any evidential basis that Dennis Copling
20 was fleeing the authorities.

21 THE COURT: He hasn't rested yet, but I would
22 certainly do that at the end of the State's case if there isn't
23 any evidence of flight. At this point I will not strike it.

24 (Sidebar discussion concluded.)

25 MR. ARONOW: The next witness is in custody, Timothy

1 Queensbury. Maybe we can start to bring these witnesses around
2 a little earlier, if you can speak to the Sheriff's Officer.
3 He's the last incarcerated witness.
4 THE COURT: And where is this witness right now?
5 SHERIFF'S OFFICER: He's in the holding area.
6 THE COURT: On our floor?
7 SHERIFF'S OFFICER: Yes.
8 THE COURT: Okay, it shouldn't take very long then.
9 (Pause.)
10 THE COURT: If you will have a seat there in the
11 witness stand, please. Can I ask you to please state your full
12 name.
13 THE WITNESS: Timothy Queensbury.
14 THE COURT: Mr. Queensbury, would you rise for a
15 moment and place your left hand on the Bible and raise your
16 right hand as well as you can. Thank you.
17 TIMOTHY QUEENSBURY, STATE'S WITNESS, SWORN.
18 THE COURT: You may proceed.
19 MR. ARONOW: Thank you, your Honor.
20 DIRECT EXAMINATION BY MR. ARONOW:
21 Q Would you state your name to the jury please?
22 A Timothy Queensbury.
23 Q And, Tim, have you ever been convicted of a crime?
24 A Yeah.
25 Q And are you presently incarcerated at Bayside State

1 Prison?

2 A Yes.

3 Q And what length of time have you been sentenced to?

4 A Seven.

5 Q Seven years?

6 A Seven years.

7 Q And no period of parole ineligibility; is that
8 correct?

9 A Right.

10 Q Flat seven?

11 A Yes.

12 Q Do you know what the crimes are to which you were
13 convicted and sentenced to Bayside State Prison?

14 A Yes.

15 Q And what are those crimes?

16 A Gun charge, arson charge.

17 Q And burglary charge?

18 A Burglary charge as well.

19 Q And two of those cases were resolved at the same time?

20 A Yes.

21 Q And all three represent separate incidences?

22 A Yes.

23 Q However, there was a Violation of Probation on the gun
24 charge that got brought up with the other charges?

25 A Yes.

1 Q And you're serving seven years New Jersey State Prison
2 flat on all of the charges; is that correct?

3 A Yes.

4 Q Has the Camden County Prosecutor's Office or anyone
5 else on their behalf offered you anything in exchange for your
6 testimony here today?

7 A No.

8 Q On January 18th, 1995, did you live in the City of
9 Camden?

10 A Yes.

11 Q Where did you live?

12 A 253 Bangs -- 253 Pfeifer.

13 Q And where is that in relation to McGuire Gardens
14 Apartments?

15 A Right in McGuire.

16 Q It's in McGuire?

17 A Yes.

18 Q And do you know Kirby Eunch, Jr.?

19 A Yes.

20 Q And how do you know Kirby?

21 A Grew up together.

22 Q And does Kirby have a nickname?

23 A K.C.

24 Q And do you know Mark Winston?

25 A Yes.

- 1 Q And how do you know Mark Winston?
- 2 A Met him through a couple friends.
- 3 Q And does Mark Winston have a nickname?
- 4 A Malik.
- 5 Q Do you know anybody by the name of Fahim or Donny
- 6 Parker?
- 7 A No.
- 8 Q Do you know Dennis Copling?
- 9 A Yes.
- 10 Q How long had you known Dennis Copling?
- 11 A Met him through a friend.
- 12 Q How long had you known him?
- 13 A Few years ago, a year ago.
- 14 Q Prior to January of 1995?
- 15 A Yes.
- 16 Q Now, at approximately 20 minutes to 9 on January 18th,
- 17 1995, were you at 253 Pfeifer Street?
- 18 A Yes.
- 19 Q And did anything happen that caused you to come
- 20 outside?
- 21 A Yes.
- 22 Q What happened?
- 23 A Heard shots.
- 24 Q And what else?
- 25 A And somebody hollering.

1 Q And did you recognize the voice of the person
2 hollering?

3 A Yes.

4 Q Whose voice was it?

5 A K.C., Kirby Bunch.

6 Q Kirby Bunch. And did you come outside to investigate?

7 A Yes.

8 Q I'm going to show --

9 MR. ARONOW: And, your Honor, perhaps it may be
10 advisable to mark this 22A since we're aware of the problem.

11 THE COURT: Let me explain that, ladies and
12 gentlemen. We discovered that there are actually two exhibits
13 marked State's Exhibit 23. One of them is this diagram of the
14 McGuire Gardens Apartments, another one has to do with the photo.
15 Obviously, you can't have two exhibits with the same number, so
16 we're going to change this exhibit that was previously marked
17 23 to now 22A. 22A is a diagram of part of the City of Camden
18 and 22A will be this diagram, McGuire Gardens.

19 MR. ARONOW: Any reference in the transcript up to
20 this part that mentioned 23 for I.D., that mentioned diagram,
21 are now references to 22A, correct.

22 (S-22A marked for Identification.)

23 BY MR. ARONOW:

24 Q I ask you can you see this diagram from where you're
25 seated?

- 1 A Yes.
- 2 Q Does this diagram show the area of 2126 Westminster
3 Avenue?
- 4 A On --
- 5 THE COURT: Can you see it or do you need it moved
6 closer to you?
- 7 THE WITNESS: I see it right there.
- 8 Q Right where?
- 9 A 2126, right there.
- 10 Q Okay. Where is 253 Pfeifer Street in relationship to
11 where 2126 is?
- 12 A That's right around the side.
- 13 Q Okay. It's not on this diagram at all?
- 14 A No.
- 15 Q Okay. How far away is it approximately?
- 16 A Couple feet.
- 17 Q How far?
- 18 A Couple feet.
- 19 Q With respect to where you had to come out in order to
20 see Kirby, where did you come from?
- 21 A Came from my front door.
- 22 Q Okay. And did you observe Kirby Bunch?
- 23 A After I walked around the side of that, that rowhouse.
- 24 Q Okay. And where did you see him?
- 25 A Lying down on the ground.

- 1 Q And did you hear him saying anything?
- 2 A He was hollering for help.
- 3 Q Okay. And what did you observe with respect to him at
- 4 the time that you first observed him? What was he doing?
- 5 A He was laying down flat on his stomach with his hands
- 6 in-between it, like underneath him still.
- 7 Q And did you recognize that he had been injured in some
- 8 way?
- 9 A Yeah.
- 10 Q What did you believe happened to him?
- 11 A That he was shot or something.
- 12 Q Okay. And what made you believe that?
- 13 A The way he was acting.
- 14 Q And how was he acting?
- 15 A Like real excited.
- 16 Q And what did you say in response to him?
- 17 A I asked him what happened, who shot him.
- 18 Q Excuse me?
- 19 A I asked him what happened and who shot him.
- 20 Q And did he respond to you?
- 21 A He said Dennis.
- 22 Q At the time that he said that, did you know who Dennis
- 23 was?
- 24 A No, I didn't know who he was talking about.
- 25 Q What were you doing with respect to Kirby Bunch at

1 that particular time?

2 A Trying to help him up.

3 Q Okay. And did something happen while you were
4 attempting to do that?

5 A Yes.

6 Q What happened?

7 A Somebody came jogging across from Boyd and Westminster and
8 came over near where we was at and pulled a gun out and shot
9 him in the head.

10 Q How far away were you when that happened?

11 A I was right next to him.

12 Q Did you have your hands on him?

13 A Underneath of him.

14 Q Looking at S-22 for identification, can you see the
15 area depicted as McGuire Gardens Apartments?

16 A Where?

17 Q Right here.

18 A Yeah.

19 Q Can you find Westminster Avenue and Boyd Street?

20 A Boyd is right there.

21 Q Can you point to it?

22 A This is Boyd right here.

23 Q Okay. And Westminster?

24 A Westminster is going up towards like -- yeah, right towards
25 this direction. You got Boyd going the street up.

1 Q Do these streets intersect? Do those two streets come
2 together at some point?

3 A Yes.

4 Q What did you observe with respect to this individual
5 and the area of Westminster and Boyd?

6 A Before I seen, it was a car roll pass and it stopped for a
7 few seconds and then it drove off and then no sooner that it
8 drove off, that's when I saw a person, some guy came running
9 across the lot from Boyd and Westminster up towards Boyd and
10 Westminster and came over where we was at and shot K.C. in the
11 head.

12 Q Did he say anything?

13 A He said what's up, that was it.

14 Q And from where did he pull this handgun?

15 A From out.

16 Q His waistband?

17 A Of the shirt, yes.

18 Q Can you describe the gun?

19 A It was a 9 black.

20 Q It was a 9. What does that mean?

21 A Nine millimeter.

22 Q And it was black in color. And was it an automatic or
23 revolver?

24 A Automatic.

25 Q And how many shots did this individual fire?

1 A Two, one at in K.C.'s head and as he was running, on his
2 way running, he shot backwards.

3 Q And did that strike anyone?

4 A No.

5 Q When you say he shot backwards as he was running away,
6 he turned his body?

7 A Yeah, he just turned his arm. He didn't turn his whole
8 body around, just turned his arm and shot backwards.

9 Q Like this?

10 A Right.

11 Q And can you describe that individual?

12 A He was kind of like five-six, kind of built, he had like
13 black faded jeans and a beige sweat shirt like.

14 Q Black clothing?

15 A Yes, yeah.

16 Q Had you ever seen him before?

17 A No.

18 Q You knew Dennis Copling at that time; is that correct?

19 A Yes, I seen him before.

20 Q It was not Dennis Copling; is that correct?

21 A No.

22 Q After the shots were fired, what did you do?

23 A Basically got up and walked away.

24 Q Prior to the shots being fired?

25 A Oh, you mean before K.C. got -- guy got shot in the head?

1 Q Before he got shot in the head, was there anyone else
2 out there with you?

3 A Yes, it was my stepfather and my brother.

4 Q Was your stepfather drinking?

5 A Yeah.

6 Q Was he drunk?

7 A Yes.

8 Q Did you tell them to do anything with respect to what
9 was going on at that time?

10 A Told my stepfather to help me get K.C., help take him to
11 the house, but he was babbling on about something else so I
12 just nixed him off. My brother, he ran over to the phone
13 booth.

14 Q To call for help?

15 A Yes.

16 Q Was your brother over at the phone booth when this
17 person came up and fired the shot into K.C.'s head?

18 A Yeah.

19 MR. ARONOW: I have no further questions of this
20 witness.

21 THE COURT: Mr. Leiner, you may cross-examine.

22 MR. LEINER: Thank you, your Honor.

23 CROSS-EXAMINATION BY MR. LEINER:

24 Q Mr. Queensbury, you indicated that when Kirby Bunch
25 was outside, you were in the house and you heard some

1 screaming; is that correct?

2 A I heard the shots.

3 Q You heard the shots first?

4 A Yes.

5 Q And then you heard some screaming?

6 A After I came outside the house, outside my door.

7 Q So when you heard some shots, you go outside the door?

8 A Yes.

9 Q And then you hear some screaming?

10 A Yes.

11 Q And could you see where that screaming was coming from
12 at that point?

13 A I could hear it.

14 Q So, did you follow the sounds and you went around and
15 you found the person you know as Kirby Bunch lying on the
16 ground?

17 A Yes.

18 Q And he was laying face down?

19 A Yes.

20 Q And you asked him a question in regard to what
21 happened to him and he said Dennis?

22 A Yes.

23 Q That's all he said?

24 A Yes.

25 Q Didn't say anything else?

1 A No.

2 Q What was his condition like at that point? Was he in
3 great pain?

4 A Yeah, pretty much.

5 Q Do you know whether or not he was completely coherent?

6 A Yeah, he appears to be that he was hearing.

7 Q No, no, coherent, I'm sorry, not that he could hear
8 you. Did he know what was going on around him completely?

9 A Yes.

10 Q Did he see that other individual that came up and shot
11 him?

12 A Did I see him?

13 Q Did he see him?

14 A Did he see him?

15 Q Yes.

16 A He kind of -- yeah, he kind of looked up and the guy came
17 over and said what's up and while he was laying he looked up.

18 Q Did he say anything when he saw that individual?

19 A Last think he said was "aah."

20 Q That individual who you saw was clearly not Dennis
21 Copling; is that correct?

22 A No.

23 Q In fact, didn't at some point the members of the
24 Prosecutor's Office come to interview you?

25 A Yes.

1 Q And at some point did they show you a group of
2 photographs?

3 A Yes.

4 Q And you identified someone in those photographs,
5 didn't you?

6 MR. ARONOW: Your Honor, it's already **been** indicated
7 through testimony that it was not Dennis Copling who shot the
8 shot. I don't know what the identification process is relevant
9 to at this point.

10 THE COURT: You opened the door to it. The defense is
11 entitled to proceed with that issue. You may continue.
12 Objection overruled.

13 Q Do you remember them coming and putting a photo array
14 in front of you?

15 A Yes.

16 Q How many photos were on there, do you remember?

17 A I think it was like six or seven something.

18 Q And you picked someone out of that photo array; is
19 that correct?

20 A Yes.

21 Q And that individual you picked out was clearly not
22 Dennis Copling, was it?

23 A No.

24 Q Now, there was sometime that passed between this
25 incident and the time that you actually talked to the

1 Prosecutor's Office or anybody about this case; is that
2 correct?

3 A Say that again.

4 Q Sometime passed from January 18th, 1995 until you
5 talked to the Prosecutor's Office. You didn't talk to them
6 that day, did you?

7 A No.

8 Q Okay. How long passed, a couple months?

9 A I think maybe a month.

10 Q You gave a taped statement, too, that we just referred
11 to. Would it be fair to say that you didn't give that taped
12 statement to the Prosecutor's Office until July 10th, 1995?

13 A That's the right date I believe.

14 Q Well, do you recall?

15 A Yeah, I recall giving a statement, yes.

16 Q Could it have been in the summertime by the time you
17 gave them that statement?

18 A Yeah.

19 Q Between the time that you gave them that statement and
20 the time of the incident, without saying what they were, is it
21 fair to say that there was a lot of rumors and things going
22 around and a lot of information about this case going around
23 the neighborhood?

24 A Yes.

25 Q And a lot of people heard a lot of those different

1 things during that time; isn't that true?

2 A Yes.

3 Q And you knew certain facts because you observed them
4 and you also knew that some of these rumors were untrue; is
5 that correct?

6 A Yes.

7 Q In fact, even some members of your family were
8 misstating what occurred on that particular evening; isn't that
9 true?

10 A Yes.

11 Q Did you talk to people other than your family about
12 this case at all?

13 A Not really, no.

14 Q Did anybody talk to you about it, mentioned that they
15 heard things about it?

16 A People in the neighborhood coming up telling me about
17 certain things, but --

18 Q That's what I mean, other people other than your
19 family members would say things about this case?

20 A Yeah.

21 Q So that would it be to fair that there was a fairly
22 large number of people who had knowledge of this case whether
23 or not that knowledge and information was true?

24 A Yes.

25 Q Mr. Queensbury, why did it take you so long to go to

1 the Prosecutor's Office or the Police Department and tell them
2 about what you had observed that night?

3 A Well, first, make it clear, I didn't go to anybody and they
4 came to me, the officers came looking for me. But I didn't go
5 up there myself because of the simple fact that it was
6 something going on about me, supposed to have a case, being a
7 warrant out for my arrest, so I wasn't, I wasn't trying to go
8 talk to nobody. Because I figure if I talk to, I get locked up
9 myself, so I pretty much wasn't doing anything.

10 Q So you had a warrant out?

11 A It was a case that was --

12 Q You believe you had a warrant out?

13 A I believe I heard that I had one out, so I didn't go down
14 there.

15 Q Who did finally catch up with you in regard to this
16 case? Was it the Prosecutor's Office or the Camden Police
17 Department?

18 A It was Camden. I think it was people in the Prosecutor's
19 or Camden Police Department, I'm not really sure.

20 Q And where did they find you?

21 A Outside my house.

22 Q The car that you saw right before an individual jogged
23 across the parking lot, could you describe that car again for
24 me, please?

