

1 perceptions of that testimony has a direct bearing on whether
2 those statements that were made at trial by those witnesses
3 were to be believed; that is to say whether the Prosecution's
4 theory that the first set of witnesses were confused about
5 what happened was in fact the case, specifically Officer
6 Van Fledering (phonetic spelling). And for these reasons,
7 your Honor, we think that it is clear that these officers who
8 had contact with the alleged eye-witnesses in this case were
9 in fact res gestae witnesses, because by the Prosecution's
10 own theory there is a direct difference of opinion as to
11 whether their testimony should have been believed or in fact
12 whether their testimony was credible. To the extent that the
13 testimony of these officers goes directly or potentially
14 directly to the credibility of those witnesses, we think that
15 they are in fact res gestae witnesses themselves, your Honor.

16 THE COURT: Thank you, Mr. Evelyn.

17 Any response to that, Mr. Best?

18 MR. BEST: No, your Honor.

19 THE COURT: Based upon the information that
20 the Court has before it, the Court is of the opinion that it
21 does not have enough information to make a ruling on whether
22 or not these witnesses are res gestae witnesses, and at this
23 particular point all the Court knows is that the Defense has
24 requested that these witnesses be brought in, and there is a
25 question as to whether or not Mr. Lewis waived their pro-

1 duction at trial, I will reserve a ruling on whether or not
2 they are res gestae witnesses until I've heard their
3 testimony and argument of both Counsel.

4 MR. BEST: Thank you, your Honor. At this
5 time the People will call to the stand Officer Michael Kudla.

6 MICHAEL KUDLA,
7 sworn on behalf of the People, was examined and
8 testified upon his oath as follows:

9 DIRECT EXAMINATION

10 BY MR. BEST:

11 Q For the record, Officer, will you identify yourself.

12 A Michael Kudla.

13 Q How are you presently employed?

14 A Detroit Police Department.

15 Q How were you employed in July of 1976?

16 A As a police officer in the City of Detroit.

17 Q Who was your partner at that time?

18 A Michael Yaklin.

19 Q On July 31st, 1976, at approximately one-fifty in the
20 morning do you remember anything unusual taking place?

21 A I do.

22 Q Can you briefly tell us what that was, please.

23 A We were responding to a radio call that a police
24 officer was shot at Harper and Barrett.

25 Q And you responded to that call?

1 A We did.

2 Q What did you do when you got to the scene?

3 A There was a large crowd of people there; Officer Yaklin
4 talked to a few, and I tried to get an ambulance to the
5 scene, there was none available. I called for another
6 scout car with a stretcher. I at that time assisted
7 putting Officer Bibokowski, who was laying on the curb
8 there, onto the stretcher and off to the hospital. I
9 then asked the people at the scene there if anybody
10 had seen anything and I believe two came up to me and
11 said they had. A sergeant arrived at the scene and
12 told us to take those people to the Homicide Section.

13 Q And did you take them to Homicide?

14 A We did.

15 Q Did you take any witness statements from any of those
16 people?

17 A No, I did not.

18 Q At the time you arrived had the officer who was there
19 and took the call already been shot?

20 A Yes, he was.

21 Q Did you witness the shooting?

22 A No, sir.

23 Q Did you see any assailants at the scene?

24 A No, sir.

25 Q Did you hear a gunshot?

1 A No, sir.

2 Q Did you see the flash of a gunshot?

3 A No, sir.

4 Q Did you see the body fall?

5 A No, sir.

6 MR. WEST: I have no further questions at this
7 time, your Honor.

8 CROSS EXAMINATION

9 BY MR. EVELYN:

10 Q Officer Kudla, you say your partner was Officer Yaklin?

11 A Yes, sir.

12 Q How long did it take you to respond to the scene?

13 A I don't recall.

14 Q Do you recall what area you were patrolling when you
15 got the call?

16 A No, sir.

17 Q Now, when you arrived at the scene I think you testified
18 that you found a number of people at this particular
19 location; is that correct?

20 A Correct.

21 Q And an officer who you later learned was shot was
22 lying on the ground?

23 A On the street, yes.

24 Q Were there any other uniformed police officers present
25 when you arrived?

1 A No, sir.

2 Q So your vehicle was the first vehicle to arrive?

3 A Correct.

4 Q Do you ever remember seeing -- strike that. Do you
5 ever remember seeing an officer who you later came to
6 know as Officer Lorraine Williams?

7 A Yes, sir.

8 Q So you recall seeing her around?

9 A Yes, sir, I do; they were working a station wagon.

10 Q Do you remember whether or not the deceased was
11 conveyed from the scene in that station wagon?

12 A Yes, he was.

13 Q Now, when you first arrived at the location what was
14 the first thing you did when you exited your vehicle?

15 A Went up to where the crowd of people was.

16 Q And what did you find?

17 A There was a man lying near the curb with a gunshot to
18 the head.

19 Q When you say a crowd, if you can could you estimate
20 how many people were there.

21 A All I can say is anywhere from eight to fifteen people;
22 I really don't recall the exact number.

23 Q Did you learn as soon as you arrived at the location
24 that the person who had been shot was a police officer?

25 A There was a man that stated that he was a police

1 officer; we didn't know it for a fact until way after.

2 Q Officer, if I understand you, you're saying that there

3 was a man who you talked to at the scene who told you

4 that the man who had been shot was a police officer?

5 A I didn't talk to the man; he was telling me -- he was

6 screaming that the man was a police officer.

7 Q Did he say whether he was in fact a police officer?

8 Did you speak to him?

9 A No, sir.

10 Q Did you talk to anybody at the scene -- strike that.

11 Did you see anybody at the scene that you subsequently

12 learned was a police officer when you first arrived?

13 A Will you say that again, sir.

14 Q You said your car was the first car to arrive?

15 A Yes, sir.

16 Q Before any other uniformed police officers arrived?

17 A Yes, sir.

18 Q Now, of the people in that crowd around the body did

19 you see anyone there in that crowd who you later

20 learned was a police officer also?