25 A Dark burgundy.

1 Q Dark burgundy?

2 A Yes.

3 Q Do you know what kind of car it is?

4 A Yes.

5 Q Do you see the occupants in the car?

6 A No.

7 Q Did you know, even know whether or not that car was
8 related to anything that happened subsequent to that?

9 A No.

10 Q And you saw that car before you saw the individual jog
11 through the parking lot?

12 A Yes.

13 Q When that individual was jogging through the parking
14 lot, he didn't have this gun in his hands, is that correct?

15 A No.

16 Q He had it in his waistband?

17 A That's where he pulled it out from.

18 Q And then he walked over, fired a shot into Kirby
19 Bunch's head?

20 A Yes.

21 MR. LEINER: No further questions.

22 THE COURT: Redirect.

23 MR. ARONOW: Yes.

24 REDIRECT EXAMINATION BY MR. ARONOW:

25 Q Mr. Queensbury, you indicate that it was the police

1 who found you?

2 A Yes.

3 Q And it was the police that brought you in and took a
4 statement from you; isn't that correct?

5 A Yes.

6 Q And it was the Prosecutor's Office who writted you in
7 who compelled your appearance here today from Bayside State
8 Prison; isn't that correct?

9 A Yes.

10 Q The activities that you observed on January 18th, 1995
11 that you testified to with reference to the statement that
12 Kirby made in respond to your asking who shot him was Dennis,
13 is that the truth?

14 A Yeah, I asked him, that's what he said.

15 Q That's based upon your recollection; isn't that
16 correct?

17 A Yes.

18 Q Based upon your being present at the time that he said
19 it; isn't that correct?

20 A Yes.

21 Q As well as all the other observations with respect to
22 who the other individual was who came up and fired a shot into
23 Kirby Bunch; is that correct?

24 A Yes.

25 MR. LEINER: Object to the leading questions, your

1 Honor.

2 MR. ARONOW: I have no further questions.

3 THE COURT: The objection is sustained. Recross?

4 MR. LEINER: No, your Honor.

5 THE COURT: Mr. Queensbury, you may step down. Thank
6 you.

7 The State may call its next witness.

8 MR. ARONOW: Judge, the State's next witnesses will be
9 Sergeant Toth of the State Police and he's not expected to be
10 here until 1:00 o'clock.

11 THE COURT: Until when?

12 MR. ARONOW: One.

13 THE COURT: Well, we'll start at 1:30, okay? Ladies
14 and gentlemen, we'll take a luncheon break. We'll take a
15 slightly longer break and we'll start up again at 1:30.

16 (Jury leaves the courtroom at 12:10 p.m.)

17 THE COURT: Could I ask, Keith, can you bring the
18 defendant around at 1:20 whether I'm in the courtroom or not
19 and that way we can bring the jury in 1:30 and get started. In
20 other words, we'll begin at 1:30 and bring him out at 1:20.

21 Yes, Mr. Aronow.

22 MR. ARONOW: I would proceed with respect to your
23 Honor's requesting an order how to handle Gary Copling.

24 THE COURT: Right, and it's supported by an affidavit.

25 MR. ARONOW: Your Honor please, supply an order, I

1 thought it was based upon what had been represented by the
2 Court on the record.

3 THE COURT: But the person who is the subject of this
4 application and who then would be the subject of a hearing is
5 entitled to an affidavit telling him what the facts are that
6 have caused the Court to issue the arrest warrant because he's
7 entitled to a hearing. So the fact you may have placed it on
8 the record doesn't change the fact that I need an affidavit.

9 MR. ARONOW: Okay.

10 THE COURT: As I indicated, you have to comply with
11 the procedures set forth in the statute and the statute
12 requires an affidavit. So I'll hold the order in obedience
13 until I receive the affidavit. Okay. Very good. We'll resume
14 at 1:30.

15 MR. LEINER: Thank you, your Honor.

16 AFTERNOON SESSION

17 (Jury enters courtroom at 1:35 p.m.)

18 THE COURT: If we can have the next witness come in.

19 MR. ARONOW: The State will call Sergeant Randolph
20 Toth.

21 THE COURT: Sergeant, good afternoon. If you would
22 come forward to your left please and be sworn.

23 R A N D O L P H T O T H, STATE'S WITNESS, SWORN.

24 THE COURT: You may proceed.

25 MR. ARONOW: Thank you, your Honor.

1 VOIR DIRE EXAMINATION BY MR. ARONOW:

2 Q Would you State your name again for the record,
3 please?

4 A Randolph Toth, T-O-T-H for the last name.

5 Q And who do you work for?

6 A Division of State Police, State of New Jersey.

7 Q And how long have you been worked for them?

8 A Eighteen years.

9 Q And in what capacity are you presently working for
10 them?

11 A Currently I'm a Sergeant Unit Head at the Central
12 Ballistics Lab in West Trenton.

13 Q Would you describe for the Court and jury what is done
14 at the Ballistics Lab?

15 A My job is to examine discharged bullets and shells from
16 firearms involved in crimes. I also do -- I check for
17 alterations and defects on firearms. I restore serial numbers
18 that have been obliterated. I do distance determination based
19 on gunshot residues on clothing. I also lecture and I also
20 instruct in that area.

21 Q And how long have you been a Sergeant with that unit?

22 A I've been a Sergeant for about two years, two months.

23 Q And with respect to your position in the Ballistics
24 Lab, do you have any training and experience that qualifies you
25 to work in that particular unit?

1 A Yes, I do. The bulk of my training is received as in-house
2 training under Sergeant 1st Class John Jacobs, Captain Carl
3 Leisenger (phonetic), Sergeant Burkhardt (phonetic) and Trooper
4 Dede (phonetic). I received -- first of all, in the beginning
5 I visited several of the State Police Ballistics Laboratories
6 in the local area, they being in Connecticut. Also the -- I
7 had the pleasure of going over to the Philadelphia Ballistics
8 in the city for a familiarization course, a review of how they
9 do their cases and their layout office there and their
10 equipment. I also made several factory tours in the New
11 England area. I seen the manufacture of firearms at the
12 Charter Arms, Marlon and Ruger and Mossburg, their shotguns and
13 handguns are manufactured at those and rifles also at those
14 particular factories. Also went to the manufacturer of
15 ammunition in Remington in Connecticut. I also seen the
16 manufacture of rifle barrels and pistol barrels, that was at
17 Wilson Barrel Company also located in Connecticut. And the
18 reason why I made the factory tours, I was able to see the
19 actual production of a barrel and in doing so, how the
20 connection of tool marks was made.

21 When a barrel is manufactured or components of a
22 firearm are manufactured at a factory, they pick up tool marks
23 by the tools that make them and these tool marks remain, these
24 nicks, these gouges, scratches. Being microscopic, they remain
25 with that firearm in the components. As basis of

1 identification, I'm looking at tool marks. When a bullet is
2 discharged through a barrel, when a shell is discharged in a
3 firearm, it picks up accidental characteristics of the tool
4 marks of the firearm it was discharged in and these accidental
5 characteristics are unique like a fingerprint as an
6 identifier. That's what enables you to identify a particular
7 bullet or a particular shell to a firearm and that firearm
8 only.

9 The tool marks involved in a barrel when the barrel is
10 rifled at the factory, there are high spots and low spots with
11 a twist. These are known as lands and grooves. Whichever way
12 they twist, either left or right, these are class
13 characteristics. There is maybe tens of thousands on a barrel
14 that has six lands and six grooves with a right-hand twist in a
15 given caliber. Caliber also is another class characteristic.
16 So, therefore, I have to go beyond the class characteristics
17 because there are so many out there. As to class
18 characteristics, the true identity, I received detailed
19 instructions from the FBI at Quantico for identification of
20 firearms, and also have completed several armorer's courses
21 involving firearms that are issued to police departments they
22 being from Beretta, Sig Saur, Smith and Wesson and recently I
23 completed the course offered by the FBI at Fort Dix in respect
24 to armorer courses involving police side arms. I also have an
25 area of expertise as far as the AR15 and M16.

1 (Whereupon, there was disturbance in the courtroom.)

2 THE COURT: That person should be either removed from
3 a courtroom or silenced. Sorry for the interruption.

4 BY MR. ARONOW:

5 Q Sergeant Toth, approximately what percentage of your
6 job is related to firearms identification?

7 A One hundred percent.

8 Q And approximately how much of your job involves
9 ballistic analysis?

10 A That too, 100 percent.

11 Q On a quantitative basis approximately how many
12 firearms do you analyze in a given year?

13 A I do well over 300 cases involving firearms-related
14 crimes. To this point in my career I probable examined in
15 excess of 10,000 discharged bullets and shells for examination
16 and also the firearms related with that.

17 Q And do you have any training and experience with
18 respect to examining firearms to determine their manufacture
19 other than what you've already testified to?

20 A Yes, I have.

21 Q Could you elaborate on that?

22 A The identification of firearms, I'm trained in gun marks
23 for identifiers, manufacturers, importers. I'm able to examine
24 firearms, check them for alterations or defects, and in that
25 course I test firearm operability. I test firearms for the

1 sake of having test bullets and test shells for analysis and
2 comparison analysis.

3 Q What is involved with respect to test firing a weapon
4 for operability?

5 A It would depend upon what is asked for by the submitting
6 agency. For the operability of a firearm, I would discharge
7 the weapon in a steel trap. There I would not have to retain
8 any evidence. I would just see if the gun would work, whether
9 it would fire or not. I would check to see if there is any
10 alterations, are the serial numbers proper and so forth.

11 There's a second phase to that which would be to test
12 for operability of a firearm and retain the firearm evidence by
13 discharged bullets and shells. That is done in a manner of
14 either a water tank if you use a soft medium projectile or a
15 cotton trap to retain evidence if it's a hard bullet.

16 Q Sergeant, have you been qualified as an expert with
17 respect to firearms identification and ballistics previous to
18 today?

19 A Yes, I have.

20 Q And approximately how many times have you so
21 qualified?

22 A About 85 times in Superior Courts of the State of New
23 Jersey and also Federal Court.

24 Q Federal Court in the State of New Jersey?

25 A Well, they were Federal matters, once in Camden Federal

1 Court and also in Newark.

2 MR. ARONOW: Your Honor, I would proffer Sergeant Toth
3 as an expert with respect to firearms identification and
4 ballistics.

5 MR. LEINER: No objection, your Honor.

6 THE COURT: Ladies and gentlemen of the jury, I gave
7 you an instruction regarding the evaluation of expert testimony
8 back when Dr. Catheter testified last week. The same
9 instruction would apply to the testimony of Sergeant Toth.
10 Okay. You may proceed.

11 MR. ARONOW: Thank you.

12 DIRECT EXAMINATION BY MR. ARONOW:

13 Q Sergeant, how do you ordinarily receive items also for
14 your purpose?

15 A I receive them on a request for evidence examination sheet.

16 Q Is that a standard form that's printed up by the State
17 Police for utilization by local law enforcement agencies?

18 A Yes, that's correct.

19 Q I'm going to show you what has previously been marked
20 as S-48, 49 and 50 for Identification and ask you if you could
21 generally indicate what those items are?

22 A This is information regarding a homicide and is prepared on
23 the request for examination sheet. It's assigned a case number
24 of C2761. That C stands for Central Laboratory case number. I
25 also see a resubmission at a later date. The first one

1 initially came in January 26, 1995. Then there was additional
2 evidence brought in February 1st, 1995, assigned the same case
3 number and then there was a resubmission of evidence January
4 10th, 1997. I recognize signatures. The first one is Sergeant
5 Jacobs for the resubmission of the evidence. The second one is
6 Sergeant Kusick (phonetic) for resubmission and the third
7 entry, the latest one is I took that evidence in.

8 Q And who is Sergeant Kusick and the other Sergeant that
9 you referred to, what is their function?

10 A Sergeant Kusick is another member of the ballistics unit
11 and Sergeant Jacobs is the former head of the unit.

12 Q And you have indicated that it was your -- you
13 recognize your signature as having received the latest
14 resubmission; is that correct?

15 A That's correct.

16 Q Are you familiar with the reason why that evidence was
17 resubmitted?

18 A Yes, it's due to Sergeant Jacobs' retirement.

19 Q And who requested that those items be submitted for
20 examination?

21 A I did.

22 Q And why was that?

23 A Because Sergeant Jacobs is now retired, I also did a
24 portion of this case and I felt that it was better to have one
25 examiner here in court.

1 Q So you re-examined items that already had been
2 examined by Sergeant Jacobs?

3 A That is correct.

4 Q With respect to what you indicated was C2761, you
5 indicated C stands for Central Laboratory. What is the reason
6 for that number?

7 A That is the sequential number that was given this. That
8 represents the 2761st case to be received under that numbering
9 system.

10 Q And what is done with an item that is received by the
11 State Police Lab or ballistics unit?

12 A In the case -- in this case the items would be received.
13 Initially if it's a new case, they will be cleaned and marked
14 and given identification numbers that correspond with what the
15 initiator wants. After they are cleaned, they are locked in a
16 vault.

17 Q And is that for chain of custody purposes?

18 A That's correct.

19 Q Now, with respect to the request for examination of
20 evidence that's marked S-48 for Identification and S-50 for
21 Identification, is there any difference with respect to what
22 the request is asking the State Police to do?

23 A No, it's an identical request.

24 Q Once your examination is complete, what is done with
25 the evidence?

1 A Well, after it's completed, a phone call is made to the
2 contributor and it is still retained in the vault until which
3 time it is picked up.

4 Q Referring to S-49 for Identification, which is the
5 request for examination of evidence, what were you requested to
6 do with respect to that particular investigation?

7 A I received a firearm for comparison to the -- already the
8 case had already been analyzed, C2761, which was additional
9 evidence. A pistol was produced and asked to be compared
10 against the previously submitted items.

11 Q Did you have the previously submitted items at the
12 time that additional request was received?

13 A I believe so.

14 Q And what items had already been received by the New
15 Jersey State Police Lab?

16 A The items already in custody were several discharged
17 shells, three discharged shells and two discharged projectiles.

18 Q Did you analyze those items at this juncture as well
19 as subsequent thereto as part of the resubmission that you
20 previously testified due to Sergeant Jacobs' retirement?

21 A Yes, I did.

22 Q Did you mark the evidence that you examined in any way
23 with reference to your particular portion of the analysis?

24 A No, I relied on the marks that had been previously put on
25 the discharged bullets and shells for identification, that

1 being the case number C2761 and the individual items to be
2 marked.

3 Q And who would have marked those?

4 A I don't have that information. Probably Sergeant Jacobs
5 who received the case initially.

6 Q Is it the standard procedure for the State Police to
7 mark items that are received for the purpose of keeping a
8 record of that?

9 A That's correct.

10 Q How is that done?

11 A That's done with a scribe. It's marked. I had to mark it
12 with the use of a stereoscope.

13 Q Is that also known as engraving?

14 A That's true.

15 Q I'm going to show you what have previously been
16 identified as S-45, S-46 and S-47 for Identification. S-45, 47
17 and 47 are discharged shells, two of the shells were Winchester
18 Western, the other shell is Federal, a manufacturer, they are 9
19 millimeter Luger caliber and could you explain to the jury and
20 to the Court what a 9 millimeter Luger caliber discharged shell
21 is?

22 A This is a specific caliber designation given to this
23 discharged shell. This is the remnants or what is left over of
24 a cartridge. The cartridge name is 9 millimeter Luger caliber
25 and it refers to name, nothing that specific. The caliber

1 refers to the diameter which in this case is 9 millimeter or
2 .355. The length, it would have to be ascertained through
3 reference. The length on this particular gun, excuse me,
4 cartridge, is the shell length is 19 millimeters, so this is
5 also known as 9 by 19 or 9 millimeter Luger or a 9 millimeter
6 Parabellum (phonetic). It's goes by several names.

7 Q All those names mean the same thing?

8 A Yes, they mean the same thing.

9 Q Can you indicate to the Court and jury what is meant
10 by .38 caliber class?

11 A Well, .38 caliber class, that usually refers to a
12 discharged projectile that we are not able to positively
13 identify as being a specific caliber, so therefore we group
14 it. The .38 caliber class includes 9 millimeter Luger caliber,
15 .38 special caliber, .357 Magnum caliber, also includes a host
16 of lesser known calibers, 9 millimeter Browning long, several
17 other ones, .38 super, just to name a few. What they all share
18 in common is that they are the same diameter and that being
19 roughly 9 millimeter or .355, .357.

20 Q And how do they differ?

21 A They differ because the bullets are loaded in different
22 cartridges that are different lengths and different power
23 levels.

24 Q So they are characterized by the cartridge length
25 subsequent to that?

1 A Right, this is all the ingredients you would need to make
2 up caliber. Caliber is not only diameter we read, but we also
3 name a cartridge by different size chambers, different size
4 lengths of bullets. Just because the diameter happens to be
5 three five, the bullet may weigh substantially more and in one
6 given diameter, rather in one given caliber than the other.
7 For example, if it was a .380 caliber, that is limited to a
8 smaller bullet usually not exceeding 95 grains in weight.
9 However, in that same class or that same diameter you go up to
10 an area of nearly 160 grains to 180 grains of weight, so it's
11 quite substantially different. And how we attain that weight
12 is by the length, the length of the bullet because the diameter
13 has to remain the same.