21 A Yes, sir.

22 Q How many people fit into that category?

23 A One.

24 Q Did you get his name?

25 A Yes, I did.

1 Q What would that have been?

2 A Van Fledering, or something to that effect, I believe.

3 Q Did you talk to that man, Mr. Van Fledering?

4 A Other than he was telling me that the man was a
5 police officer -- other than that, no, sir.

6 Q Did you have any contact with him at all?

7 A No, sir.

8 Q You didn't have any physical contact with him at all?

9 A No, I don't believe so, I don't recall. I don't
10 believe I did.

11 Q You don't recall ever having to strike him or anything
12 like that?

13 A No, sir.

14 Q You don't ever recall him striking anyone else, do you?

15 A No, sir.

16 Q Now, did you assist in moving the body of this
17 injured person onto the stretcher?

18 A I really don't recall if I did. I remember lifting
19 the stretcher up, but if I helped with the body, I
20 don't remember.

21 Q When you were putting the stretcher in the vehicle
22 where was your partner, if you recall?

23 A I have no idea.

24 Q But you do know that he talked to some people at the
25 scene?

1 A Yes, sir.

2 Q Do you recall whether this Mr. Van Fledering assisted
3 you in any way?

4 A I believe he helped put the stretcher in the station
5 wagon.

6 Q Do you recall whether Officer Van Fledering impeded
7 you from doing anything that you were attempting to do?

8 A No, sir.

9 Q Now, when he was telling you that the man was a police
10 officer were you able to understand him?

11 A That's all he said to me.

12 Q Is that the only thing you heard him say?

13 A That's the only thing I recall.

14 Q Do you recall whether he said other things?

15 A I don't recall, no.

16 Q Now, there was a crowd of people; was there a great
17 deal of excitement, would you say?

18 A Yes.

19 Q Now, concerning Officer Van Fledering, did he appear
20 to be agitated?

21 A He was upset.

22 Q Did he appear to be coherent to you?

23 A I really didn't talk to him. Other than him screaming
24 that the man was a police officer, I don't know.

25 Q How close did you get to him?

1 A I don't recall. Ten feet, five feet.

2 Q Do you recall whether you got closer than five feet?

3 A I really don't recall, no.

4 Q Did you make out any reports, any written reports?

5 A Yes, sir.

6 Q And that would have been soon after the incident; is
7 that correct?

8 A Yes, sir.

9 Q Other than the fact that Officer Van Fledering seemed
10 excited did you notice anything unusual about his
11 appearance?

12 A No, sir, I don't remember his appearance at all.

13 Q Do you remember anything about his manner other than
14 the fact that he was excited?

15 A No, sir.

16 Q If you recall -- strike that. Do you recall whether
17 you were aware of his appearing intoxicated to you?

18 A No, sir, I don't recall.

19 Q One other question: How long after you arrived do
20 you remember Officer Williams arriving in the car
21 with the stretcher?

22 A In a matter of minutes -- do you mean the period of
23 time in minutes or --

24 Q Yes.

25 A I couldn't really say, I don't really remember.

1 Q It was shortly after you arrived?

2 A Within fifteen minutes; probably shorter than that
3 but I don't know.

4 Q Thank you.

5 I have nothing further, your Honor.

6 REDIRECT EXAMINATION

7 BY MR. BEST

8 Q Officer, did you know who Van Fledering was when you
9 arrived on the scene?

10 A No, sir.

11 Q You only learned sometime afterwards that he was a
12 police officer?

13 A Yes, sir.

14 Q Did you learn that he was laid off or presently a
15 police officer?

16 A No -- later on I did.

17 Q That he was laid off?

18 A Yes, sir.

19 MR. BEST: I have no further questions, your

20 Honor.

21 THE COURT: Anything further?

22 MR. EVELYN: Nothing further, your Honor.

23 THE COURT: Thank you, your Honor, you may
24 step down.

25 (Witness excused.)

MICHAEL YAKLIN,

1
2 sworn on behalf of the People, was examined and
3 testified upon his oath as follows:

4 DIRECT EXAMINATION

5 BY MR. BEST:

6 Q Good morning, Officer. For the record would you
7 identify yourself, please.

8 A Yes, my name is Michael Yaklin.

9 Q Where are you presently employed?

10 A I'm a Detroit Police Officer.

11 Q In July of 1976, how were you employed?

12 A Same, Detroit Police Officer.

13 Q In July of 1976, did you have a partner?

14 A Yes, I did.

15 Q And who was he?

16 A His name is Michael Kudla.

17 Q On July 31st, 1976, were you on duty?

18 A Yes, I was.

19 Q At approximately 1:50 a.m. on that date did something
20 unusual transpire?

21 A Yes, it did.

22 Q If you can remember, can you tell us what that was.

23 A I believe the initial information that we heard over
24 the air was check the area of Harper and Barrett to
25 see if anybody was shot at that location, and we

1 proceeded to do that.

2 Q And you eventually arrived in the area of Harper and
3 Barrett?

4 A Yes, I did.

5 Q What did you do once you got there?

6 A I observed a man laying in the street and went up
7 to him and investigated.

8 Q Did you witness the shooting?

9 A No, I did not.

10 Q Was the man the victim of a shooting?

11 A Yes, he was.

12 Q Did you apprehend any of the assailants or assailant
13 at the scene?

14 A No, I did not.

15 Q Did you see any assailants at the scene?

16 A No, I did not.

17 Q Did you hear any gunshots?

18 A No, I did not.

19 Q Did you see the flash from a gun?

20 A No, I did not.

21 Q Did you see the body of the victim fall?

22 A No, I did not.

23 Q Did you ever make any arrests in this case?

24 A No, I did not.

25 Q Did you have occasion to transport any potential

1 witnesses to the Homicide Section?

2 A Yes, sir, I did.

3 Q Did you take any statements from any of these
4 witnesses?

5 A No, I did not.

6 MR. BEST: I have no further questions, your
7 Honor.

8 THE COURT: Cross-examine, Mr. Evelyn.

9 CROSS EXAMINATION

10 BY MR. EVELYN:

11 Q Officer Yaklin, you on this particular occasion were
12 the partner of Officer Michael Kudia?

13 A Yes, I was.

14 Q Were you the driver of the vehicle, your police
15 vehicle?

16 A Yes, I was.

17 Q Now, do you recall how long it took you to arrive
18 at the scene?

19 A No, I do not.

20 Q Do you recall at all in what area you were patrolling
21 when you received the radio run?

22 A No, I do not.

23 Q Now, when you arrived at the scene what was the
24 first thing you did when you exited your police
25 vehicle?

1 A I don't remember what the first thing was I did.

2 Q Do you recall seeing a crowd of people there?

3 A I recall seeing some people in the immediate area.

4 Q About how many?

5 A I would say approximately twelve to fifteen.

6 Q And you took statements from people -- strike that.

7 Did you approach the man who had been shot?

8 A Yes, I did.

9 Q Now, would it be correct, then, that your car was
10 the first car to arrive at the scene?

11 A Yes, it was.

12 Q And do you remember some other officers arriving soon
13 thereafter?

14 A Afterwards other units did respond.

15 Q Did you attempt to give any first aid to the man who
16 had been injured?

17 A No, I did not.

18 Q Do you know whether your partner did?

19 A No, I don't.

20 Q So after you arrived at the scene would it be correct,
21 then, that you began to question people in that
22 area concerning about what happened?

23 A No, I did not.

24 Q Do you remember anything that you did after you exited
25 your vehicle?

1 A I went to see how badly injured the man laying in
2 the street was.

3 Q Did you notice any people around the man?

4 A Not at that time, no, I did not.

5 Q Did you ever subsequently learn that a man that you
6 saw there standing near the body was a police officer?

7 A Would you repeat the question.

8 Q Let me rephrase it or put it to you differently. You
9 saw a total of fifteen people in the area of this
10 injured person; is that correct?

11 A Yes.

12 Q And were they all dressed in civilian clothes?

13 A As far as I can recall, yes.

14 Q And if you can recall, would it be correct to say
15 that -- strike that. Were you ever able to determine
16 whether any of those twelve to fifteen people were
17 police officers?

18 A Later on?

19 Q Yes, later on.

20 A Yes, I believe there was one or two of the people
21 that were supposedly police officers.

22 Q Do you remember seeing a man there in that crowd of
23 twelve to fifteen people who was later identified to
24 you as Officer Van Fledering?

25 A Yes.

1 Q You remember seeing him there on that particular
2 occasion, don't you?

3 A Well, not him individually. I had no prior knowledge
4 of him and nobody actually gave me the name at the
5 scene that I remember.

6 Q That's not my question. I'm saying do you recall
7 later learning that a man present at the scene --
8 that there was a man present at the scene by the
9 name of Officer Van Fledering; is that correct?

10 A Yes.

11 Q Do you remember seeing that man at the scene?

12 A No, I do not.

13 Q So if Officer Van Fledering walked in here now are
14 you saying that you wouldn't recognize him?

15 A That's correct.

16 Q Did you notice any people standing in the area of
17 the body?

18 A No, I did not.

19 Q Did you ever go over to the body?

20 A Yes, I did.

21 Q Is it your testimony that when you got to the body
22 there was no one standing in the immediate area of
23 the body?

24 A Not that I recall.

25 Q Was there anyone standing within five feet of the

1 body?

2 A I don't recall.

3 Q Did anyone at the scene try to get your attention
4 in any way?

5 A Yes.

6 Q Was it a man?

7 A There were several people talking at the same time
8 when we arrived at the scene. There wasn't any one
9 particular person I was talking to.

10 Q So it's your testimony that you don't recall the
11 twelve to fifteen people in the area of this location
12 -- you don't recall anyone's conduct as being any
13 different from anyone else? That is to say you don't
14 recall anything unique about the way any individual
15 person behaved at that location?

16 A Some people were more excited than others.

17 Q Would it be fair to say that some were talking more
18 than others?

19 A I don't recall.

20 Q Did you make out any written reports?

21 A Yes, I did.

22 Q Did you ever talk to any witnesses?

23 A Yes, I did.

24 Q Did you talk to witnesses while you were at the
25 scene?

1 A Yes, I did.

2 Q Did you ask them for information about what they knew?

3 A Yes, I did.

4 Q Did anyone tell you that they had seen a Mark IV,
5 white Mark IV, in the area?

6 A I remember somebody giving me information about a
7 white car that was in the area, yes.

8 Q Do you remember how many people you talked to at
9 the scene?

10 A No, I do not.

11 MR. EVELYN: I have nothing further, your
12 Honor.

13 THE COURT: Mr. Best?

14 REDIRECT EXAMINATION

15 BY MR. BEST:

16 Q At the time you responded to the scene, Officer, did
17 you know or have any indication that the victim was a
18 officer?

19 A After I arrived at the scene one or more of the people
20 there stated that he was a police officer, yes.

21 Q Did you assist in placing the victim in some manner
22 of transportation for transport to the hospital?

23 A Yes, I did.

24 Q Did he say anything at that time, the victim?

25 A No, he did not.

1 Q Was your primary concern directed toward getting him
2 to the hospital?

3 A Yes, that was my primary concern.

4 Q You indicated to Defense Counsel that you had talked
5 to at least one witness who gave you information about
6 a white Mark IV?