14 Q Can you tell me whether you've seen the contents of
15 the envelopes that contain S-45 through S-47 for
16 Identification?

17 A Yes, I have. They bear the markings that were put on.

18 Q And what are those markings?

19 A They are identified as A-8, A-5, A-18.

20 Q And do they correspond directly with items that were
21 submitted on the request for examination?

22 A Yes, they do.

23 Q And what type of analysis did you perform on those
24 cartridges?

25 A I compared the discharged shells against each other with

1 the use of a comparison microscope. I mounted them with the
2 comparison microscope, allows me to view two objects at once.
3 I spoke to you about the tool marks, the scratches and the
4 nicks and I compared the breach face marks and firing pin
5 impression present on these discharged shells. I was able to
6 conclude that they were discharged by the same firearm.

7 Q In addition to the tool marks that are contained in
8 the insides of the firearm, does the firing pin also leave a
9 distinctive mark?

10 A Yes, this is part of a component of the firearm when it's
11 manufactured. Even though it appeared smooth or rounded or
12 rectangular, whatever its shape, there are microscopic marks on
13 them, there are imperfections then imprinted onto the primer of
14 the shell. This happens during the firing process. The firing
15 pin is thrust forward, it strikes the primer of the cartridge.

16 Q And where is the primer?

17 A Primer in the rear portion of the shell or head portion of
18 the shell. This primer is sensitive to concussion. When it is
19 struck by the firing pin, it explodes. When it explodes, it
20 creates a flame. The flame then ignites the gun powder inside
21 the cartridge. That burns at a controlled rate and it produces
22 a gas. The gas pushes the bullet out of the shell casings
23 which is the path of least resistance for the hot gas and it
24 pushes the bullet down the barrel rifling or down the barrel
25 where it picks up the rifling impressions of the bullet.

1 Q And do you have an opinion with respect to whether or
2 not the shell casings that you just identified were fired from
3 the same weapon?

4 A Yes, I do. They were positive to each other. They are
5 discharged from the same weapon.

6 Q Is that opinion to the reasonable degree of scientific
7 certainty?

8 A Yes, it is.

9 Q I'm going to show you what's been marked S-43 and S-44
10 for identification.

11 A S-43 and S-44 are discharged lead bullets of the .38
12 caliber class. They are marked A-11 and A-16.

13 Q Which were similar to the marks or descriptions we
14 were referring to earlier?

15 A That is correct. The bullets weigh 125.1 grains and the
16 number of lands and grooves couldn't be established, but it
17 indicates that there was a right-hand twist -- that they are a
18 right-hand twist.

19 Q And what does that mean again?

20 A That means the rifling, they are discharged out to the
21 right as opposed to the opposite, the left.

22 Q For purposes of the jury understanding, does that mean
23 that the bullet spins to the right or to the left based upon
24 how those lands and grooves are in the barrel?

25 A That's correct.

1 Q And what way would the bullet twist as it came out if
2 it were a right-hand twist?

3 A It would spin to the right.

4 Q And were the discharged projectiles that you examined
5 damaged?

6 A Yes.

7 Q However, was there sufficient material left for you to
8 make a comparison?

9 A Yes. I did compare it to the discharged bullets against
10 each other and I was able to establish through the accidental
11 characteristics that remained on the primer. Class
12 characteristics were partially destroyed, that being the number
13 of lands and grooves, but I did have the class characteristic
14 of the right-hand twist. I was able to find the accidental
15 marks and scratches that were identical and did match the two
16 bullets. They are out of the same firearm.

17 Q And is that opinion to a reasonable degree of
18 scientific certainty also?

19 A Yes.

20 Q Are the characteristics that you've testified to with
21 respect to identifying these the same as fingerprints left by a
22 particular firearm?

23 A Well, the characteristics are as unique as fingerprints.

24 Q With respect to the projectiles that you just
25 examined, were you able to make a determination to a reasonable

1 degree of scientific certainty what caliber class they belong
2 to?

3 A I put them in the .38 caliber class.

4 Q Were you able to analyze them in any way to make a
5 further conclusion with respect to what caliber bullets they
6 were?

7 A Yes. Later on I was asked to compare them to a submitted
8 pistol of a different caliber. I can conclude through my
9 analysis that they were by their size, by their shape and their
10 size and diameter that they were out of the first two
11 categories, that being .380 auto caliber which uses a much
12 smaller bullet and 9 millimeter Makarov caliber. They are
13 definitely out of that class. In other words, they are
14 negative for the class characteristic.

15 Q What class would they been characterized?

16 A Two bullets are .38 caliber class which is inclusive of a 9
17 millimeter Luger caliber, .38 Special caliber, .38 Long
18 caliber, 38 Smith and Wesson caliber, .38 Super caliber,
19 numerous calibers in that designation.

20 Q And is that class to reasonable degree of scientific
21 certainty consistent with the shell casings that you examined
22 which were to the 9 millimeter Luger shell casings?

23 A It does include 9 millimeter Luger bullets which is
24 consistent with the discharged shells, that is correct.

25 Q Did you weigh the discharged lead projectiles?

1 A Yes, I did.

2 Q And did their weight indicate anything to you with
3 respect to further subcategorizing them?

4 A Only that they were in the class 125.2 grains, puts them
5 out of the class for that smaller cartridge, that being the
6 .380 and the 9 millimeter Makarov calibers.

7 Q Without a firearm for comparison purposes, is there
8 any way of telling whether a projectile and shell casings are
9 from the same gun?

10 A Well, I cannot match a bullet to a shell casing. I cannot
11 do that ballistically. With regard to discharged bullets, if
12 the rifling is unique, that is the number and in width and
13 depth, we have a general rifling characteristic chart product
14 provided by the FBI. We routinely on bullet cases will measure
15 the lands and grooves and sometimes if they are unique, we can
16 give the investigator the information as to a possible
17 firearm.

18 Q Was there any specific characteristic or class that
19 you could do that in this case?

20 A Not in this case because of the mutilated condition of the
21 bullets.

22 Q You indicated that you also received a firearm for
23 purposes of analysis?

24 A That's correct.

25 Q I'm going to show you what's been previously marked as

1 S-41 for Identification.

2 A This is the pistol that I examined.

3 Q And how do you know that?

4 A By the identifying serial number TB5062. It also bears the
5 case number on the label, that being C2761.

6 Q And that would have been placed on there by the State
7 Police Laboratory?

8 A Yes.

9 Q With respect to that particular firearm, can you
10 identify it?

11 A This happens, this particular semi-automatic pistol is a 9
12 millimeter Makarov caliber Russian Baikal semi-automatic pistol
13 with the serial the number that I described, TB5062.

14 Q And did you test fire that weapon?

15 A This firearm was, mechanical operability was done on this
16 particular firearm.

17 Q Would you describe what the mechanical operability
18 was?

19 A Mechanical operability on this firearm due to its
20 uniqueness as well as caliber, I was not able to obtain test
21 ammunition in this case. What I did on this was a mechanical
22 operability was done where the firing pin was checked for
23 function. A dowel was made of nylon of identical caliber to
24 the barrel and inserted and I was able to pull the trigger of
25 the firearm and the firing pin did thrust forward and removed

1 the dowel from the barrel, which is the mechanical operability
2 which is routinely done on firearms that are questionable in
3 their safety or if there is a shortage of ammunition for that
4 particular firearm and that was the case.

5 Q Shortage of this particular ammunition?

6 A Yes.

7 Q With respect to this particular firearm, did you form
8 an opinion to the reasonable degree of scientific certainty
9 with respect to whether it was operable or capable of
10 discharging a projectile?

11 A This firearm is operable and capable of being discharged,
12 there being no alternations to this firearm and there are no
13 defects.

14 Q Did you make a comparison of that firearm with the two
15 discharged projectiles and the three discharged shell casings
16 that have been previously submitted and previously testified to
17 by you?

18 A Yes, I did. I did a comparison and it's called class
19 characteristic comparison. I checked the chamber area of this
20 firearm, and it is unable to be loaded with 9 millimeter Luger
21 caliber ammunition.

22 Q And why is that?

23 A Because the chamber of this firearm is smaller. As I
24 referred to before, the length of the shell on a 9 millimeter
25 Luger caliber cartridge is 19 millimeters. The chamber or the

1 shell of this Makarov caliber gun s 18 millimeters. It's too
2 small. The length of a .380 auto caliber shell is 17
3 millimeters. It's possible to discharge the shorter .380
4 caliber in the Makarov. Makarov ammo can also be utilized in
5 this gun, but you cannot discharge 9 millimeter Luger caliber
6 cartridges out of this firearm.

7 Q Which is the cartridge that you analyzed, the three?

8 A Three discharged shells are 9 millimeter Luger caliber.
9 They are negative as far as class characteristics. They cannot
10 be fired out of the firearm.

11 Q Is that opinion to the reasonable degree of scientific
12 certainty?

13 A Yes, it is.

14 Q I'm going to show you what's been marked S-42 for
15 Identification and ask you if you can examine those and
16 indicate what they are?

17 A Of the seven they are all .380 auto caliber. Four of them
18 are Remington Peters manufacture, the other three are foreign
19 manufacture, and they appeared to be Chinese, but without
20 reference material, I cannot positively identify the latter
21 three, but I can say that they are .380 auto caliber.

22 Q Is that to a reasonable degree of scientific
23 certainty?

24 A Yes, it is.

25 Q And do you have an opinion with respect to whether

1 those cartridges are live?

2 A Oh, they are live, yes.

3 Q Do you have an opinion with respect to whether those
4 cartridges are capable of being discharged through the Makarov
5 9 millimeter that you previously examined?

6 A Yes, they are capable of being discharged in this type of
7 pistol of this caliber. I have done so on an experimentation
8 basis.

9 Q And both of those opinions are to a reasonable degree
10 of scientific certainty?

11 A Yes.

12 Q The analysis that you performed in January of this
13 year on the resubmission at your request, did you compare them
14 with the analysis that had been performed by Sergeant First
15 Class Jacobs?

16 A Yes, I did.

17 Q Were your results identical?

18 A They were identical. The discharged .38 caliber bullets
19 involved in this case puts them out of the 9 millimeter Makarov
20 or .380 caliber which is they are much too heavy. The
21 cartridges loaded with this bullet would be much too long to be
22 fired out of the submitted pistol. They are also negative by
23 class characteristics.

24 MR. ARONOW: I have no further questions of this
25 witness.

1 THE COURT: Mr. Leiner, you may cross-examine.

2 MR. LEINER: No questions, your Honor.

3 THE COURT: Sergeant, thank you very much. You may
4 step down. You are excused.

5 THE WITNESS: Thank you, your Honor.

6 THE COURT: The State may call its next witness.

7 MR. ARONOW: Thank you, your Honor. The State would
8 call Latisha Fair.

9 THE COURT: Is she out there?

10 SHERIFF'S OFFICER: I don't see her outside.

11 MR. ARONOW: I got a note that she was here, Judge.

12 THE COURT: Earlier, right.

13 THE COURT: Counsel, may I see you both at sidebar?
14 It's doesn't have to be on the record.

15 MR. ARONOW: Certainly.

16 (Sidebar discussion off the record.)

17 THE COURT: There was just somebody at the door. Is
18 that the witness?

19 MR. ARONOW: Might be my partner.

20 THE COURT: No, it's somebody else.

21 MR. ARONOW: Excuse me, your Honor, maybe there was a
22 miscommunication. They're coming.

23 THE COURT: All right. Why don't we -- I'll just have
24 the jury go back to the jury room for a few moments until she
25 arrives.

1 You expect her to arrive in a few minutes?

2 MR. ARONOW: Yes, I do.

3 THE COURT: Okay. We'll resume at that time.

4 (Jury leaves courtroom at 2:15 p.m.)

5 MR. ARONOW: What I can indicate, your Honor, because
6 she was ill, they were trying to get her on and off and I might
7 have missed the window while somebody looked in the door and
8 saw that Sergeant Toth was still on the stand.

9 THE COURT: Okay, it's not a problem. Should the
10 defendant go back around, do you know?

11 MR. ARONOW: Perhaps, your Honor, we might discuss the
12 issue with respect to --

13 THE COURT: The 911 tape?

14 MR. ARONOW: Not only that, the issue that was raised
15 initially at the Miranda hearing with respect to the defendant
16 and whether the State needs to put all the evidence on or
17 whether the State can put only that evidence which is
18 inculpatory and not that which is exculpatory.

19 THE COURT: Which of those two pieces of evidence
20 would be produced first, the 911 tape or the statement by the
21 defendant?

22 MR. ARONOW: The statement by the defendant.

23 THE COURT: Okay, let's deal with that first. Okay.
24 At the conclusion of the Miranda hearing I believe that the
25 State raised an additional issue, and as I recall, the jury was

1 starting to, about to come into the room so we stopped where we
2 were and deferred that issue to a later day. And as I recall,
3 the issue before the Court was whether the State is obligated
4 to present the exculpatory version of the defendant's
5 whereabouts as he explained them when he was questioned or
6 whether the State can limit the testimony to the incriminating
7 aspects of it. That was the issue.

8 MR. ARONOW: Not necessarily just the whereabouts of
9 where he was, more importantly the excuse that he gives with
10 respect to the -- that he wasn't the shooter, that somebody
11 else was.

12 THE COURT: Okay. So the broad question then is
13 whether the State has to put in the entire statement or whether
14 you can choose to instead put in only the incriminating
15 portions of it.

16 MR. ARONOW: Yes.

17 THE COURT: And rely on -- you gave me the name of a
18 case.

19 MR. ARONOW: State v. Gomez.

20 THE COURT: Mr. Leiner.

21 MR. LEINER: Yes, your Honor. My reading of Gomez
22 would indicate it could not apply in this case and for this
23 reason. Gomez went through several pieces of analysis. One,
24 they looked at the admissibility of certain statements as a
25 direct declaration against interest. They found another

1 defendant's statement in that particular case and a portion of
2 his statement that was exculpatory, was not a declaration
3 against interest and therefore could not be admitted. However,
4 one of the more interesting issues that came up was the
5 completeness doctrine in that case and the other cases that
6 relied upon, the Court relied upon in Gomez. It's clear that
7 they have looked at the statement in Gomez as two separate
8 statements. The individual says, admits he was in Atlantic
9 City. Again gives a subsequent taped statement. The Court
10 there says you don't have to introduce and the State can't
11 introduce the subsequent taped statement in and of itself.

12 However, if your Honor will recall in this case from
13 the cross-examination and direct examination of Sergeant Forte
14 in regard to the Miranda hearing, I think it is clear that for
15 a period of an hour and-a-half or so, Mr. Copling talked to
16 them and gave a particular statement. However, a very brief
17 period of time, some 20 minutes before the questioning had
18 stopped, Mr. Copling gives a statement. That statement itself
19 is a stream of consciousness. To do what the Prosecutor
20 requests in this case would almost be to redact out line by
21 line. Since we don't have a taped statement, we only have
22 Sergeant Forte's version, but it's clear that was given in a
23 very short period of time. I don't see how you separate those
24 statements from each other and extract them.

25 I think before we even go any further, if the

1 Prosecutor, and I think this would be proper at this point,
2 would tell us exactly what he is going to elicit and I think
3 that's proper on several areas, then we can determine whether
4 or not too much of that statement has to be excised out for the
5 jury to get the complete flavor of exactly what he said. And I
6 think that Gomez doesn't apply in that situation and I think
7 the completeness doctrine would take control under these
8 circumstances because, again, it's a very brief statement, that
9 was clear from the testimony given in the Miranda hearing and
10 to almost excise line by line would be unfair.

11 THE COURT: The completeness doctrine requires the
12 party that is proffering evidence to place before the jury
13 enough information so that they can have a full and fair
14 understanding of that which transpired. However, the
15 completeness doctrine does not require the State to produce
16 every single thing that the defendant said. In other words,
17 the State would be prohibited by the completeness doctrine from
18 introducing fragments where the fragments taken by themselves
19 distort the overall meaning of what was said. That's all the
20 completeness doctrine says. It does not mean that every single
21 thing that the party utters must be introduced by the opposing
22 party.