7 A Yes.

8 Q Do you remember if that witness was Van Fladering?

9 A Yes, sir, I believe it was; later on I found that out.

10 MR. BEST: I have no further questions, your
11 Honor.

12 RECROSS EXAMINATION

13 BY MR. EVELYN:

14 Q Officer, did you ride to the hospital in the car that
15 transported this injured person?

16 A No, I did not.

17 Q When you were placing the stretcher in the station
18 wagon was anyone assisting you?

19 A Yes, they were.

20 Q How many people, if you recall?

21 A I don't recall. There was two or three other officers.

22 Q Do you remember anything unusual occurring when you
23 put the stretcher inside the car?

24 A We had trouble getting the stretcher inside the car
25 at first.

1 Q In positioning it properly?

2 A Yes.

3 Q You don't recall anyone -- well, the stretcher wasn't
4 dropped or anything like that, was it?

5 A No, it wasn't.

6 Q And no one impeded your efforts to put the stretcher
7 in the station wagon, did they?

8 A No, they didn't.

9 Q Are you sure about that, Officer?

10 A Yes, as far as I can recall.

11 Q Thank you.

I have nothing further.

12 MR. BEST: I have nothing further, your Honor.

13 THE COURT: Thank you, Officer, you may step

14
15 down.

(Witness excused.)

16
17 ANDREW KUKLOCK,

18 sworn on behalf of the People, was examined and
19 testified upon his oath as follows:

20 DIRECT EXAMINATION

21 BY MR. BEST:

22 Q Good morning, Officer. For the record would you
23 identify yourself, please.

24 A Detroit Police Officer Andrew Kuklock.

25 Q How were you employed in July of 1976?

1 A Detroit Police Officer.

2 Q Were you operating with a partner at that time?

3 A Yes, I was.

4 Q And who was that?

5 A Officer Gerald O'Connor.

6 Q On the 31st of July, 1976, if you remember, were you
7 on duty?

8 A Yes, we were.

9 Q At approximately one-fifty in the morning on that date
10 did anything unusual occur?

11 A Yes, it did.

12 Q And what was that, sir?

13 A It was in regards to a shooting incident.

14 Q You received information on a shooting incident?

15 A Yes, we responded to a shooting run on Harper and
16 Barrett.

17 Q That was over the police radio?

18 A Yes.

19 Q And when you responded what did you do and what did
20 you observe?

21 A We observed a white male laying in the street in a
22 pool of blood. I think there were other cars at the
23 scene already when we arrived and we assisted in
24 putting a white male on the stretcher, and that was
25 about it.

1 Q Was the victim already shot at the time you arrived
2 at the scene?

3 A Yes, he was.

4 Q Did you witness the shooting?

5 A No, we didn't.

6 Q Did you see any assailant or assailants at the scene?

7 A Not that we knew of, no.

8 Q Did you apprehend or arrest anyone at the scene?

9 A No, we didn't.

10 Q Did you hear any gunshots?

11 A No.

12 Q Did you see the flash of a gunshot?

13 A No.

14 Q Did you see the victim's body falling?

15 A No.

16 Q Did you take any witnesses' statements at the scene?

17 A No.

18 Q Did you talk to any people at the scene?

19 A I don't recall if I did or not. If I did, I didn't --

20 Q Okay. Did you or your partner convey any witnesses

21 to Homicide?

22 A Yes, I did.

23 Q Did you take written statements from those people?

24 A No, I didn't.

25 Q At the time you responded to the scene, or after you

1 got to the scene did you learn that the victim was
2 in fact a Detroit Police Officer?

3 A Yes, we did.

4 Q Did you assist in placing the victim in a transportation
5 vehicle to the hospital?

6 A Yes, we did.

7 Q Did the victim say anything to you at the time you
8 helped put him in the wagon?

9 A No, he didn't.

10 Q Was your primary concern directed toward getting
11 him in that vehicle for transportation to the
12 hospital?

13 A Yes, that's correct.

14 MR. BEST: I have no further questions at this
15 time, your Honor.

16 CROSS EXAMINATION

17 BY MR. EVELYN:

18 Q Officer, you say your partner was Officer Gerald
19 O'Connor?

20 A That's correct.

21 Q And you responded to this location as a result of
22 information you received over your police radio?

23 A That's correct.

24 Q And when you got to the scene how many other police
25 officers, if you can recall, were present?

1 A I don't recall.

2 Q But there were some police officers present when you
3 arrived?

4 A Yes, we were not the first car there.

5 Q Do you recall if there was more than one police
6 vehicle present?

7 A I don't recall.

8 Q Were you driving your car?

9 A I don't recall.

10 Q How long were you at the scene?

11 A I don't really remember how long we were there. I
12 would say fifteen minutes, twenty minutes; I don't know.

13 Q Now, did you render any first aid at all, or attempt
14 to, to this particular person who was injured?

15 A No.

16 Q Did you see anyone else attempt to do that?

17 A I don't recall anyone else doing that, no.

18 Q I believe you testified on direct that you helped
19 place this injured person into the police vehicle
20 that transported him to the hospital; is that correct?

21 A That's correct.

22 Q Did you help put him on the stretcher?

23 A Yes.

24 Q Do you remember how many other people were assisting
25 you?

1 A It seems like three or four.

2 Q Do you remember -- strike that. About how many
3 civilians or how many people did you see at the scene
4 who were not dressed in police clothes, who would have
5 been part of the crowd, that is?

6 A I don't really remember taking a tally of the number
7 of people there.

8 Q Just estimate, if you can.

9 A I don't know, five, six, I guess. I don't know, I
10 really didn't --

11 Q Did you see anyone at the scene among those civilians
12 who were standing around whom you later learned was
13 also a police officer?