23 MR. LEINER: I would agree with that analysis, your
24 Honor.

25 THE COURT: May I have the cite for Gomez?

1 MR. ARONOW: I didn't bring my Miranda folder with
2 me.

3 THE COURT: I can get it. It's an Appellate Division
4 case or Supreme Court case?

5 MR. LEINER: It's an Appellate case your Honor.

6 MR. ARONOW: Hold it a second. I can look right in
7 the table of cases.

8 MR. ARONOW: 246 New Jersey Super. 209, Appellate
9 Division 1991.

10 THE COURT: Okay. Is the witness here yet?

11 MS. VICTORIA PINETTE: Five minutes, your Honor.

12 THE COURT: I'll review Gomez and be out in five
13 minutes.

14 (Recess.)

15 THE COURT: I understand the witness is here. Although
16 I started to review Gomez, I haven't finished it, so we'll come
17 back to that issue a little bit later. That issue doesn't have
18 to be decided for this witness.

19 MR. ARONOW: No.

20 THE COURT: We'll deal with that before we finish.

21 MR. LEINER: Your Honor, may I approach? Actually if
22 the witness is in the room, I guess I'll have to approach right
23 now.

24 MR. ARONOW: I don't believe so.

25 MR. LEINER: Actually, I wanted to bring up one of the

1 issues that was brought up with the other witness, Lakesha
2 Buckhannon, in regard to her testimony, in regard --

3 THE COURT: I gather I should stop the jury from
4 coming in. It's going to take longer.

5 THE CLERK: I didn't call yet.

6 MR. LEINER: It's my understanding through Mr. Aronow
7 that this witness will also testify in regard to seeing Mr.
8 Copling with a gun on a prior occasion. However, it's my
9 contention that that evidence is 404(b) material and would
10 require a 104 hearing prior to its admissibility and given the
11 fact that the Cofield test, State versus Cofield is the case,
12 that lays out the criteria for the admissibility in regard
13 404(b) evidence, one of the criteria would be, your Honor, the
14 Court would find by clear and convincing evidence that this
15 act, wrong act actually took place, that he was actually in
16 possession on a prior date.

17 Given the proffer by Mr. Aronow in a brief memorandum
18 that he gave me this morning, it appears that at least part of
19 the testimony in regard to when this weapon was observed by
20 Lakesha Buckhannon and Latisha Fair will be inconsistent and I
21 think clearly if we have inconsistencies, your Honor can make a
22 determination as to whether or not the State has met its burden
23 by clear and convincing evidence. 404(b) material, I bring up
24 for a particular reason. Under 404(b), your Honor, if I have
25 prior notice, I must raise this and request a hearing or else I

1 will lose that when it is necessary to appeal this.

2 In regard to Ms. Buckhannon, since I didn't have
3 notice, that's not an issue.

4 MR. ARONOW: Let me just indicate, your Honor, that
5 prior to my advising Mr. Leiner of what I believe would be the
6 sum and substance generally of Ms. Fair's testimony on that
7 issue, that unlike Lakesha Buckhannon, who I would submit that
8 we weren't aware of until January 17th at the time she came in,
9 Latisha Fair is in a different position. Sergeant Forte's case
10 report clearing says Latisha Fair said she observed the
11 defendant in possession of a firearm prior to the date of the
12 alleged homicide.

13 THE COURT: How many days prior?

14 MR. ARONOW: Her statement indicates one day prior.

15 THE COURT: Okay.

16 MR. ARONOW: Through my questioning of her and her
17 involvement in other things, I think it's actually two days
18 prior. That is where I came up with that information with
19 reference to what I thought Lakesha Buckhannon would testify
20 to. It's still my understanding that it's the same event,
21 Judge, and the only way I can explain it is that one witness'
22 recollection may not necessarily be accurate. It will
23 certainly be inconsistent, but I don't know that that in and of
24 itself stands to reason that the event did not occur and was
25 not witnessed.

1 MR. LEINER: Well, your Honor, if you recall the
2 testimony of Lakesha Buckhannon, she clearly stated in her
3 direct testimony that Latisha Fair was not there. So I think
4 we do have a question in regard to this question as to the
5 issue whether the State can show by clear and convincing
6 evidence that this event occurred and therefore that would
7 weigh on its admissibility under 404(b).

8 THE COURT: Mr. Aronow, what's the State's position
9 with respect to whether or not a Rule 104(a) hearing is
10 necessary?

11 MR. ARONOW: Well, your Honor, given the fact that the
12 defense was on notice with respect to this matter, I don't know
13 that a 404(b) hearing is necessary.

14 THE COURT: Mr. Leiner, you're asserting Cofield
15 requires the Court hold a hearing on this issue?

16 MR. LEINER: What I'm saying, your Honor, I believe I
17 didn't say requires that you hold a hearing, I must request a
18 hearing --

19 THE COURT: As I understand it --

20 MR. LEINER: -- to preserve that issue.

21 THE COURT: The State has made an offer of proof. The
22 State has represented to the Court that when called to testify
23 Latisha Fair will testify that on an occasion either 24 or 48
24 hours prior to the homicides, which are the subject of this
25 trial, that she observed the defendant in possession of a

1 handgun. Is that the State's offer, if that's the case, I
2 don't know that I would need to have a hearing.

3 MR. ARONOW: Can I have a moment to speak with the
4 witness beforehand?

5 THE COURT: You may do so.

6 (Pause.)

7 MR. ARONOW: Judge, I spoke to Latisha Fair, and I
8 would indicate to the Court as much as I can as an officer of
9 the Court that my understanding is that there will be testimony
10 consistent with the fact that this took place approximately 48
11 hours before the homicide and that it is alleged to be the same
12 incident that occurred with Lakesha, despite what Lakesha may
13 have already testified to.

14 THE COURT: So, Lakesha Buckhannon recalls the
15 incident as having been some two weeks prior to January 18th,
16 1995. This witness says it was one, two, two days before?

17 MR. ARONOW: Yes.

18 MR. LEINER: In addition, your Honor, Lakesha
19 Buckhannon also indicated Latisha Fair was not there.

20 THE COURT: That's an issue of credibility for the
21 jury to resolve concerning the testimony of one or both of
22 them. But that conflict in the testimony between the two women
23 would not be enough to cause this Court to exclude the
24 testimony of Latisha Fair. That's an issue the jury has to
25 resolve, but I don't think the results will be that I should

1 exclude the testimony.

2 MR. LEINER: Well, your Honor, I think your Honor can
3 examine the credibility of whether the State has met the burden
4 of clear and convincing evidence in regard to the incident and
5 therefore you can examine to a limited purpose admissibility,
6 look at the credibility of the witness and the witnesses and in
7 the proffer that has been made and also look at the witness who
8 previously testified. If we have witnesses in conflict, not
9 only about the date but who was there, including whether or not
10 one of the witnesses who's going to testify is there, I think
11 that --

12 THE COURT: If I were to do what you suggest, then I
13 would be deciding that the first witness is truthful and this
14 second one is not. If I were to exclude the second one, I
15 really must vehemently disagree with it. It's not for the
16 Court to pick and choose among witnesses to decide which one's
17 memory is accurate and which one is not accurate. That's
18 something the jury is going to have decide.

19 All the Court I think is permitted to do in the
20 context of this type of hearing is to decide whether the
21 testimony, if believed by the jury, has a tendency to make the
22 occurrence of a particular fact or issue more likely than not.
23 And if the testimony of Latisha Fair is believed by the jury,
24 then the jury may be more likely to conclude that the defendant
25 had a gun on January 18th, 1995 because he was in possession of

1 one two days later or two days earlier. The fact that another
2 witness may give a different time frame does not cause this
3 Court and should not cause this Court to exclude the testimony
4 of Latisha Fair. So I don't think it's necessary to have to
5 put her on the stand. I understand what the proffer is.

6 Is there anything else before we proceed?

7 MR. LEINER: Only that, your Honor, quite correctly
8 stated that there were four prongs that have to be meant under
9 404(b) under the Cofield test. It requires, however, further
10 analysis that's needed in regard to evidence such as this.

11 THE COURT: We'll resume in a minute.

12 (Pause.)

13 THE COURT: State v. Cofield, reported 127 New Jersey
14 328, requires the Court to make a determination as to whether
15 the other crime or other wrong evidence, as it is sometimes
16 known, is relevant, whether it was similar in kind and
17 reasonably close in time to the offense charged, whether the
18 evidence of the other crime or wrong is clear and convincing,
19 and also the Court is required to determine whether the
20 probative value of the desired evidence is outweighed by its
21 apparent prejudice.

22 In applying the four-prong test of State versus
23 Cofield, I am satisfied that the evidence should be admitted
24 provided that a proper limiting instruction is given. I've also
25 discussed the issue of relevance in connection with the

1 testimony of the other witness and that discussion would apply
2 with equal force to this.

3 With respect to similarity in kind and reasonably
4 close in time, this evidence would be one day to two days
5 prior. I, therefore, find it certainly meets that second
6 prong. And in terms of being similar in kind, it is identical
7 because the issue sought to be proven by both types of
8 testimony is whether the defendant had access to a gun and
9 could have had a gun in his possession. So, therefore, the
10 fact that he ostensibly had a gun two days prior is evidence
11 which is similar in kind.

12 As far as whether the evidence is clear and
13 convincing, obviously the credibility finding must be for the
14 jury, but the evidence respecting possession would be that the
15 defendant knew that a gun was on the chair, picked it up, put
16 it on his person and left it on his person for the balance of
17 the evening. Therefore, I would find that the evidence would
18 be clear and convincing that the defendant had possession of a
19 gun and the ability to control it. And I further find that its
20 probative value is not outweighed by its apparent prejudice.
21 The evidence is I find highly probative and also it is
22 prejudicial to the defendant. I do find that it's probative
23 value significantly exceeds any prejudice that might exist.

24 So, therefore, I do find that all of the factors
25 specified by the Supreme Court in Cofield have been met and

1 have been satisfied in this case and the objection to the
2 testimony of Latisha Fair is hereby overruled.

3 Are we ready to have her come in?

4 MR. ARONOW: Yes, we are.

5 THE COURT: Call the jury.

6 (Jury returns to the courtroom at 2:47 p.m.)

7 THE COURT: The State may call its next witness.

8 MR. ARONOW: Thank you, your Honor. The State would
9 call Latisha Fair.

10 THE COURT: Ms. Fair, if you would come forward and be
11 sworn.

12 MR. ARONOW: This way.

13 THE COURT: That's okay.

14 L A T I S H A F A I R, STATE'S WITNESS, SWORN.

15 THE COURT: You may proceed, Mr. Aronow.

16 MR. ARONOW: Thank you.

17 DIRECT EXAMINATION BY MR. ARONOW:

18 Q Could you keep your voice up with respect to your
19 answering questions, Latisha. Could you tell the jury your
20 name, please?

21 A Latisha Lamone Fair.

22 Q Latisha, in January of 1995 where did you reside?

23 A 104 North 23rd Street.

24 Q In the City of Camden?

25 A Yes.

1 Q Have you ever been convicted of a crime?

2 A Yes, I have.

3 Q And when were you convicted of a crime?

4 A In '93.

5 Q And what crime were you convicted of?

6 A Thousand feet of a school.

7 Q So possession with intent to distribute drugs within a
8 thousand feet of a school?

9 A Yes.

10 Q You received a sentence for that crime?

11 A Yes, I did.

12 Q What was that sentence?

13 A Three flat.

14 Q Three years in New Jersey State's Prison?

15 A Yes.

16 Q And that sentence was handed down to you in 1993?

17 A Mm-hmm.

18 Q Were you released from prison prior to January of
19 1995?

20 A Yes.

21 Q Do you know Barbara Buckhannon?

22 A Yes.

23 Q How do you know her?

24 A She's my aunt.

25 Q And do you know Lakesha Buckhannon?

- 1 A Yes, I do.
- 2 Q How do you know her?
- 3 A She's my cousin.
- 4 Q Do you know Kirby Bunch, Sr.?
- 5 A Yes.
- 6 Q And how do you know him?
- 7 A He's my uncle. That's Lakesha's father.
- 8 Q And do you know Kirby Bunch, Jr.?
- 9 A Yes, that's my cousin, Lakesha's brother.
- 10 Q Is Kirby Bunch, Jr. known by a nickname?
- 11 A K.C.
- 12 Q Do you know Gary Copling?
- 13 A Yes.
- 14 Q And how do you know Gary Copling?
- 15 A We grew up together.
- 16 Q And do you know Dennis Copling?
- 17 A Yes, I do.
- 18 Q And how do you know Dennis?
- 19 A Same, we grew up together.
- 20 Q Is Dennis Copling in the courtroom today?
- 21 A Yes, he is.
- 22 Q Could you identify him? Could you describe the
23 clothing that he's wearing?
- 24 A He's in a white shirt, I don't know if they're green or
25 black pants, and pair of white Reeboks.

1 MR. ARONOW: Let the record reflect she's correctly
2 identified the defendant.

3 THE COURT: The record will reflect that.

4 BY MR. ARONOW:

5 Q Latisha, do you know a Mark Winston?

6 A I don't know him. I know of him.

7 Q Did you know him to have a nickname?

8 A No.

9 Q Calling your attention to Tuesday, January 17th, 1995,
10 did you have occasion to be with Kirby Bunch, Jr.?

11 A Yes.

12 Q And how was it that you found yourself with him?

13 A Looking for Gary Copling.

14 Q And was anybody else with you?

15 A Yes.

16 Q Who?

17 A Lakesha Buckhannon and his friend Nate.

18 Q And when you say his friend, whose friend?

19 A K.C. friend.

20 Q And was Gary Copling located on Tuesday, January 17th?

21 A Yes, he was.

22 Q And did anything happen between him and Kirby Bunch
23 Jr.?

24 A Yes, there was a fight.

25 Q And did anybody else partake in that fight other than

1 Kirby Bunch and Gary Copling?

2 A No, they did not.

3 Q How would you characterize the fight?

4 A It was a fair fight, it was one-on-one fight.

5 Q And would you say -- how would you characterize the
6 fight in terms of who was getting the better of who?

7 A Gary got beat up.

8 Q By who?

9 A K.C.

10 Q And did Gary eventually leave the area where the fight
11 took place?

12 A Yes.

13 Q Do you recall where approximately the location of the
14 fight took place?

15 A In a parking lot on Mitchell Street near Saunders out east
16 in Macedonia Apartments over near homes on Saunders Street in a
17 parking lot.

18 Q After the fight took place, did you go anywhere?

19 A Yes.

20 Q Where did you go?

21 A I went back to my aunt's house.

22 Q Who's that?

23 A My Aunt Barbara.

24 Q Barbara Buckhannon?

25 A Barbara Buckhannon, yes.

1 Q On January 18th, the next day, Wednesday, did you have
2 occasion to see Dennis Copling?

3 A Yes.

4 Q And approximately what time did you see Dennis?

5 A I don't remember exactly what time it was, but between like
6 around 7 maybe, 7:30 that I can remember.

7 Q A.m. or p.m.?

8 A P.m.

9 Q And was it dark out at that particular time?

10 A No, it was light out.

11 Q Did -- how did it -- let me ask you this. Where did
12 this take place? Where were you when you saw Dennis?

13 A Oh, I was in a friend's house, Ms. Marie Covin, we were in
14 her house and he came inside of her house.

15 Q And where was Marie Covin's house located?

16 A On Saunders and Mitchell, right around near 2805. I don't
17 know the exact number, whatever. What I know it's right there
18 on the corner right where Gary was beat up on that side of her
19 house.

20 Q Okay. Same location as Gary was beat up the night
21 before? Is that a yes?

22 A Yes.

23 Q And you indicated that you were in the house. Was
24 anybody else in the house?

25 A Yes, my aunt was in the house.

1 Q You say your aunt, who?

2 A My Aunt Barbara Buckhannon was in the house, Lakesha
3 Buckhannon, Marie Covin, and myself and a whole lot of her
4 children were in the house, her kids, Marie's children were in
5 the house and my son was in there also.

6 Q How old was your son?

7 A He was only two then.

8 Q Two then. Now, when Dennis came over, what happened?

9 A When he walked in, he was real upset. He wanted to speak,
10 you know, he wanted to speak to me. He was upset because he
11 didn't know what was going on. He was really in a rage. He
12 wanted to find out what was going on with his brother and the
13 lady Marie wanted him out of her house because he was in so
14 much rage. So he asked me step outside and my aunt and my
15 cousin told me don't go outside with him because he was so
16 upset and he had his hand in his pocket and he would not take
17 it out of his pocket. They was upset because they thought it
18 was a weapon of some kind. They didn't know. So, he kept
19 arguing and yelling at everybody in the house, wanted to know
20 what was happening with his brother because he was concerned.

21 Q Can you describe what he was saying? Do you recall
22 what he was saying, not maybe the exact words?

23 A Oh, he was -- you don't want the exact words.

24 Q He was using profanity?

25 A Yes, a lot of it.

1 Q What kind of profanity, without using the exact term?

2 A He just mainly saying he want to know what was going on.
3 Why, he tried to find who jumped his brother and he wanted to
4 get down to the bottom. He was in a range so he was like more
5 upset than anything and with him being upset, they didn't want
6 me to go outside with him because they thought he was going to
7 do something. Because since me and he grew up together, I
8 figure I could go outside and talk to him.

9 Q What did he say with regard to asking to speak with
10 you specifically?

11 A He told me to come outside.

12 Q And did you ultimately come outside?

13 A Excuse me?

14 Q Did you ultimately go outside with him?

15 A Yes, I went out.

16 Q Could you describe what happened, how that happened?

17 A At first I wasn't going to go outside with him because he
18 kept his hand in the pocket.

19 Q In which pocket?

20 A He had on a black leather jacket. He had his hand like
21 this in his pocket. He was talking all upset, saying let's go
22 outside, wants to know "F" was going on, why we had to do his
23 brother. I didn't want to go outside at first. Then I tried
24 to tell him, you know, let me explain to you what happened
25 because you don't want to talk about it with everyone around,

1 so he kept yelling and everything. He said come outside. I
2 said you go first. Then, you know, you go first, I'm coming
3 out there. That's when my Aunt Barbara and Cousin Lakesha told
4 me not to go outside. They got upset. I was going outside
5 because he doesn't scare me.

6 So I went outside and tried to talk to him, explain to
7 him what happened, but he wasn't hearing anything. All he was
8 saying "F" you all for lying to him, you know, and he didn't
9 want to hear anything. He just wanted to get -- point where
10 K.C. was at.

11 Q Did he say anything specifically with respect to what
12 he intended to do to K.C.?

13 A Said he was going to get him. Then he was coming back for
14 myself, Barbara Buckhannon and Lakesha Buckhannon if we was
15 anywhere in the area once he came back.

16 Q When you indicate that he talking with one hand in his
17 pocket, you were demonstrating with your right hand in the
18 right pocket?

19 A Mm-hmm.

20 Q Are you indicating how he was reacting when he was
21 talking?

22 A Mm-hmm.

23 Q His right hand in his right pocket?

24 A Yes.

25 Q Were you facing him at the time that you were looking

1 at him at that time?

2 A Yes, I was facing him. I was directly in front of him.

3 Q And did anything occur as you went outside with
4 reference to Dennis Copling that led you to believe anything
5 about whether he was armed?

6 A Yes. When we walked out, when I bumped into him, it felt
7 like something was in his coat. And when we went outside, you
8 know, he just kept his hand in his pocket. He would not take
9 his hand out of the pocket. He would argue with one hand
10 extended out. As far as the other one was inside of his
11 pocket. He would not take his hand out of his pocket. He was
12 just yelling, you know, all upset because what happened to his
13 brother. And I was trying to explain to him that what he
14 thinks happened didn't happen, but he didn't want to hear it.
15 He was cursing at everyone, telling them to mind their business
16 and don't give an "F" whatever, he was going to do what he had
17 to do. He made it clear to everybody that was out there he was
18 going for K.C. Bunch. He was going to get him. And he also
19 said when he came back after he'd do what he had to do, he was
20 coming for me, my aunt and my cousin.

21 Q Did you believe he was armed?

22 A Yes, I did.

23 Q What did you believe he was armed with?

24 A A gun.

25 MR. LEINER: Objection, your Honor.

1 THE COURT: The question has been answered. And what
2 was the basis of the objection?

3 MR. LEINER: Basis of the objection is she stated that
4 she felt something. She didn't describe what it was or
5 anything else and that would require speculation.

6 THE COURT: Objection is overruled. The jury, this
7 piece of evidence like any other piece of evidence, the jury is
8 to evaluate it and to find the facts.

9 BY MR. ARONOW:

10 Q When you indicate that he wasn't hearing anything,
11 were you talking to him at the time?

12 A Yes.

13 Q Was he talking over what you were saying?

14 A Yes, it was like he was yelling, you know, he didn't want
15 to hear anything. He just was saying "F" that I was lying and
16 he said if K.C. can do that to his brother, he was saying he
17 was going to get him and I was trying to tell him that it
18 wasn't like that. I said why don't you listen, it's not like
19 that, but he wasn't trying to hear what I was saying.

20 Q Did he ever mention anything that led you to believe
21 that he was going to kill Kirby Bunch?

22 A Yes. He didn't actually leave the site. He was just still
23 arguing or whatever. He kept saying he was going to get him.
24 He was like, when I come back, I'm going to get you all.
25 Dennis, you don't know what happened. He was going off. I

1 don't give an F. He kept saying just like letting everyone
2 know he was upset. He was like he was going to find him, he
3 was going to get K.C.

4 Q And what did that mean to you?

5 A With him raging like that, you know, he was trying to tell
6 us that he was going to get him and everyone in the projects
7 heard him.

8 Q You say everybody in the projects?

9 A That were there, the people that was coming outside because
10 we was right outside Lady Marie's house, so you know it was a
11 lot of people coming outside. They heard us arguing. So they
12 were just standing out there. My aunt and them, they tried to
13 get me back in the house, but I, only I was trying to talk to
14 him and calm him down, but he wasn't having it. He wasn't
15 hearing anything. He just want to get K.C. He didn't hear.
16 It was not like that, he was just upset, he was like more upset
17 than anything.

18 Q Did there come a time when Dennis Copling left the
19 area of 28th and Mitchell?

20 A Mm-hmm.

21 Q Is that a yes?

22 A Yes.

23 Q And did you see him leave?

24 A He went straight down near the basketball courts, just
25 walked away because he was real upset, he just left.

1 Q And did you do or say anything to Barbara Buckhannon
2 or Lakesha Buckhannon with respect to summoning the police?

3 A Yes, they want to call, go to my aunt to call because he
4 was so upset, and I wanted to find K.C. So we went and called
5 police.

6 Q Did the police ultimately arrive?

7 A No, it took them a little bit to get there.

8 Q Okay. But they came at some point in time?

9 A Yeah, they did come.

10 Q Was Dennis Copling there when the police arrived?

11 A No, he wasn't nowhere around.

12 Q Can you describe who responded from the police
13 department, who came?

14 A It was a short Hispanic guy. I don't remember his name,
15 but the paddy wagon number 309. He had a black officer with
16 him. I don't remember exactly who they were. So that was --
17 they came and they was just trying to talk and figure out what
18 was going on.

19 Q Did you try to explain to the officers what you felt
20 that Dennis Copling was --

21 A We all did, yes.

22 Q -- intending to do? Did the officers seem to
23 comprehend what you were saying?

24 A No.

25 Q Did it affect you in any way?

1 A Yes, I was upset.

2 Q And what happened?

3 A After we tried to explain to them what was going on, they
4 still sat there and was talking to my Aunt Barbara and Lakesha,
5 and we was trying to tell them that K.C.'s life is being
6 threatened. He was asking us what exactly what was going on,
7 and we was trying to explain to him what was going on, but he
8 wasn't, he wasn't really listening. So I got upset and left
9 with Lakesha, so I can go to warn K.C. and let him know that
10 something was getting ready to happen.

11 Q And where do you believe Kirby was?

12 A Out Westminster at his grandmother's house, Mrs. Bunch's
13 house, that's where we went.

14 Q When you sought out Westminster, is there a specific
15 area where you believed he was?

16 A I don't know her address exactly, but at -- on Westminster
17 around the back of near Kentucky Fried Chicken that's where she
18 lives. That's where we went. We walked through the car wash
19 on Federal Street and then went through 7-Eleven and went the
20 back way to go to her house to go try to warn K.C., but it was
21 too late.

22 Q Could I ask you to come down and look at S-22 for
23 Identification?

24 (Witness steps down.)

25 Q If you can stand off to the side so everybody can

1 see. Can you look on this map and tell me if you recognize any
2 of the areas on this map?

3 A Right here, there's Saunders and Mitchell.

4 Q And what significance is that area of the map?

5 A This is in the area where the argument as far as me and
6 Dennis concerned happened. It's right around here at the
7 fight. After the fight that's where we located at around this
8 area about here.

9 Q And where was it that you believed K.C. was on January
10 18th, 1995?

11 A Over here on Westminster.

12 Q Okay. In the McGuire Gardens Apartments?

13 A Mm-hmm.

14 Q Is that a yes?

15 A Yes.

16 Q And could you indicate to the jury and to the Court
17 what route you and Lakesha took in order to go over there?
18 Were you on foot by the way?

19 A Yes. Federal and 23rd street, like this went through the
20 car wash, and the street off Federal Street where 7-Eleven is.

21 Q Where?

22 A Right over there and we crossed, I guess that's Westfield
23 Avenue maybe?

24 Q I'm asking you.

25 A Crossed over and we went the back way to Westminster over

1 there because we crossed over 7-Eleven parking lot.

2 Q Did you arrive in the area of the McGuire Gardens
3 Apartments?

4 THE COURT: Can the witness resume the witness stand?

5 MR. ARONOW: Yes, I'm sorry.

6 (Witness resumes stand.)

7 BY MR. ARONOW:

8 Q Did you ultimately arrive in the area of the McGuire
9 Gardens Apartments on January 18th, 1995?

10 A No, took us a while before we got there.

11 Q Okay. You got there eventually?

12 A Yeah.

13 Q And did you get there in time to warn Kirby Bunch?

14 A No.

15 Q When you were there, did you observe whether or not
16 the police that you had spoken to earlier at 28th and Mitchell
17 were at the scene?

18 A Not at first because I was so upset and I didn't realize it
19 until Lakesha was saying that they were the same cops.

20 MR. LEINER: Objection, your Honor, hearsay.

21 Q Without reference to what Lakesha said, did you
22 ultimately see the paddy wagon?

23 A After a while I did see the paddy wagon there.

24 Q Did you see the officers there?

25 A Yes.

1 Q Now, prior to January 18th, 1995, had you ever seen
2 Dennis Copling with a firearm, a handgun before January 18th?

3 A Yes.

4 Q Do you recall when?

5 A That was -- I think it was a Sunday. I don't know exactly
6 what day it was, but we all at a friend's house playing cards
7 and Lakesha sat on a pillow where he had it. I guess it was
8 his gun underneath one of our friend's pillows in her living
9 room and he asked Lakesha to get up and she was like for what
10 and he was like his piece or his gun were underneath this
11 pillow. He went and picked it up and put it in his coat and
12 Lakesha asked him why did you need it? He said for protection
13 and that was the last I saw of the gun.

14 Q You indicated that was on a Sunday or something. Was
15 that -- how soon or how close or how far was that in terms of
16 the date of January 18th? January 18th was a Wednesday, was
17 the Sunday before you're talking about?

18 A Yes.

19 Q That would have been the 15th of January?

20 A Mm-hmm, yes.

21 Q Who's house were you at when you were playing cards?

22 A We was at a friend's house, Michele Butler.

23 Q Where does she live?

24 A Butler? She lives on Saunders Street -- on Mitchell Street
25 because the streets are close together. I can't really

1 remember.

2 Q And is this in the Macedonia Apartments?

3 A Yes.

4 Q It's the same complex where Gary was beaten up?

5 A Yes, right, right down the street.

6 Q In the same area?

7 A Same.

8 Q Where Covin's apartment is?

9 A Next parking lot.

10 Q Marie Covin's apartment? Between the time of that
11 gathering when you saw Dennis, and January 18th, 1995, had you
12 seen Dennis in-between?

13 A No.

14 Q At the time that you were at this gathering, was there
15 any hostility between you and Dennis Copling?

16 A No.

17 Q Was there any hostility between Lakesha Buckhannon
18 that you were aware of and Dennis Copling?

19 A No.

20 Q It was a friendly gathering?

21 A Yes.

22 Q At the time that you were playing cards?

23 A Yes.

24 Q How late did you stay at Michele Butler's on the
25 particular day?

1 A I don't remember.

2 Q Did you ever see Dennis Copling take the gun out of
3 his pocket or do anything else with it the rest of the time you
4 were there?

5 A No.

6 Q Based upon that incident, that Sunday, did that have
7 any effect on whether you believed that Dennis Copling was
8 armed on January 18th?

9 A Yes.

10 Q And what did that make you believe?

11 A It's only two day when he had it on him. He was upset
12 being his brother had gotten beaten up, so that's what makes me
13 believe he had it then.

14 Q Excuse me?

15 A That's what makes me believe he had it on him then.

16 Q Did you tell Barbara Buckhannon and Lakesha Buckhannon
17 that you believed that Dennis Copling was armed with a gun?

18 A Mm-hmm, yes.

19 Q Was that prior to Barbara Buckhannon calling the
20 police?

21 A Yes.

22 Q Was that based upon the activities that you were
23 observing at that time?

24 A Yes.

25 Q When you were walking out of Marie Covin's apartment

1 with Dennis, you indicated you bumped into it?

2 A Mm-hmm.

3 Q Was that incidental?

4 A Yes.

5 Q Can you describe what you felt with respect to
6 whatever -- with regard to that pocket?

7 A Well, actually I just felt like something like real hard.
8 I don't know if it was a knife or, you know, it was some type
9 of weapon. I can't actually say that it was a gun when we was
10 going out because I really don't know, but it was some type of
11 weapon in his pocket because he would not leave his hand out of
12 his pocket.

13 Q You indicated that Dennis Copling was wearing a black
14 leather jacket; is that correct?

15 A Yes.

16 Q Did you happen to observe any of the other clothing
17 that he was wearing?

18 A He had some black jeans, a striped shirt and a white
19 T-shirt.

20 Q Did you happen to observe whether he had a hat?

21 A I don't remember.

22 Q Okay. Do you recall the color of his shoes?

23 A I can't remember, no.

24 Q When you saw him, was his jacket opened or closed?

25 A Closed.

1 MR. ARONOW: I have no further questions of this
2 witness.

3 THE COURT: Mr. Leiner, you may cross-examine.

4 MR. LEINER: Thank you, your Honor.

5 CROSS-EXAMINATION BY MR. LEINER:

6 Q Ms. Fair, do you remember giving a statement to the
7 members of the Camden City Police Department right after the
8 incident involving Kirby Bunch?

9 A Yes.

10 Q And when did you give that statement?

11 A Excuse me, say this again.

12 Q When did you give the statement?

13 A After we went down to the police station. I don't know
14 what time it was.

15 Q Do you know what day it was?

16 A No. I think it was the same day, same night. I don't
17 remember.

18 MR. LEINER: May I have this marked for
19 Identification, your Honor?

20 THE COURT: D-3.

21 (D-3 marked for Identification.)

22 Q Ms. Fair, I'm going to show you what's been marked D-3
23 for Identification. Is that the statement that you gave to the
24 Camden City Police Department?

25 A Yes.

1 Q Was everything you said in that statement truthful?

2 MR. ARONOW: Was that marked for Identification?

3 MR. LEINER: D-3.

4 Q Is everything you said in that statement truthful?

5 A Yes.

6 Q Excuse me?

7 A Yes.

8 Q Do you remember telling --

9 A That I can remember it, yes.

10 Q Do you remember telling the police -- when was that
11 statement given by the way?

12 A The 19th at 1:53 a.m.

13 Q Do you remember telling the police when they
14 questioned you in regard to whether or not you had seen a gun
15 on Dennis Copling before that, you said yes, I saw one last
16 night?

17 A Excuse me, say this again.

18 Q In your statement do you recall saying that?

19 A Saying what? Can you repeat the question?

20 THE COURT: Why don't you tell her the page number so
21 she can see it in context.

22 Q Please refer to page 5, at the top of the page.

23 Question: Did you see the gun? What was your answer?

24 A No.

25 Q What else, is there anything else there?

- 1 A No, I didn't see this one, but I saw the one last night.
- 2 Q This one, did they show you a gun?
- 3 A Who?
- 4 Q The police?
- 5 A No.
- 6 Q Did they show you a gun at that time?
- 7 A No.
- 8 Q What were you referring to, I didn't see this one?
- 9 A I don't understand what you're asking. What you mean if I
10 seen this one?
- 11 Q I'm asking you what you meant by your answer?
- 12 A He asked me did I see the gun and I told him no.
- 13 Q You said, no, I didn't see this one, but I saw the one
14 last night. What are you referring to when you say I didn't
15 see this one?
- 16 A The one that was in his pocket, I didn't see what I thought
17 it was in his pocket. I didn't see, but I seen the one that
18 was at the house. That's what I was referring to.
- 19 Q You indicated you saw it the night before; is that
20 correct?
- 21 A The night we was all at the house, at Michele's house.
- 22 Q In your statement you said I saw the one last night,
23 meaning the night before you gave this statement, correct?
- 24 A Maybe I made a mistake because I didn't see one that night.
- 25 Q Do you remember coming to see the Prosecutor to be

1 interviewed as a witness for this case earlier this month?