14 A Yeah, I heard later on that one of them was a police
15 officer.

16 Q Does the name Van Fledering ring a bell to you at all?

17 A Yes.

18 Q Do you remember seeing a man who was later identified
19 to you as Officer Van Fledering?

20 A Yes.

21 Q And he would have been in the area of the injured
22 person when you got there; is that correct?

23 A Yes.

24 Q Do you recall whether he was assisting police officers
25 in putting this person in a police vehicle?

1 A I don't recall if he was or not.

2 Q Did you ever talk to him at all?

3 A No, I don't recall talking to him.

4 Q Do you recall anything unusual about his manner at all?

5 A About his manner?

6 Q About this man who you later learned was Van Fledering.

7 A No.

8 Q Did he seem to stand out any more than any of the other
9 people who were there?

10 A I think Sibokowski was a friend of his.

11 Q I'm talking about his behavior; did he seem to behave
12 in a different manner than anyone else?

13 A No, I don't recall anything like that.

14 Q Do you recall him talking to any other police officers
15 there at the scene?

16 A No.

17 Q Did he give you any information at all?

18 A No, he didn't.

19 Q Do you recall people saying things about a white car
20 being present?

21 A I heard something about some kind of white car, Lincoln
22 or something.

23 Q Do you recall whether this man who you learned was
24 Van Fledering saying anything about a white car
25 being present?

1 A I don't know whether that information was said by
2 him or not. I remember hearing something about a
3 white car.

4 Q And do you remember helping to put this injured person
5 onto the stretcher and into the police vehicle?

6 A Yes.

7 Q Were you able to do that without any particular
8 difficulty?

9 A No, we were having trouble with the tailgate and I
10 think the seat, also.

11 Q So you had trouble with the tailgate of the station
12 wagon?

13 A Yeah, it was kind of jammed where the window wouldn't
14 come down. We had trouble getting it down originally,
15 I think; and then the seats were giving us problems,
16 we couldn't get the latch to work correction or
17 something.

18 Q I see. Now, the crowd of people that were present
19 there, were they unruly at all?

20 A I wasn't really paying much attention to them during
21 this putting him on the stretcher. We were mostly
22 concerned in trying to get him onto the stretcher
23 and on the way. I wasn't paying any attention to the
24 crowd.

25 Q You don't recall -- strike that. No one got in your

1 way or preventing you from performing your function as
2 a police officer, though, did they?

3 A Not that I recall.

4 Q You don't recall anybody preventing you from putting
5 the body on the stretcher?

6 A No. If anything -- no, I don't recall anyone getting
7 in the way. I would have thought they were trying
8 to help us.

9 Q Do you recall somebody at the scene, civilians at the
10 scene, trying to help you?

11 A I don't recall them trying to assist us, no.

12 Q Did you ride in the station wagon to the hospital
13 with the person who was injured?

14 A No.

15 Q Do you know whether any of the people who were at
16 the scene, exclusive of the responding police officers,
17 rode in the station wagon to the hospital?

18 A I don't recall if anyone else did, no.

19 Q Do you remember if any fights broke out or anything
20 like that while you were present?

21 A No, I don't recall any fights.

22 Q And you're sure that no one was arrested at the scene;
23 is that correct?

24 A No, there was no one arrested at the scene.

25 Q Was anyone threatened with arrest, to your knowledge?

1 A Not that I'm aware of, no.

2 Q So it would be fair to say, Officer, that there was
3 no -- strike that. Would it be fair to say that
4 when you responded to the scene that there were
5 other police officers present; correct?

6 A Correct.

7 Q And that you endeavored to get this injured to get this
8 injured person onto a stretcher and into the police
9 vehicle; is that correct?

10 A That's correct.

11 Q And that there were no persons there who in any way
12 impeded you from doing that?

13 A Not that I recall.

14 Q Did you see anyone who was helping you -- any of the
15 other police officers who were helping you to do this
16 function getting impeded by another person?

17 A No.

18 MR. EVELYN: Nothing further, your Honor.

19 MR. BEST: I have nothing further, your Honor.

20 THE COURT: Thank you, Officer, you may step

21 down.

(Witness excused.)

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1 GERALD O'CONNOR,

2 sworn on behalf of the People, was examined and
3 testified upon his oath as follows:

4 DIRECT EXAMINATION

5 BY MR. BEST:

6 Q Officer, for the record will you state your name,
7 please.

8 A Officer Gerald O'Connor.

9 Q How are you presently employed?

10 A Detroit Police Department.

11 Q In July of 1976, how were you employed?

12 A Detroit Police Department.

13 Q Were you operating at that time with a partner?

14 A I was.

15 Q And who was that?

16 A Andrew Kuklock.

17 Q On July 31st, 1976, were you on duty?

18 A I was.

19 Q At approximately one-fifty in the morning did anything
20 unusual occur?

21 A We had a police run.

22 Q What type of run was that, if you remember?

23 A I don't recall exactly the nature of the run.

24 Q Do you remember responding to the scene of a shooting
25 on that date at approximately that time?

1 A I do remember.

2 Q At the time you responded did you have any indication
3 that the victim was a police officer, if you recall?

4 A I don't recall at the time.

5 Q At the time you responded to the shooting do you
6 remember getting to the area of Harper and Barrett?

7 A I do.

8 Q Was there a victim at the scene?

9 A There was.

10 Q Had he already been shot?

11 A Yes.

12 Q At the time you responded what did you observe and
13 what did you do?

14 A I observed a man on the ground with a head wound, and
15 there was another car there at the time, a wagon, and
16 I helped place him on the stretcher.

17 Q Did you witness the shooting?

18 A No.

19 Q Did you arrest any assailant or assailants at the
20 scene of the crime?

21 A No, I didn't.

22 Q Did you ever arrest anyone with respect to this crime?

23 A No, I didn't.

24 Q Did you hear any gunshots?

25 A No, I didn't.

1 Q Did you see the flash of a gunshot?

2 A No, I didn't.

3 Q Did you see the victim hit the ground?

4 A No.

5 Q Did you have occasion to interview any witnesses at
6 the scene?

7 A No, I didn't.

8 Q And you testified that you assisted in placing the
9 victim on a stretcher?

10 A That's correct.

11 Q Did you help place him in a wagon?

12 A I don't recall.

13 Q Did you accompany the wagon and the victim to the
14 hospital?

15 A No.

16 Q What was your primary concern after you arrived at
17 the scene? Would it have been to assist the officer
18 or the victim that had been shot?

19 A The victim.

20 Q Did you transport any witnesses or potential witnesses
21 to the Homicide Section?

22 A I believe I did.

23 Q Did you take any statements from those witnesses?

24 A No.

25 MR. BEST: I have no further questions.

CROSS EXAMINATION

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BY MR. EVELYN:

Q Officer O'Connor, your partner was then Officer Andrew Kuklock?

A Correct.

Q Now, when you responded to this particular location at Harper and Barrett, you arrived there and there were other police officers; is that correct?

A There were.

Q Could you tell us about how many other police officers were there?

A I really don't know.

Q It would have been more than one, though; is that correct?

A There's a possibility, I don't know for sure.

Q Now, at the time you arrived and you exited your vehicle would it be fair to say the first thing you did was to go over to where there was a crowd of people?

A It wouldn't be fair to say; I don't remember it.

Q Let me ask you this: Do you remember a crowd of people being present?

A I remember people being there, yes.

Q Do you have any idea -- strike that. Do you have any recollection as to about how many people were

1 present?

2 A I really couldn't say.

3 Q Let me ask you this: Do you recall assisting and
4 placing this injured person on the stretcher?

5 A I do.

6 Q And you do recall other people besides police officers
7 being present; is that correct?

8 A Yes.

9 Q And you recall making a report of these events or at
10 least someone making a report when you got back to
11 the police station; is that correct?

12 A I did make a report.

13 Q A written report?

14 A Yes, sir.

15 Q Now, when you got to the location and you were
16 assisting in putting this injured person on the
17 stretcher, do you remember who -- strike that -- do
18 you remember the other people who were participating
19 in that?

20 A I don't.

21 Q Do you remember -- you do remember that there were
22 other people assisting; is that correct?

23 A Yes.

24 Q Do you recall whether your partner was assisting?

25 A I honestly can't say, I don't remember. I remember

1 me. It's been a long time.

2 Q I understand, Officer; I'm just asking you what you
3 remember and if you don't remember just tell me that
4 you're not able to recall. But I'm trying to assist
5 you if you can recall.

6 A Thank you.

7 Q Do you recall if the people who were assisting you
8 in placing this person in the vehicle were police
9 officers?

10 A I don't remember. I would assume they were but I
11 don't remember.

12 Q Now, do you recall any of the people at the scene
13 saying anything about a white car?

14 A I can't recall.

15 Q Do you recall finding out later -- strike that. Do
16 you recall learning that the person who was injured
17 was a police officer?

18 A Yes.

19 Q Do you recall learning that among the people at the
20 scene that there were also police officers, off-duty
21 police officers?

22 A Yes, I do.

23 Q Do you recall the name of Officer Van Fledering?

24 A No, I can't say that I do.

25 Q Do you recall learning later that among the persons

1 present at the scene was the partner of the person
2 who was injured?

3 A Yes.

4 Q Do you recall seeing a man and later learning that
5 he was a partner of the --

6 A I don't remember.

7 Q Do you recall any civilian -- strike that. Do you
8 recall any persons present at that scene assisting
9 police officers at the scene and not being dressed
10 as a police officer?

11 A No, I don't.

12 Q You're not saying it didn't take place, you're just
13 saying you don't recall?

14 A I just don't recall.

15 MR. EVELYN: Nothing further.

16 MR. BEST: I have nothing further, your Honor.

17 THE COURT: Thank you, Officer, you may step
18 down.

19 (Witness excused.)

20 MR. BEST: Your Honor, there was one
21 **additional** witness that was mentioned in Defendant's pleadings
22 that he wanted produced, and that was Police Officer Joseph
23 Grayer. He was the partner of Police Officer Lorraine
24 Williams. They were in Scout 15-11, which I believe was the
25 second unit to respond to the scene. In prior discussions

1 with Counsel and with this Court we agreed that should
2 Defendant and Defense Counsel still demand production of
3 Officer Grayer, that he would be produced on January 20th.
4 He is going to be produced on that date should the need
5 arise, but I imagine that's a determination that we yet have
6 to make. At this point we have produced the four witnesses,
7 the four police officers, that Defendant and Defense Counsel
8 have demanded. Their testimony has been taken and I am
9 prepared to officer argument at this time.

10 THE COURT: Mr. Evelyn, do you still wish
11 Officer Grayer present?

12 MR. EVELYN: We do, your Honor. We think
13 Officer Grayer is particularly important in this case because
14 he was Officer Williams' partner.

15 THE COURT: Very well, instead of hearing
16 argument at this time, I'll adjourn the matter to the 20th,
17 at which time I will expect both Counsel and Officer Grayer.

18 I understand Officer Grayer is on furlough at
19 this time.

20 MR. BEST: He is, your Honor, but he will be
21 here.

22 THE COURT: This will be adjourned till the
23 20th of January at two o'clock.)

24 (Matter adjourned to January
25 20, 1981.)

1 Detroit, Michigan

2 Tuesday, January 20, 1981

3
4 P R O C E E D I N G S

5
6 THE CLERK: Case Number 76-05890, the People
7 of the State of Michigan versus Charles Lewis, the charge,
8 Murder First Degree.

9 MR. BEST: Your Honor, the purpose of this
10 hearing today -- it's a continuation of a hearing we had on
11 Friday, and the People have one more witness to produce per
12 Defendant's motion, and that is Officer Grayer, and at this
13 time I will call him to the stand.