2 A Yes.

3 Q And do you remember coming to see the Prosecutor and
4 talking to the Prosecutor, Prosecutor's Office about the prior
5 occasion when you saw Dennis Copling with a gun?

6 A Yes.

7 Q And was Lakesha Buckhannon with you when you were
8 talking to them? Did she come with you?

9 A Yes, she came with me, but they had us in separate rooms.

10 Q Would it change your testimony at all if I indicated
11 to you that Lakesha Buckhannon testified that you weren't at
12 that party?

13 A Excuse me?

14 Q Would it change your testimony today if I indicated to
15 you that Lakesha Buckhannon testified before this Court that
16 you were not at the party?

17 A No.

18 Q Would it change your testimony in regard to what
19 Dennis Copling said if I indicated to you that Lakesha
20 Buckhannon said she didn't have a conversation with Dennis
21 Copling about that gun?

22 A No.

23 Q And clearly it's your testimony that Lakesha
24 Buckhannon and Dennis Copling had a conversation about that
25 gun?

1 A Yes.

2 Q Not you and Dennis Copling?

3 A No.

4 Q Also in your statement, Ma'am, let me show you that
5 again, on page 2 there's some writing. Is that your writing?

6 A Yes.

7 Q Did you change your statement from what you had
8 originally given the police back in 1995 on January 17th, 1997?

9 A Yes, I did.

10 Q And you changed that statement in regard to which
11 pocket you saw Dennis Copling's hand in; is that correct?

12 A Yes.

13 Q And in 1995 when you gave the police a statement, you
14 said it was in his left pocket; is that correct?

15 A Mm-hmm.

16 Q Yet two years later after this incident, you came in
17 to the Prosecutor's Office on January 17th of 1997 and you
18 changed your testimony, you changed your statement, not your
19 testimony, in regard to what you said. Now you say it's in the
20 right pocket?

21 A Because I wasn't quite sure the way he was standing.

22 Q You weren't sure?

23 A No.

24 Q And you're more sure today two years later than you
25 were on January 19th, 1995?

1 A Say this again, I'm what?

2 Q You're more sure two years after the incident than you
3 were on January 19th, 1995?

4 A Yes, because I made a mistake.

5 Q You made a mistake. Several hours after the incident
6 you gave the police a statement and that was a mistake, but two
7 years later you got the right version; is that what you're
8 saying?

9 A Because I wasn't quite sure. We was all upset from the way
10 everything went down.

11 Q I think you also indicated that Dennis Copling was
12 very upset when he came to the house, Marie Covin's house?

13 A Mm-hmm, yes.

14 Q And at first you didn't want to go outside with him;
15 is that correct?

16 A Yes.

17 Q Were you afraid of him at that point?

18 A Not really, but in a sense, yes.

19 Q In a sense?

20 A Mm-hmm.

21 Q So you were afraid of him at that point?

22 A Not really. I went outside with him. I wasn't that afraid
23 of him.

24 Q That's what I'm asking you. You weren't that afraid.
25 When he first came to the house, you testified on direct

1 testimony that you didn't want to go outside with him; is that
2 correct?

3 A No, because we was in the house talking, I didn't want to
4 go out.

5 Q You did not want to go outside?

6 A No, because he was upset, but I thought I could talk to
7 him, that's why I went outside with him.

8 Q First, at first you were afraid?

9 A Not really afraid. How he was so upset, I didn't want you
10 to go outside with him and so many people in the house and
11 children in the house I wanted to leave that lady's house to
12 try to talk to him. I said we grew up together. I thought I
13 could talk to him.

14 Q You were concerned that he may do something with you?

15 A If the -- actually by with him being so upset, I was in a
16 sense. But like I said, I thought I could talk to him.

17 Q And after you went outside, you talked to him, you
18 indicated also that Dennis kept on talking, he wanted to get to
19 the bottom of what happened to his brother; is that correct?

20 A Yes.

21 Q And he continued to try to get to the bottom of what
22 happened to his brother?

23 A Yes.

24 Q And that was his point and the point of his
25 conversation; is that correct?

- 1 A Yes.
- 2 Q Now, on January 17th, you were with Lakesha Buckhannon
3 and Kirby Bunch and Nate Simmons, correct?
- 4 A Yes.
- 5 Q And you went with them to where the fight was going to
6 take place with Gary Copling; that's correct?
- 7 A Yes.
- 8 Q And you witnessed that fight?
- 9 A Yes.
- 10 Q And after you left that location, where did you go?
- 11 A To my Aunt Barbara's house.
- 12 Q And you went back to your aunt's house?
- 13 A Yes.
- 14 Q That evening did you go anywhere else?
- 15 A No.
- 16 Q Did you stay overnight there?
- 17 A No.
- 18 Q Where did you go after you left there?
- 19 A Home.
- 20 Q You went home. Do you know what time you went home?
- 21 A No, I don't remember what time I went home it was so long
22 --
- 23 Q I'm sorry, what's that?
- 24 A Nothing.
- 25 Q So long ago? It's difficult to remember things that

1 took place two years ago, isn't it?

2 A Yes.

3 Q That's more difficult to remember two years later than
4 it is at the time of incident; is that correct?

5 A Not necessarily, no, somethings you can't forget.

6 Q Did you talk to anybody else about this incident?

7 A What incident, anybody like who?

8 Q Anybody, did you talk to friends, tell them what you
9 observed?

10 A Not that I remember, no.

11 Q Anybody talk to you about this incident other than the
12 police? Is that a no?

13 A No.

14 MR. LEINER: I have no further questions.

15 THE COURT: Redirect.

16 REDIRECT EXAMINATION BY MR. ARONOW:

17 Q Can you describe the gun that you saw Dennis with that
18 Sunday?

19 A All I remember it was a black, a black gun, I don't --
20 around this, around this big.

21 Q How big?

22 A Around this big.

23 Q Can you turn so that the Judge can see what you're
24 doing?

25 A It was a black gun around this big.

1 MR. ARONOW: Indicating, Judge, approximately?

2 THE COURT: About five inches, six inches.

3 Q And do you know the difference between an automatic
4 and revolver?

5 A Yeah.

6 Q Was this gun an automatic or revolver?

7 A I believe it was an automatic.

8 Q You were asked a question on cross-examination about
9 whether you were scared when you spoke to Dennis Copling. Did
10 there come a point when you realized that you couldn't talk to
11 Dennis Copling that night?

12 A Once we got outside.

13 Q Were you scared after that?

14 A Yes.

15 Q Now, you were asked questions about the statement that
16 you gave to the police on January 19th at 1:53 a.m. When was
17 the first time, first time you had an opportunity to read the
18 transcript of the statement that you gave that morning?

19 A This year when I came -- when we went to the Prosecutor's
20 Office.

21 Q On January 17th, 1997?

22 A Mm-hmm.

23 Q Is that a yes?

24 A Yes.

25 Q Is that when you indicated after reading your

1 statement the correction with respect to which pocket you
2 observed his hand in?

3 A Yes.

4 Q Is that a yes?

5 A Yes. That's when I made the correction.

6 Q Is that when you mentioned the difference between the
7 date that you observed Dennis Copling with a gun previous?

8 A Yes.

9 MR. ARONOW: I have no further questions.

10 MR. LEINER: Briefly, your Honor.

11 RE-CROSS-EXAMINATION BY MR. LEINER:

12 Q Ma'am, you just indicated to the Prosecutor that after
13 you got outside with Dennis Copling you were talking to him,
14 then you became fearful?

15 A Yes, I did.

16 Q And you also indicated that Dennis Copling eventually
17 left the area?

18 A Yes.

19 Q Well, when you became fearful, did you make any
20 attempts to go to the house?

21 A No, my aunt made me go to the house.

22 Q Excuse me?

23 A My Aunt Barbara made me go to the house. She told me to go
24 in the house.

25 Q This is after Dennis Copling left?

1 A Yes.

2 Q During the time he was there and present?

3 A I was talking to him.

4 Q You were talking to him?

5 A Yes.

6 Q You were fearful during that time you were talking to
7 him?

8 A I was explaining since I seen he was in so much rage that
9 it was no talking to him, that's when I began getting kind of
10 nervous.

11 MR. LEINER: No further questions.

12 THE COURT: Anything else?

13 MR. ARONOW: Nothing further.

14 THE COURT: Ms. Fair, thank you. You may step down.

15 Ladies and gentlemen, you may remember yesterday when
16 Lakesha Buckhannon testified I gave you an instruction about
17 the limited use that you could make of her testimony concerning
18 having seen Dennis Copling with a gun some two weeks prior.
19 And you may remember that I told you that you could not use
20 that evidence as a basis for finding that because he had a gun
21 in his possession two weeks earlier, that it makes it more
22 likely that he committed the homicides which are the subject of
23 this trial. I instructed that you should use that evidence, if
24 you chose to, for a more limited purpose, for a very limited
25 purpose and that is to decide whether he had an opportunity to

1 possess a gun on an earlier occasion.

2 So the same limiting instruction that I gave you
3 yesterday with respect to the testimony of Lakesha Buckhannon
4 would apply to the testimony that you just heard from Latisha
5 Fair about the defendant having had a gun in his possession.
6 In this case she said a day or two before, Sunday, of the month
7 in question.

8 Any objections to that limiting instruction?

9 MR. LEINER: No, your Honor.

10 MR. ARONOW: No, your Honor.

11 THE COURT: Very good. Are there any other
12 witnesses?

13 MR. ARONOW: Judge, there's that legal issue that has
14 to be determined.

15 THE COURT: Before the next witness comes?

16 MR. ARONOW: Yes.

17 THE COURT: All right. That won't take very long. We
18 can just have the jury be excused just for a moment or two.

19 (Jury leaves the courtroom at 2:28 p.m.)

20 (Pause.)

21 THE COURT: Counsel, I've had the opportunity to
22 review the Appellate Division decision in State versus Gomez
23 and I am satisfied from that decision that the doctrine of
24 completeness does not require the State to introduce the
25 self-serving or exculpatory portions of the defendant's oral

1 statement to the Camden police and I'm further satisfied that
2 State versus Gomez does not require that the other portions of
3 it be admitted based upon any reason other than the doctrine of
4 completeness. In other words, the Appellate Division concluded
5 in Gomez that only a statement which is against a defendant's
6 penal interest is admissible under an exception to the hearsay
7 rule. Statements which are self-serving the Court found in
8 Gomez are not trustworthy, not reliable and therefore need not
9 be admitted by the State.

10 Therefore, the Court agrees with the State that the
11 State can choose to and in fact should choose to introduce only
12 the parts which are incriminating.

13 MR. ARONOW: Judge, if I may, I didn't know what the
14 Court's ruling was going to be so I really didn't talk to
15 Sergeant Forte with respect to that. I just want to briefly
16 talk with him to discuss with him what I'm trying to preclude
17 so he's aware of it. Shouldn't take very long.

18 THE COURT: We'll bring the jury back in and we can
19 get started.

20 MR. ARONOW: I'd like to do that before the jury comes
21 in.

22 THE COURT: While they're on their way. How long is
23 it going to take you?

24 MR. ARONOW: I don't know. I was going to ask for
25 five minutes.

1 THE COURT: All right. We'll start up at in exactly
2 five minutes.

3 MR. ARONOW: Thank you.

4 (Recess.)

5 (Jury enters the courtroom at 3:45 p.m.)

6 THE COURT: The State may call its next witness.

7 MR. ARONOW: The State would call Sergeant Forte to
8 the stand.

9 THE COURT: Sergeant, good afternoon. If you would
10 please come forward to your left and be sworn.

11 J O S E P H F O R T E, STATE'S WITNESS, SWORN.

12 THE COURT: You may proceed.

13 MR. ARONOW: Thank you, your Honor.

14 DIRECT EXAMINATION BY MR. ARONOW:

15 Q Would you state your name for the record, please?

16 A Joseph Forte.

17 Q And where are you employed?

18 A Camden County Prosecutor's Office.

19 Q And in what capacity are you employed?

20 A Investigator Sergeant with the homicide unit.

21 Q And how long have you worked in the homicide unit?

22 A Six years.

23 Q And how long have you been with the Camden

24 Prosecutor's Office, total time?

25 A Seventeen.

1 Q And, Sergeant Forte, did you become involved in a
2 homicide investigation regarding the deaths of Kirby Bunch, Jr.
3 and Mark Winston in the area of the McGuire Gardens Apartments
4 on January 18th, 1995?

5 A Yes, I did.

6 Q And how was it that you became involved in that
7 investigation?

8 A I was the on-call person for homicides that particular
9 night and I was notified by pager from Central Communications
10 to respond to that scene.

11 Q And did you arrive at the location on the evening of
12 January 18th, 1995?

13 A Yes, I did.

14 Q And did you examine the scene?

15 A Yes, I did.

16 Q And was anyone else from the Camden County
17 Prosecutor's Office present with you at the time that the scene
18 was examined by you?

19 A Yes, Investigator Mike Aaron with the crime lab unit was
20 there.

21 Q Subsequent to your arrival at the scene, did you
22 become aware of whether or not there were possible or potential
23 witnesses to any portion of this investigation?

24 A Prior to arrival at the scene?

25 Q Subsequent to arrival.

1 A Shortly thereafter, yes.

2 Q And did you have an opportunity to interview any of
3 these witnesses?

4 A Yes.

5 Q And based upon the information that these witnesses
6 had given you, did you proceed in a certain direction with
7 respect to your investigation?

8 A Yes.

9 Q And was there a suspect that you were seeking with
10 respect to this homicide or these homicides?

11 A Yes.

12 Q And what was his name?

13 A Dennis Copling.

14 Q And was Dennis Copling arrested and charged by you
15 with the homicides that took place on January 19th, 1995?

16 A Yes, he was.

17 Q And approximately when was he arrested?

18 A Approximately two weeks later.

19 Q And do you recall the date or do you have a source of
20 information that would provide the date upon which he was
21 arrested?

22 A Yes, it was January 27th.

23 Q 1995?

24 A 1995, yes.

25 Q And where was the defendant arrested?

1 A At his residence or his girlfriend's residence in Monroe
2 Township, an apartment in Monroe Township, New Jersey.

3 Q And were you present at the time of his arrest?

4 A Yes, I was.

5 Q Was Dennis Copling subsequently transported anywhere
6 with respect to this investigation?

7 A Yes, he was brought from the apartment up to the Camden
8 City Detective Bureau.

9 Q And were you present at the time that he was
10 transported?

11 A Yes, myself and Detective James Wilson transported him.

12 Q Were other officers present at the time of his arrest?

13 A Yes.

14 Q And where were those officers from?

15 A There was one other investigator from my office and two
16 Camden City detectives, and maybe four to six Monroe Township
17 police officers.

18 Q And when the defendant was taken into custody, was
19 that without incident?

20 A Yeah, there was no problems.

21 Q When he was taken to the Camden City Police
22 Detective's Bureau, were you there?

23 A Yes, I was.

24 Q And did you have occasion to speak with Dennis Copling
25 relative to the events that unfolded on January 18th, 1995?

1 A Yes.

2 Q Prior to speaking to Dennis Copling, did you advise
3 him of his constitutional rights under State v. Miranda?

4 A Yes, I did.

5 Q I'm going to show you what's been marked S-1 in
6 Evidence and I'm going to ask you if you recognize that
7 document?

8 A Yes, it's a statement of rights form that we used to advise
9 Dennis of his constitutional rights.

10 Q And how is that form utilized?

11 A It was read to him, each individual right was read to him
12 and he initialed alongside that right when it was read to him.

13 Q And was that in your presence?

14 A Yes, I read it to him.

15 Q And could you indicate to the jury what rights were
16 read to Dennis Copling prior to the questioning happening?

17 A Read all the rights.

18 Q Yes?

19 A Before we ask you any questions, it is my duty to advise
20 you of your rights. You have the right to remain silent.
21 Anything you say can and will be used against you in Court or
22 other proceedings. You have the right to consult an attorney
23 before making any statements or answering any questions, and
24 you may have him present with you during questioning. You may
25 have an attorney appointed by the Court to represent you or

1 otherwise obtain one. If you decide to answer now with or
2 without a lawyer, you still have the right to stop the
3 questioning at any time or stop to the questions for the
4 purpose of consulting a lawyer. However, you may waive your
5 right to advice of counsel and you may answer questions or make
6 a statement without consulting a lawyer if you so desire.