14 JOE GRAYER,

15 sworn on behalf of the People, was examined and
16 testified upon his oath as follows:

17 DIRECT EXAMINATION

18 BY MR. BEST:

19 Q For the record, sir, will you state your name, please.

20 A Joe Grayer.

21 Q How are you employed, sir?

22 A Detroit Police Department.

23 Q How were you employed in July of 1976?

24 A With the Detroit Police Department.

25 Q Did you have a partner at that time?

1 A Yes, I did.

2 Q And what was your partner's name?

3 A Officer Lorraine Williams.

4 Q On July 31st, 1976, do you remember if you were on
5 duty?

6 A Yes, I do.

7 Q And at approximately -- were you on duty?

8 A Yes, I was.

9 Q And at approximately one-fifty in the morning on
10 that date did anything unusual occur?

11 A I recall at around that approximate time I responded
12 to a radio run on Chelsea, approximately the 10000
13 block of Chelsea, to investigate a problem over there.
14 And while investigating this incident there was a
15 citizen patrol unit in the area. I recall hearing
16 a dispatch from that citizen patrol unit that there
17 was a police officer shot in the vicinity of Harper
18 and Barrett in the vicinity of the Great Scott Super
19 Market. So I immediately informed my partner to
20 notify dispatch of what had occurred and we proceeded
21 to this area.

22 Q When you got to that area what did you observe?

23 A I observed a group of people standing around directly
24 across the street from the Great Scott Super Market.
25 I was the driver. I then pulled across the street. I

1 observed a white male laying on the ground.

2 Q Was the white male shot at that time?

3 A He was bleeding from the head.

4 Q Did it appear to be a gunshot wound?

5 A Yes, it did.

6 Q Did you witness the shooting?

7 A No, I didn't.

8 Q Did you see any of the assailants or assailant at
9 the scene?

10 A No, I didn't.

11 Q Did you arrest any of the assailants at the scene?

12 A No, I didn't.

13 Q Did you hear any gunshot?

14 A No, I didn't.

15 Q Did you see the flash of a gunshot?

16 A No, I didn't.

17 Q Did you see the victim fall to the ground?

18 A No, I didn't.

19 Q At the time that you arrived on the scene did you take
20 any witness statements from any of the people who
21 were standing there?

22 A No, I didn't.

23 Q Do you have any idea of approximately how many people
24 were there?

25 A There was approximately ten to fifteen people.

1 Q And you didn't interview any of them?

2 A No, I didn't.

3 Q Once you got on the scene what action did you take
4 toward the man lying on the ground?

5 A I was driving the emergency wagon at that time. I
6 was driving what we call the wagon. I stopped the
7 vehicle, opened up the rear door, he was placed in
8 the vehicle by some of the other officers that was
9 standing around. I think conveyed him to I believe
10 it was St. Johns Hospital.

11 Q You helped put him on a stretcher?

12 A No, I didn't help put him on anything. I just opened
13 the door to the wagon and there was other people
14 helping with everything and they put him in the car
15 and I drove the vehicle to the hospital.

16 Q Did you know that he was a police officer at the time?

17 A At the time I did, yes.

18 Q Did he say anything to you?

19 A No, he didn't.

20 MR. BEST: I have no further questions at this
21 time, your Honor.

22 CROSS EXAMINATION

23 BY MR. EVELYN:

24 Q Officer Grayer, you were Officer Williams' partner on
25 this particular occasion, July of '76?

1 A Yes.

2 Q And did you review anything before you testified today
3 to refresh your recollection concerning those events?

4 A I reviewed my statement, yes.

5 Q You read your statement?

6 A Yes.

7 Q Did you review anything else?

8 A No, that's all -- I reviewed a transcript, I believe,
9 yes.

10 Q This transcript of the trial you reviewed?

11 A I don't know if it was the trial or the preliminary
12 hearing, I don't recall.

13 Q It was your testimony?

14 A Yes.

15 Q Now, concerning this citizens band report that you
16 heard, did that report indicate that it was a police
17 officer that had been shot?

18 A Yes.

19 Q And when you arrived at the location I think you
20 testified that there were between twelve and fifteen
21 people present -- a crowd of between twelve and fifteen
22 people present; is that correct?

23 A Somewhere around that figure. There were about ten
24 to fifteen people, I guess; I'm not sure how many
25 people there was.

1 Q Were there other police officers present when you
2 arrived?

3 A As I approached the scene there was I believe two
4 other units that approached the scene at approximately
5 the same time I did.

6 Q Did you ever exit your vehicle?

7 A Yes.

8 Q When you exited the vehicle did you go to the location
9 where the injured person was?

10 A I walked over to him -- he was lying on the ground,
11 I walked over and looked at him.

12 Q Let me direct your attention to something else, if
13 I may. You testified that the man was put on a
14 stretcher and put into the wagon; is that correct?

15 A Yes.

16 Q Were you in the vehicle when that occurred? Were you
17 inside the wagon or outside the wagon when that
18 occurred?

19 A I don't recall exactly where I was. I recall seeing --
20 there were a lot of people around and everyone was
21 trying to help. I don't recall if I was outside the
22 wagon or if I was in the wagon; I don't recall.

23 Q You testified that other people were trying to help;
24 do you recall whether people who were present but not
25 in uniform -- strike that. Do you recall whether

1 people who were a part of the crowd of twelve or
2 fifteen people -- do you recall whether any of those
3 individuals were assisting police officers?

4 A There was a lot of people around there doing a lot
5 of different things. I don't recall exactly what
6 any person was doing.

7 Q With respect to this location -- by the way, were
8 you ever able to get a description of any suspects,
9 assailants, with respect to this particular shooting?

10 A No, I didn't.

11 Q Did you indicate on direct you didn't arrest anybody?

12 A No, I didn't.

13 Q Did you convey any witnesses down to the police
14 station for interviewing?

15 A I don't recall conveying anyone other than myself and
16 my partner.

17 Q Do you recall learning -- let me ask you this: You
18 indicated that you knew, or believe at least as you
19 were going to the location, that the person who had
20 been injured or shot was a police officer; that was
21 your testimony, is that correct?

22 A When I heard the message over the radio I believed
23 that there was a police officer shot, and when I
24 got there I observed a man laying on the ground. I
25 didn't know for sure that he was a police officer

1 until I talked with one of the -- there was another
2 **off-duty** police officer there who stated that he was
3 a police officer.

4 Q But you did talk to an off-duty police officer there?

5 A Yes, briefly.

6 Q And that person stated that the person who was lying
7 down who appeared to have been shot was a police
8 officer?

9 A Yes.

10 Q Is that your testimony?

11 A Yes.

12 Q Now, the person that you talked to, do you remember
13 anything else about him?

14 A No.

15 Q He identified himself to you as a police officer?

16 A There were -- I believe there were a couple of
17 police officers there. If I remember I do believe
18 there were two off-duty police officers there.

19 Q Do you recall learning the names of either of those
20 **off-duty** police officers later?

21 A I don't remember their names now.

22 Q Would it refresh your recollection if I were to tell
23 you the name of Van Fledering?

24 A I remember that name, yes.

25 Q And would he have been the man who told you that the

1 * injured person was a police officer?

2 A I don't think that he was the one. There was another
3 officer there; he was the shorter of the two.

4 Q Now, concerning this Officer Van Fledering, do you
5 recall whether he assisted the police officers who
6 responded in giving aid to this injured man?

7 A Like I say, I don't recall in particular what any
8 individuals did. I don't recall what any person
9 did in particular. There were a lot of people there,
10 there was a lot of screaming and yelling and people
11 running around doing different things. I wasn't able
12 to tell what any particular person was doing.

13 Q Now, do you recall whether in fact any person --
14 strike that. You conveyed the injured man to the
15 hospital; is that correct?

16 A That's correct.

17 Q Who was present in the car besides the injured man
18 and you and your partner?

19 A There was my partner, I believed that there was the
20 officer that you named, Van Fledering, and there was
21 another officer, I don't recall his name, the other
22 officer.

23 Q And do you recall whether Van Fledering assisted in
24 putting this man, this injured man, into the vehicle?

25 A I don't recall. I don't know exactly who put him in

1 the vehicle. When I arrived there I opened the door
2 to the wagon. It has an automatic switch where you
3 can open it from the front. I opened the door, the
4 door came open and he let the door down and by this
5 time there was quite a few officers there in uniform
6 and plain clothes and they put him in the wagon. I
7 don't know who in particular it was that did this.
8 I don't know, I don't recall.

9 Q Just whatever it is you do recall. Okay, let me ask
10 you this: Can you remember how long you were at this
11 location from the time you first arrived?

12 A From the time that I first arrived until I got to
13 the hospital?

14 Q Right -- well, until you departed.

15 A It was somewhere between I would say five to eight
16 minutes, maybe, or ten, somewhere around in that
17 location.

18 Q Now, this crowd of people that were present, can
19 you remember them in any way impeding the officers
20 who had responded to this location?

21 A What officer are you referring to? Are you referring
22 to any officer in particular? I don't recall anybody
23 impeding anyone other than myself there.

24 Q Were there any fights that broke out at all?

25 A Yeah, there were fights.

1 Q Do you remember who was fighting?

2 A There was one in particular I remember. There was
3 a fight between my partner and I believe it was
4 Officer Van Fledering.

5 Q When did that occur?

6 A that occurred during the time that I told my partner
7 to get on the radio and notify dispatch that we were
8 going to St. Johns Hospital and what direction we
9 were taking.

10 Q Were you all in the vehicle at that point?

11 A Yes.

12 Q Do you remember whether Officer Van Fledering was
13 arrested for anything or for fighting?

14 A No.

15 Q Is your answer no, he wasn't or you don't remember?

16 A I don't recall anything of that nature.

17 Q So you don't think he was arrested? That's your
18 recollection; is that correct?

19 A I don't believe he was arrested.

20 Q Now, I believe you testified that the crowd -- well,
21 let me ask you directly: Was the crowd particularly
22 unruly? And by the crowd I mean the non-responding
23 people who were at the scene.

24 A You mean the civilian personal who were at the scene?

25 Q Right.

1 A Yes, the crowd was very unruly. There were some
2 females there, two or three females that were screaming
3 and crying, yelling. There was a very unruly crowd
4 there.

5 Q Would you say the atmosphere was somewhat confused?

6 A Yes, I would say so.

7 Q Your immediate concern was giving aid to this injured ,
8 person, would it be fair to say that?

9 A Right; my immediate concern was to convey him to the
10 hospital where he could get medical assistance.

11 Q Let me ask you this: Did you talk to Officer
12 Van Fledering at all?

13 A No.

14 Q Did you hear him say anything?

15 A I don't recall him saying anything directly to me, no.
16 There was a conversation between him and my partner
17 and some other people around but with myself, no.

18 Q Was there anything distinctive or different about the
19 way he was speaking as opposed to anyone else who
20 was there?

21 A As opposed to anyone else who was there?

22 Q Did you notice anything in particular about the way
23 he spoke?

24 A No.

25 Q Did you notice anything in particular about his

1 manner at all as being different from anyone else who
2 was present?

3 A No.

4 Q You indicated that at some point there were fights
5 breaking out, people were fighting, and I think you
6 mentioned that at one point you believed that your
7 partner was fighting with Officer Van Fledering. When
8 you say fight do you mean something physical or
9 just a verbal argument fight?

10 A I don't recall there being any directly what I would
11 say fisticuffs or a fight like that. I recall my
12 partner was seated on the passenger's side o the
13 vehicle, she picked up the radio to call dispatch to
14 relay the information I had given her, and Officer
15 Van Fledering, he came to the passenger's side of
16 the vehicle where my partner was seated, he pulled her
17 out of the car.

18 Q Did you have any arguments or fights with Officer
19 Van Fledering?

20 A No.

21 Q Did you have any arguments or fights with anyone else?

22 A No, I didn't have any arguments or fights but I had
23 words with people. There were people trying to get
24 inside of the wagon; I ordered them out, you know. It
25 wasn't an argument or a fight, I just gave them an