7 Q And when were those rights read to Dennis Copling?

8 A At 8 p.m. on 1/27/95.

9 Q And did Dennis Copling sign as Dennis Copling?

10 A No, he signed as Dennis Turner.

11 Q Did you subsequently learn his name was Dennis
12 Copling?

13 A Yes.

14 Q And was this form witnessed by you?

15 A Yes, it was.

16 Q And was it witnessed by any other officer at the same
17 time?

18 A Detective Jim Wilson.

19 Q And was Jim Wilson there at the time that this
20 statement of rights form was read to the defendant and that he
21 executed?

22 A Yes.

23 Q Where was the statement of rights form read to the
24 defendant and where did he acknowledge his rights in terms of
25 location in the Camden Police?

1 A It was in a interview room, furthest one in the rear right
2 in the squad room off the detective squad room and he signed
3 the form here at the bottom of the form.

4 Q Did you begin questioning the defendant after he
5 signed that form?

6 A Yes.

7 Q Did you have any preliminary discussions with the
8 defendant?

9 A I'm sorry?

10 Q Did you have any preliminary discussions with the
11 defendant about the circumstances surrounding the statement and
12 why you were taking a statement from him or requesting that he
13 answer questions?

14 A I advised him of the charges against him. We wanted to
15 talk to him about that.

16 Q And was he cooperative?

17 A Very.

18 Q Was he threatened or coerced in any way to talk to
19 you?

20 A No.

21 Q Was he denied the use of a laboratory?

22 A No.

23 Q Was he denied any foods or beverage?

24 A No, he wasn't.

25 Q Were any requested by Dennis Copling at any time

1 during the interview process?

2 A No.

3 Q Approximately how long did the interview process take?

4 A Approximately an hour and-a-half.

5 Q And with respect to this particular interview, did the
6 defendant indicate to you whether or not he had been in the
7 area of 2126 Westminster Avenue on January 18th, 1995?

8 A Yes.

9 Q What did he indicate specifically?

10 A He told us that he was with two other males.

11 Q Did he identify those males?

12 A Yes, Malik and Fahim. And they were in a car driven by
13 Fahim and they all met up in the area of 26th and High Streets
14 that evening at approximately 8:40 p.m. They all went to the
15 area of McGuire Gardens, the 2100 block of Westminster Avenue
16 with the purpose of locating Kirby Bunch, K.C., with the
17 purpose of beating him up in reference to the dog incident that
18 happened the night before. They were told where, what
19 apartment K.C. was in. Dennis and Malik went to the apartment
20 where Malik -- where K.C. was at. Dennis stated that Malik
21 told him when things get heated or if there were any problems
22 as a result go back and get Fahim and bring him to the
23 apartment. Dennis reported that they went in the apartment.
24 Things got heated between K.C. and Malik. Dennis at that point
25 returned to the car which is parked 50 yards away. He got

1 Fahim. He and Fahim went back to the apartment. Fahim pulled
2 out a handgun and a struggle resulted between Fahim and K.C.
3 Dennis ran from the apartment. He heard several shots and in
4 his running back to the car, he looks over his shoulder and he
5 sees K.C. on the ground and Fahim standing over top of him
6 firing shots.

7 Q Did that statement comport with your understanding of
8 the facts surrounding this shooting?

9 A Partially.

10 MR. LEINER: Your Honor, I would object to that at
11 this point and that would require Sergeant Forte to give some
12 sort of credibility to a statement that I think is an issue for
13 the jury to decide.

14 THE COURT: Well, the question calls for this witness
15 to give his own evaluation of the facts and that I think tends
16 to invade the fact-finding province of the jury, so the
17 objection is sustained.

18 BY MR. ARONOW:

19 Q Sergeant Forte, did Dennis Copling indicate the manner
20 in which he was dressed on January 18th, 1995?

21 A Yes, he stated he had black jeans, a black coat and a ski
22 mask.

23 Q And did he indicate the dress of Fahim?

24 A He stated Fahim had on a light-colored top, blue jeans and
25 tan Timberland boots.

1 Q And did he indicate the color of the blue jeans?

2 A He did. He said they were light blue jeans.

3 Q Did you have an opportunity to take a taped statement
4 from Dennis Copling on the date of his arrest, January 27th,
5 1995?

6 A No.

7 Q Why is that?

8 A At the conclusion or at that point in the interview,
9 Detective --

10 MR. LEINER: Your Honor, may we approach?

11 THE COURT: Yes.

12 (Sidebar discussion on the record.)

13 THE COURT: If the testimony is going to be that they
14 stopped questioning him upon being advised that a lawyer was on
15 the way, that would be something that I think would be highly
16 prejudicial to the defendant because it tends to suggest that
17 he called a lawyer and the jurors may think only guilty people
18 call lawyers. I think it's very prejudicial. It's not
19 probative of anything.

20 MR. ARONOW: Your Honor, there is a case, Judge, I
21 think it's State versus Rosovich (phonetic). I don't have the
22 spelling. I don't have the pronunciation. That case talks
23 about a situation where a defendant refused to answer further
24 questions and if left alone, that would create an inference
25 that there was -- that the police did something, you know, that

1 the interview process just ended abruptly. And the Court ruled
2 in that case that in order to give some finality to the
3 statement process and to show it was through no design or
4 defect with respect to the police, they were entitled to
5 indicate just for purposes of indicating that the interview
6 process ended at that point and not comment on the defendant's
7 Fifth Amendment rights in any way in that regard. In this case
8 it's his family that intercedes. That's what was anticipated
9 to be testified to in the Miranda hearing which is very
10 different from what is being told to this jury.

11 THE COURT: Certainly you can bring it out if a lot of
12 questions get raised about the voluntariness of the
13 confession. At that point that might open the door for you to
14 be able to ask the witness where they scrupulously observed his
15 rights by calling the interview to an end when they weren't
16 obligated to do so. But I think as far as direct testimony is
17 concerned, I would prefer that you simply ask him if members --
18 I'll allow you to lead the witness.

19 MR. ARONOW: Okay.

20 THE COURT: If members of his family arrived and asked
21 that the interview be terminated.

22 MR. ARONOW: That's fine.

23 THE COURT: Any objection to handling it that way?

24 MR. LEINER: No, your Honor, that's fine.

25 (Sidebar discussion concluded.)

1 BY MR. ARONOW:

2 Q Sergeant Forte, was it your intention to take a taped
3 statement from Dennis Copling on January 27th, 1995?

4 A Yes, it was.

5 Q Did there come a time when the family of Dennis
6 Copling arrived at the Camden Police Station on January 27th,
7 1995?

8 A Yes.

9 Q And did they request that the interview process
10 terminate?

11 A Yes.

12 Q Is that why it terminated; yes or no?

13 A Yes.

14 Q Now, with respect to your involvement in this
15 investigation, I'm going to show you what's been marked S-47
16 for Identification and ask you if you can open that package.

17 MR. ARONOW: Your Honor -- I'm going to ask you to
18 hold that thought.

19 May I have this marked?

20 (S-55 marked for Identification.)

21 Q I'm going to show you what's been marked S-55 for
22 Identification and ask you if you recognize that document?

23 A Yes, I do.

24 Q And what is that document?

25 A It's a receipt prepared by Investigator Aaron regarding

1 this shell casing, recovered shell casing.

2 Q And shell casing marked S-47 for Identification?

3 A Yes.

4 Q And from whom did you receive that shell casing?

5 A I received it from a girl that lives right there where the
6 shooting happened, Yvonne Serrano.

7 Q Yvonne?

8 A Yvonne.

9 Q What do you do once it was turned over to you why
10 Yvonne Serrano?

11 A I turned it over to the crime lab investigator, Mike Aaron.

12 Q And does S-55 for Identification memorialize that
13 transfer?

14 A Yes, sir.

15 Q As part of the investigation with respect to this
16 particular matter, did you have any subsequent involvement in
17 the scene investigation with Investigator Mike Corbin of the
18 Camden County Prosecutor's Office?

19 A Yes.

20 Q What was the purpose of that subsequent investigation?

21 A We had gone back to the scene to try and recover a bullet
22 that had passed through the victim, K.C.

23 Q Kirby Bunch, Jr.?

24 A Yes. While he was shot outside, the bullet passed right
25 through his neck and head and we believed that it entered the

1 ground where he was lying, but Mike Corbin sieved the ground
2 and didn't come up with anything.

3 Q When you say sieved the ground, what did he do?

4 A He had -- well, he had what would be a sieve or a strainer
5 and we take some of the dirt and try to break it down and see
6 whether or not he could come up with a projectile. The ground
7 was very hard and possibly the bullet just bounced or
8 whatever. We didn't recover it at the scene there.

9 Q When you say that he dug and sieved, did he dig a
10 hole?

11 A Yes.

12 Q And how big was this hole?

13 A Probably about two to three feet in diameter, you know,
14 about a foot and-a-half down maybe.

15 Q And sifted all that dirt?

16 A Yes.

17 Q And there was nothing that was recovered; is that
18 correct?

19 A Yes.

20 Q At some point during the interview process of Dennis
21 Copling, did a Detective Gary Finneman become involved in the
22 interview process?

23 A Yes.

24 MR. ARONOW: That's all I have of this witness.

25 THE COURT: You may cross-examine.

1 MR. LEINER: Thank you, your Honor.

2 CROSS-EXAMINATION BY MR. LEINER:

3 Q Detective, when you went to Monroe Township on January
4 27th, 1995 to look for Dennis Copling, did you have an arrest
5 warrant for him?

6 A Yes. Yes, sir.

7 Q And the arrest warrant was in the name of Dennis
8 Copling, was it not?

9 A Yes.

10 Q So when you arrested the person who was identified as
11 Dennis Turner, you didn't subsequently find out it was Dennis
12 Copling, you knew he was Dennis Copling before you received it;
13 is that correct?

14 A Yes.

15 Q And you got to Monroe Township approximately 7 o'clock
16 that evening, that's correct; is that correct?

17 A Yes.

18 Q And what time did you get back to the station in
19 Camden?

20 A Approximately 45 minutes to an hour later.

21 Q 45 minutes to an hour later. And how long did you
22 process Dennis Copling before you read him his Miranda rights?

23 A He wasn't, he wasn't processed until after -- till the very
24 end. He was led in an interview room and then he was read his
25 Miranda rights as soon as we went in to sit down to speak with

1 him.

2 Q He was led right into an interview room?

3 A Yes.

4 Q And when he was in Monroe Township, did he indicate,
5 geez, I'd like to go back to the station and talk to you about
6 this?

7 A No.

8 Q He never gave you an indication that he wanted to come
9 to the station and talk to you, did he?

10 A No, he didn't.

11 Q You just took him down to the Detective Bureau in
12 Camden, you put him right in an interview room?

13 A Correct.

14 Q There was an arrest warrant for him, you didn't
15 process, you didn't do it, you put him into an interview room
16 to talk to him?

17 A Yes.

18 Q It was your intention to get a statement from Dennis
19 Copling that evening, wasn't it?

20 A Our intention was to find out what happened.

21 Q It was your intention to get a statement out of Dennis
22 Copling that evening?

23 A Yes.

24 Q And you talked to Dennis Copling for approximately an
25 hour and-a-half; is that correct?

1 A Approximately.

2 Q And at some point you break off talks yourself?

3 A Yeah, for a couple minutes, yes.

4 Q About 10, 15 minutes?

5 A Five or 10 minutes.

6 Q Five or 10 minutes. And then you leave the room; is
7 that correct?

8 A Yes, correct.

9 Q And you put another detective in the room with him;
10 right?

11 A The other detective came into the room prior to me leaving.

12 Q How long before you left?

13 A Not very long.

14 Q Minutes?

15 A Five to 10 minutes.

16 Q Five to 10 minutes before you leave the room you bring
17 another detective into the room and then somewhere you leave
18 the room between 5 and 10 minutes; that's your testimony today?

19 A Yes.

20 Q And there was some point you go back in the room; is
21 that correct?

22 A Yes.

23 Q And gives -- and Dennis Copling gives you this
24 statement that you just recited for the jury; is that correct?

25 A Yes.

1 Q And gave you that very brief quantity of information
2 in that short time period from the time that you terminated the
3 interview and the time you went back into the room; is that
4 correct?

5 A That's the way I related the information. He might have
6 taken longer to tell that same story.

7 Q Might have taken longer. In fact, you were with him
8 for a full hour and-a-half before you got that story out of
9 him; isn't that true?

10 A I don't recall the exact amount of time.

11 Q And is it also true that you testified on your direct
12 testimony that he didn't ask for anything to drink; right?

13 A Correct.

14 Q Didn't ask for anything to eat?

15 A No.

16 Q Didn't ask to go to the bathroom?

17 A No, he didn't.

18 Q In fact, he was in your custody for approximately
19 three hours by the time that interview was over; isn't that
20 true?

21 A Approximately.

22 Q And during that period of time did you ask him if he
23 had to go to the bathroom?

24 A No, I didn't.

25 Q And when he was taken directly to the interview room

1 as soon as he got back to the Detective Bureau, did you ask him
2 if he wanted anything to drink?

3 A No.

4 Q And when you took him directly to the interview after
5 you had arrested him, before you processed him, did you ask him
6 if he wanted anything to eat?

7 A No.

8 Q In fact, for the full hour and-a-half Dennis Copling
9 was giving you information which didn't comport with what you
10 wanted to hear; is that correct?

11 A Not exactly. He came halfway to the truth I would say at
12 the end, yes.

13 Q For an hour and-a-half you were in the room with him
14 before another detective came in and he did not give you what
15 you were looking for; is that correct?

16 A At first no, he didn't.

17 Q In fact, you knew what you were looking for going into
18 that interview, didn't you?

19 A Yes.

20 Q And you knew what you wanted to hear, didn't you?

21 A Yes.

22 Q And if you didn't hear it, you wouldn't have accepted
23 it, would you?

24 A No, that's not true. We can only go so far with the
25 interview, try to get the truth and we try to document it on a

1 tape. We can only go so far. If the man wants to stop
2 speaking, he can stop speaking.

3 Q But as you already testified, we have no tape in this
4 case, do we?

5 A No, we don't.

6 Q We only have your recollection of what Dennis Copling
7 told you?

8 A Yes.

9 Q During the course of your investigation did you have
10 the opportunity to interview Lakesha Buckhannon?

11 A Yes.

12 Q And did you interview her sometime in January of 1995?

13 A Yes.

14 Q Did you also re-interview her sometime in January of
15 1997?

16 A Yes.

17 Q Did she ever talk to you about a particular incident
18 where she saw Dennis Copling on a prior occasion with a weapon?

19 A Yes.

20 Q When was the first time she told you about that
21 incident?

22 A This past January, this January.

23 Q And would that have been on January 17th?

24 A Yes.

25 Q That's the first time she came in and told you about

1 that particular incident?

2 A This is Lakesha; is that correct?

3 Q Lakesha, yes.

4 A Yes.

5 Q Two years after this incident was the first time she
6 brought that up?

7 A That's the first I heard it.

8 Q That's the first you heard it. You were the lead
9 investigator on this case, were you not?

10 A Yes.

11 Q You were also present in the room with her when she
12 was interviewed in January of 1995; is that true?

13 A Yes, sir.

14 MR. LEINER: I have no further questions.

15 THE COURT: Redirect.

16 REDIRECT EXAMINATION BY MR. ARONOW:

17 Q Investigator or Sergeant Forte, what were the
18 circumstances under which you became aware of the information
19 that Lakesha Buckhannon told you in January of 1997?

20 A It was an interview prior to her testimony in this trial.

21 Q And was anyone else spoken to with reference to
22 preparation for this trial at approximately the same time?

23 A Yes, her cousin, her cousin and her aunt.

24 Q And who are they?

25 A Barbara Buckhannon and Lakesha -- I'm sorry, Latisha Fair.

1 Q And were you aware of any information relative to
2 Latisha Fair and an incident prior involving the defendant
3 being in possession of a firearm?

4 A Yes, she stated that before.

5 Q And was it during the interview process in January of
6 1997 with Latisha Fair that that issue was raised that it
7 became aware -- that you became aware of the information that
8 Lakesha Buckhannon knew?

9 A Yes.

10 Q Now, do you customarily ask an individual who's being
11 questioned whether they want to go to the bathroom?

12 A No, never.

13 Q Do you ordinarily question them with respect to
14 whether they want food or drink?

15 A If, on occasion if someone has been interviewed over
16 several hours, numerous hours, sure, we ask them if they want
17 something to eat. But as far as bathroom or water, any person
18 can speak up if they want something. We don't normally ask
19 them.

20 Q Now, you indicated that the interview process started
21 at approximately 8 p.m.?

22 A Yes.

23 Q And in response to -- let me ask you this. When
24 exactly did you terminate the interview process, if you know?

25 A I think it was approximately 10:00 o'clock.

1 Q Based upon your prior experience as an investigator,
2 is that an inordinate long period of time?

3 A Not at all.

4 Q Is that a relatively short period of time to have
5 someone in during the interview process?

6 A Yes, it is.

7 Q Does the interview process normally last longer
8 depending upon the nature of the investigation?

9 A Yes, it does.

10 Q It was indicated that the interview process stopped
11 for some period of time and then another detective came in.
12 Was that Detective Gary Finneman?

13 A Yes, it was.

14 Q Leonard Finneman is known as Gary Finneman --

15 A Correct.

16 Q -- of the Camden City Police Department?

17 A Yes.

18 Q Did the defendant appear to have any difficulty
19 understanding the questions that you were asking?

20 A No.

21 Q Did you have any difficulty understanding the answers
22 he was giving?

23 A Not at all.

24 Q Did you make any promises to the defendant in order
25 for him to give you a statement?

1 A No.

2 Q Did the -- do you have any experience with respect to
3 dealing with persons who are under the influence of alcohol or
4 drugs?

5 A Yes, I do.

6 Q Did Dennis Copling on January 27th, 1995 give you any
7 indication that he was under the influence of alcohol or drugs?

8 A No, he did not.

9 Q Were you able to determine on your own whether he
10 appeared to be under the influence of alcohol or drugs during
11 the interview process?

12 A I'm sorry, what?

13 Q Were you able to determine on your own based upon your
14 observations of him whether he appeared to be under the
15 influence of alcohol or drugs?

16 A He didn't appear to be under the influence of any alcohol
17 or drugs to me at all, no.

18 Q Did he ever raise his voice to you?

19 A No, he didn't.

20 Q Did you ever raise your voice to him?

21 A Did not.

22 Q Is the only reason that you didn't obtain a taped
23 statement from Dennis Copling because of the family's
24 intervention?

25 MR. LEINER: Objection, your Honor, leading.

1 THE COURT: The objection is overruled because the
2 question could be answered yes or no and therefore not leading.

3 Q Is that a yes?

4 A Yes.

5 MR. ARONOW: I have no further questions your Honor.

6 THE COURT: Recross.

7 MR. LEINER: Thank you, your Honor.

8 RECROSS-EXAMINATION BY MR. LEINER:

9 Q Sergeant Forte, is it not common practice to ask
10 people if they want to go to the bathroom or if you want to
11 something to eat, isn't that part of your procedure that you
12 normally go through? Don't you have a particular procedure
13 that you follow when you interview people?

14 A Yes.

15 Q And part of that procedure is to get them into a
16 situation where they want to become forthcoming and give you
17 information?

18 A That's correct.

19 Q As a matter of fact, you do, before you ever take a
20 taped statement, you do a pre-interview, don't you?

21 A Yes.

22 Q There are things that occur in the pre-interview that
23 will never come on the taped statement; isn't that true?

24 A That's correct.

25 Q During that hour and-a-half Dennis Copling talked to

1 you and if that's all you talked about in that first hour
2 and-a-half, you would have never taken a taped statement from
3 him, would you?

4 A I'm sorry, repeat that.

5 Q Well, for an hour and-a-half you talked to Dennis
6 Copling before Detective Finneman came into the room?

7 A Approximately, yes.

8 Q And talked about certain things and I think you said
9 on cross-examination before that Dennis Copling wasn't giving
10 you what you wanted to hear in that first part of that
11 interview; is that correct?

12 A He was lying, yes.

13 Q He was lying. You made that determination?

14 A Absolutely.

15 Q You weren't going to take a taped statement if that's
16 what he said all night long, were you?

17 A No. Eventually we would have taken a taped statement as to
18 what his last story would have been. If he finally sticks to
19 one story, we'll take a taped statement regarding that.

20 Q And you make that determination?

21 A Yes.

22 Q And the interview can take three hours?

23 A Yes, it could.

24 Q It could take six hours?

25 A Yes.

1 Q And you can't tell the Court right now that you were
2 prepared to take a taped statement when you stopped this
3 interview at 10:00 o'clock?

4 A I couldn't? I think we could. We were prepared to take a
5 taped statement.

6 Q You had concluded that was his last story?

7 A I, I would have gone further with the interview, but, yes,
8 it was relatively close to the point where we probably would
9 have taken a statement from him.

10 Q Probably would have taken a statement?

11 A Once we concluded the interview.

12 MR. ARONOW: Your Honor, allow the witness to answer
13 the question.

14 THE COURT: It is cross-examination so the objection
15 is overruled. You can follow-up if you choose to on redirect.

16 Q The information you had gotten from him between 9:30
17 or 9:40 or so and 10 o'clock was not enough information for you
18 to take a taped statement at that point, was there?

19 A Not that point, no.

20 Q So you were going to continue with the interview?

21 A Yes.

22 Q So, in response to the Prosecutor's question, the only
23 reason you didn't take a taped interview was not because the
24 interview stopped, you weren't ready to take it at that point
25 any before, were you?

1 A We couldn't take the tape statement because the interview
2 was stopped because of the situation out front with his family.

3 Q But you weren't prepared to take a taped statement at
4 that point, were you?

5 A At the particular moment, no.

6 Q You said the defendant, Mr. Copling, didn't appear to
7 be under the influence of alcohol and drugs. Did you go to the
8 Police Academy, Sergeant Forte?

9 A Yes.

10 Q Did you take a course in breathalyzer school?

11 A No, I didn't.

12 Q You didn't take any courses in regard to the
13 psychophysical aspect of people under the influence of alcohol
14 and drugs in that --

15 A No, I didn't.

16 Q You just used your own judgment at that point to
17 determine whether or not you believed Dennis Copling may have
18 been under the influence of alcohol or drugs; correct?

19 A He didn't seem like he was under the influence of alcohol
20 or drugs to me.

21 Q But you didn't have formal training in that kind of
22 observation, did you?

23 A No, I don't.

24 MR. LEINER: No further questions.

25 THE COURT: Any further direct?

1 RE-REDIRECT EXAMINATION BY MR. ARONOW:

2 Q Sergeant Forte, do you need any formal training to
3 determine whether or not anybody is under the influence of
4 alcohol or drugs?

5 A No, sir.

6 Q In your 17 years of years of experience as an
7 investigator with the Camden County Prosecutor's Office, have
8 you had ample opportunity to observe people that were under the
9 influence of drugs and alcohol?

10 A Yes.

11 Q Did this individual, Dennis Copling, indicate or show
12 any signs of being under the influence of alcohol or drugs?

13 A None.

14 MR. ARONOW: Nothing further, your Honor.

15 THE COURT: Any further cross?

16 MR. LEINER: No, your Honor.

17 THE COURT: Sergeant Forte, you may step down. Thank
18 you. You are excused.

19 Ladies and gentlemen, we will end for the day and
20 tomorrow morning the next witness is scheduled for 9 o'clock.

21 MR. ARONOW: Yes.

22 THE COURT: We'll resume at 9 o'clock tomorrow morning
23 and have a nice evening. And again a reminder not to read any
24 newspaper accounts or talk to anybody who may have read any
25 newspaper accounts about this trial, and we'll look forward to

1 seeing you in the morning.

2 (Jury leaves the courtroom at 4:23 p.m.)

3 MR. ARONOW: Your Honor, while we're still here, may
4 we be heard with respect to the introduction of certain items
5 into evidence?

6 THE COURT: You may do what?

7 MR. ARONOW: May I introduce certain items into
8 evidence?

9 THE COURT: Just one question before we do that and
10 that is are you intending to rest tomorrow or not resting until
11 next week?

12 MR. ARONOW: No, I will be resting tomorrow.

13 THE COURT: At what point?

14 MR. ARONOW: Very early tomorrow.

15 THE COURT: All right. So, possibly I could be
16 charging the jury tomorrow then, depending upon what whether
17 defendant calls witnesses, whether there's any defense
18 witnesses. The only possible witness would be the defendant
19 himself if he chooses to testify.

20 MR. ARONOW: Or with respect to the issue, your Honor,
21 to determine whether they want to proceed with respect to
22 Lakesha Buckhannon.

23 THE COURT: Correct.

24 MR. ARONOW: And that circumstance.

25 MR. LEINER: And in regard to that, I'm not so sure

1 we'll be prepared to give you a firm answer tomorrow. I've had
2 a limited opportunity to talk to the investigator, have him go
3 out and do what needs to be done in this case. I'm not asking
4 for a long period of time. However, I'm not so sure that we'll
5 be ready to proceed tomorrow. I can assure the Court we'll be
6 ready to proceed the latest on Tuesday morning in that case,
7 but your Honor did offer me the opportunity to have a brief
8 period of time. Unfortunately with the trial yesterday and
9 today I have not -- I've had limited opportunity to get done
10 what I want to get done.

11 THE COURT: Without prejudging the issue of whether or
12 not more time is needed, at the time that we first discussed
13 the newly discovered evidence from Lakesha Buckhannon, I was
14 under the impression that it was an entirely different incident
15 that was the incident described by Latisha Fair. Now it
16 appears that it may be or it may be the subject of the
17 discovery previously furnished to you.

18 MR. LEINER: Actually, your Honor, the only thing
19 furnished in discovery was where Latisha Fair stated in her
20 statement I saw a gun last night. That's it.

21 THE COURT: Okay.

22 MR. LEINER: So I don't think that it rises to the
23 level of what we heard in regard to a party and multiple people
24 being there and other things like that.

25 MR. ARONOW: Your Honor is going to allow whatever

1 your Honor is going to allow. I'd like to indicate that
2 Sergeant Forte's report also indicated that Latisha Fair stated
3 that she saw the defendant with a gun previously. That should
4 certainly alert someone who's involved in a homicide
5 investigation that they may want to question that witness with
6 respect to information relative to that incident. They are on
7 notice. It's not like something that came out of the blue
8 here.

9 THE COURT: I'll tell you what, I think tomorrow would
10 probably be the more appropriate time to resolve the question
11 of how much more time is needed. At this point we'll let that
12 issue be deferred until tomorrow.

13 You want to introduce -- move some items in?

14 MR. ARONOW: Yes, Judge.

15 THE COURT: I'll be glad to hear you.

16 MR. ARONOW: Your Honor, I would renew my proffer that
17 S-2, which is the photograph of Kirby Bunch's head, and S-18,
18 which is the photograph of Mark Winston's head, should now be
19 admitted into evidence. There has been use of that photograph
20 extensively with respect to witnesses identifying both
21 individuals and they recognized those individuals as who they
22 are. I don't think that those particularly photographs are any
23 more or less offensive than the gunshot wounds that are
24 demonstrated and already admitted into evidence. In fact, I
25 think they are more benign than the gunshot wound. It's clear

1 that someone died as a result of this incident. It's clear
2 that two people died quite candidly. And, your Honor --

3 THE COURT: That's exactly right. I don't think there
4 is any dispute about the fact that Kirby Bunch and Mark Winston
5 are dead. So I don't know what those photos really prove and I
6 disagree with you. I don't think that they're more innocuous
7 than the gunshot wounds because gunshot wounds are just dark
8 holes, they're not blown wide up. They are not like gunshot
9 wounds or --

10 MR. ARONOW: You mean shotgun.

11 THE COURT: Right. On the other hand, they are not
12 shotgun wounds which have explosive bloody tissue exposed.
13 These are, I hate to the word clean to describe a gunshot
14 wound.

15 MR. ARONOW: Sterile.

16 THE COURT: Right, they are. There is not very much
17 tissue or blood showing there, just a dark area. Whereas the
18 photo that you're talking about, S-2 and S-18, are photos from
19 the shoulder up of the face of a dead person on the slab
20 essentially at the morgue which I do think is potentially much
21 more prejudicial and more inflammatory. I don't think it has
22 any real probative value. If I thought it had probative value
23 as to the issue of identification of the dead people, then I
24 would agree with you that probative value outweighs the
25 prejudice, but the probative value is quite slight. I don't

1 think they really add anything. I think there's been ample
2 testimony that the identity of the two deceased people was in
3 fact Kirby Bunch and Mark Winston. So for that reason I don't
4 think those photos really add anything, so those two will stay
5 out of evidence.

6 Is there anything else?

7 MR. ARONOW: Absolutely. S-22 which is the map of the
8 area, the diagram.

9 THE COURT: Any objection?

10 MR. LEINER: No, your Honor.

11 THE COURT: We'll receive that in Evidence.

12 MR. ARONOW: S-22A which is the diagram of the scene.

13 THE COURT: Any objection to 22A?

14 MR. LEINER: No, your Honor.

15 MR. ARONOW: S-31 through S-34 which are the scene
16 photos which are mounted on posterboard.

17 THE COURT: Will you give me those numbers again?

18 MR. ARONOW: Yes, S-31 through 34.

19 THE COURT: Those are exterior scene photos. Any
20 objection?

21 MR. LEINER: No, your Honor.

22 THE COURT: Okay. Those will be received.

23 MR. ARONOW: That's S-37, 38 and 39 which are scene
24 photos also.

25 THE COURT: Those are already in evidence.

1 MR. ARONOW: You're right, they are, I'm sorry. S-48,
2 49 and 50 which are the requests for examination of evidence.

3 THE COURT: Any objection to any of those?

4 MR. LEINER: Yeah, I don't see the relevance. I think
5 the person testified in regard to his findings already and I
6 don't really see any reason to put the documents into evidence.

7 THE COURT: If that's the only objection, the
8 objection will be overruled and they will be admitted.

9 MR. ARONOW: S-40A and B which is the evidence
10 voucher, Camden City Police.

11 THE COURT: Any objection?

12 MR. LEINER: No, your Honor.

13 THE COURT: Those will be received.

14 MR. ARONOW: S-41 which is the 9 millimeter Makarov
15 handgun.

16 THE COURT: Any objection?

17 MR. LEINER: No, your Honor.

18 MR. ARONOW: S-42 which the 7 live .280 caliber rounds
19 of ammunition found in the Makarov.

20 THE COURT: I'm sorry, what was number again?

21 MR. ARONOW: S-42.

22 THE COURT: Any objection?

23 MR. LEINER: No.

24 MR. ARONOW: S-43 which is the bullet removed from
25 Kirby Bunch.

1 THE COURT: Any objection?

2 MR. LEINER: No objection.

3 MR. ARONOW: S-44 which the bullet removed from Mark
4 Winston.

5 MR. LEINER: No objection.

6 THE COURT: That will be received.

7 MR. ARONOW: S-45, 6 and 7 which are the shell casings
8 that were recovered.

9 MR. LEINER: No objection.

10 THE COURT: And 45 is the bullet that was found on the
11 ground?

12 MR. ARONOW: Shell casing.

13 THE COURT: Shell casing, not a bullet.

14 MR. ARONOW: There are only two bullets, there are
15 three shell casings.

16 THE COURT: So 45, 6 and 7 will be received.

17 MR. ARONOW: Your Honor, is your Honor prepared to
18 indicate what your position is vis-a-vis the 911 tape because I
19 would need to schedule that witness.

20 THE COURT: Yes, I am prepared.

21 MR. ARONOW: If I could be heard on the issue briefly
22 because we really didn't get a chance to argue. We got off of
23 it. Counsel had made a argument.

24 THE COURT: I'm incline to call it a day though, it's
25 getting late, and I would rather defer to tomorrow if you can

1 have the witness on standby perhaps. I don't mind finishing,
2 going through the evidence, but I'd like to end after that.
3 What other evidence are you moving in?

4 MR. ARONOW: At this point that's all the evidence I'm
5 going to move.

6 THE COURT: 19 and 20 are the two jackets.

7 MR. ARONOW: I believe they're in evidence already. I
8 have them marked in as evidence.

9 MR. LEINER: Yes, they are.

10 THE COURT: Okay, very good. Then anything else in
11 terms of evidence, no?

12 MR. ARONOW: No.

13 THE COURT: Maybe we can mark those either today or
14 it's getting late, we can mark them first thing in the morning
15 whatever you wish. Very good. We'll resume tomorrow morning
16 at 9.

17 MR. LEINER: Thank you, your Honor.

18 (S-22A, S-31, S-32, S-33, S-34, S-40A, S-40B, S-41,
19 S-42, S-43, S-44, S-45, S-46, S-47, S-48, S-49 and S-50 marked
20 in Evidence.)

21 (Court adjourned.)

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C E R T I F I C A T I O N

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I, Judy Gerstenfeld, C.S.R., License Number XI00370, an Official Court Reporter in and for the State of New Jersey, do hereby certify the foregoing to be prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript to the best of my knowledge and ability.

Judy Gerstenfeld, C.S.R. April 25, 1997
Official Court Reporter Date
Camden County Hall of Justice